

SECTION 6

***FACULTY RIGHTS AND
PROTECTION***

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FACULTY ETHICS: EXPANDING THE AAUP ETHICS STATEMENT

(From: Academic Senate for California Community Colleges)

INTRODUCTION

The Academic Senate for California Community Colleges adopted the "American Association of University Professors (AAUP) Ethics Statement" in 1987 and in April 1988 released a paper entitled, "Why The Academic Senate Has Adopted The AAUP Ethics Statement." The AAUP statement and explanation for its adoption have been quite helpful to local senates in discussions of ethics. However, community college faculty face situations that are distinctly different from those faced by university professors. Furthermore, since the ethics statement was first adopted by the Academic Senate, AB 1725 has become law, and the bill's redefinition of the community college faculty profession has resulted in an abundance of ethical questions regarding faculty roles, responsibilities, and obligations. Hence, the purpose of this paper is to offer expanded discussions on the AAUP Ethics Statement focusing on issues that typically face faculty in California's Community Colleges.

The AAUP ethics document consists of five statements outlining faculty responsibilities to their disciplines, students, colleagues, institutions, and communities. The text of these statements is included in Section II of this Handbook. It serves as an excellent foundation in principles upon which decisions of ethical behavior can be based.

Those principles are expanded in Section III in the areas of scholarly competence, honest academic conduct of students, academic standards, cultural and gender sensitivity, the free pursuit of learning, avoiding exploitation of students, academic freedom, and contributing to the profession.

AAUP ETHICS STATEMENT

Professors, guided by a deep conviction of the worth and dignity of the advancement of knowledge, recognize the special responsibilities placed upon them. Their primary responsibility to their subject is to seek and to state the truth as they see it. To this end professors devote their energies to developing and improving their scholarly competence. They accept the obligation to exercise critical self-discipline and judgment in using, extending, and transmitting knowledge. They practice intellectual honesty. Although professors may follow subsidiary interests, these interests must never seriously hamper or compromise their freedom of inquiry.

As teachers, professors encourage the free pursuit of learning in their students. They hold before them the best scholarly and ethical standards of their discipline. Professors demonstrate respect for students as individuals and adhere to their proper roles as intellectual guides and counselors. Professors make every reasonable effort to foster honest academic conduct and to ensure that their evaluations of students

reflect each student's true merit. They respect the confidential nature of the relationship between professor and student. They avoid any exploitation, harassment, or discriminatory treatment of students. They acknowledge significant academic or scholarly assistance from them. They protect their academic freedom.

As colleagues, professors have obligations that derive from common membership in the community of scholars. Professors do not discriminate against or harass colleagues. They respect and defend the free inquiry of associates. In the exchange of criticism and ideas professors show due respect for the opinions of others. Professors acknowledge academic debt and strive to be objective in their professional judgment of colleagues. Professors accept their share of faculty responsibilities for the governance of their institution.

As members of an academic institution, professors seek above all to be effective teachers and scholars. Although professors observe the stated regulations of the institution, provided the regulations do not contravene academic freedom, they maintain their right to criticize and seek revision. Professors must give due regard to their paramount responsibilities within their institutions in determining the amount and character of work done outside it.

When considering the interruption or termination of their service, professors recognize the effect of their decision upon the program of the institution and give due notice of their intentions.

As members of their community, professors have the rights and obligations of other citizens. Professors measure the urgency of these obligations in the light of their responsibilities to their subject, to their students, to their profession, and to their institution. When they speak or act as private persons, they avoid creating the impression of speaking or acting for their college or university. As citizens engaged in a profession that depends upon freedom for its health and integrity, professors have a particular obligation to promote conditions of free inquiry and to further public understanding of academic freedom.

DEVELOPING SCHOLARLY COMPETENCE

Every discipline requires scholarship. Faculty must keep up with new developments in their disciplines and in teaching methods just as doctors are obligated to keep abreast of new developments in medicine and attorneys are required to know evolving laws. It is a faculty member's ongoing obligation to pursue professional and academic development.

In addition, faculty have the obligation to pursue the truth. The intellectual virtues of being open-minded, fair, honest and objective in the consideration of differing views, being thorough in research, avoiding the manipulation of data, and reaching a well-reasoned viewpoint should all be fostered within the intellectual character of the faculty member.

These attitudes toward learning are precisely what faculty are trying to get students to acquire, therefore, faculty are obligated to teach and lead by example. Modeling and teaching critical thinking and attempting to instill in students intellectual virtues which foster critical thinking are key responsibilities for faculty.

In other words, modeling a democratic style rather than an authoritarian one is more appropriate. Instead of trying to control the beliefs, opinions and values of students, encouraging pluralistic dialogue is an ethical necessity. Teaching students to respect differing views and helping them to benefit from the wisdom often found in ideas with which they disagree can provide a profound learning experience.

MAINTAINING HONEST ACADEMIC CONDUCT

Colleges should have a policy on honest academic conduct, developed by the Academic Senate working with the student leadership. Faculty are obliged to make sure that such a policy exists, is published, and provides appropriate due process standards. In addition, faculty need to adopt a zero tolerance policy toward academic dishonesty. Students who behave dishonestly should face retributive consequences consistent with the institution's policies.

Faculty have an obligation to prevent academic dishonesty by ensuring that students do their own work. Types of dishonesty include copying from others, turning in work that is not the student's own, and using references without appropriate citation. Faculty should provide a definition of acceptable academic conduct on the first day of class through discussion and in writing. An essential strategy for preventing academic dishonesty is to set up testing situations that minimize the potential for misconduct.

Finally, there are rules and expectations of proper academic behavior that should be articulated and taught within the framework of the respective academic disciplines. Respect for students requires that all be held to the same standard of conduct. Holding students to different standards is demeaning and insulting.

INSURING CULTURAL AND GENDER SENSITIVITY: RESPECTING STUDENTS AS INDIVIDUALS

Respecting students as individuals is an ethical imperative for faculty. All students, as individuals, deserve the respect of faculty regardless of their cultural background, ethnicity, race, gender, religious beliefs, political ideologies, disability, sexual preference, age, or socioeconomic status.

One of the challenges of being an educator is to reach students at their current point of understanding. When relating to students as individuals, faculty must recognize the unique circumstances of each student's life. In particular, some students may possess learning styles, which hinder them from benefiting from traditional methods of instruction. Faculty have the responsibility to use all possible effective pedagogical tools to reach those students.

Students look to faculty as role models. Not only must faculty exhibit an appreciation and respect for students from all backgrounds, but it is also imperative that they teach and model behavior which is tolerant and shows appreciation and respect for others. Affirming individual students' abilities, strengthening their self-identities, and assisting them to reach their full potential are qualities of an effective faculty member.

ENCOURAGING THE FREE PURSUIT OF LEARNING: SECURING STUDENT ACCESS AND SUCCESS

The concept of a community college as defined by the California Community Colleges' Master Plan is one of the best examples of an egalitarian educational model of a system of higher education in the world. One could say that the idea of open access is the quintessential expression of democracy in education and that open access exemplifies the free pursuit of learning.

As participants in the development of educational policies at our institutions, we must remain diligent to protect students' right to freely pursue their education, watching closely to prevent barriers to access, particularly to those from historically under-represented groups. These barriers may include restrictive or difficult to accomplish admission procedures, lack of access to counseling, or unjustified prerequisites. Faculty may incorrectly assume that references, examples, or methodologies they use are part of the students' experience or cultural heritage. Methods should be sought which can make learning more achievable to students. Faculty have an ethical responsibility as educators to reduce as much as possible all barriers to the pursuit of education and to seek new methods to assure students' success.

AVOIDING EXPLOITATION OF STUDENTS

Exploitation of students by faculty members can take many guises. Be it for personal financial gain, sexual gratification, or any other reason, such exploitation is totally unacceptable. It is a fundamental ethical principle that individuals possessing power and authority should not use their advantaged position for their own gain or to advance their own self-interest. In light of the fact that the educational profession is one in which trust between faculty member and student maximizes the results of the learning experience, it is especially reprehensible for faculty to use their power and authority for such self-gratification or self-gain.

Faculty have power over students by virtue of their position. There is no greater violation of that power than when a faculty member exploits this relationship with students. Students may have fears and insecurities about their abilities and what the future holds for them. They may tend to view faculty with a sense of awe that is based on a projected expectation rather than personal experience of proven expertise or trustworthiness. They tend to trust faculty beyond areas of academic

expertise. To take advantage of individuals under these conditions is ethically inexcusable.

For example, in cases where some students are being evaluated on the basis of academic standards while others are being evaluated on the basis of responsiveness to inappropriate advances or where personal services or favors are traded for grades, privilege or recognition, one can easily see that such behavior is a violation of ethics. Students must be evaluated solely on the basis of academic standards.

Faculty must be cognizant of the possible perceptions and interpretations their students may formulate in response to faculty-student interactions. Therefore, faculty members are obligated to create a learning environment free of insensitivity, hostility, and coercion. Faculty must realize that such an environment often can be more contingent upon the perceptions of students than on the intentions of faculty.

ESTABLISHING ACADEMIC STANDARDS

California Community Colleges have the dual mission of preparing individuals for work and citizenship. Successful careers depend on acquiring the skills, knowledge and abilities to perform competently in the work place. To prepare students for the world of work and to avoid misleading them as to what they can expect once they leave the campus, it is important to evaluate students in a manner which is consistent with the academic standards of the discipline.

Academic standards should be determined in the context of one's academic discipline by the community of scholars within the discipline. They should not differ significantly from one faculty member to another within the same discipline. If, for example, there is significant variation in grading criteria and standards among faculty who teach courses that are prerequisites for courses further in a sequence, then clearly students, subsequent courses, and the disciplines, are harmed. While the mastery that faculty have of their own discipline and scholarship entitles them to the freedom of the presentation of their subject matter, it is unethical for a faculty member to persistently interject material unrelated to the course such that the instructor fails to offer the agreed upon subject matter of the course.

MAINTAINING ACADEMIC FREEDOM

By nature and definition, a college campus embraces the value of academic freedom. In order to pursue truth, survey the marketplace of ideas, and acquire knowledge and understanding, both faculty and students must have the freedom to express their views and be safe from reprisals. However, there are obligations that accompany academic freedom.

The first obligation in maintaining academic freedom is to create a learning environment that fosters the free exchange of ideas. In other words, faculty should encourage the expression of diverse views and the understanding of those views.

The second obligation, which is required to maintain academic freedom is to clearly distinguish when one is speaking for one's self and when one is speaking as a representative of the educational institution. The classroom in particular should not be used as a forum for the advancement of personal causes. Our obligation is to inform, not to indoctrinate. If a stormy political issue arises, we can certainly encourage a lively discussion of all facets of the situation. However, we cannot present just our view or advocate only our own position unless we do so in the context of debate or other such pedagogical structures where opposing views may be presented.

As members of a profession that has a high degree of autonomy and flexibility in determining how work is accomplished, it is important that faculty discharge all of their responsibilities conscientiously.

A recommendation on a framework and processes for developing local faculty professional expectations and accountability processes is currently under consideration by the Academic Senate's Educational Policies Committee.

NON-DISCRIMINATION AND UNLAWFUL DISCRIMINATION POLICY

Public demand for greater accountability in the delivery system of programs and services calls for an educational and work environment free from discriminatory practices. To meet these challenges brought about by legislative action and the public interest, the District must be innovative and results-oriented in the implementation of its equal opportunity programs.

The District is committed to provide each individual with the opportunity to participate in all institutional programs and activities without regard to ethnicity, gender, or other non-relevant criteria. Additionally, the District has an obligation to promote cultural, racial, and human understanding within the community it serves as well as within its sphere of influence.

To have available positive images provided by individuals from historically underrepresented groups, and to observe that such individuals can assume responsible and diverse roles in society is educationally sound for all students attending Colleges of the District. The richness that cultural and racial diversity brings to our national heritage and the exercise of democratic principles can be best taught in the presence of a staff and student body of both genders, diverse ethnic groups, handicapped individuals, and veterans.

The policy of the District is to provide an educational and employment environment in which no person shall be unlawfully subject to discrimination on the basis of ethnic group identification, national origin, race, color, ancestry, religion, creed,

age, sex, sexual orientation, marital or parental status, medical condition, or physical or mental disability, in any program or activity that is administered by, funded directly by, or that receives any financial assistance from the Chancellor or Board of Governors of the California Community Colleges. In so providing, the District hereby implements the provisions of California Government Code sections 11135 through 11139.5, California Code of Regulations, Title 5 §59300, the Sex Equity in Education Act (Education Code, §66250 et seq.), Title VI of the Civil Rights Act of 1964 (42 U.S.C. §2000d), Title IX of the Education Amendments of 1972 (20 U.S.C. §1681), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. §794), the Americans with Disabilities Act of 1990 (42 U.S.C. §12100 et seq.), and the Age Discrimination Act (42 U.S.C. § 6101).

The Board:

- a. Affirms a policy of equal employment opportunity, equal educational opportunity, and non-discrimination in the delivery and provision of employment and educational and related services to the public;
- b. Declares its commitment to maintaining an environment of equal employment opportunity which prohibits discrimination based on ethnic group identification, national origin, race, color, ancestry, religion, creed, age, sex, sexual orientation, marital or parental status, medical condition, or physical or mental disability, in every aspect of personnel policy and practice in the employment, advancement, and treatment of employees and qualified applicants for employment, as well as its commitment to maintain an environment free from sexual harassment and intimidation;
- c. Prohibits discrimination against women, ethnic and racial minorities, veterans, and individuals with physical and/or mental disabilities in its work force;
- d. Affirms its commitment to the development and maintenance of an educational curriculum that is free of bias and provides educational relevance for all people;
- e. Affirms its commitment to admission, recruitment, and retention policies that encourage a student body of all races, ethnic groups and genders, as well as persons with physical and mental disabilities, and veterans; and
- f. Affirms its commitment to use District resources, facilities, and services in a manner that will benefit all residents of the District and that ensures women, ethnic and racial minorities, individuals with physical and mental disabilities, and veterans will be fairly represented in the use of such resources, facilities, and services.

2.6.2 Definitions applicable to this policy on non-discrimination and unlawful discrimination are those found in State law and regulations.

2.6.3 The Board reaffirms its commitment to academic freedom, but recognizes that academic freedom does not allow any form of unlawful discrimination. The lecture, content, and discourse that are an intrinsic part of the course content shall in no event constitute any form of unlawful discrimination. It is recognized that an essential function of education is a probing of received opinions and an exploration of ideas that may cause some students discomfort. It is further recognized that academic freedom ensures the faculty's right to teach and the student's right to learn. Finally, nothing in these policies and procedures shall be interpreted to prohibit bona fide academic requirements for a specific community college program, course or activity. (Cohen v. San Bernardino Valley College (1995) 883 F. Supp. 1407, 1412-1414 affirmed in part and reversed in part on other grounds, (1996) 92 F. 3d 968; and California Code of Regulations, Title 5, §59302.)

When investigating unlawful discrimination complaints containing issues of academic freedom, the District will consult with a faculty member appointed by the Academic Senate with respect to contemporary practices and standards for course content and delivery.

2.6.3 The Chancellor is charged with the responsibility of implementing this general policy statement through the development and administration of specific component plans including, but not limited to, administrative regulations, data collection methods, analysis, reporting procedures, compliance procedures, grievance mechanisms, and delegation of responsibilities. Further, that there shall be one such component planned for each of the following areas: employment, curriculum, student enrollment, District resources, facilities, and services.

A copy of the policy on non-discrimination and unlawful discrimination will be displayed in a prominent location in the main administrative building or other area where notices regarding the District's rules, regulations, procedures, and standards of conduct are posted (California Code of Regulations, Title 5, §59300 et seq. And 59326; Education Code, §66281.5; 20 U.S.C. §1681 et seq.; and 34 C.F.R. §106.8(b)).

2.6.6 The District has identified the Associate Vice Chancellor of Human Resources to the State Chancellor's Office and to the public as the single District officer responsible for receiving all unlawful discrimination complaints filed pursuant to California Code of Regulations, Title 5, §59328, and for coordinating their investigation. The actual investigation of complaints may be assigned to other staff or to outside persons or organizations under contract with the District. Such delegation procedures will be used whenever the officer designated to receive complaints is named in the complaint or is implicated by the allegations in the complaint.

- a. The Associate Vice Chancellor of Human Resources or designee shall make arrangements for or provide training to employees and students on the District's nondiscrimination and unlawful discrimination policy and procedures. Faculty members, members of the administrative staff, and all members of the support staff will be provided with a copy of the District's written policy on non-discrimination and unlawful discrimination at the beginning of the first semester of the school year after the policy is adopted.
- b. All District employees will be provided this training and a copy of the nondiscrimination and unlawful discrimination policy and procedures during the first year of their employment. Considering their special responsibilities under the law, supervisors will undergo mandatory annual training. Thereafter, in years in which a substantive policy or procedural change has occurred, all District employees will attend a training update and/or receive a copy of the revised policies and procedures.
- c. A training program or informational services will be made available to all students at least once annually. The student training or informational services should include an explanation of the policy, how it works, and how to file a complaint. In addition, a copy of the District's written policy on nondiscrimination and unlawful discrimination, as it pertains to students, will be provided as part of any orientation program conducted for new students at the beginning of each semester or summer session, as applicable. (Education Code, §66281.5; California Code of Regulations, Title 5, §'s 59300 et seq., 59324, and 59326; and 34 C.F.R. §106.8(b).

2.6.7 It is unlawful for anyone to retaliate against someone who files an unlawful discrimination complaint, who refers a matter for investigation or complaint, who participates in an investigation of a complaint, who represents or serves as an advocate for an alleged victim or alleged offender, or who otherwise furthers the principles of this unlawful discrimination policy. (20 U.S.C. §1681 et seq.; 34 C.F.R. §106; California Code of Regulations, Title 5, §59300 et seq.; and Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, Title IX, Office of Civil Rights, January 19, 2001.)

SEXUAL HARASSMENT GRIEVANCE POLICY

It is the policy of The District to maintain a learning and work environment that is free of sexual harassment. In accordance with District policy, employee complaints of sexual harassment are referred to the Associate Vice Chancellor of Human Resources.

Student complaints of sexual harassment are defined in this section of the Discipline/Grievance Policy. Sexual harassment, as defined by Title VII of Civil Rights Act, Title IX of Educational Amendments of 1972, Office of Civil Rights, and current District Policies is defined as:

- A. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when made by a member of the school staff to a student or to another staff member, when made by a student to another student, or when made by a student to a staff member.
 1. Submission of such conduct is made, either explicitly or implicitly a term of condition of an individual's employment or education; or
 2. Submission to, or rejection of, such conduct is used as a basis for employment or education decisions affecting such individual; or
 3. Such conduct has the purpose or effect of substantially interfering with an individual's educational or work performance, or creating an intimidating, hostile, or offensive employment or educational environment.

- B. Sexual harassment may include, but is not limited to:
 1. Suggestive or obscene letters, notes, invitations, derogatory comments, slurs, jokes, epithets, assaults, touching, impeding or blocking movement, leering, gestures, display of sexually suggestive objects or pictures or cartoons.
 2. Continuing to express sexual interest after being informed that the interest is unwelcome. (Reciprocal attraction is not considered sexual harassment.)
 3. Implying or withholding support for an appointment, promotion, or change of assignment, suggesting poor performance report will be prepared; or suggesting probation will be failed. Within the educational environment, implying or actually withholding grades earned or deserved; suggesting a poor performance evaluation will be prepared; or suggesting a scholarship recommendation or college application will be denied.
 4. Coercive sexual behavior used to control, influence or affect the career, salary, and/or work environment of another employee, within the educational environment, engaging in coercive sexual behavior to control, influence, or affect the educational opportunity, grades, and/or learning environment of a student.

5. Offering favors or educational employment benefits, such as grades or promotions, favorable performance evaluations, favorable assignments, favorable duties or shifts, recommendations, reclassifications, etc., in exchange for sexual favors.

Complaints Against College Employees

Sexual harassment, as noted above, may take many forms. The goal of this policy is to have a process that is sensitive to the needs of students as well as the rights of those against whom allegations have been made. All complaints, both formal and informal, will be handled with the strictest standard of confidentiality.

The State Education Code, Title 5, Section 59334, requires that a single person investigate and report formal sexual harassment (and discrimination) complaints. That person for the District is the Mr. Brad Davis, Associate Vice Chancellor of Human Resources.

The CSSO is designated as the Title IX responsible office for Mission College. The CSSO will assist students at both the formal and informal grievance levels and answer any questions or concerns.

Many complaints may be resolved at the informal level. Often discussion with the College employee will successfully change the behavior to the student's satisfaction.

Sometimes the nature of the sexual harassment is so severe to the student that no contact with the individual or their supervisor is possible. In those situations the student should immediately report the incident directly to the CSSO and to the Associate Vice Chancellor of Human Resources.

A. Informal Level

1. The Step 1 level encourages the student to approach the person who has caused the complaint. The student should specify the incident that caused the complaint and the action that, in the student's opinion, would resolve the matter.
2. At the Step 2 level the student approaches a third party, either the Department Chair or the immediate supervisor of the employee. The student should specify the incident that caused the complaint and the action that, in the student's opinion, would resolve the matter.

B. Formal Level

1. The Step 3 level is directly with the CSSO and to the Associate Vice Chancellor of Human Resources. Appeal procedures beyond this level are determined by the District Personnel Policies. The student begins the formal discrimination procedure at this level if he or she believes it is necessary.

C. Timeline

1. Formal complaint must be filed in writing within 60 days of occurrence to the Associate Vice Chancellor of Human Resources.
2. Investigation will be completed within a 90 day period and complainant will receive a written notification of final disposition. If additional time is necessary, an interim notification will be provided to the complainant.
3. The District, through the Director of Human Resources and Employee Relations will report all formal complaints to the State Chancellor's Office within 90 days of receipt of a complaint. (Title 5, Section 59336).

Complaints Against Other Students

Sexual harassment is a violation of the Student Code of Conduct, and students are subject to disciplinary sanction for this behavior. Complaints are filed with the CSSO (Vice President of Student Services) at each campus.

Refer also to the District Policy Manual, **SEXUAL HARASSMENT AND SEX DISCRIMINATION POLICY**, Chapter 2, Section 7, pages 16 – 22.

The District Policy Manual is posted on the following link:

<http://wvm.edu/group.aspx?id=36>

Click on "Policies" in box on upper right.

DISCRIMINATION GRIEVANCE PROCEDURES

It is the policy of the District to maintain an environment that is free from discrimination on the basis of race, ethnic background, national origin, sex, age, sexual preference, or physical or mental handicap.

Any student may file a complaint against a student or staff member under the provisions of this procedure. As with other grievances, there are both formal and informal complaint levels. The complaining student may, however, file a formal complaint directly with the Director of Human Resources and Employee Relations at any time.

A. Informal Level

The lowest level of complaint is informal (Step 1), which is with the individual who caused the complaint. The student informally attempts to resolve the situation to his or her satisfaction. At this level, the student may meet with the supervisor of the employee who has created the complaint. The student may also meet with the CSSO for information or assistance at any time.

B. Formal Level

1. Formal complaints are filed with the Associate Vice Chancellor of Human Resources and must be filed in writing within 60 days of occurrence.
2. Investigation will be completed within a 90-day period and complainant will receive a written notification of final disposition. If additional time is necessary, an interim notification will be provided to the complainant.
3. The District, through the Associate Vice Chancellor of Human Resources, will report all formal complaints to the State Chancellor's Office within 90 days of receipt of a complaint. (Title 5, Section 59336).
4. A student may appeal the decision of the Associate Vice Chancellor of Human Resources to the Chancellor and then to the Board of Trustees.

C. Timeline

1. Formal complaint must be filed in writing within 60 days of occurrence to the Associate Vice Chancellor of Human Resources
2. Investigation will be completed within a 90-day period and complainant will receive a written notification of final disposition. If additional time is necessary, an interim notification will be provided to the complainant.
3. The District, through the Associate Vice Chancellor of Human Resources will report all formal complaints to the State Chancellor's Office within 90 days of receipt of a complaint. (Title 5, Section 59336)
4. Appeal procedures are defined in the District policy.

Free Speech and Discriminatory Harassment

The District is committed to creating an educational environment that does not tolerate harassment or discrimination. At the same time, the College must protect the Constitutional Rights of free expression under the First Amendment.