

Academic Senate for California

Community Colleges

**Protecting the Future of Academic
Freedom During a Time of Significant
Change**

Educational Policies Committee 2019-2020

Nathaniel Donahue, ASCCC At Large Representative (Chair)

Stephanie Curry, ASCCC North Representative

Wendy-Brill-Wynkoop, College of the Canyons

Julie Bruno, Sierra College

Angela Echeverri, Los Angeles Mission College

Manuel Valez, San Diego Mesa College

Table of Contents

Introduction	5
Academic Freedom Defined	5
California Community College Changing Demographics	5
Academic Freedom and Free Speech	8
Academic Freedom and Marginalized Communities	10
Freedom of Research and Publication	11
Freedom in the Classroom	13
Freedom for Public Discussion	15
Academic freedom, tenure, and shared governance for full and part time faculty	16
Academic Freedom and Tenure	17
Importance of academic senates and unions working together	21
ASCCC Academic Freedom Survey	21
Academic Freedom Policies and Collective Bargaining Agreements	22
Academic Senate and Union Partnerships regarding Academic Freedom	23
Protecting Academic Freedom Together: Effective practices for Academic Senates and Unions	24
Other Considerations in Protecting Academic Freedom	28
Supporting the Academic Freedom of Colleagues	28
Academic Freedom and Systemwide Initiatives	31
Conclusion	33
Recommendations	35
Recommendations for local senates:	35
Recommendations for local senates in collaboration with union colleagues:	35

Academic Freedom Resources	36
Appendices	37
Appendix 1: 1940 Statement of Principles on Academic Freedom and Tenure with 1970 Interpretive Comments	37
Appendix 2: Academic Freedom Contract Language	37
Appendix 3: Executive Summary of ASCCC Academic Freedom Survey Results	37
Appendix 4: College of the Canyons Joint Understanding Between Senate and Union	45

Introduction

Academic Freedom Defined

Academic Freedom is a fundamental concept which exists to ensure that our institutions of higher education function for the public good and assures that our colleges are constructed on the foundations of genuine trust. For over a century, members of The American Association of University Professors (AAUP) have been agile guardians, careful stewards, and erudite experts regarding the principle of academic freedom and its application in the faculty profession. In their historic “Statement on Academic Freedom and Tenure”¹ from 1940 ([Appendix 1](#)), the AAUP provides the definitive definition of academic freedom. Their major parameters state that the privilege and responsibility of academic freedom guarantees faculty “freedom in the classroom in discussing their subject,” “full freedom of research and in the publication of the results,” and the freedom from “institutional censorship or discipline” in their extramural speech. These three foundational principles protect discipline-based academic work from being corrupted or conducted for any other reason than the advancement of the public good.

California Community College Changing Demographics

When the AAUP first presented their “Statement of Principles on Academic Freedom and Tenure” in 1940 the community college campus was certainly a different place in terms of student and faculty demographics. In fact, in the California Community Colleges during that

¹ <https://www.aaup.org/file/1940%20Statement.pdf>

time, students of color (Latinx, Black, Native American, and Asian students) collectively made up less than half of the students enrolled in courses, while white students made up the largest group. Today, student makeup is quite different. In terms of ethnicity, for example, according to demographic data from the CCC Chancellor's office, students of color make up close to 65% of students body while our White students represent 26%.

For faculty the shift has not been as significant; however, changes in faculty demographics have been noticeable. Whereas in the 1940s faculty of color on college campuses were severely under-represented, today that representation has improved slightly. In fact, in the California community colleges today, tenured or tenure-track faculty of color comprise over 34% of the total faculty while White faculty comprise over 58% (adjunct demographics are similar to tenure/tenure track). Similarly, when looking over demographics of faculty in relation to gender, a significant difference can be seen between 1940 and today. Whereas in the 1940s women made up only a small fraction of faculty on our campuses, today according to the Chancellor's Office, 54% of all full-time tenured or tenure track faculty identify as female. Finally, in reference to LGBTQ faculty and students, noticeable changes can also be discerned despite the fact that little data currently exists in this area (while California's AB 620 encourages CCCs to collect aggregate data on gender identity and sexual orientation, it doesn't require it). However, it's important to recognize that the passage of AB 620 in 2011 as well as the establishment and increase of LGBTQ centers/alliances on college campuses certainly indicates positive trends in recognizing and creating space for LGBTQ faculty and students. In the CCCs alone, at least 17 colleges have established LGBTQ safe-zones and alliances reflecting this trend. All of this indicates that today's college campus is vastly different

in terms of “diversity” than it was certainly in the 1940s when the AAUP presented their “Statement of Principles on Academic Freedom and Tenure” and raises important questions of the role of Academic Freedom in relation to these historically and currently marginalized communities. Can a concept developed during a time when these communities were minimally considered (if at all) apply equally to them today? Are there other considerations that must be identified and addressed in regards to Academic Freedom given the changes in diversity of today’s campus community?

In considering these questions, the Academic Senate for California Community Colleges began a deep and sustained conversation on academic freedom. California Community Colleges are in a period of significant and systemic change. Faculty are engaging with and challenging each other to act in adopting culturally responsive teaching, in eliminating racism in all its forms (interpersonal, institutional, systemic), and in serving the whole student in ways that provide care and support as well as ensure a clear and direct path toward reaching their educational goal. At this time of change in our system, academic freedom may not be on the minds of many faculty. However, the principles in academic freedom are at the core of what we do as professionals in our classrooms, at our colleges, and in our communities and should not be forgotten or overlooked. The purpose of this paper is not to be the definitive word on academic freedom in our system. Rather, it is to begin an exploration of what academic freedom means and how it should be protected and implemented in the California Community Colleges. This paper does not attempt to cover every aspect or nuance of academic freedom and its practice by faculty. Rather this paper strives to lay a foundation to ensure the principles

remain strong and flexible to adapt to the changing dynamics in the California Community Colleges and academia.

Academic Freedom and Free Speech

Sometimes the concept of academic freedom is confused with the Constitutional Right to Free Speech², presumably because both concepts regard principles of free expression. But these rights differ both in those who possess them, and what they guarantee. Free Speech is the right of every individual in the United States and is enshrined by the First Amendment. The freedom of speech protects a wide range of all-encompassing expression, including “the right to one’s own opinion, however unfounded, however ungrounded, and extends to every venue and institution.”³ Furthermore, first amendment freedom of speech guarantees the right of all people in the United States “the expression of their ideas, no matter how true or false they may be.”⁴ Academic Freedom is different, and in many ways more restrictive. It is a right held by “educators in pursuit of their discipline,”⁵ and “addresses rights within the education contexts of teaching, learning, and research both in and outside the classroom for individuals at private as well as public institutions” and is “based in the pursuit of truth.”⁶ Whereas, freedom of speech makes no requirement on the quality and type of expression, and indeed protects all forms of expression almost unconditionally, academic freedom is very concerned with the

² <https://constitution.congress.gov/constitution/amendment-1/#:~:text=Constitution%20of%20the%20United%20States&text=Congress%20shall%20make%20no%20law,for%20a%20redress%20of%20grievances.>

³ <https://www.amacad.org/news/free-speech-and-academic-freedom.>

⁴ <https://www.aaup.org/sites/default/files/Dutt-Ballerstadt.pdf>

⁵ <https://www.oah.org/about/governance/policies/academic-freedom-guidelines-and-best-practices/>

⁶ <https://www.oah.org/about/governance/policies/academic-freedom-guidelines-and-best-practices/>

quality and context of expression in order that it may contribute to both the academic discipline and the public good in “the pursuit of truth.” The absence of strong academic freedom policies and practices with protection of those practices leave knowledge, teaching, learning, and our students at risk of influence from outside forces who would like to harness the power and promise of education for motives focused on profit, social oppression, and the political suppression of critical thinking and informed dialogue.

Academic Freedom is preserved and strengthened by the tenure process, which like academic freedom exists to ensure the public trust in institutions of higher education and the public servants who work in them. Without the professional security that tenure provides, faculty, their teaching, and their research may be subject to influences that possess motivations misaligned with the stewardship of the public good and the “pursuit of truth.”

The Practice of Academic Freedom

The practice of academic freedom assures that the conditions are created for the unfettered advancement of knowledge “in the pursuit of truth.” It promises that the contributions faculty make to their disciplines, in teaching and research, are uncorrupted by outside forces who would seek to harness the power of education, and the students who seek it, for their own self-centered selfish ends or to maintain the status quo. These motivations may not necessarily be in alignment with the creation of an informed citizenry and an educated society. Indeed, this point deserves emphasis right away: Academic Freedom is required so that the faculty professionals who teach and research are protected from external forces that might try to influence the development of culture, science, and knowledge in order to serve any

interest other than the intellectual, socioeconomic, and socioemotional advancement of students through the attainment of an education. Often misunderstood and nefariously cast as a principle that exists to advance the political opinions or interests of a learned elite, on the contrary, academic freedom is a requisite that protects against the political, economic, moral, and intellectual corruption of our institutions of higher education. It does not give teachers the right to impose their personal or political views upon students, ignore college or university regulations, to defend any form of professional incompetence, or to teach outside their subject matter or the official course outline of record. Academic Freedom is a fundamental concept that exists to ensure that our institutions of higher education function for the public good, and assures that our colleges are constructed on the foundations of genuine trust.

Academic Freedom and Marginalized Communities

When we discuss diversity in a campus community we refer to a demographic perspective of it that reflects the diverse nature of those communities and those students. In this sense, discussions such as hiring, retention, and support of faculty are important but are only indirectly related to academic freedom. Instead, academic freedom, as defined by the AAUP, relates to freedom of research and publication, freedom in the classroom to discuss their subjects, and freedom to have public discussions. In this sense, while discussions of retention and hiring are certainly important in terms of diversity, discussions on academic freedom in relation to these communities should focus more on issues related to these three “freedoms” and how they relate to them.

Freedom of Research and Publication

It's important to consider the demographic change on our campuses not only as one that has created a more diverse population, but more importantly one that has introduced diverse concepts and ideas into an academic environment that has and continues to be dominated by patriarchal euro-centric paradigms. This is evident especially in CCCs where the growth of Ethnic Studies related programs has continued to increase yearly and the introduction of General Education courses with emphases on marginalized communities has as well. These are strong indications of the growing influence of a diverse faculty on the academic discourse in our colleges and certainly a benefit for our students. In many ways academic freedom has played an important role in ensuring that this influence could exist. Not only is this evident in the establishment of Ethnic Studies programs but perhaps even more so in the proliferation of publications and research related to marginalized communities. Scholars in the recent years have placed much emphasis on researching communities who have once been ignored by academia. Scholarly texts on Black, Latinx, Women's and LGBTQ History are beginning to fill our bookshelves as faculty exercise their freedom to research what they believe to be relevant. This proliferation in publications leads to more exposure of these communities and ideas to our students as faculty introduce them in their curriculum and, as indicated in extensive research, provide our students with a stronger education.

However, this change does not come without resistance. Because the focus on historically marginalized communities must also include an analysis of the forces responsible for that marginalization, research from these communities tends to challenge and undermine long-held academic paradigms which are based on patriarchal and Eurocentric notions, and which

still dictate academic discourse and curriculum today. For this reason, the introduction of this research tends to come with controversy and resistance. Today, this controversy can be found in the focus on “Decolonization of curriculum” a growing academic concept that attempts to challenge the long-established traditional notions of pedagogy and academics by focusing on paradigms that replace and undermine those established by colonization. As discussions of “decolonization” grow, attempts to dismiss it can also be found. Opponents of this concept dismiss it as “political activism” or attempts at “political correctness” and as such remove it from the realm of academic discourse. This “trivialization” often serves to discourage faculty from pursuing research in these areas and serves to protect patriarchal and Eurocentric paradigms. In this sense then, academic freedom serves a function counter to what it was intended to serve. Rather than encouraging the freedom to research and publish, academic freedom can be used by those opposed to new paradigms and focuses as a means of protecting traditional ones and discourage faculty from marginalized communities from introducing concepts which may address and improve the campus experience for all faculty and students.

Another area where academic freedom in research and publication has been an engine for progress and the common good is in medicine and the sciences. The ability to challenge prevailing wisdom or the status quo always has been instrumental to significant advances in our understanding of the natural world. In many cases new ways of thinking and free inquiry were initially vehemently opposed by other scholars and society at large, but when the truth eventually prevailed, it led to monumental paradigm shifts. Whether it involved challenging creationism, geocentrism, Lamarkism, spontaneous generation, or the etiology of infectious diseases, history is replete with cases in which the pursuit of knowledge and progress have

been hindered by the lack of academic freedom in research and publication. For example, Ignaz Semmelweis' groundbreaking studies in the 1840s on the cause of childbirth fever in obstetric wards and the importance of handwashing in its prevention, was met with such ridicule, hostility, and resistance from his fellow physicians, that he was forced to leave his job⁷. An untold number of women and children tragically and unnecessarily lost their lives as a result of the initial suppression of his findings. While today most of us understand that handwashing is essential in preventing the spread of infectious disease, at one point in history making doctors wash their hands was considered a radical notion. Clearly this is one example where academic freedom could have protected not only Semmelweis' job and right to publish his research, but also the pursuit of knowledge and the common good.

Freedom in the Classroom

The second freedom identified by the AAUP recognizes the freedom of faculty to teach and discuss the subjects they choose within the classroom. This freedom is of particular relevance for students in that it directly relates to their rights to learn, a right also specifically identified by the AAUP. This freedom has allowed for faculty to introduce concepts to their students that are free from political, administrative, or monetary influence and recently has also allowed for a more diverse perspective in regards to marginalized communities within the classroom directly. By introducing concepts and topics into an academic setting such as a classroom, faculty in essence validate those concepts and topics as worthy of academic discourse for their students. In cases where topics reflect the students' own background and

⁷ <https://www.npr.org/sections/health-shots/2015/01/12/375663920/the-doctor-who-championed-hand-washing-and-saved-women-s-lives>

cultural history this validation serves to validate their own presence on campus and give them a sense of belonging. Examples of this have become more and more common since the beginning of the early 1900s. One such example is the publication of the book, *With His Pistol in His Hand* by Dr. Americo Paredes. This book focused on the role of the *Corrido* in Mexican-American society in the early 1900s and represented thorough research on the Mexican-American experience in the Southwest at that time. Dr. Paredes' work became the first extensive research of Mexican-American folklore in the United States and served as the foundation for continued research in that culture. Today, Paredes' book is still widely read and discussed in college courses throughout California as are other topics related to Mexican-American and other ethnic cultures. Such teachings help to give students a well-rounded and comprehensive perspective of their societies and a stronger education overall and once again academic freedom has served as a driving force in its proliferation. In fact, today the number of courses that focus on marginalized communities continues to increase and academic freedom can be directly attributed to this increase

Unfortunately, as with the freedom to research and publish, the freedom to teach and introduce these new concepts and topics can come with resistance as well. This resistance may come in the form of lack of administrative support at the campus level or even from within the faculty itself. Once again, because the study and as such the teaching of marginalized communities necessarily includes a discussion of the conditions that cause their marginalization, it is often challenged and discouraged by those who embrace more traditional paradigms and trivialized by those who don't see it as fitting within the traditional paradigms of

academia. In his article, “How and Why is Academic Freedom Important for Ethnic Studies”

David Palumbo-Liu echoes this idea:

“Ethnic studies is particularly vulnerable to denials of or infringements upon academic freedom not only because the kinds of knowledge it generates are considered peripheral to the core mission of the university, but also because its modality of opposition and contestation wins it no friends among most administrators.”⁸

At the administrative level this may mean that courses with focus on such communities are given less priority and as such offered less than other courses. It may also mean less priority on the hiring of faculty who emphasize these communities in their research. Resistance may also come from faculty who oppose these new concepts and perspectives. This resistance often comes as challenges to the academic integrity of the concepts or topics and thus removes them from the protection of academic freedom.

Freedom for Public Discussion

Perhaps no other freedom as defined by the AAUP has been most impacted by modern developments than the freedom for public discussion. Twenty-first Century technological advancements have enabled a level of public discourse never even imaginable in the 1940s. This advancement certainly comes with myriad advantages in regards to freedom of expression for everyone, however in regards to academic freedom it has added layers of complexities and challenges that cannot be completely addressed in this paper. However, it is important to note the important role that these advancements have played in the evolution of college curriculum

⁸https://www.researchgate.net/publication/298209175_Why_and_How_Is_Academic_Freedom_Important_for_Ethnic_Studies

and the inclusion of new and dynamic pedagogical approaches that challenge long-standing academic norms. While social media sites such as Twitter and Facebook can serve as volatile spaces for discussion, nevertheless they offer a level of discursive engagement for marginalized communities that did not previously exist.

Unfortunately, the volatility of social media can also threaten academic freedom. The case of Steven Salaita, a newly-hired tenured faculty member of the Indian Studies department at the University of Illinois in Urbana-Champaign, is a clear example of this threat. In 2014 Salaita criticized U.S. policy in regards to Israel and Palestine via social media platforms. This criticism, along with growing public demands, drove the University of Illinois to rescind its offer of employment⁹. Certainly, this case exemplifies the complexities of academic freedom in this social media age. While Salaita's comments weren't made in an academic environment nor in a peer-reviewed article, they still fall under the definition of "public discussion" and as such can be categorized as academic freedom. However, given that social media is a recent phenomenon it is something that deserves and necessitates stronger focus.

Academic freedom, tenure, and shared governance for full and part time faculty

In the California Community College system, college governance must adhere to Education Code and Title 5 regulation, as codified in local policies, procedures, and practices.¹⁰ Academic senates spend an extraordinary amount of time and energy ensuring that governance, as it relates to academic and professional matters, follows the law and is effective

⁹ <https://www.insidehighered.com/news/2015/04/28/aaup-slams-u-illinois-handling-steven-salaita-case>

¹⁰ For more information, see the ASCCC Local Senates Handbook, <https://www.asccc.org/papers/handbook2015>

for the institution. However, in focusing on the effectiveness of college governance, faculty tend not to pay as close attention to academic freedom as the “indispensable requisite for unfettered teaching and research in institutions of higher education”¹¹ nor to the role that tenure affords in safeguarding the protections of academic freedom. The principles inherent in both academic freedom and tenure provide not only protections for the profession but also delineate the responsibilities faculty have to their disciplines, the students, the institution, the public, and each other. Since the strength of the protection of academic freedom and tenure affects all faculty, it is an issue that should be of deep concern for both academic senates and collective bargaining units. As such, it is imperative that both organizations work together to ensure the vitality and survival of academic freedom and tenure within our system. In recognizing how important academic freedom is to our profession, we must also recognize that its very existence is inextricably dependent upon tenure. As confirmed by AAUP, a principle purpose of tenure is to safeguard academic freedom.¹²

Academic Freedom and Tenure

In 1988, AB 1725 (Vasconcellos)¹³ included mention of the importance of full-time faculty to the community colleges. This sentiment was later included in Title 5 as an aspirational goal (frequently referred to as 75/25) for 75% of instruction to be performed by full time, tenured or tenure track faculty. The goal is also referenced in Education Code 87482.6¹⁴ and

¹¹ Protecting Academic Freedom, <https://www.aaup.org/our-work/protecting-academic-freedom>

¹² Tenure, <https://www.aaup.org/issues/tenure>

¹³ <https://edsource.org/wp-content/uploads/old/ab1725.PDF>

¹⁴ [http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=EDC§ionNum=87482.6#:~:text=\(1\)%20In%20computing%20the%20percentage,instruction%20taught%20by%20full%2Dtime](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=EDC§ionNum=87482.6#:~:text=(1)%20In%20computing%20the%20percentage,instruction%20taught%20by%20full%2Dtime)

details the use of full-time obligation number (FON) and funding in an effort to make progress on the goal. Regardless of the support of both Education Code and Title 5, the community college system has never met that goal, which has critical implications for tenure, academic freedom, and governance, particularly in regards to collegial consultation.

Tenure in the California Community Colleges is threatened and has been for many years; consequently, so has academic freedom. Funding for the California Community College system has always been unstable, dependent upon state allocations, property taxes, and political will. Overall, the state allocation per student had declined over time¹⁵ and with the 2018 alteration in the system funding formula to include performance-based funding. District budgets have gone through considerable change both in the amount of funding colleges receive as well as the predictability of that funding. That uncertainty has only been exacerbated in recent times by the economic fallout caused by a global pandemic. In response to these financial uncertainties, historically community colleges have increasingly relied on part-time faculty who by the very nature of their employment status are easily hired or terminated depending on fluctuation in funding, in student headcount, course offerings, and staffing needs. Additionally, the community college system continues to rely on the Faculty Obligation Number (FON) to determine the minimum number of full-time faculty per district as required by the Board of Governors. Unfortunately, the FON has remained relatively unchanged since its inception in 1989. Rather than making progress toward the 75/25 goal, districts tend to use the FON as a ceiling rather than the floor to benchmark the number of full-time faculty to hire each year

¹⁵ 2019 – CCCCO data mart funding per student funding remained relatively flat over past 10 years.

resulting in stagnant and even decreasing numbers of tenure track faculty in the CCC system.¹⁶ Currently, the community colleges have approximately 16,451 full-time faculty and 37,918 part time faculty.¹⁷ Thus, approximately 70% of faculty within the system and do not have the protections of tenure status. The static number of full-time tenured faculty and the necessary corollary of reliance on part-time faculty has left colleges in a weakened position regarding tenure. This weakening of tenure adversely affects the protection and benefits of academic freedom, including participation in governance, for all faculty.

The numbers of full and part time faculty have a direct impact on academic freedom and the ability of faculty and colleges to engage in robust participatory or shared governance. Although academic senates represent all faculty in academic and professional matters, regardless of employment status, and all faculty share a commitment to fulfilling academic and professional responsibilities outlined in Title 5 (the 10+1), there exist structural barriers for part-time faculty to participate in the governance of the college. One of the fundamental purposes of tenure is to protect a faculty member's ability to speak truth to power without retribution. Although the strength of this protection varies widely across the system since it is frequently dependent upon college policies, contract language (Appendix 2), and due process procedures, the fact that tenure provides some protection for full-time faculty is a privilege not experienced by part-time faculty. Even if some, albeit weaker, form of tenured protection extends to part-time faculty through seniority or rehire rights or due process rights under law, there still exists the pervasive threat of losing employment and minimal or nonexistent

¹⁶ <https://www.asccc.org/sites/default/files/50-percent-Law-and-FON-Updated-Proposal.pdf>

¹⁷ (Fall 2019 CCCCCO Data mart)

processes to grieve the encroachment into areas of academic freedom. This threat has a chilling effect on participation in college governance. Furthermore, part time faculty are frequently unable to participate in governance due to their workload and, if they are able, are rarely compensated for governance work. This burden was recognized as far back as 1988 in a passage from AB1725 (Vasconcellos):

“If the community colleges are to respond creatively to the challenges of the coming decades, they must have a strong and stable core of full-time faculty with long-term commitments to their colleges. There is proper concern about the effect of an over-reliance upon part-time faculty, particularly in the core transfer curricula. Under current conditions, part-time faculty, no matter how talented as teachers, rarely participate in college programs, design departmental curricula, or advise and counsel students. Even if they were invited to do so by their colleagues, it may be impossible if they are simultaneously teaching at other colleges in order to make a decent living” (AB 1725 Vasconcellos 1988 Section 4.b)¹⁸

If the majority of faculty within the community college system are uncompensated and/or unable to participate in college governance, then that burden falls solely on the full-time faculty.

¹⁸[http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=EDC§ionNum=87482.6#:~:text=\(1\)%20In%20computing%20the%20percentage,instruction%20taught%20by%20full%2Dtime](http://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?lawCode=EDC§ionNum=87482.6#:~:text=(1)%20In%20computing%20the%20percentage,instruction%20taught%20by%20full%2Dtime)

Importance of academic senates and unions working together

In assessing the state of academic freedom, tenure and governance within the community college system, it is obvious that faculty organizations must collaborate to improve the status of all three for the benefit of faculty, students, and the community at large. Although there may be times that a local academic senate has found itself at odds with interests or positions taken by the local collective bargaining unit or union, these conflicts, potentially pitting one faculty group against another, do not serve faculty nor the institution well. It is important for both academic senates and unions to be clear of their purview in governance of the college and it benefits all for both entities to “stay in their respective lanes” and yet continue to collaborate on shared interests and issues. Academic freedom is one shared issue that is frequently neglected by both academic senates and unions. Although colleges have academic freedom policies and some unions have negotiated language into the contract, it may not be enough as faculty face direct threats to academic freedom.

ASCCC Academic Freedom Survey

An 2019 Academic Senate for California Community Colleges survey on Academic Freedom (Appendix 3), sent through the local Academic Senate Presidents, showed that more than 50% of those responding indicated that their contract did not contain a robust policy on academic freedom with due process for both full and part time faculty. In another finding, approximately 47% of those surveyed indicated that their academic senate had not created a strong statement that defined the parameters of academic freedom for faculty. Only about half of respondents agreed that their local Academic Freedom statement and Board Policy were widely distributed and easily accessible to all faculty. More than 90% of respondents indicated that faculty did not receive training on academic freedom at their campuses.

Respondents identified several topics that had been debated with regards to academic freedom on their campuses including textbook selection, teaching methodology, implementation of statewide initiatives, faculty evaluations, grading policies, freedom of speech (in and out of the classroom), and curriculum offerings. More than 13% of those surveyed reported that outside organizations had been involved with the surveillance and censoring of college faculty and/or others on their campus. The survey results support the need for collective bargaining units/ unions and senates to work together to protect academic freedom, tenure, and shared governance for all faculty.

Academic Freedom Policies and Collective Bargaining Agreements

In 2020 there were eighty-three faculty collective bargaining agreements in the California Community College system yet only forty have some mention of Academic Freedom. Many simply include reference to the local district board policy on academic freedom noting that faculty have a contractual obligation to observe all policies. When Academic Freedom is included in the collective bargaining agreement, this is the default. However, listing Academic Freedom in collective bargaining agreements, not as a right of faculty, but yet as another task that they must absorb as part of their workload is insufficient. The recent ASCCC survey on Academic Freedom revealed that only 45% of respondents agreed or strongly agreed that their contract contained a robust policy on Academic Freedom and due process for Academic Freedom for both full-time and part-time faculty. In order to protect academic freedom, the collective bargaining agreement should strive to assert the unique right of academia particularly in the area of tenure, evaluation, and due process. The agreements must acknowledge academic freedom as a right of a profession of the faculty and reference the standard definition in the 1940's AAUP statement of principles. In the AFT Guild Local 1931

2020-2022 Collective Bargaining agreement with San Diego Community College District,¹⁹ the faculty rights to academic freedom permeate the document not only by acknowledging the 1940 Statement of Principles but specifically called out in the right to faculty privacy including use of email and a noted expectation of the faculty to protect student's academic freedom. The collective bargaining agreement stands out in particular as an example incorporating the importance of academic freedom in the faculty evaluation process.

Academic Senate and Union Partnerships regarding Academic Freedom

Academic senates must recognize that unions can be a powerful force to help combat the erosion of academic freedom and ensure faculty certain protections under academic freedom. According to the 2005 AAUP Academic Unionism Statement, there are a number of benefits from being a member of a union that complement the benefits of being a member of the academic senate including:

- Unions enable faculty and other members of the academic community, who would be powerless alone, to safeguard their teaching and working conditions by pooling their strengths.
- Unions make it possible for different sectors of the academic community to secure contractual, legally enforceable claims on college administrations, at a time when reliance on traditional advice and consent has proved inadequate.
- Unions may provide members with critical institutional analyses—of budget figures, enrollment trends, and policy formulations—that would be unavailable without the resources provided by member dues and national experts.
- Unions increase the legislative influence and political impact of the academic community as a whole by maintaining regular relations with state and federal governments and collaborating with affiliated labor organizations.

¹⁹ <https://aftguild.org/contracts/contracts.html>

- Unions reinforce the collegiality necessary to preserve the vitality of academic life under such threats as de-professionalization and fractionalization of the faculty, privatization of public services, and the expanding claims of managerial primacy in governance.²⁰

In support of academic senates and unions working together, the 2005 AAUP statement goes on to say that “[s]trong senates and strong union chapters can work together to preserve and protect academic freedom on campus. Together, they establish the institutional terrain and precedents on which individual rights are defined, defended, and sometimes adjudicated.”²¹

Protecting Academic Freedom Together: Effective practices for Academic Senates and Unions

In order to effectively represent faculty, local academic senates and unions should strive to create a collegial and collaborative relationship – one that delineates and respects the unique role of each entity and strives to support the other. Faculty are best served when both the academic senate and the union are strong. A faculty divided against itself undermines faculty academic and professional standards, impairs working conditions, and damages the educational integrity of the institution.

In defining the relationship, faculty need to be aware of the different approaches used by academic senates and unions. Negotiation is the primary tool used by unions to draft the contract between faculty and the district to determine the conditions of employment, such as but not limited to, wages, working hours, overtime, safety conditions, class size, evaluations procedures, due process for discipline, seniority, academic calendar, sick leave, retirement benefits, health benefits, professional development, grievance methods, and participation in

²⁰ <https://www.aaup.org/academic-unionism-statement>

²¹ <https://www.aaup.org/academic-unionism-statement>

the academic senate. On the other hand, academic senates develop policies and processes regarding academic and professional matters through collegial consultation with the board of trustees (or its designee). Collegial Consultation is defined as either or both relying primarily upon the advice and judgment of the academic senate or by reaching mutual agreement.²² Although very different, the approaches work as counterbalances to each other. When the union and the academic senate collaborate, the benefits of both approaches are clearly visible in the strengthening of the faculty as a whole and support the design of mutually beneficial college policies and processes that are culturally informed and responsive to our diverse students, their dreams, goals and needs.

To reach a beneficial state, it may be helpful to create a joint agreement or memorandum of understanding between the academic senate and the union(s) to clearly define the role and purview of each entity and the working relationship between the two. In developing the agreement, it is best to do so when the entities are not in conflict or stressed in dealing with major concerns (Appendix 4). A collegial relationship between the academic senate and the union is critical so that each entity may represent faculty within its purview. A written agreement is one way to ensure the effectiveness of working together particularly as a road map to continue collaboration in the future through the change of faculty leaders of both bodies.²³

²² Title 5 Section 53200

²³ For more information on establishing a collegial working relationship between the academic senate and union, refer to ASCCC Developing a Model for Effective Senate/Union Relations https://www.asccc.org/sites/default/files/publications/senate_union_relations_1996_0.pdf

As academic senates and unions establish strong working relationships, one of the first items on the collective agenda should be to review the institution's policy on academic freedom and ensure that it is codified in the contract to protect both full and part time faculty. Academic senates should take the lead on defining the parameters of academic freedom (e.g. instructional methodology, textbook selection, syllabi, etc.) through resolution, policy, or other means as dictated by local process. These parameters will help to support and inform contractual agreements on academic freedom negotiated by the union. The unions should negotiate protections for both full and part time faculty, including due process for violations and ensuring the faculty evaluation process does not encroach on academic freedom.

Once the union has negotiated robust protections for academic freedom into the collective bargaining agreement, professional development for faculty is crucial. Again, this is an area where the academic senate and the union should collaborate. Training should be provided for all faculty, part time, tenure-track and tenured, on academic freedom and participating in the evaluation process. Special consideration should be given to how faculty evaluate faculty in the classroom, both on-ground and on-line. It is important to note that the tenure process for faculty in community colleges relies heavily on student evaluations. According to one recent study of tenure-track faculty, the factors most associated with higher student ratings were the attractiveness of the faculty and the student's interest in the class; the factors most associated with lower student ratings were course difficulty and whether student comments mentioned an accent or a teaching assistant. Not surprisingly, faculty tended to be

rated more highly when they were young, male, White, in the Humanities, and held a rank of full professor.²⁴

Faculty should be aware of the scope of evaluations and how to ensure that the evaluation does not infringe upon the academic freedom of the faculty member being evaluated. If a faculty member has questions about what another faculty member is doing regarding anything that is within the faculty members academic freedom parameters as established by the academic senate, those conversations must be collegial and nonevaluative. They should be professional with the goal of understanding different ways of teaching and should in no way be brought up during the evaluation process. Ultimately, the academic senate and the union should work together so that all faculty understand and protect the academic freedom rights and responsibilities of all faculty.

Once protections are in place, it is important to consider who or what will be the arbiter in a case where there is a perceived violation of a faculty member's academic freedom. As an academic and professional matter, it is important that these violations go before a duly constituted (appointed or elected) faculty committee to review and recommend action. The committee should be composed of members who are knowledgeable of both the parameters of academic freedom as determined by the academic senate and members who know the contract and due process for violations of those parameters. Committee members should undergo

²⁴ Citation: Murray D, Boothby C, Zhao H, Minik V, Be' rube' N, Larivière V, et al. (2020) Exploring the personal and professional factors associated with student evaluations of tenure-track faculty. PLoS ONE 15(6): e0233515. <https://doi.org/10.1371/journal.pone.0233515>

regular training on the academic freedom parameters and due process to remain current and effective. Such a committee may act as a source of campus expertise on academic freedom.

Other Considerations in Protecting Academic Freedom

Other areas that the senate and union should collaborate regarding academic freedom include providing joint union and academic senate professional development and training for faculty and academic senate leaders. In a survey on Academic Freedom conducted by the ASCCC (Appendix C), an overwhelming majority of respondents, 93% indicated that their college provided no professional development on academic freedom for faculty. Ideally, professional development regarding academic freedom should be provided for all faculty locally including implementing local board policies and procedures in light of the parameters set by academic senates and the contract obligations negotiated by the union. Academic senates, with the assistance of union colleagues, should review their own procedures and those of their standing committees for possible constraining or incursion into areas of academic freedom.

Finally, senates and unions should educate administrators, board members, and the campus community as well as the larger community on the importance of academic freedom, tenure and shared governance as the most effective methods in ensuring the integrity of the institution and enduring public trust.

Supporting the Academic Freedom of Colleagues

Faculty can take many actions to strengthen and support the academic freedom of their colleagues across the system and indeed across the nation. First, local academic senates can encourage the creation and adoption of a supportive board policy delineating the parameters

of academic freedom on each campus. Further, each local senate can create their own statement regarding the practice of academic freedom at a variety of levels, including the generation of new curriculum and retirement of older courses, professional development, the implementation of diverse and innovative pedagogies in the individual classroom, evaluations, and grading policy, among others.

Sometimes supporting the academic freedom of colleagues at the department level can become fraught, especially because individual academic freedom can find itself in tension with local departmental policies, procedures, and the collective decision-making process. Decisions regarding common course materials and textbooks can often intersect with individual academic freedom. For example, what if a faculty member desires to use open educational resources (OER) for a course that makes use of a common print textbook chosen by the department. In this case, the department may have chosen a common text in order so that students do not have to purchase additional course materials (though the use of an OER would not require them to do so). Oftentimes there are departmental questions regarding the quality and rigor of the materials that can inspire intense feelings among discipline faculty who are passionate about their subjects and student success. As long as the faculty are choosing course materials that are in alignment with the course outline of record, individual faculty do in fact have the right to choose their course materials under the tenets of academic freedom.

In the aforementioned example, robust discussion should take place within the department, and ideally a consensus solution could be found. The same type of discussion may be had for student learning outcomes (SLOs) another area in which departments also adopted common standards and policies across courses. Another intra-faculty issue that can sometimes

cause consternation among colleagues regarding the practice of academic freedom is grading policies. Academic freedom allows faculty to evaluate student work in a manner that they best see fit in order to teach the material. This is an especially important point to acknowledge, because commentary surrounding grading policies can often appear in evaluations of faculty work within the classroom by their peers during the tenure process. Some faculty equate rigor with a standard bell curve, while others believe that courses may be rigorously designed in ways in which most students master the material and earn high marks. In either case, it would infringe upon the parameters of academic freedom to use grade distribution in the evaluation of faculty work. Ideally, local academic senates and communities of practice within departments would set suggested guidelines for the evaluation of student work and grading policies, but not act as bodies of surveillance and enforcement.

One of the best and most important ways faculty can support the academic freedom of their peers is for local academic senates along with their union colleagues to develop robust professional development opportunities regarding the parameters and practice of academic freedom. Without a clear understanding of the boundaries and responsibilities attendant on the privilege of academic freedom, without a clear delineation of why academic freedom is practiced in service of our students and the public good in order to create a foundation of trust in our public institutions of education, and without a sound articulation of how the tenure process is the essential basis of academic freedom, then the future of academic freedom will teeter in jeopardy.

Academic Freedom and Systemwide Initiatives

Our system is constantly engaged in a process of continuous improvement, in order so that we may educate the whole student in the best way possible. As faculty we are always interrogating our pedagogies, improving our services, and innovating change so that we can be as effective as possible. The dialectic of continuous improvement may take place at a variety of levels in which faculty take the lead: the individual classroom, the department, or on local and statewide academic senate committees.

Sometimes, however, change knocks on our doors from outside our system, and is encouraged by entities who have different prerogatives and intentions than faculty. However, because academic freedom exists to protect education for the public good, and to ensure that students are allowed free inquiry, it must be the faculty, whose expertise is teaching and student engagement, who lead the effort to improve the quality and delivery of the education we deliver. Faculty must be properly resourced so that they may have the time and space to genuinely collaborate with administrators and system partners in a meaningful way that reflects the best principles of participatory governance and collegial consultation. Faculty engaged in a constant process of improvement, welcome the suggestions, expertise, and help of enthusiastic partners in student success, both because we believe through the process of collaboration and shared governance we can achieve the best results, and we require financial support in order to achieve the mission of the system for our students and for the state. But most of all, the faculty of the California community college system understand that they are living in the “fierce urgency of now,” and will not be satisfied until all students are achieving their self-stated goals, and that the system is achieving equitable results. However, when the

goals of system partners intersect with the responsibilities of faculty as delineated in the 10+1, then academic freedom may become threatened.

Many well-intentioned system initiatives and grant-funded projects can inadvertently encroach upon the boundaries of academic freedom, and it is incumbent upon faculty not only to be vigilant, but to step up and take ownership of the change management process in a meaningful way. This means that resources must be devoted to some faculty with pertinent expertise regarding whatever innovation is being implemented or project is at hand, and that they have access to robust professional development which ensures that they become leaders and agents of systemic change.

Specifically, in the area of curriculum development there are many pratfalls which can be avoided in order to protect the integrity of academic freedom. Take, for example, the recent implementation of AB 705, a well-intentioned law designed to support students completing transfer level Math, English, and/or ESL in their first year (or three years in the case of ESL). Nowhere in the law did it necessarily recommend curricular changes; it was intended to change the placement of students in courses in order to increase their timely success. However, a variety of external organizations campaigned and applied significant political pressure with varying degrees of effectiveness to eliminate entry-level courses, and many districts followed suit. Because each campus in the system is so different, and because student bodies are so diverse in their needs and composition, careful and intentional collaboration is instead needed to make sure all of the implications for equity and student success have been considered on each individual campus as everyone is engaged with systemic change. For these reasons, reform and redesign movements like Guided Pathways must be firmly grounded in the “10+1”

as outlined in Ed Code and Title 5. Specifically, curriculum development, student learning outcomes, the organization of programs within clusters, and the way that we deliver counseling services, among many others, require a strong process of collaboration grounded in the principles of shared governance in order to preserve the essential tenets of academic freedom.

Conclusion

Academic freedom is an essential aspect of education that protects the free exchange of ideas and should be at the forefront of our Senate conversations. The opportunities afforded by Academic Freedom including areas of teaching, research and extramural speech are at the cornerstone of free education. Because faculty members have the right to teach, research and speak freely on their areas of expertise, community dialogue is expanded and equitized.

Academic freedom allows new ideas and marginalized stories to be brought to the forefront of academic discussion. The tenure structure is essential to providing faculty the safety and protections to fully embrace their Academic Freedom. Senates and Unions should work together to create process, procedures and contract language to protect all faculty's academic freedom. They should also support and train faculty in the facets of academic freedom through multiple and systematic professional development opportunities. Below are a few specific recommendations to bring the discussion of Academic Freedom to individual campuses.

Recommendations

Recommendations for local senates:

1. Recommend that local senates create a statement on academic freedom, in addition to the board policy, that delineates the specific issues and parameters of academic freedom for faculty. (this needs refining)
2. Recommend that local senates provide consistent and ongoing professional development for full and part-time faculty and senate leaders (curriculum, program review, policy chairs, senators, etc.) in the principles and tenets of academic freedom including in onboarding new faculty.
3. Recommend that local senates work to review, revise and strengthen shared governance processes, policies and procedures in relation to academic freedom so that shared governance protects dissenting opinions in the decision-making process. Dissent is vital to protect Academic Freedom.

Recommendations for local senates in collaboration with union colleagues:

4. Recommend that local senates work with union colleagues to develop due process around violations or perceived violations that fall within academic freedom that includes a duly constituted (appointed or elected) faculty committee to review and recommend action.
5. Recommend that local senates collaborate with union colleagues on codifying the protection and parameters of academic freedom in contract in light of faculty evaluations, curriculum, online instruction, dual enrollment, open educational resources, guided pathways, etc.
6. Recommend that local senates work with union colleagues to train faculty on engaging in tenure and faculty evaluations in light of academic freedom.
7. Recommend that local senates support union colleagues in negotiating compensation for adjunct faculty participation in shared governance.
8. Recommend that local senates and union colleagues review AAUP resources and recommendations

Academic Freedom Resources

AAUP 1940 Statement of Principles on Academic Freedom and Tenure

<https://www.aaup.org/report/1940-statement-principles-academic-freedom-and-tenure>

AAUP Academic Unionism Statement

<https://www.aaup.org/academic-unionism-statement>

Assembly Bill 1725 Vasconcellos (1988)

<https://www.asccc.org/sites/default/files/1988%20AB%201725%20Community%20College%20Reform%20Act%20%28Vasconcellos%29.pdf>

AAUP Red Book – Policy Documents and Reports, American Association of University Professors, 2015

<https://www.aaup.org/reports-publications/publications/redbook>

Academic Freedom in the 21st-Century College and University: *Academic Freedom for All Faculty and Instructional Staff*

<https://www.aft.org/sites/default/files/academicfreedomstatement0907.pdf>

AAUP Statement on Academic Government for Institutions Engaged in Collective Bargaining

<https://www.aaup.org/report/statement-academic-government-institutions-engaged-collective-bargaining>

Messier, John “Shared Governance and Academic Freedom: Yes, This Is Union Work” 2017, NEA

https://www.nea.org/assets/docs/TA2017S_Messier.pdf

Reichman, Henry “Professionalism and Unionism: Academic Freedom, Collective Bargaining, and the American Association of University Professors” AAUP Journal of Academic Freedom, 2015

https://www.aaup.org/sites/default/files/Reichman_0.pdf

Reichman, Henry, The Future of Academic Freedom, John Hopkins University Press, 2019

Appendices

Appendix 1: 1940 Statement of Principles on Academic Freedom and Tenure with 1970

Interpretive Comments

Insert from

<https://www.aaup.org/file/1940%20Statement.pdf>

Appendix 2: Academic Freedom Contract Language

Insert from

https://drive.google.com/file/d/1N2vwAQRdLFSyDn6xTM5f1KffLpibh1_8/view?usp=sharing

Appendix 3: Executive Summary of ASCCC Academic Freedom Survey Results

- Based on a recommendation from the Educational Policies Committee, the ASCCC conducted a statewide online survey on Academic Freedom during January of 2020.
- Responses were submitted during a two-week period between 1/14/20 to 1/25/20.
- The survey contained a total of 13 questions.
 - Two questions obtained information on college demographics and faculty role.
 - Nine questions were multiple choice or True/False and are summarized below.
 - Two questions were open ended:
 - Question 7: How often do your faculty receive professional development regarding Academic Freedom?
 - Question 10: If a faculty member on your campus believes their Academic Freedom has been violated, what happens? Has your senate been involved with the creation of a due process?
- The survey elicited 66 responses from faculty representatives at 39 different colleges.
 - A total of 37 colleges submitted a single response to the survey.
 - Two institutions, Taft and LA Southwest Colleges, had multiple responses, 12 and 15 respectively.

Figure 1 summarizes responses to the following two statements (Survey Questions 3 & 4):

1. Our local Academic Senate participated in the creation and/or review of a **Board Policy** regarding Academic Freedom

- Our **Academic Senate** has created a strong **Statement** regarding Academic Freedom that defines the parameters of Academic Freedom on our campus.

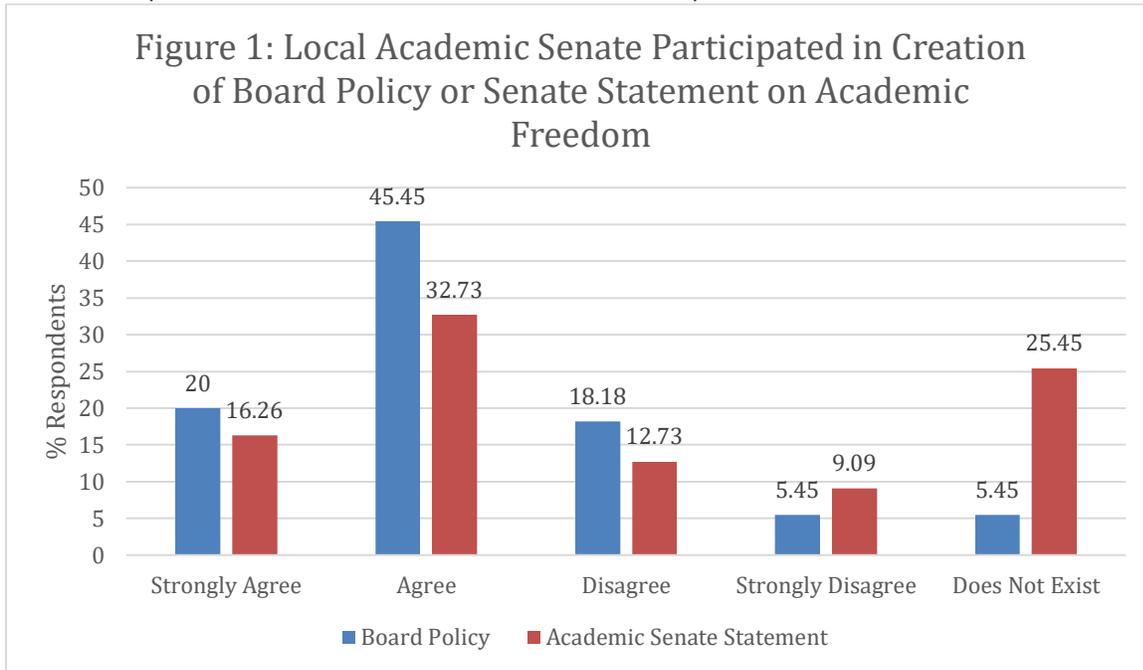


Figure 2 summarizes responses to the following statement (Survey Question 5):

Our Academic Freedom statement and Board Policy are *widely distributed and easily accessible* to full-time and part-time faculty.

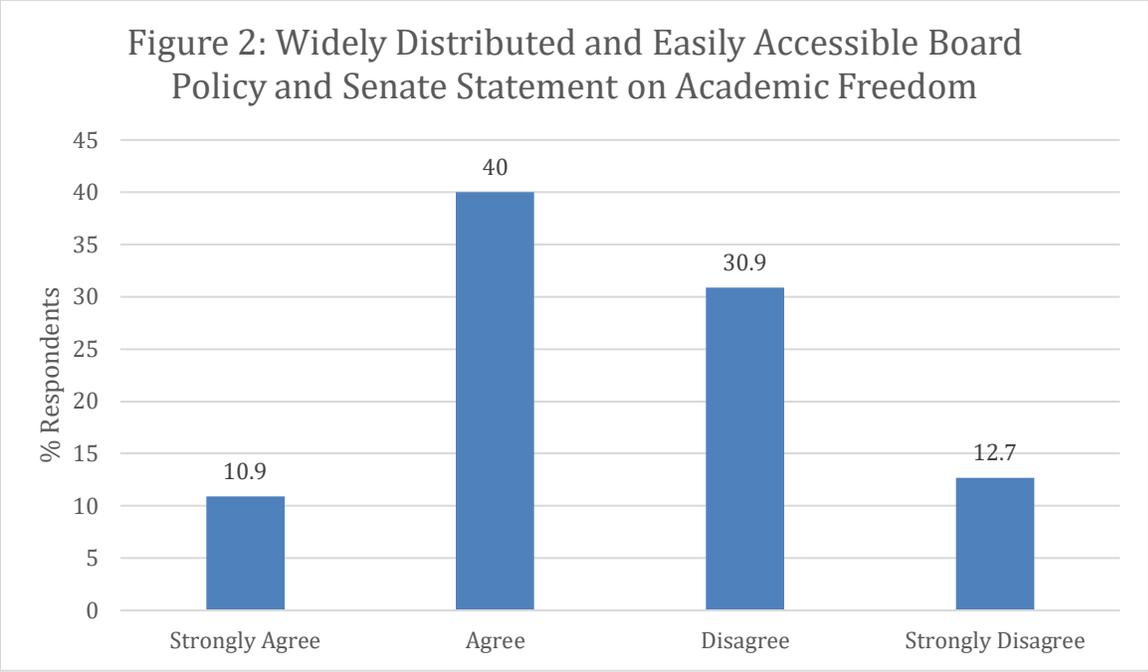


Figure 3 summarizes responses to the statement (Survey Question 6):

Faculty receive professional development training regarding Academic Freedom on our campus

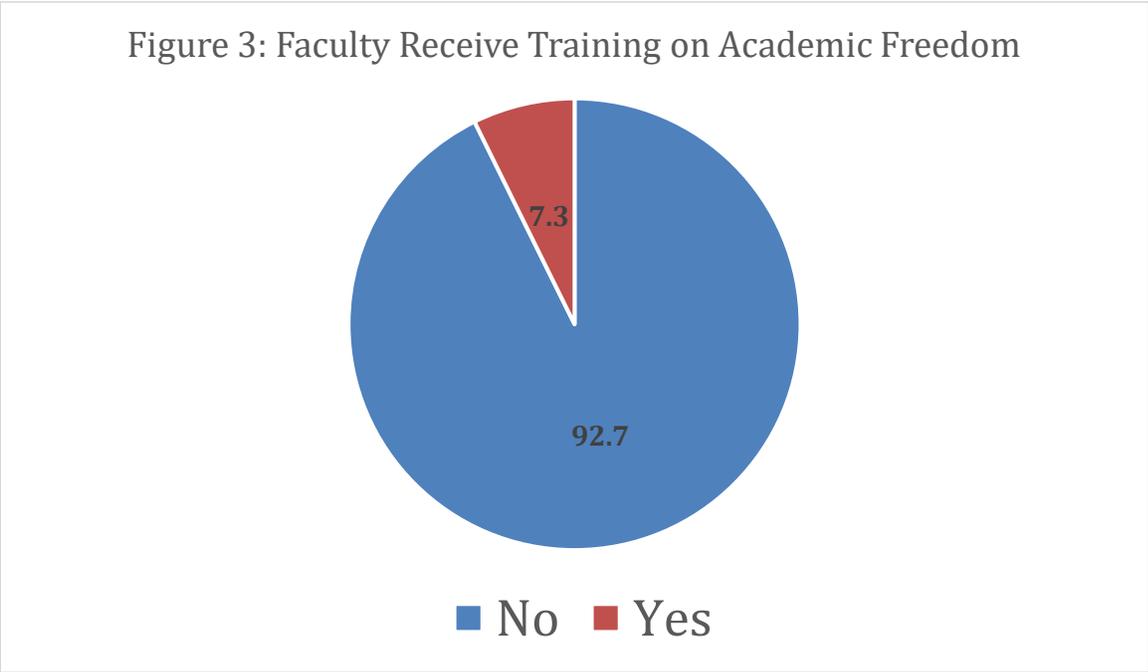


Figure 4 summarizes responses to the statement (Survey Question 8):

Our **contract** contains a robust policy on Academic Freedom and **due process** for Academic Freedom for both full-time and part-time faculty:

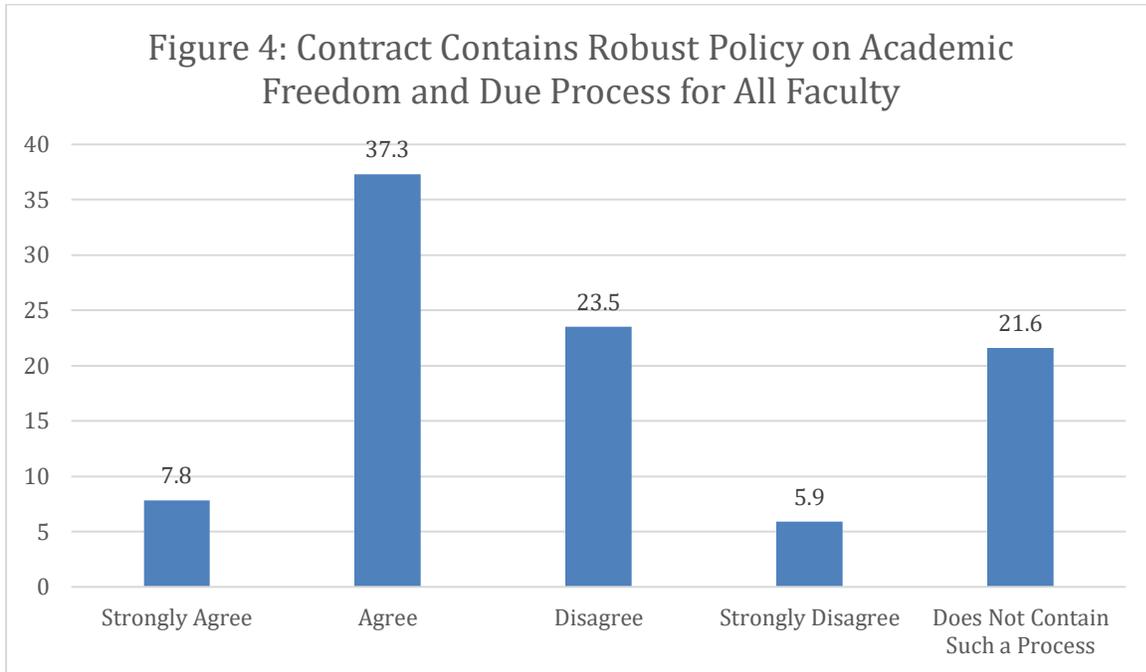


Figure 5 summarizes responses to the statement (Survey Question 9):

Please indicate if any of the below subjects have been debated on your campus with regards to how they intersect with Academic Freedom (you may select more than one).

Figure 5: Topics Debated with Regards to Academic Freedom

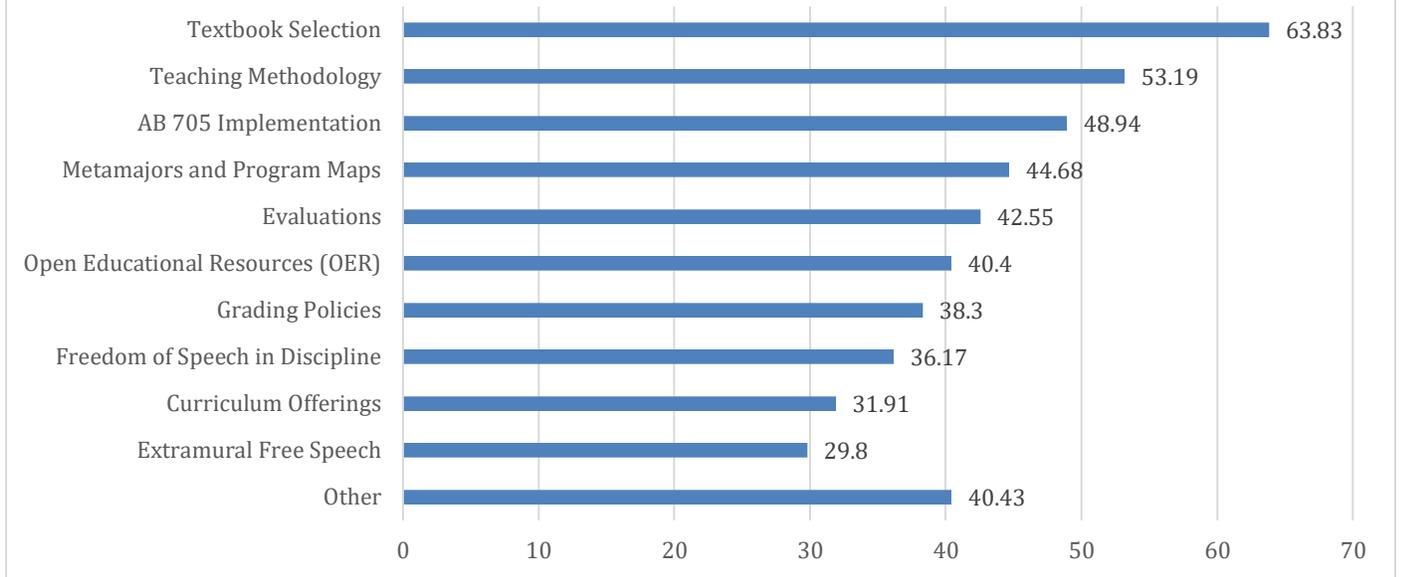
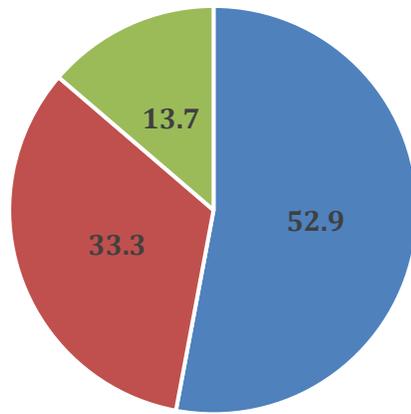


Figure 6 summarizes responses to the following question (Survey Question 11):

Have outside organizations been involved with the surveillance and censoring of college faculty and/or administrators and staff on your campus? If so, please explain.

Figure 6: Surveillance and Censuring by Outside Organizations

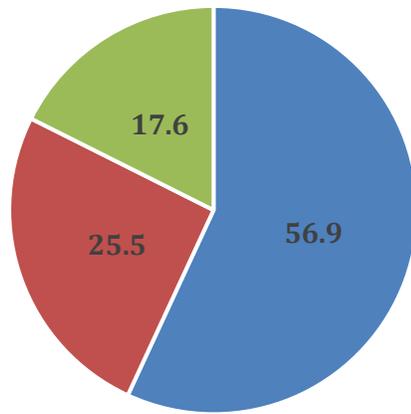


■ Not Sure ■ No ■ Yes

Figure 7 summarizes responses to the following question (Survey Question 12):

Has the ratio of hours taught by full-time tenure track faculty fallen in the past five years when compared with the number of hours taught by part-time faculty on your campus?

Figure 7: Has the Ratio of Hours Taught by Full-time Faculty Dropped in Last 5 years?

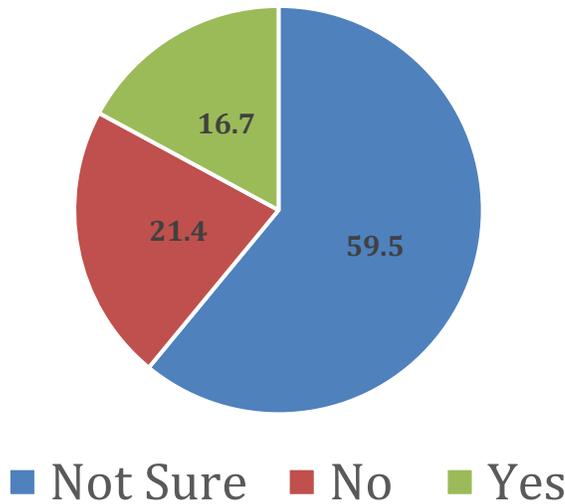


■ Not Sure ■ No ■ Yes

Figure 8 summarizes responses to the following question (Survey Question 13):

If the ratio of hours taught by full-time tenure track faculty has fallen when compared to hours taught by part-time faculty, do you believe this has had any effect on the security of academic freedom on your campus? If so, please explain.

Figure 8: Has a Lower Ratio of Hours Taught by Full-time Faculty Affected Academic Freedom on Your Campus?



Conclusions and Findings

- **Board Policy on Academic Freedom:** 65% respondents agreed or strongly agreed that the senate had participated in Board Policy on Academic Freedom, 24% disagreed or strongly disagreed, and 5% indicate the Board had no Academic Freedom Policy.
- **Senate Statement on Academic Freedom:** 49% respondents agreed or strongly agreed that the senate had created a statement on Academic Freedom, 21.8% disagreed or strongly disagreed, and 25.5% indicate the Senate had no Academic Freedom statement.
- **Widely Distributed and Easily Accessible Academic Freedom Policy and Statement:** 50.9% agreed or strongly agreed, while 43.6% disagreed or strongly disagreed.
- **Training on Academic Freedom:** Over 92.7% of respondents indicated faculty did not receive training on Academic Freedom, only 7.3% reported faculty received training on this topic.
- **Contract Policy and Due Process for Academic Freedom:** 45.1% respondents agreed or strongly agreed that their contract had a robust policy on Academic Freedom, 29.4% disagreed or strongly disagreed, and 21.6% indicate their contract had no Academic Freedom policy.
- **Topics debated with regards to Academic Freedom:**
 1. Textbook selection: 63.8%
 2. Teaching methodology: 53.2%
 3. AB 705 implementation: 48.9%
 4. Faculty Purview in Metamajors and Program Maps Creation: 44.7%
 5. Evaluations: 42.6%
 6. Open Educational Resources Implementation or Prohibition: 40.4%
 7. Grading policies: 38.3%
 8. Freedom of Speech in Discipline: 36.2%
 9. Curriculum offerings: 31.9%
 10. Extramural Free Speech: 29.8%
 11. Other: 40.4%

- **Surveillance or censoring by outside organizations:** 13.7% reported surveillance or censoring by outside groups, 33.3% reported none, and 52.9% were not sure.

Appendix 4: College of the Canyons Joint Understanding Between Senate and Union

Insert from

https://www.canyons.edu/_resources/documents/administration/academicssenat/documentspage/academicssenatstandingrulesandstatements/JointCollaborativeconsultationUnderstandingJCCUsigned.pdf