THE MINUTES OF THE ACADEMIC SENATE

CALIFORNIA STATE UNIVERSITY, FRESNO

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February 4, 2019

Members excused: M. Dangi, S. Lankford, D. Law, R. Raya-Fernandez, J. Smith-Warshaw, T. Van Camp

Members absent: P. Adams, T. Botts, C. Copher, T. Cupery, M. Ellis, D. Lewis, K. Mcbee, B. Singh, P. Turnbull

The Academic Senate was called to order by Chair Holyoke at 4:00 p.m. in HML 2206.

1. Approval of the agenda

MSC approving the agenda

1. Approval of the Minutes of December 3, 2018

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1. Communications and announcements
   1. Interim Provost Harper

The Provost announced the upcoming president’s lecture series event, which will feature Steve Forbes.

* 1. Chair Holyoke

Chair Holyoke announced that a future senate meeting will including a discussion of student ratings of instruction. The RFPs have been scored by their respective committees and vendors will soon be presenting their proposals for the Senate’s consideration.

Senator Kensinger asked whether there were not three options on the table, including one in which a vendor would provide services for a contract period while we completed an in-house process. Chair Holyoke replied that the committee developing in-house questions is already confident in their reliability.

1. Consent Calendar  
   1. Elevation of Graduate Applied Behavior Analysis Program from an Option in M.A. in General Psychology to the Master of Arts in Applied Behavior Analysis.
   2. Elevation from Option to Independent Program for Marriage, Family, Child Counseling Option.
   3. APM 110 Policy on Ancillary Units.
   4. APM 325 Policy on Retention and Tenure/APM 327 Policy on Promotion.   
        
      There were no objections offered to any items and the consent calendar was deemed passed by unanimous consent.
2. New business

There was no new business for the Academic Senate.

1. APM 231 Drop Deadlines. Second Reading. Academic Policy and Planning.   
     
   Chair Mullooly (AP&P) was recognized to introduce the item. This change relates to changing the last day for students to drop a class, in relation to the last day to add the class. The intent of the change is to allow students 24 hours to add classes in which there are spaces.   
     
   Senator Ram (University-wide) made a series of amendments to clarify the exact number of days that represent each deadline. Senator Kensinger (Women’s Studies) asked what an “instructional day” refers to for courses that meet weekly. Senator Ram clarified that the numbers refer to university instructional days, not class meetings. The amendment was called to a vote and passed (1 abstention).   
   President Wack (ASI) asked how holidays factor into instructional days. Senator Ram stated that holidays are not instructional days. The main item was called to a vote and passed unanimously.
2. Guidelines for Free Speech.   
     
   Chair Tsukimura (Personnel) was recognized to introduce the item. This item resulted from an attempt to create social media guidelines and free speech guidelines at the same time. The committee determined that it was important to define free speech before any additional guidelines were considered. Chair Holyoke clarified that this item would be voted on as an addendum to APM 103 following its second reading. In addition, this document represents guidelines, not policy.   
     
   Senator Botwin (Psychology) asked where this item would end up if it is not an APM section. Chair Holyoke clarified that this would be an addendum to the APM.   
     
   Senator Wise (Ex officio; Media, Communication and Journalism) asked about the footnote on page 3. The Vice Chair clarified that the footnote is indeed in the document.   
     
   Senator Bryant (University-wide) asked whether placing the item into the APM as an addendum might imply that it is policy. Chair Tsukimura stated that there are a number of similar examples of addenda on the APM website that serve purely as examples. Senator Kensinger (Women’s Studies) agreed with Senator Bryant that documents posted to the APM website often become symbolic, and perhaps the Academic Senate website should have a section created to reflect that such examples are not policy.   
     
   Senator Hensen (English) asked about the list of items on page 3 including the statement that the university’s restrictions must be “content neutral”. Chair Tsukimura clarified that the restrictions are based on how the speech is presented, not its content. Senator Wise (Media, Communication and Journalism) stated that the term “content neutral” would imply that there must be some kind of balance in the speech. Senator De Walt (Liberal Studies) asked whether footnotes could be added to clarify certain terms. Chair Tsukimura stated that footnotes could be added, but senators would need to identify the terms that need clarification. Senator Botwin agreed with the senator and suggested that senators should consider adding footnotes to clarify certain terms in the document. Chair Tsukimura encouraged senators to identify such terms before the item’s second reading. Senator Kensinger asked whether it would be simpler to simply remove the a)-e) list of items on page 3. Senator Chowdhury (Art & Design) asked why the item is not being set as policy, and whether the university should in fact have the ability to restrict speech based on its content.   
     
   Senator Wise asked whether language reflecting things the university can and cannot do mean that it is actually policy. Chair Tsukimura answered that those points are actually federal court rulings and/or law, and not a campus policy.   
     
   Senator Hall (Physics) stated that point e) on the list related to course content deviating from the course topic reflect a threat against faculty academic freedom. Chair Tsukimura stated that footnote 2 attempts to clarify the item. Senator Hall stated that the footnote is not sufficient explanation. Senator Gillewicz (English) added that point e) refers to content, and is therefore not content-neutral. Senator Ram suggested that some language might need to be defined in the document, and asked where point e) had come from. Chair Tsukimura answered that those points were derived from case law.   
     
   Senator Scott (Communication) asked why the document had been created at all if it is not policy. Chair Tsukimura stated that the administration had proposed creating such documents in the past, but the Personnel Committee had offered to write its own version with faculty and Senate consultation. Senator Cronin asked whether legal citations in the document might help clarify the source of the language in the document.   
     
   Senator Wise asked how many additional restrictions beyond the list a) to e) exist. Chair Tsukimura stated that the five cases listed reflect the most common cases in current law.   
     
   Senator De Walt (Liberal Studies) argued that any document passed by the Senate would be open to subjective interpretation and might open up future problems. Chair Tsukimura suggested that “preemption” might be the best term to describe why the Senate would consider such a document. Further, Chair Tsukimura suggested that the draft document be used as a conversation starter with colleagues across the university in the coming days.   
     
   Senator Ram agreed with the suggestion to reference existing legal precedents, and additionally suggested that perhaps a list of links to other documents might be more desirable in informing the campus community. Senator Hall (Physics) stated that document seems to be offering legal guidance, not philosophical guidance. In addition, the Senator suggested that the language in section a)-e) should be directly referenced in the document, and an attorney should review the language before the senate chooses to sign onto it.  
     
   Senator Kensinger (Women’s Studies) agreed with Senator Ram that more footnotes and references might be added, and stated that she had added the footnote in section e) to clarify the AAUP’s stance that controversial content must be taught in the classroom, not necessarily to relate it to the item. President Wack (ASI) further agreed with Senator Ram’s point, and suggested that additional citations and policy references be added to the document. Senator Bryant (University-wide) argued that the document should not strive to list specific behaviors that are or are not permitted in the classroom. President Wack clarified that she did not mean an actual list would be added, but some general guidelines.   
     
   Senator Parra (Accountancy) expressed general support for the document and argued that it is important for the campus environment. However, the Senator argued that item d) might be too broad. Chair Tsukimura stated that item d) relates to disruption of class time by students. Further, the chair stated that the intention of the document is to open a discussion.   
     
   Senator Chowdhury (Art & Design) argued that the document may be trying to do too much, and that different rules may well apply to different constituencies and contexts. The Senator suggested the document might be broken into different parts to clarify how the document applies. Chair Tsukimura stated that the document under consideration applies in many ways to all groups at a public university campus because it is based in prevailing case law.   
     
   Senator Luo (Construction Management) asked how the document, if passed, would be implemented on the campus, and how campus members would be educated on the topic. Chair Tsukimura replied that because the document is not a policy, it would be essentially toothless. However, the hope is to spur discussion at the department and interpersonal level. Senator Scott (Communication) asked where this document would sit, if it were passed. Chair Holyoke stated that the document would sit on the Academic Senate website. Senator Ram asked whether Chair Tsukimura would be able to provide the case references relevant to section a)-e) before the next Senate meeting. Chair Tsukimura stated that he would. In addition, Senator Ram suggested that the document simply reference the law rather than providing its own commentary.  
     
   Senator Botwin stated that because this document would be a resolution, it would not need presidential approval. Senator Burger (Mathematics) suggested that the document might be added to the new faculty binder.   
     
   Senator Bohlin (Curriculum and Instruction) stated that the reference to section e) in fact referred to “controversial” content that deviates from the course topic, and asked why Chair Tsukimura omitted that aspect. Chair Holyoke suggested that this language and/or a citation could be added back to the document. Senator Tawfik (Civil Engineering) stated that he would be more comfortable if the document were more designed toward guidelines rather than referencing the law. Senator Parra (Accountancy) stated that a policy would have to withstand a potential legal challenge, and this document simply offers friendly guidance that protects the academic environment. The Senator offered general support for such a document.

The Academic Senate adjourned at 5:18 p.m. The next meeting of the Academic Senate will be on Monday, February 25, 2019.

Submitted by Approved by

Bradley Hart Thomas Holyoke

Vice Chair Chair

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