



THE ACADEMIC SENATE FOR CALIFORNIA COMMUNITY COLLEGES

POSITION PAPER

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

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INTRODUCTION

Academic Freedom Defined

Academic freedom is a fundamental concept that exists to ensure that institutions of higher education function for the public good and that 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, 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 its “Statement of Principles on Academic Freedom and Tenure” in 1940, the community college campus was a different place in terms of student and faculty demographics. In fact, in the California junior or community colleges during that 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 California Community Colleges Chancellor’s Office, students of color make up close to 65% of the student body, while 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 improved slightly. In fact, in the California Community Colleges system 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 and tenure track. Similarly, demographics of faculty in relation to gender indicate a significant difference between 1940 and today. Whereas in the 1940s women made up only a small fraction of faculty on the campuses, today, according to the CCC Chancellor’s Office, 54% of all full-time tenured or tenure track faculty identify as female.

In reference to LGBTQ faculty and students, noticeable changes can be discerned despite the fact that little data currently exists in this area: while California’s AB 620 in 2011 encouraged community colleges to collect aggregate data on gender identity and sexual orientation, colleges are not required to do so. However, the passage of AB 620 as well as the establishment and increase of LGBTQ centers and alliances on college campuses certainly indicates positive trends in recognizing and creating space for LGBTQ

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

faculty and students. In the CCCs alone, at least seventeen colleges have established LGBTQ safe-zones and alliances reflecting this trend.

All of this data indicates that today's college campus is vastly different in terms of diversity than it was in the 1940s when the AAUP presented its "Statement of Principles on Academic Freedom and Tenure" and raises important questions on the role of academic freedom in relation to these historically and currently marginalized communities. Colleges must consider whether a concept developed during a time when these communities were minimally considered—if at all—can apply equally to them today, as well as asking whether other considerations must be identified and addressed in regard to academic freedom given the changes in diversity of today's campus communities.

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 an educational goal. At this time of change in the system, academic freedom may not be on the minds of many faculty. However, the principles of academic freedom are at the core of what faculty do as professionals in their classrooms, at their colleges, and in their communities and should not be forgotten or overlooked. The purpose of this paper is not to be the definitive word on academic freedom in the community college system; rather, it is to begin an exploration of what academic freedom means and how it should be protected and implemented in California's community colleges. This paper does not attempt to cover every aspect or nuance of academic freedom and its practice by faculty. Instead, this paper strives to lay a foundation to ensure that the principles of academic freedom remain strong and flexible to adapt to the changing dynamics in the California community colleges and in academia.

Academic Freedom and Free Speech

Sometimes the concept of academic freedom is confused with the Constitutional right to free speech,² presumably because both concepts regard principles of free expression. However, these rights differ both in those who possess them and in what they guarantee. Free speech is the right of every individual in the United States and is enshrined in 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" (Scott, 2017). Furthermore, first amendment freedom of speech guarantees the right of all people in the United States to "the expression of their ideas, no matter how true or false they may be" (Dutt-Ballerstadt, 2018). Academic freedom is different and in many ways more restrictive. It is a right held by "educators in pursuit of their discipline," "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" (OAH Committee on Academic Freedom, n.d.). 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

2 The specific wording of the first amendment, which includes freedom of speech, can be found at <https://constitution.congress.gov/constitution/amendment-1/#:~:text=Constitution%20of%20the%20United%20States&text=Congress%20shall%20make%20no%20law,for%20a%20redress%20of%20grievances>.

is very concerned with the 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 leaves knowledge, teaching, learning, and students at risk of influence from outside forces that 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 in 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 ends or to maintain the status quo. Such motivations may not necessarily be in alignment with the creation of an informed citizenry and an educated society. Academic freedom is required so that 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. Although it is 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 institutions of higher education. It does not give teachers the right to impose their personal or political views upon students, to 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 institutions of higher education function for the public good and assures that colleges are constructed on the foundations of genuine trust.

ACADEMIC FREEDOM AND MARGINALIZED COMMUNITIES

Considerations of diversity in a campus community typically refer to a demographic perspective that reflects the diverse nature of the community and its 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 for faculty to discuss their subjects, and freedom to have public discussions. In this sense, while issues 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 in the context of faculty's institutional and professional experience.

Freedom of Research and Publication

The demographic change on campuses not only created a more diverse population, but it also introduced diverse concepts and ideas into an academic environment that has been and continues to be dominated by patriarchal euro-centric paradigms. This trend is evident especially in California community colleges, where the growth of ethnic studies-related programs has continued to increase yearly, as has the introduction of general education courses with emphases on marginalized communities. These are strong indicators of the growing influence of a diverse faculty on the academic discourse in the colleges, which is certainly a benefit for students. In many ways, academic freedom has played an important role in ensuring that this influence could exist. Not only is this fact 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 recent years have placed great emphasis on researching communities that were once ignored by academia. Scholarly texts on Black, Latinx, women's, and LGBTQ history are beginning to fill college 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 students as faculty introduce them in their curriculum and, as indicated in extensive research, provide students with a stronger education.

However, this change has 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 that are based on patriarchal and Eurocentric notions and that 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 the 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 to protect patriarchal and Eurocentric paradigms. In this sense, academic freedom serves as a function counter to what it is 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 approaches and discouraging faculty from marginalized communities from introducing concepts that may address and improve the campus experience for all faculty and students.

Another area in which academic freedom in research and publication has been an engine for progress and the common good is medicine and the sciences. The ability to challenge prevailing wisdom or the status quo has always been instrumental to significant advances in human understanding of the natural world. In many cases, new ways of thinking and free inquiry have initially been 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 a 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 were met with such ridicule, hostility, and resistance from his fellow physicians that he was forced to leave his job (Davis, 2015). 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 people understand that handwashing is essential in preventing the spread of infectious disease, making doctors wash their hands was at one point in history considered a radical notion. This example shows a case in which 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 principle 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 right 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 allowed for a more diverse perspective in regard to marginalized communities within the classroom. 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 cultural history, this acknowledgement serves to validate their own presence on campus and give them a sense of belonging.

Examples of this progress have become increasingly 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 on 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 on their societies and a stronger education overall, and once again academic freedom has served as a driving force in their proliferation. In fact, today the number of courses that focus on marginalized communities continues to increase, and this increase can be directly attributed to academic freedom.

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 of and the teaching about marginalized communities necessarily includes a discussion of the conditions that cause their marginalization, these concepts are often challenged and discouraged by

those who embrace more traditional paradigms and trivialized by those who do not see such study 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 (Palumbo-Liu, 2016).

At the administrative level, this resistance may mean that courses with focus on such communities are given less priority and as such, are 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 appears as challenges to the academic integrity of the concepts or topics and thus may remove them from the protection of academic freedom.

Freedom for Public Discussion

Perhaps no other freedom as defined by the AAUP has been more 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 regard to freedom of expression for everyone; however, in regard to academic freedom, it has added layers of complexities and challenges. These advancements have played an important role in the evolution of college curriculum 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, 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 regard 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 employment (Flaherty, 2015). This case exemplifies the complexities of academic freedom in this social media age. While Salaita’s comments were not made in an academic environment nor in a peer-reviewed article, they still fall under the definition of public discussion and as such might 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 Colleges system, college governance must adhere to Education Code and Title 5 regulations, as codified in local policies, procedures, and practices.³ 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 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” (American Association of University Professors, n.d. a) nor to the role that tenure affords in safeguarding the protections of academic freedom. The principles inherent in both academic freedom and tenure not only provide 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, these organizations must work together to ensure the vitality and survival of academic freedom and tenure within the system. In recognizing how important academic freedom is to the profession, faculty 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 (American Association of University Professors, n.d. b).

Academic Freedom and Tenure

In 1988, Assembly Bill 1725 (Vasconcellos)⁴ included mention of the importance of full-time faculty to the community colleges. This sentiment was later included in Title 5 regulation as an aspirational goal—frequently referred to as the 75/25 goal—for 75% of instruction to be performed by full-time tenured or tenure track faculty. The goal is also referenced in Education Code §87482.6, which details the use of the faculty obligation number and funding in an effort to make progress toward the goal. However, regardless of the support of both Education Code and Title 5, the community college system has never met the goal, and this situation has critical implications for tenure, academic freedom, and governance, particularly regarding 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 Colleges system has always been unstable, dependent upon state allocations, property taxes, and political will. Overall, the state allocation per student has remained flat over time,⁵ 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 and in the predictability of that funding. That uncertainty has only been exacerbated in recent times by the economic fallout caused by a global pandemic.

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

4 The text of AB 1725 (Vasconcellos, 1988) is available at <https://edsource.org/wp-content/uploads/old/ab1725.PDF>

5 According to the California Community Colleges Chancellor’s Office Data Mart, per student funding remained relatively flat over the previous ten years as of 2019.

Historically, in response to these financial uncertainties, 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 fluctuations in funding, student headcount, course offerings, and staffing needs. Additionally, the community colleges 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, resulting in stagnant and even decreasing numbers of tenure-track faculty in the CCC system (Bruno, et.al., 2018). Currently, the community colleges have approximately 16,451 full-time faculty and 37,918 part time faculty.⁶ Thus, approximately 70% of faculty within the system are part-time 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 §53200, structural barriers exist for part-time faculty to participate in the governance of their colleges. 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 because it is frequently dependent upon college policies, contract language,⁷ 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 protection extends to part-time faculty through seniority, rehire rights, or due process rights under law, the pervasive threat of losing employment still exists, and processes to grieve the encroachment into areas of academic freedom are minimal or nonexistent. 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, they 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 (Assembly Bill 1725, Vasconcellos, 1988, Section 4.b).

6 Data from the Fall 2019 semester according to the California Community Colleges Chancellor's Office Data Mart.

7 See Appendix 2

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

IMPORTANCE OF ACADEMIC SENATES AND UNIONS WORKING TOGETHER

Faculty organizations must collaborate to improve the status of academic freedom, tenure, and governance within the community colleges system for the benefit of faculty, students, and the community at large. Although a local academic senate may at times find itself at odds with interests of or positions taken by the local collective bargaining unit or union, these conflicts, potentially pitting one faculty group against another, do not serve faculty or the institution well. Both academic senates and faculty unions must be clear regarding their purview in governance of the college, and all will benefit when both entities respect each other's purview and 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 many colleges have academic freedom policies and some unions have negotiated language into their local contracts, faculty may nevertheless face direct threats to academic freedom.

ASCCC Academic Freedom Survey

In a 2019 Academic Senate for California Community Colleges survey on Academic Freedom,⁸ sent through local academic senate presidents, more than 50% of those responding indicated that their contracts 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 respondents indicated that their academic senates 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 regard 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 responding reported that outside organizations had been involved with the surveillance and censoring of college faculty or others on their campus. The survey results support the need for collective bargaining units and academic senates to work together to protect academic freedom, tenure, and shared governance for all faculty.

⁸ See Appendix 3.

Academic Freedom Policies and Collective Bargaining Agreements

As of 2020, eighty-three faculty collective bargaining agreements are established within the California Community Colleges 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 language is the default. However, listing academic freedom in collective bargaining agreements not as a right of faculty but rather as another task that faculty must absorb as part of their workload is insufficient. The 2019 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, collective bargaining agreements 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 professional right of the faculty and reference the standard definition in the 1940s AAUP statement of principles. In the AFT Guild Local 1931 2020-2022 collective bargaining agreement with San Diego Community College District, faculty rights to academic freedom permeate the document not only by acknowledging the 1940 Statement of Principles, but also by specifically calling out the right to faculty privacy, including use of email, and a noted expectation of the faculty to protect students' academic freedom. This collective bargaining agreement stands out in particular as an example incorporating the importance of academic freedom in the faculty evaluation process (Faculty Bargaining Unit, 2020).

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, being a member of a union includes a number of benefits that complement the benefits of being a member of the academic senate, including the following:

- 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.

- 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.

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” (American Association of University Professors, 2005).

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

In order to represent faculty effectively, 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 both. Faculty are best served when both the academic senate and the union are strong. A faculty divided against itself undermines academic and professional standards, impairs working conditions, and damages the educational integrity of the institution.

In defining this 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 in order to determine the conditions of employment, such as but not limited to wages, working hours, overtime, safety conditions, class size, evaluation procedures, due process for discipline, seniority, academic calendar, sick leave, retirement benefits, health benefits, professional development requirements, grievance methods, and participation in college service activities. 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 relying primarily upon the advice and judgment of the academic senate or reaching mutual agreement (Title 5 §53200). Although very different, the two 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 the dreams, goals, and needs of a diverse student body.

To reach a mutually beneficial state, the academic senate and the union may wish to create a joint agreement or memorandum of understanding to clearly define the role and purview of each entity and the working relationship between the two. This agreement may best be developed when the entities are not in conflict or stressed in dealing with major concerns.⁹ 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.¹⁰

9 See Appendix 4.

10 For more information on establishing a collegial working relationship between the academic senate and the union, see the 1996 ASCCC paper *Developing a Model for Effective Senate/Union Relations* at https://www.asccc.org/sites/default/files/publications/senate_union_relations_1996_0.pdf.

As academic senates and faculty 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 union 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 area is one 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. 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 member 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 (Murray, et.al, 2020).

Faculty should be aware of the scope of evaluations and how to ensure that the evaluation does not infringe upon the academic freedom of a faculty member being evaluated. If one faculty member has questions about what another faculty member is doing regarding anything that is within the faculty member's 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 to ensure that all faculty understand and protect the academic freedom rights and responsibilities of all faculty.

Once protections are in place, a determination should be made regarding who or what will be the arbiter in the case of a perceived violation of a faculty member's academic freedom. As an academic and professional matter, these potential violations should go before a duly constituted—appointed or elected—faculty committee to review the situation 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 the contract and due process for violations of those parameters. Committee members should undergo 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 on which the academic senate and union should collaborate regarding academic freedom include providing joint union and academic senate professional development and training for faculty and specifically for academic senate leaders. In the 2019 ASCCC Survey on Academic Freedom, an overwhelming majority of respondents, 93%, indicated that their colleges 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 the academic senate 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 of or incursion into areas of academic freedom.

Finally, academic 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 of ensuring the integrity of the institution and ensuring the 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 community college 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 its 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, a faculty member might desire to use open educational resources (OER) for a course that makes use of a common print textbook chosen by the department. The department may have chosen a common text so that students do not have to purchase additional course materials or for various other reasons. Often departmental questions regarding the quality and rigor of materials 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 can make a legitimate argument that they have the right to choose their own course materials under the tenets of academic freedom.

In a situation such as a conflict over course materials, 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, another area in which departments adopt 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 point is an especially important point to acknowledge, because commentary surrounding grading policies can often appear in evaluations of faculty work within the classroom by 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, while colleges and departments have a right to set and maintain academic standards, simply using grade distribution in the evaluation of faculty work would infringe upon the parameters of academic freedom. 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. If faculty and colleges do not establish a clear understanding of the boundaries and responsibilities attendant on the privilege of academic freedom, a clear delineation of why academic freedom is practiced in service of students and the public good in order to create a foundation of trust in public institutions of education, and a sound articulation of how the tenure process is the essential basis of academic freedom, the future of academic freedom will teeter in jeopardy.

Academic Freedom and Systemwide Initiatives

The California Community Colleges system is constantly engaged in a process of continuous improvement in order to educate the whole student in the best way possible. Faculty are always interrogating their pedagogies, improving their services, and innovating change so that they can be as effective as possible. The dialogue 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, change knocks on the door from outside the 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 they 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 because faculty believe that through the process of collaboration and shared governance, colleges can achieve the best results, and they require financial support in order to achieve

the mission of the system for students and for the state. Most of all, the faculty of the California Community Colleges system understand that they are living in the “fierce urgency of now” (King, 1963) and will not be satisfied until all students are achieving their self-stated goals and the system is achieving equitable results. However, when the goals of system partners intersect with the academic and professional responsibilities of faculty as delineated in Title 5 §53200, academic freedom may become threatened.

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

Specifically in the area of curriculum development, many pratfalls can be avoided in order to protect the integrity of academic freedom. An example is the recent implementation of Assembly Bill 705 (Irwin, 2017), a well-intentioned law designed to support students completing transfer level math and English in their first year, and ESL in three years. Nowhere did the law 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 to eliminate entry-level courses, and many community college districts followed this direction, often over the objections of faculty. In such a situation, 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 certain that 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 faculty leadership as outlined in Education Code and Title 5. Specifically, curriculum development, student learning outcomes, the organization of programs within clusters, and the ways that colleges deliver counseling services, among many others matters, require a strong process of collaboration grounded in 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 academic 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. Academic senates and faculty unions should work together to create processes, 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.

RECOMMENDATIONS

Recommendations for Local Academic Senates:

1. Local senates should create a statement on academic freedom, in addition to local board policy, that delineates the specific issues and parameters of academic freedom for faculty.
2. Local senates should 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 onboarding new faculty.
3. Local senates should 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.

Recommendations for Local Academic Senates in Collaboration with Union Colleagues:

1. Local senates should work with union colleagues to develop due process around violations or perceived violations that involve academic freedom issues, including a duly constituted—appointed or elected—faculty committee to review and recommend action.
2. Local senates should 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, and other relevant issues.
3. Local senates should work with union colleagues to train faculty on engaging in faculty evaluations in light of academic freedom.
4. Local senates should clearly delineate and provide justification for adjunct faculty participation in shared governance in order to support union efforts to negotiate appropriate compensation.
5. Local senates and union colleagues should review AAUP resources and recommendations.

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ACADEMIC FREEDOM RESOURCES

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

Figure 1: Local Academic Senate Participated in Creation of Board Policy or Senate Statement on Academic Freedom

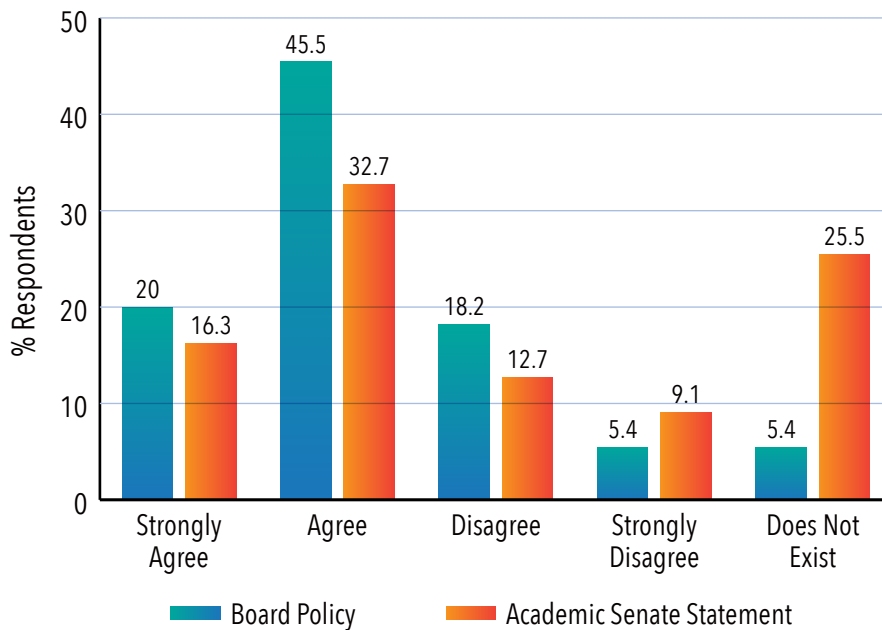


Figure 2 summarizes responses to the following statement (Survey Question 5):

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

Figure 2: Widely Distributed and Easily Accessible Board Policy and Senate Statement on Academic Freedom

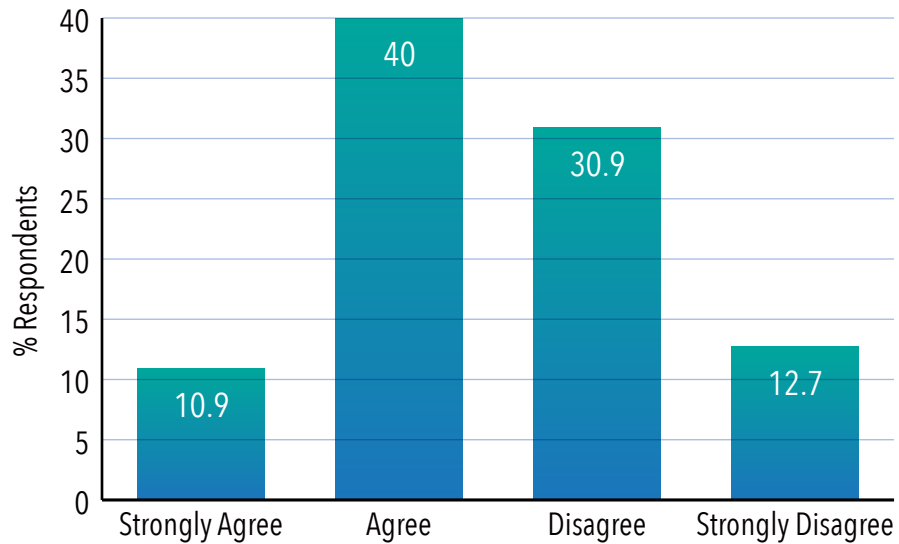


Figure 3 summarizes responses to the statement (Survey Question 6):

Faculty receive professional development training regarding Academic Freedom on our campus

Figure 3: Faculty Receive Training on Academic Freedom

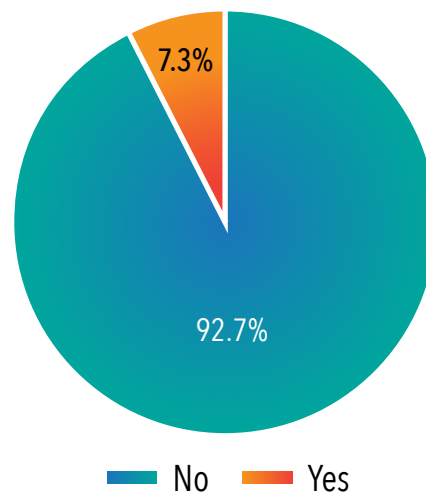


Figure 4 summarizes responses to the statement (Survey Question 8):

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

Figure 4: Contract Contains Robust Policy on Academic Freedom and Due Process for All Faculty

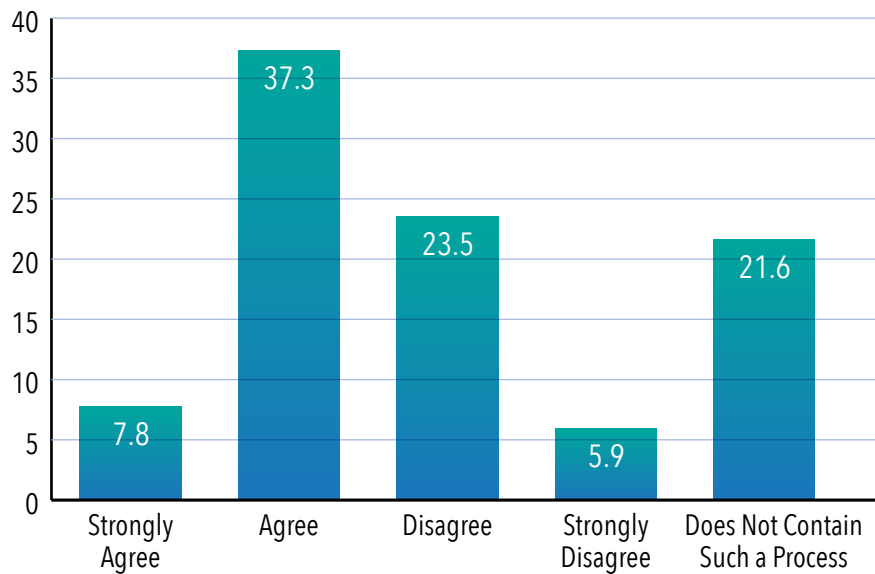


Figure 5 summarizes responses to the statement (Survey Question 9):

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

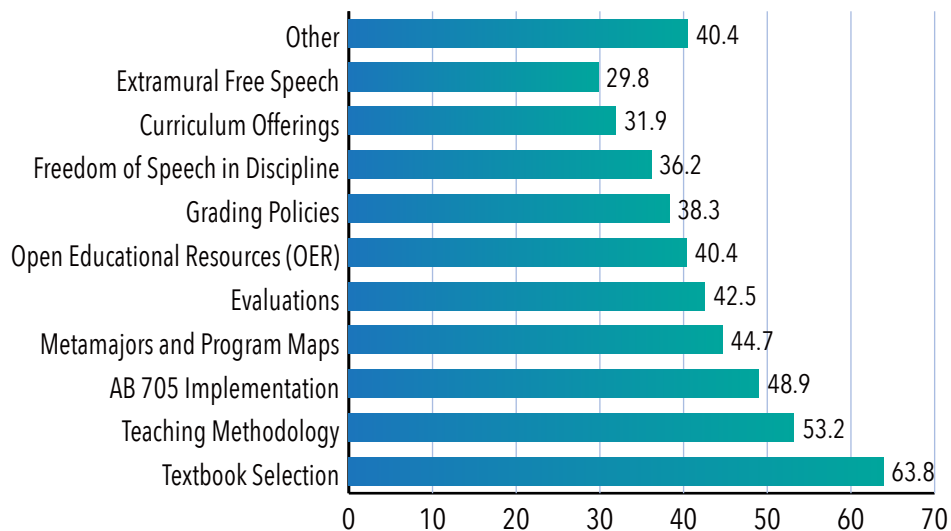


Figure 6 summarizes responses to the following question (Survey Question 11):

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

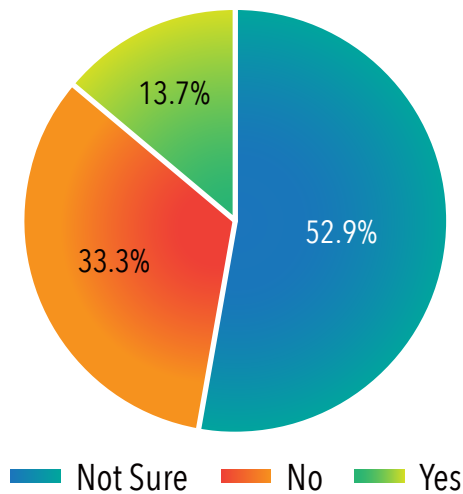


Figure 7 summarizes responses to the following question (Survey Question 12):

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?

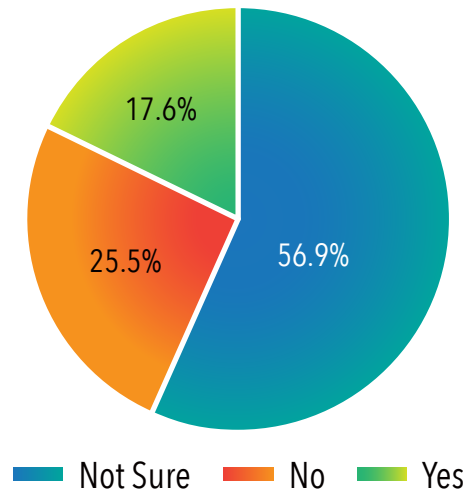
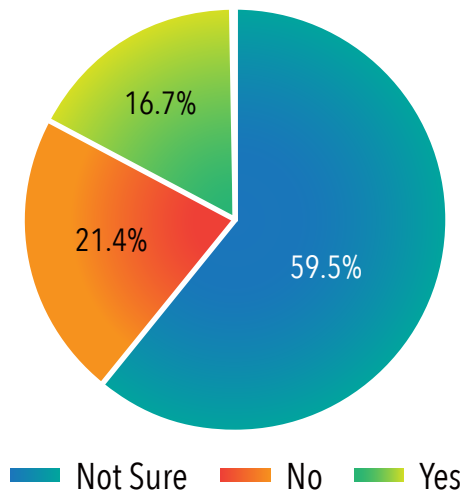


Figure 8 summarizes responses to the following question (Survey Question 13):

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/academicsenate/documentspage/academicsenatestandingrulesandstatements/JointCollaborativeconsultationUnderstandingJCCUsigned.pdf



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