

COMMUNITY REFORM ACT OF 1988 (AB 1725)  
SHARED GOVERNANCE AND LOCAL GOVERNING  
BOARDS

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For the Board of Trustees Meeting  
October 26, 1995

*[This report is comprised of experts from a monograph entitled “Evolving Community College Shared Governance To Better Serve the Public Interest” written by Tom Nussbaum, Vice Chancellor and General Counsel, California Community Colleges. Tom was one of the architects of AB 1725]*

## **1. The Governance Issue As Addressed by AB 1725**

In 1988, the Legislative enacted the Community College Reform Act (chapter 973, Status of 1988), popularly known as AB 1725, a reform measure which profoundly affected the direction of shared governance in the community colleges.

At issue for the Legislative was how to frame responsibilities of local boards as well as the Board of Governors in implementing mechanisms for shared governance at the local and state level. The Board of Governors as well as most trustee and administrative groups argued that a traditional approach of collegially in higher education ought to be applied. Under this approach, the Legislative would remain relatively silent on the particular shared governance mechanisms, and would simply direct the local boards and the Board of Governors to implement policies that provide for the participation of faculty, staff and students. The Academic Senate (the system wide body representing local senates) and other faculty groups argued that the traditional collegial approach was not enough in itself. They argued that many governing boards and administrators had been ignoring their academic senates—rejecting their work and recommendations at whim. Other districts were not allowing senates to fulfill policy making roles that were appropriate for higher education faculty.

After much debate and controversy, most of the community college organizations and interests working on AB 1725 compromised for a policy which provided for the traditional collegial approach in general, but which had specific directives regarding the role of the academic senates. In a few instances, the Legislative created shared governance roles for the academic senate that borrowed from and were parallel to those provided in the collective bargaining process. Here the Legislative went beyond the traditional collegial approach and required governing boards and academic senates to jointly agree on certain policies before they could be adopted by the governing board (see page 2).

## 2. The Collegial Governance Mandate in AB 1725

The Legislative required the Board of Governors to adopt:

*“[m]inimum standards governing procedures established by governing boards of community college districts to ensure faculty, staff and students the right to participate effectively in district and college governance, and the opportunity to express their opinions at the campus level, and to ensure that these opinions are given every reasonable consideration, and the right of academic senates to assume primary responsibility for making recommendations in the areas of curriculum and academic standards,” (Education Code Section 70901(b)(1)(E))*

Other provisions of AB 1725 aim at strengthening the role of local academic senates by empowering them in a manner similar to the collective bargaining approach where joint agreement is necessary for the policies to be adopted. In these instances, governing boards essentially cannot act on these policies without the agreement of their local senates (see Education Code 70902(b)(7)). These areas include,

- hiring criteria for new faculty
- retreat rights for administrators
- equivalency processes for determining instructor qualifications.

## 3. The Role of the Academic Senate

To provide the Board of Governors additional direction regarding the overall thrust to strengthen the role of the academic senates, the Legislative also directed the Board, by January 1, 1990, to:

*“Develop policies and guidelines for strengthening the role of the academic senate with regard to the determination and administration of academic and professional standards course approval and curriculum, and other academic matters.” (see Section 61 of AB 1725)*

In 1990, the Board of Governors adopted a set of regulations (see Title 5 of the California Code Regulations, Section 53200-53204) that require district governing boards to adopt policies for the appropriate delegation of authority to its college and/or district academic senate. A key issue in the development of these regulations was whether the Board's regulations should reflect the more traditional collegial approach, or whether the regulations should reflect the statutes which specifically empowered the academic senate and others. After much controversy, the end result was a blend of both approaches, a blend which more strongly reflects the statutory empowerment model.

Among other matters, the Board regulations require that the governing board or its designees will “**consult collegially**” with the academic senate when adopting policies and procedures on “academic and professional matters.” In terms of “consulting collegially”, the regulations requires that governing board choose either or both of the following, according to its own discretion:

- (1) Rely primarily on the advice and judgment of the academic senate, or
- (2) Reach mutual agreement with the academic senate

As to what constitutes “**academic and professional matters**” the regulation (Section 53200) provides:

“Academic and professional matters means the following policy development and implementation of matters:

1. Curriculum, including established prerequisites and placing courses within disciplines
2. Degree and certificate requirements
3. Grading policies
4. Educational program development
5. Standards or policies regarding student preparation and success
6. District and college governance structures, as related to faculty roles
7. Faculty roles and involvement in the accreditation processes, including self study and annual reports
8. Policies for faculty professional development activities
9. Processes for program review
10. Processes for institutional planning and budget development, and
11. Other academic and professional matters as mutually agreed upon between the governing board and the academic senate.

#### **4. The Role of Students**

In response to the student and “staff” aspects of the Legislature’s mandate to establish procedures for participation in governance, the Board of Governors adopted regulations in 1991. In general, these regulations implement a traditional collegial approach rather than a bilateral empowerment model.

District governing boards are essentially obligated to provide these constituencies an opportunity for participation and involvement, and are generally prohibited from acting unless there has been such an opportunity; however, there is no obligation to reach mutual agreement before a governing board can act. Specifically, Section 51023.7 of Title 5 essentially requires a governing boards to provide students with the opportunity to participate in the formulation and development of district and college policies and procedures that have or will have a significant effect on students.” Absent unforeseeable emergency conditions, governing boards cannot take action on a matter having a significant effect on students until it has provided the students with an opportunity to participate in the formulation of the policy.

The regulation lists the kinds of matters that will have a significant effect on students, including: grading policies, codes of student conduct, academic disciplinary policies, curriculum development, courses or programs which should be initiated or discontinued, student fees etc.

## **5. The Role of the Staff**

Section 51023.5 of Title 5 essentially requires governing boards to define the categories of “staff” (other than faculty) that exists in the district, and to develop participation structures for each of these categories of staff. In general, staff must be provided with an opportunity to participate in the formulation and development of district and college policies and procedures that have a significant effect on staff. Absent emergency conditions, governing boards cannot take action on a matter having significant effect on staff until it has provided the staff an opportunity to participate in the formulation of policy.