Response of the Academic Senate concerning Board of Trustees Resolution S6:
Adopting “Blueprint of College-Wide Policy and Implementation Strategy for
Improving Equal Opportunity in Faculty Recruitment and Selection”

April 26

S6 would adopt and direct the Chancellor to implement the Blueprint of College-Wide Policy, a policy document. The title calls it a policy document, the Executive Summary explains that it was created in response to a February resolution that called for the Office of the Chancellor to develop a "comprehensive college-wide policy and implementation strategy for improving equal opportunity in faculty recruitment and selection." It cites statistics to support conclusions about faculty diversity on a broad scale, it recommends changes to specific policies, it recommends new requirements for some procedures, etc. This document is coming before the Board, because it is the proper role of the Board to adopt or change college policy. If the document contained only a list of administrative activities derived from current policy, those would fall entirely within the role of the CEO and it would not be appropriate for the Board to detail them in a resolution.

California law specifies that the faculty hiring criteria, policies, and procedures for a community college are to be developed jointly by the governing board and the academic senate before being approved by the governing board. (Education Code 87360). The Blueprint of College-Wide Policy was not developed jointly by the Academic Senate. It is not recommended by the Academic Senate. Contrary to Title 5 (Section 53203), the Academic Senate was not given the opportunity to nominate a representative to the workgroup that created the Blueprint of College-Wide Policy.

With the encouragement of Board of Trustees President Rizzo, an opinion was sought from Michelle Pilati, President of the Academic Senate for California Community Colleges about the applicability of the Education Code to modifications to existing policy. Her response, reproduced below, clarifies that changes to existing policy require joint agreement, not just collegial consultation. President Pilati drew our attention to the 2005 case: Irvine Valley College Academic Senate et al. v. Board of Trustees of the South Orange County Community College District et al., available online at http://www.aaup-ca.org/IVCdecision2.pdf

On page 10 of that case can be found this passage:

The bottom line is that the Legislature granted the Senates a role equal to the District’s in developing and adopting faculty hiring policies. They undoubtedly contemplated a balance between the interests of each party and that compromise would be required. Respondents may feel this decision was unwise and are free to seek a change in the law, but the law on the books is what this court must follow.
It is important to recognize that the adoption of S6 at this time is not required for improvements to be made in faculty hiring practices. The Blueprint of College-Wide Policy contains some specific suggestions that would change practices, but not policy or procedure. Those can be implemented without requiring authorization from the Board of Trustees. Meetings and discussions prompted by the document are producing additional suggestions that are completely consistent with current policy and can be implemented easily. The Academic Senate will review the Blueprint of College-Wide Policy and use it as a starting point towards reaching joint agreement on improvements that would require changes to polices or procedures. Work on specific practices can and will proceed with or without the Blueprint.

**Academic Senate Resolution 2012.04.18.06**

Recommendation regarding “Blueprint of College Wide Policy and Implementation Strategy for Improving Equal Opportunity in Faculty Recruitment and Selection”

Whereas, The Academic Senate recognizes the value of increased diversity in its many forms in the College faculty, and the need for outreach to achieve such diversity; and

Whereas, Education Code Section 87360 states that "hiring criteria, policies, and procedures for new faculty members shall be developed and agreed upon jointly by representatives of the governing board, and the Academic Senate, and approved by the governing board;" and

Whereas, the “Blueprint of College Wide Policy and Implementation Strategy for Improving Equal Opportunity in Faculty Recruitment and Selection” presents many excellent suggestions for improved procedures, but also contains some errors and inaccuracies in its data and analysis and in its representations of current practices;

Resolved, that Academic Senate not accept the “Blueprint of College Wide Policy and Implementation Strategy for Improving Equal Opportunity in Faculty Recruitment and Selection” as written, and be it finally

Resolved, that in accordance with California Education Code 87359 concerning minimum qualifications and equivalency, California Education Code 87360 concerning criteria, policies, and procedures for faculty hiring, and local Board Policy, we assert our right to review and revise the “Blueprint of College Wide Policy and Implementation Strategy for Improving Equal Opportunity in Faculty Recruitment and Selection” jointly with the Board of Trustees.
Reference materials

Education Code 87359. The board of governors shall adopt regulations setting forth a process authorizing local governing boards to employ faculty members and educational administrators who do not meet the applicable minimum qualifications specified in the regulations adopted by the board of governors pursuant to Section 87356. Unless and until amended pursuant to the process described in Section 87357, the regulations shall require all of the following:

(a) No one may be hired to serve as a community college faculty member or educational administrator under the authority granted by the regulations unless the governing board determines that he or she possesses qualifications that are at least equivalent to the minimum qualifications specified in regulations of the board of governors adopted pursuant to Section 87356. The criteria used by the governing board in making the determination shall be reflected in the governing board's action employing the individual.

(b) The process, as well as criteria and standards by which the governing board reaches its determinations regarding faculty members, shall be developed and agreed upon jointly by representatives of the governing board and the academic senate, and approved by the governing board. The agreed upon process shall include reasonable procedures to ensure that the governing board relies primarily upon the advice and judgment of the academic senate to determine that each individual faculty member employed under the authority granted by the regulations possesses qualifications that are at least equivalent to the applicable minimum qualifications specified in regulations adopted by the board of governors. The process shall further require that the governing board provide the academic senate with an opportunity to present its views to the governing board before the board makes a determination, and that the written record of the decision, including the views of the academic senate, shall be available for review pursuant to Section 87358.

(c) Until a joint agreement is reached and approved pursuant to subdivision (b), the district process in existence on January 1, 1989, shall remain in effect.

Education Code 87360 (b) (7) [The governing board of each community college shall] Establish procedures not inconsistent with minimum standards established by the board of governors to ensure faculty, staff, and students the opportunity to express their opinions at the campus level, to ensure that these opinions are given every reasonable consideration, to ensure the right to participate effectively in district and college governance, and to ensure the right of academic senates to assume primary responsibility for making recommendations in the areas of curriculum and academic standards.

Education Code 87360. (a) In establishing hiring criteria for faculty and administrators, district governing boards shall, no later than July 1, 1990, develop criteria that include a sensitivity to and understanding of the diverse academic, socioeconomic, cultural, disability, and ethnic backgrounds of community college students.

(b) No later than July 1, 1990, hiring criteria, policies, and procedures for new faculty members shall be developed and agreed upon jointly by representatives of the governing board, and the academic senate, and approved by the governing board.

(c) Until a joint agreement is reached and approved pursuant to subdivision (b), the existing district process in existence on January 1, 1989, shall remain in effect.
California Administrative Code Title § 53203 (f)
(f) The appointment of faculty members to serve on college or district committees, task forces, or other groups dealing with academic and professional matters, shall be made, after consultation with the chief executive officer or his or her designee, by the academic senate.

Email from Michelle Pilati,
President of the Academic Senate for California Community Colleges
>>> Michelle Pilati <MPilati@riohondo.edu> 4/25/2012 6:53 AM >>>
RE: Challenge to role of local senate in faculty hiring at San Francisco City College

Karen - Please see the 2005 IVC case referenced at:

http://www.aaup-ca.org/legal_decisions.html

It makes explicit that faculty hiring processes are a responsibility delegated to the faculty in Education Code and, as a consequence, a change in such processes is not subject to "collegial consultation" (permitting the board to take action subject to the criteria defined by either 'rely primarily' or 'mutually agree'), but rather to the higher standard of "joint agreement".

Here is an excerpt from the ruling:

Thus, between the plain language of section 87630 and the legislative history of the statutory scheme, we conclude that the Legislature intended the faculty, through the academic senates, to have an ongoing role in developing and consenting to faculty hiring policies and procedures. In the event specific changes cannot be agreed upon, the existing policy would remain in effect. In our view, this is the only reading of the statute that harmonizes both its plain language (“agreed upon jointly”) and the legislative statement of intent (the faculty’s “inherent professional responsibility” in developing hiring procedures).

Please let me know if I can be of further assistance,
Michelle

Michelle L. Pilati, Ph.D.
President, Academic Senate for California Community Colleges (www.asccc.org)
Professor of Psychology, Rio Hondo College
mpilati@riohondo.edu

ASCCC
Providing leadership, empowerment and voice to California community college faculty

Academic Senate Response concerning S6 Adoption of Policy Blueprint – April 26, 2012