DATE: October 22, 2010
TO: Chancellor Griffin, President Marks, Trustee Greer, Trustee Rizzo
CC: Attila Gabor, Gohar Momjian, Legal Counsel Leilani Battiste, Academic Senate Executive Council
FROM: Karen Saginor
SUBJECT: Update on proposed Sunshine Policy

I want to keep you informed about the status of the Academic Senate's review of the Draft Sunshine Policy. At this week’s Academic Senate Executive Council meeting there was discussion of both particular issues and general issues, in no particular order.

Here is my summary of the comments on general issues made by various Executive Council members:

1) The draft policy refers repeatedly to the San Francisco Community College District Sunshine Task Force that would adjudicate appeals. However, the draft policy does not create this body or articulate any process for the creation of this body. Executive Council members considered it unacceptable to adopt a policy without creating the body essential for adhering to the policy.

2) The District has a Public Access Sunshine Policy in place. It's been said that this new draft policy will be interwoven with current policy. Presumably that needs to be done before the District can implement a coherent combined policy. The Executive Council cannot know what the total final policy will be by looking at the current draft. (It was not said at the meeting, but wording to be retained from the old policy could be added to the draft for the proposed policy.)

3) The draft policy appears to make assumptions about the California Public Records Act and about intellectual property rights that may not accurately reflect the current state of law. Executive Council members did not suggest how this could be resolved.

4) The formatting of the document doesn't show which paragraphs are subordinate sections to which other paragraphs. The same is true of the numbering of the paragraphs.
After about 30 minutes of discussion, a motion was made to table the issue. In accordance with Robert’s Rules, we stopped discussion to vote on the motion. The motion to table was approved.

Before tabling the draft policy, Council members pointed out specific language corrections related to faculty roles needed to bring consistency to the document or to bring it into conformity with academic rights, existing contracts or reasonable expectations:

- In Section 9, the last bullet itemizing Faculty intellectual property needs to include "lectures."
- In Sec. 2, the definition of Public Records needs to use the same wording that is used in Section 9.
- Also in Sec. 2, the list of exclusions from Public information (in paragraph (h)) needs to specify that creations, inventions, etc. of the faculty are also excluded. Collective bargaining with AFT2121 has established that faculty creations, inventions, etc. belong to the individual faculty, not to the district.
- In SECTION 6, paragraph (c) requires employees (including faculty) to respond to oral inquiries, etc. and obtain information. Executive Council members pointed out that employees should refer individuals who are making inquiries under this policy (as opposed to ordinary requests for information) to the public records custodian who will have the expertise to know which documents should be released.
- In SECTION 10, the list of personal information NOT to be released should be expanded to include cell phone numbers, personal email, information about sexual orientation, religious affiliation, and disability status.

Where does this leave us? If it’s the case that members of the Board of Trustees would also identify most (if not all) of the general issues as imperative to resolve before the policy can be considered at a full Board Meeting, then another iteration of the draft needs to be prepared. If a new draft is prepared for that purpose, I will take it back to the Executive Council. If the general issues are resolved, I believe the Executive Council would be amenable to taking this issue off the table and proceeding with recommendations about specific language in the policy.