

When the Board of Trustees Says “NO!” To Recommendations of the Senate

With both “primarily rely upon” and “mutually agree upon” items where the board rejects recommendations of the senate, the senate should be introspective and ask themselves a few questions. Before heading down a path that could irreparably damage working relationships with their administration, the senate should consider:

- Was there a *good faith effort* to reach agreement between the administration and the senate? This is the time for the senate to be introspective on the process: was the stumbling block the administration or was it the fact that the faculty would not even consider the administration’s perspective?
- What is the potential legal liability? Note this should be a conversation about the legal requirements *not whether or not the senate likes the law or requirement being discussed*.
- Is the issue that the senate has with the administration’s *interpretation* of the legal requirement or the *strategy* by which the administration is proposing the district comply with the requirement?
- What is the potential “fiscal hardship” that the administration is attempting to avoid? Why does the senate feel that it is not a compelling argument: would they prefer other strategies, do they disagree that there is a potential fiscal hardship, or are there other reasons that the senate disagrees with the administration about a potential “fiscal hardship?”
- Are the circumstances behind this board decision exceptional and compelling? Is this action of the board part of a *pattern* of the administration and the board of rejecting recommendations by the senate or is this an “exceptional circumstance?”

A governing board rejecting the recommendation of the senate, whether the item is “primarily agreed upon” or “mutually agreed upon,” should be an *exceptional* occurrence. If after the senate receives an explanation of the board’s reasoning behind why they rejected the senate’s recommendation the senate feels that the requirements of collegial consultation have been violated, there are several, increasingly severe steps that the local senate may take:

- 1) Informally reach out to other senate leaders. Use this information to reopen a discussion of the issues.
- 2) Contact the Academic Senate of the California Community Colleges (ASCCC) to request help. This can be a preliminary “email consultation” or a local senate visit where members of the ASCCC Executive committee can come out to your campus to work with your senate. <http://asccc.org/contact/request-services>.
- 3) Request a Technical Assistance visit from the ASCCC and the Community College League of California (CCLC). The ASCCC and the CCLC have joined together to offer a program of assistance for local colleges and districts. The purpose of the program is to help districts and colleges successfully implement state law and regulations that call for effective participation by faculty, staff and students in district and college governance. No joint service will be provided unless there is a written request for assistance signed by the college president or district chancellor and local academic senate president. <http://asccc.org/services/technical-assistance>
- 4) The senate may file a complaint with the California Community College State Chancellor’s office to establish that Title 5 has been violated and seek that the State Chancellor’s office intervene.

The senate may file suit in state court to enjoin the district from implementing the new policies due to a substantial violation of Title 5.¹

¹ The court case of *Irvine Valley College Academic Senate v. Board of Trustees of the South Orange County Community College District*, 129 Cal.App.4th 1482 (2005) established that academic senates have the grounds to sue districts for violations of Title 5.