

An Academic Senate Response on the Chancellor's Office Proposal for Suspension of Statutes and Waivers of Regulations

I. Background

The Chancellor of the California Community colleges has proposed, within the Board of Governors consultation process, a suspension of selected statutes, board regulations, standing orders and administrative practices of the Chancellor's Office. Concurrently the Chancellor has recommended that the Board of Governors grant him the authority to waive individual Title 5 regulations that were established by the community colleges either in response to Legislative mandates or unique community college originated initiatives developed through the system's consultation process. Both recommendations were proposed to provide relief from district and Chancellor's Office budget pressures.

The Academic Senate acknowledges the state and local fiscal realities and the fact that we must find, hopefully temporary, solutions to very real funding problems. However, an effort to eliminate the regulatory role of the Chancellor's Office is not an acceptable solution. Besides being concerned that regulation waivers and suspensions would become permanent, the Academic Senate also is concerned that:

- (1) the proposal potentially dismantles important categorical, student-service programs as well as the legislative mandate to improve community college instructional and student service quality now addressed by the system's full-time/part-time regulations. The proposed list of regulations could be viewed as insensitive to the extent of California's racial issues, the concerns of its special needs populations and the Legislature's clear interest in the community colleges seriously addressing these concerns. Just less than half the list consists of regulations that deal with student equity issues and affirmative action. This focus has provoked a response from four important Legislative friends of the community colleges who, in a letter to Board President Robert Rivinius, state "This gravely concerns us in light of the Assembly's overall support of additional community college local assistance funding" and "The uneven emphasis on equity and student services programs in this proposal, we believe, reflects an inappropriate importance on representational functions of the Chancellor's Office as more essential than the service and accountability functions" (Vasconcellos, et. al, May 11, 1993). The Academic Senate believes that the Chancellor's proposal has the dual potentials of placing in jeopardy community college local assistance funding and the trust that the Legislature has in the community colleges functioning as a viable system, effectively addressing their collectively determined and agreed upon interests by state-wide policies and policing itself to see that the colleges are effectively addressing those interests. If

the Board of Governors does not continue to address these concerns the result will be an adverse impact, in the most important case, on our students and, secondarily, on the Legislature's perspective of the community college system. The system's failure to address these issues effectively will eventually lead to the questioning of community college quality and credibility, to increased legislative intervention in our activities and, perhaps ironically, to even less local autonomy; and

- (2) the proposal fails to document the expected savings that would be realized by these suspensions and waivers. This lack of documentation leads to widespread doubt that these suspensions and waivers would provide any real savings to the Chancellor's Office. Combined with a widespread concern that the Chancellor's proposal may well have a negative impact on the credibility and perhaps quality of college programs, we are not convinced that at this point there has been any attempt to evaluate the relative value of the potential risks (i.e., losses in program quality and credibility, local difficulties in monitoring assurances that any savings will go into instruction; public support; legislative support, etc.) in the suspension proposal having been weighed against possible monetary savings.

The Academic Senate recommends that the Board of Governors should consider directing the Chancellor to explore other solutions, including the Academic Senate's recommendations as found in this document, that might accomplish equivalent, if not additional, savings.

II. An Alternative Route

The Academic Senate proposes that the Board of Governors pursue an alternative route to achieve the objectives that are sought while maintaining the integrity of the Board of Governors regulatory oversight. We believe that this approach would:

- (1) prevent possible degradations of quality or credibility in our colleges' programs;
- (2) protect and fulfill the Board of Governors' fiduciary responsibilities in these matters; and
- (3) develop a new sense of trust between community college constituencies as well as between the community college system and the Legislature.

We suggest that the Board of Governors consider recommending to the Chancellor the establishment of a consultation task force which would be supplemented by faculty, student and administrative representatives of special interest constituencies as appropriate (i.e., DSPS, EOPS, matriculation, etc.). We also feel

that it would be advisable to support the task force with professional facilitation that would assure a deliberative process to (1) review all functions of the Chancellor's Office with the goal of developing mutually acceptable ways of reducing the functions and costs of the Chancellor's Office and (2) provide a forum for the consideration of alternative means to provide regulatory relief to districts. We believe that the Board should expect the task force to provide details on (a) how the Board of Governors regulatory responsibility would be protected in each mandate area and (b) the cost savings that would result from each proposed modification. It is extremely timely for this task force to be established since the community college system may soon be considering similar recommendations from the external review of our system underway by the Board of Governors Commission on Innovation.

Failure of the Board of Governors to proceed in such a deliberative fashion will exacerbate the serious lack of trust between community college constituencies and very likely continue to engender negative legislative responses toward the entire community college system. A system retreat from maintenance and defense of these particular statutes and regulations is especially dangerous since it was precisely these laws and regulations that legislators believed were necessary to impel community colleges to serve previously underserved or ignored student populations; to remedy potential mistreatment of student populations in assessment and placement; improve instructional quality; establish accountability; and produce other "reforms" within the community colleges.

III. The Academic Senate Position on Suspension and Waivers

In response to the initial Chancellor's office proposal for legislative and regulatory relief, the Academic Senate for California Community Colleges adopted a "Position Paper on Waivers to Mandates" at the 1993 Spring Session that established three major points relevant to the issue of suspension and waiver of mandates which are further expanded in the remainder of this document. We hope that the following discussion of these 3 major points might provide direction for the proposed Task Force's considerations.

- (1) The Academic Senate supports local autonomy to an extent consistent with minimum standards.

We do believe that local autonomy must necessarily be limited to an extent which is consistent with state-wide, minimum standards established by the State of California Legislature in law and by Title 5 regulations which have been developed through the Board of Governors' consultation process.

- (2) The Academic Senate supports holding districts accountable for

effectiveness rather than a multitude of specific mandates.

We believe that additional efforts should be made to find models of accountability that would be less demanding on time or resources in the Chancellor's Office and that will not sacrifice assurances of quality at the district level. The most promising path to efficiencies within the Chancellor's Office is, as was proposed above, looking to more effective methods of accountability as opposed to long lists of specific mandates. The Academic Senate has been intimately involved in, and thus is aware of, at least three such approaches that have either been adopted by the Board of Governors or are within the consultation process currently.

First, the adoption of the Board of Governors' regulations on a community college student equity policy was, we believe, a major turning point for the community college system in that these regulations use outcome measures as the first form of accountability instead of detailed mandates on local colleges for specific expenditures, specific processes, or detailed plans. We remain concerned about the implications of the Chancellor's refusal to include uniform reporting definitions in the student equity regulations and suggest that, if the Chancellor is serious about his recent statements in support of the system monitoring and evaluating performance based on outcomes measures, our system will need data that can provide a consistent yardstick from which individual districts' performance or accountability is measured.

In the other two cases, the prerequisites regulation changes and the model district policy, which is currently in the consultation process, and significant course and program review modifications being worked on in cooperation with Chancellor's staff, both model efficient ways of addressing the statewide concerns while preserving maximum local autonomy.

It is essential that the local college management information system reporting component of community college accountability be carried out so as to accommodate any potential changes in regulatory oversight. It is our feeling that districts that have not developed the ability to provide required data to the Chancellor's Office MIS accountability system and thus would be unable to document their performance on various outcome measures would be hard pressed to make any case for waivers of related regulations. A truly enlightened waiver policy would waive highly specific applicable regulations when districts could show that they were doing significantly better than average in their efforts to increase student equity, student access, and student success. We caution that regulatory monitoring or accountability of institutional effectiveness should not be founded merely in the reporting of raw data but should encourage districts to interpret the data. This additional flexibility would allow unique and outstanding institutional achievements or needs of a local institution to be considered in the monitoring process.

- (3) The Academic Senate will continue to cooperate in the exploration of means for holding districts accountable for outcomes.

As pointed out above the Academic Senate encourages, and has initiated specific work on, the review of Title 5 and Education Code requirements so as to find where outcome measured accountability might replace specific mandates. As mentioned this approach was used during the development of the Board of Governors' policy on student equity, the matriculation task force and the current work on an alternative course and program approval process. We are also aware of the Chief Executive Officers work on the capital outlay regulations and believe that such considerations are highly appropriate and potentially very productive. Still other models of accountability may very well be available that would reduce the demands on Chancellor's staff without reducing quality and accountability expected of districts.

IV. Some potential, alternative approaches that might be considered.

Possible alternatives to the elimination of the Board of Governors' regulatory oversight responsibilities might include:

- a) changing the audit period, where accreditation-like extensions of time between reviews are granted for districts that prove effectiveness;
- b) enforcement of important mandates through a highly reduced but random and unannounced audits by the Chancellor's office (similar requirements are being contemplated by the Federal Government for accrediting agencies to make surprise visits);
- c) auditing based only upon a formal appeal process perhaps involving local college representational groups.
- d) establishment of significant penalties for violation of particularly important provisions of law.

Another area for investigation would be to conduct a review of functions within the Chancellor's Office that are, or could be, performed by other state agencies or other community college groups, together with the Chancellor's Office. For example, on local campuses academic senates are increasingly being "relied primarily upon" in "academic and professional" matters. Although we believe that this change would be prudent in times of prosperity, the Chancellors' Office fiscal dilemma provides an opportunity to discuss the merits of this delegation of responsibility. The Board of Governors could model a true shared-

governance commitment for local boards of trustees and hold the Academic Senate primarily responsible for making policy recommendations on academic and professional matters directly to the Board of Governors. Academic Senate policy development would give the Chancellor's Office significant relief from laborious, staff intensive policy development burdens including consultation requirements and redirect staff to monitoring regulatory performance. An example would be the delegation of responsibility assigned to the Academic Senate in the disciplines list creation and review.

None of these approaches, and there are likely other approaches that could be proposed as well, would be appropriate and workable for all areas of regulation. Yet, the energy that is currently going into persuading the Board and the legislature to consider abandoning their traditional responsibilities would be spent far more appropriately on careful development of more cost-effective ways to carry out those responsibilities.

The approach proposed in this paper seems good practice for the system and one that is popularly advocated by devotees of total quality management. If the Chancellor's Office could provide the Board of Governors with the support necessary to fulfill its fiduciary responsibilities in a more cost-effective manner or if districts could offer more instruction without sacrificing quality and fairness, such change would be good at any time, not just in a period of financial stress.