**For**

**Academic Senate**

**April 26, 2016**

**Present:** Alvim, Azevedo, Bell, Bettencourt, Cooper, Crayton, Dorsey, Eastham, Espinoza, Filling, Garcia, Hoover, Regalado, Gonzales, Guichard, Hauselt, Huang, Larson, Loza, McCulley, Nagel, Odeh, Park, Peterson, Petratos, Petrosky, Ringstad, Sims, Strangfeld, Strickland, Stone, Provost Strong, Strahm, Taylor, Thompson, Vang, Wagner, Wellman, Wood and Zhang.

**Excused**: Advanced Studies, Bernard, Broadwater and Panos.

**Proxies:** R. Floyd for Manrique, and Sarraillé for Silverman.

**Guests:** Guests: Mark Grobner, David Lindsay, John Tillman, Dennis Shimek, Scott Davis, Marge Jaasma, Lauren Byerly, Shawna Young, John Tillman, Ron Noble, Lisa Bernardo, Shawna Young, Donna Andrews, Kym Dyst, Nikki Schrey and several student athletes.

Isabel Pierce, Recording Secretary

Second reading items:

3/AS/16/UEPC Change in Time Modules for Course Scheduling, Passed.

8/AS/16/SEC Use of Unmanned Aircraft Policy was removed from the agenda and will return at a later date as a first reading item. Passed Unanimously.

First reading items:

11/AS/16/SEC Shared Governance & the Strategic Plan

9/AS/16/SEC Time, Place and Manner of Free Speech

Discussion items:

Drug Free Campus and Workplace Policy

The Sale, Consumption and Possession of Alcoholic Beverages

Protection of Minors

Consensual Relationships & Power Disparity Policy

Next Academic Senate Meeting:

May 10, 2016

2:00-4:00pm, JSRFDC Reference Room 118

Minutes submitted by:

Chris Nagel Clerk

1. **Call to order**

2:04pm

1. **Approval of Agenda**

**Approval of Academic Senate Minutes of March 22, 2016** (distributed electronically)

Thompson asked to strike item 9a. Strategic Planning.

Add new 9.d. 10/AS/16/FAC - Consensual Relationships and Power Disparity Policy

Add new item 8.a. 11/AS/16/SEC - Shared Governance & the Strategic Plan

Larson moved to amend the agenda and add student athlete early registration as a first reading item. Seconded by Loza. Larson will not vote to approve the agenda because the ASI Board and over 1500 students who are not athletes believe that our student athletes deserve a form of early registration. She read a prepared statement: “We have acted in good faith to ensure that all areas of shared governance have been met on this issue. We have addressed students, specific professors, chairs, deans, sent surveys and contacted enrollment services. All of this was submitted to each senator Friday April 15. However, we have had a difficult time discussing this issue here at Academic Senate. In fall, the Department of Athletics submitted a proposal but it was denied at SEC for format errors and because this is too small of a number of students that are effected. Also in fall I approached the chair of UEPC for advice. In Spring, I met with the Speaker but was advised to not try for it this year because the agenda is too full. I then followed up with the Speaker and the Academic Senate’s Executive Assistant with the Senate’s Constitution to see if there is any avenue to take to be able to talk about this, so I decided to start over and submit everything to SEC the Friday before without advice or approval from the Speaker.

This is a pressing time sensitive issue because the new NCAA regulations will be enacted in Fall of 2016. So we need to be proactive and discuss this now to ensure our student-athletes are making progress towards degree without unnecessary difficulties.

* 12 passed units each semester instead of 24 over the span of an academic year
* 9 degree applicable units instead of 6 per semester

Our institution is the only institution in the CSU system, in our DII CCAA conference, and within our region - including community colleges - that does not have Priority or Early registration for our student athletes.

Athletes dedicate at least 20 hours to their university sanctioned activity a week to maintain their status as a student athlete which includes weight training, conditioning, study hall, travel, etc.

Because of this, faculty are put in situations where they must accommodate a student – athlete’s schedule. This adds to his or her work load in order to generously allow student – athletes to make up tests, class work, labs, etc.

Student athletes compose .03% of our student population. This minute number would have no effect on the general population registering for classes.

On the contrary, this would help the general population of student get the classes they need. Because right now student – athletes enroll in unneeded units to stay eligible and take seats away from other students who want to enroll in those specific courses.

Early registration is different than Priority Registration. Early registration allows student athletes to only register before peers of their year. So, seniors before seniors, juniors before juniors, etc.

The ASI team is so adamant about this issue because it feels as if we are combating negative stigmas and stereotypes of privilege against student athletes. ASI has voted to support early registration for student-athletes because we believe new NCAA legislation will make it nearly impossible for our student-athletes to remain eligible without it. Prior to coming to this conclusion we did extensive research. This is a serious issue that we need addressed by the Academic Senate in a timely manner. This is not a matter of special treatment or favoritism. It is a matter of necessity dictated by laws and rules outside the control of the students impacted. It is our job to support and represent the students on this campus and we respectfully ask that you consider this request and the urgent attention that is needed. Evidently, I am respectfully requesting support from other senators to vote to amend the agenda, and allow us to talk about this issue.”

Thompson ruled the motion out of order since this is an item on the SEC agenda. Larson queried the ruling. Thompson clarified that under the Standing Rules, senators can amend the agenda, but the motion is out of order because it is on the SEC agenda, and an item on the SEC agenda must be moved by SEC to the AS agenda. SEC has not had time to discuss the issue.

Regalado spoke in favor of the current agenda. It may very well be that the AS will agree with Larson. But there are processes for vetting proposals, through SEC, and bypassing the usual process would do a disservice. He said he saw holes in the letter sent by Larson that could be addressed by a vetting process. He also wished Larson well in addressing SEC on the issue.

Espinoza noted that the students have been working on this issue the entire year. In all fairness, they have tried to find the best way and most appropriate way to get this on the agenda.

Thompson said that the senate does have serious business for the meeting today, and some of them are critical issues, in particular responding to shared governance and the strategic plan. We need to approve the agenda and get to the business at hand. Last year, there was a resolution from ASI. Carroll followed up with the then-ASI president. SEC was not sure what to do with it. As soon as the ASI elections were complete, the Speaker emailed the current ASI president about priorities for AY 15-16. They replied they were busy but would reply. SEC reviewed a proposal from an administrator, and sent it back along with an invitation to consult. They problems in the proposal were not trivial. Nothing came in response until a few weeks ago, when Larson met with Thompson along with Andrews, for over an hour, which Thompson described as amicable. He may have been deceived, but he thought the advice he had given then was appreciated. Some weeks later Larson informed Thompson she would not follow the plan. A student made an announcement in senate sometime after that. Larson then asked about getting signatures to add an item to the GF meeting agenda. Thompson replied that a faculty member would probably need to introduce an item at GFM. Thompson provided an explanatory memo in response to Larson submitting the issue to senate. It was on the SEC agenda, but in prior meeting SEC did not get to the issue. The SEC agenda included issues that were serious and sensitive, including Strategic planning, Academic program review timeline, time place and manner of free expression and other policies on the agenda today. Those were the items listed above the item from Larson received the preceding Friday.

Larson agreed that what Speaker Thompson documented was correct. Larson said that the athletic department’s proposal had been returned for minor errors. Larson said that ASI had not pushed the proposal earlier out of respect for the planned faculty strike. The reason why they’re bringing it now is because they have 1,500 student signatures on a petition, and they regard that as obligating them to carry forward the initiative.

Result of the vote: 27 yes, 11 no, 3 abstained. The agenda is approved.

1. **Introductions**

Guests: Mark Grobner, David Lindsay, John Tillman, Dennis Shimek, Scott Davis, Marge Jaasma, Lauren Byerly, Shawna Young, John Tillman, Ron Noble, Lisa Bernardo, Donna Andrews. ASI Director, Student Journalist, Patty Wyatt, Dale, Casey, Christian Guerra, Cross Country coach, Shawna Young, Kinsey Pettigrew, Amanda Healy, Mikaela Malave, Gabby Squarcia, Jessica Ventoza, Alexus Martinez, Jill Costa, Morgan Balestreri, Hannah Rogers, Katelyn McDonald, Jaycie Wildermuth, Jade Poon, Natalie Larson, Shawna McLaughlin, Nikki Schrey (Assistant Womens Soccer Coach) Mallori Gibson-Rossi (Volleyball Coach) Donna Andrews (Faculty Athletics Representative) Kym Dyst, and the Academic Advisor for Athletics

1. **Announcements**

Petrosky announced three items. First, three weeks ago Dr. Peter Xu was won the Junior Faculty Award at WDSI. Second, concurrent with the senate meeting, three representatives from MOM were receiving awards at the Santa Clara meeting of the HR Symposium. Two students, Jessica Garcia and Alejandra Delgadillo, have received the Lyn Boone Scholarship for best HRM student in California. Many of our students have won one of the scholarships, but never before have two students from one university received both scholarships. Also receiving an award was Dr. Ed Hernandez, named HR Professional of the year — the first time the award was given to an academic.

Sarraillé presented a drone, having been asked by Megan Thomas to demonstrate what the Use of Unmanned Aircraft policy would refer to. He added that it weighed about a pound.

Nagel announced that on 13th & 14th May Modesto Symphony Orchestra and Chorus along with the Stan State Concert Chorale and Chamber Singers will perform Mahler’s Resurrection Symphony at the Gallo Center. In addition, on Thursday, 5th May there will be a choral concert on our campus that will feature portions of the Resurrection.

Thompson noted that the presidential search committee met last Thursday on campus and have narrowed candidate pool to 7. Face to face interviews will be held in San Francisco on 13-14 May at undisclosed location.

1. **Committee Reports/Questions (FAC, FBAC, GC, SWAS, UEPC, other)**

FAC (Sims): will be discussing the consensual relationships and power disparity policy.

FAC (Sims): FAC were still trying to move forward on the items listed under information.

FBAC (Peterson): FBAC discussed costs of meeting some of FBAC priorities approved by senate, and information from Tillman about reaching 75% tenure density.

GC (Ringstad): GC completed review of program revision in Education; completed review of current catalog language on culminating experience; discussed graduate admissions workshops and strategies for coordinating with programs; two-year strategic planning goals. Left on their agenda are co-authorship of culminating experiences; fellowship guidelines; admission guidelines related to English language proficiency and how to demonstrate that proficiency.

SWAS (Strahm): Will meet in two weeks.

UEPC (Stone): UEPC’s resolution on time modules is on the current agenda. UEPC also discussed grading options for Golden Four courses. By Executive Order of the Chancellor, D grades in those courses will no longer count toward GE. Stone advised the senate, as a public service announcement, to be on the lookout and advise students appropriately.

Strahm asked that to be sent via email.

Guichard asked Stone to repeat the classes. Stone listed them by GE identification, and added that the EO was written with transfer students in mind. They do not receive GE credit for those courses with a D grade, so it would be unfair for students who begin in the CSU to let those count with a D.

Strangfeld asked if this was starting in fall. Yes, per Stone.

Strangfeld asked whether students were grandfathered. Stone replied that if your catalog year is Fall 2016, this EO is in effect

1. **Second Reading Items**
   1. **3/AS/16/UEPC Change in Time Modules for Course Scheduling**

Stone updated the changes (highlighted in yellow below) UEPC added a clause to review the policy every five years. Clarifications were made regarding lab rooms or other specialized places not being limited to the grid, that face-to-face classes and hybrid classes have the same priority, and that schedule requests for hybrid classes have to provide information on when and where they will meet face-to-face. The grid remained the same.

**3/AS/16/UEPC Change in Time Modules for Course Scheduling**

**Resolved:** that the Academic Senate, California State University, Stanislaus recommend the attached time modules for course scheduling; and be it further,

**Resolved:** that the attached policy for using these time modules be approved; and be it further,

**Resolved:** that this policy and the time modules be in effect for the Fall 2018 registration; and be it further,

**Resolved:** that the course time module policy will be reviewed by the UEPC every five years.

**Rationale:** The attached time modules will provide more efficient use of classroom space and better serve students. It is expected that course scheduling will adhere to these time modules. Exceptions to these time modules will be approved by each college dean.

**Course Module Scheduling Policy**

1. The following course time modules will be used for classrooms, see attached grid. Scheduling of rooms outfitted with specialized equipment, e.g. fume hoods, pianos, etc., shall be exempt from the grid.

2. Courses (face-to-face or hybrid) scheduled within the time modules on the grid will be placed first. Exceptions must be requested using an Exception Request Form submitted to the college dean and will be considered after all courses in approved time modules have been scheduled.

3. Hybrid classes must indicate which days/times they will meet.

4. Normally, no more than 80% of a department schedule shall have start times between 9 and on M-R, unless rooms are available after normal scheduling.

5. This policy will be reviewed by the UEPC every five years.

Revised by the UEPC on April 14, 2016.

Huang asked about the rationale for having 3 unit classes starting MW at 2 pm.

Stone replied that two-day three unit classes scheduled on MW is inefficient, so two-day-per week classes are TR, except after 2 pm, it’s open because there is less competition for space.

Petrosky spoke against the resolution, saying that the policy is too incremental to improve scheduling. We will not solve the problem until scheduling is decentralized.

Sims asked about third resolve clause, whether Fall 2018 was the correct start date. Should it be Fall 2017? This was accepted as a friendly amendment.

Motion approved 33-6. The resolution passed.

1. **First Reading Items**
   1. **11/AS/16/SEC Shared Governance & the Strategic Plan**

Moved Sims/Strahm.

11/AS/16/SEC Shared Governance & the Strategic Plan

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| **BE IT RESOLVED:** | That the Academic Senate of California State University,  Stanislaus urge the President to recognize the recommendatory authority of the Faculty in the creation of the texts that define our institution and focus our efforts, including the Strategic Plan of the University; and be it, further. |
| **RESOLVED:** | That the Academic Senate urge the President to refrain from establishing any structure, charge, process, or timeline that does not recognize the recommendatory authority of faculty in the revision or creation of a Strategic Plan. |

**Rationale:** The President contemplates changing the process for revision of the current Strategic Plan of the University or the creation of a new one, a change to not include an Academic Senate resolution to recommend the Plan for the President’s signature. This is a fundamental change to past practice and significantly erodes the recommendatory authority of the Faculty. The current Strategic Plan was approved and adopted by established practice, and its use as the basis for priorities to be implemented by the University--priorities recommended by the President’s own Committee to Implement and Prioritize the Strategic Plan--attests that the established practice created a viable plan.

Excluding the Faculty from its recognized recommendatory role would establish a troubling precedent that might then be applied to the revision or creation of other guiding documents of the institution, e.g., the mission, vision, and values statements. The Faculty’s authority in joint decision making is fundamentally grounded in the right to recommend and in the expectation that recommendations cannot be rejected without compelling reason. Denying that right would undermine the authority of the Faculty in determining the future direction, goals, and priorities of our institution, a role earned by Faculty through our expertise and our experience in teaching and learning. This diminution of authority would be accompanied by an increase in the authority of the President, allowing a line-item veto or the ability to rewrite the Plan *sans* consultation no matter how robust consultation may be before a final document is created.

The concerns raised by such a change to past practice stem from the very basis of faculty responsibility and authority in shared governance. Fulfilling our responsibilities to the institution and all its constituencies necessarily entails the authority by which to do so. The primary means that our established processes use to recognize that authority is recommendation of final policy and documents to the President, and the proposed abrogation of this process undercuts and questions that authority. The authorized, foundational role of Faculty is established and explainable through the AAUP’s statements on shared governance of institutions; through statements of the Academic Senate of the CSU and responses by the Board of Trustees; by the Higher Education Employer-Employee Relations Act (HEERA), which call for joint decision making with the Faculty in governance; and by clear, long-standing past practice on our campus. The Academic Senate, is a unique, consultative forum including representatives of instructors, counselors, coaches, librarians, administration, staff, and students. And, as the representative body of the Faculty, the Senate must assert and defend the authority of and the singular role faculty play in guiding the institution.

Sims explained the resolution’s purpose. The Strategic Plan Working Group had been tasked by president with forming the charge and process for the committee that would form the next Strategic Plan, covering years 2018-2024. Traditionally on campus the Strategic Plan has passed through robust consultation processes, then through the senate for recommendation. President Sheley has indicated he would like to change the process to eliminate the senate recommendation. SEC has serious concerns about this, beyond abrogation of established practice, to a deeper concern about what this says and does to recommendatory authority of faculty.

Provost Strong stated the following: “Let me be clear first, that the president honors the primacy of the faculty in matters of shared governance -- curriculum and instruction, RTP, admissions standards, graduation requirements, and related matters. He feels that these are not what we are talking about presently and to the extent that a proposed strategic plan contains elements of matters of shared governance, he will treat those elements as he always has -- as faculty primacy issues. Of course I concur with this position.

The president has noted for some time to his administrative colleagues and to the speaker and speaker elect that he is troubled by the implications of any practice that transfers elements of presidential authority away from the president. That authority is vested in the president by the Board of Trustees. He is less troubled by the idea of a co-chair but, since this is not past practice, would be interested in further understanding why this would be needed or beneficial.

I know from the president's past practice that he remains open always to further dialogue about paths by which to craft and implement a strategic plan. He has indicated his willingness to add layers of authentic consultation to the process in question. He has also indicated that he would be willing to work within a "recommendatory" process were it clear that he retains the authority to proceed as he judges in the best interests of the university. He is perfectly amenable to mandatory consultation were he to consider alteration of elements of a strategic plan recommended by the Senate. In short, he is willing to consult and to listen.

Finally, the President views our faculty as critical to the success of this institution. But others are important as well and everyone should feel that he or she has an authentic role in structuring a strategic plan. There is nothing in the faculty constitution that grants the faculty a role beyond that of other members of the institution in matters beyond the traditional shared governance framework. And there is no reason to send the other members the signal that their sentiments are not as valuable in the process of consultation concerning directions and goals to be pursued by this institution.”

Strahm said she finds it problematic that the president, on his way out the door, wants to leave us with this “gift.” She said she was not surprised, but disappointed that the president does not want to allow a future president to have this conversation with the faculty.

Petrosky spoke in favor of the resolution, but he urged empathy among senators. As all are aware, in the CSU, the president is not the boss. No matter how objectionable this matter may be, not doubt he is simply passing it on from above. Who among us, under the same circumstances, two months removed from a lucrative retirement, would choose a principled stand over expediency?

Sarraillé asked if, in view of the provost’s statement, someone could explain what is at the heart of the matter – is it whether there will be a senate vote on the Strategic Plan?

Sims said that is one of two concerns. The other, corollary, is that when there is a formal recommendation, rather than consultation, if the president wants to make changes, that would trigger a review and recommendation by the senate. The president, as we understand it, does not want that restraint. It is analogous to a line item veto, allowing a President to alter content after a bill has passed through Congress. In our view it diminishes recommendatory authority of faculty in a serious way. There should be formal recommendation.

Sarraillé asked further if there is anything in the objection by faculty that excludes other stakeholders from having input into the Strategic Plan.

Sims replied negatively. He added that the president wants to avoid the appearance of elevating the faculty above other stakeholders. With regard to something like the Strategic Plan, or Mission, Vision, Values Statements that define the university’s focus and trajectory, that the faculty has some primacy. Our voice is formally important, not in a way that diminishes other stakeholders, but in light of the fact that the institution is a school. Faulty authority over these matters is related to the function of the institution: teaching and learning. This is the heart of the philosophical argument. The president offers an egalitarian view of the process, in a way Sims said he believes is diminishing of faculty voice.

Thompson added that the implication of what high level administrators have told the faculty is that the president would have power to change anything that the faculty recommends and passes formally. Regarding consultation, giving constituencies access, it would be open access if the president were involved in the process, rather than at the end, making a determination. Maybe the next president would want to have more involvement in the strategic planning process and expose himself/herself to the input of various constituencies throughout.

Larson asked for clarification why this was added to the agenda.

Thompson said because SEC decided to add it to the agenda. SEC had been discussing it for weeks. Part of the reason we’re under time pressure is that SEC kept deferring moving to a resolution because SEC thought the issue could be resolved informally. It has not been. We are up against a time boundary if the faculty want to take a stance. The decision was to wait until the end of the SPWG’s work.

Regalado said that the president’s statement as read by provost seems to say the faculty are wonderful and he respects them, except when it comes to planning for the university’s future. We’ve been waiting for a statement on shared governance since the previous president. It lends itself to the thinking that there is no respect for shared governance, or at least that there are processes that undermine its significance.

Petrosky noted that the president doesn’t apparently regard it as important enough to come to the senate to express his views, and that there is a time crunch, and so moved to waive rules and move to second reading. Seconded Sarraillé.

Espinosa said that she was part of SPWG, and that in a number of conversations about process, the president has been reasonable and careful about shared governance and consultation, and has respect for opinions of faculty. That he did not come to the meeting may be because the resolution on the floor was circulated last night. From her perspective, it is clear the president has been very reasonable and respectful.

Strong spoke against moving to a second reading, so that senators can consult with colleagues regarding their position. The president is open to consultation in strategic planning. He is concerned about formal recommendation of senate on the Strategic Plan because it is a broad plan and not just about the academic mission. Surely the academic mission comes first, but the organization is complicated, and we need other constituencies to feel a strong part of the process. If the president wanted to change the plan at the end of the process, he would be more than happy to have a required consultation.

Petrosky asked how many in the SPWG have experience of strategic planning. It would seem you would want someone with expert knowledge of the process to guide the process.

Strahm thanked Espinosa for her comments, but that the president’s action does not indicate respect. Doing this while one is out the door does not indicate respect, but a lack of respect not just for faculty but for the next president.

Thompson reminded the senate the question on the table.

Sarraillé argued in favor of moving to a second reading. Enough people here know the score well enough to vote on this question now.

Larson said she would like to have ASI review the issue. The experience of those at the table is not comparable to the discussion she could have with student representatives.

23 yes, 15 no. Motion failed.

Thompson added a request for advice on the issue.

* 1. **8/AS/16/SEC Use of Unmanned Aircraft Systems and Aerial Vehicles**

Moved Sims/ Hauselt.

8/AS/16/SEC Use of Unmanned Aircraft Systems and Aerial Vehicles

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| **BE IT RESOLVED:** | That the Academic Senate of California State University,  Stanislaus recommend the attached policy, *Use of Unmanned Aircraft Systems and Aerial Vehicle*s; and be it, further |
| **RESOLVED:** | That the attached policy be effective upon signature by the campus President. |

**Rationale:** The *Use of Unmanned Aircraft Systems and Aerial Vehicles* has been reviewed by the Academic Senate and the Senate Executive Committee in consultation with the Vice President for Faculty Affairs and Human Resources. The policy is derived from and generally reflects the CSU’s *Campus Guidelines for Applying for a Certificate of Authorization (COA) from the FAA*. An approved policy is necessary before faculty and other proposed operators may be approved to operate a UAS, sUAS, or UAV

Initialisms:

COA: Certificate of Authorization

FAA: Federal Aviation Administration

UAS: Unmanned Aircraft System

sUAS: small Unmanned Aerial System

UAV: Unmanned Aerial Vehicle

Sims said the policy has been discussed and vetted, and this version has responded to concerns and questions. Shimek has been responsive to concerns. This version reflects consultative process. Faculty in programs that could utilize drones are eager to have the policy in place.

Hauselt said the geography is eager to be able to move forward for the students’ preparation for careers and for research and teaching.

Thompson asked if Shimek would be interested in speaking

Shimek noted that a number of individuals on campus are waiting for the policy to be approved, because the campus is waiting for a license from FAA to be able to use drones on campus. The longer it takes to pass, the more it delays faculty from being able to begin work on their research and teaching. He is not eligible to make a motion, but would welcome someone moving to a second reading.

Thompson said that last time the policy was in senate, the question of specificity of flight plans and whether the operator or PI on a grant would have to acquire insurance, and both have been clarified – the institution will provide insurance for authorized uses of drones.

Strangfeld/Sarraillé moved to waive rules to move to second reading.

Motion passed.

Moved to second reading.

Strahm voiced support.

Sims noted this has been vetted very thoroughly.

39 yes. Motion passed unanimously.

* 1. **9/AS/16/SEC Time, Place and Manner of Free Expression**

Sims moved/seconded by Strahm.

9/AS/16/SEC Time, Place, and Manner of Expression

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| **BE IT RESOLVED:**  **RESOLVED:** | That the Academic Senate of California State University,  Stanislaus recommend the attached *California State University, Stanislaus Policy on Time, Place, and Manner of Expression*; and be it, further  That the Academic Senate emphasize the document’s opening policy statement, viz.:  *Universities are venues for discourse where conflicting or diverse perspectives are vigorously debated and thoroughly discussed. It is the policy of California State University, Stanislaus to support the fullest protections for expressions of speech, assembly, religion and press available under the United States and California constitutions and all applicable federal and state laws, in accordance with the University’s purpose and function, provided that such expressions comply with this policy and do not incite or promote violence or illegal activity. . . . The University recognizes that the ideas of university community members will occasionally conflict. State and federal free speech protections permit speech that some individuals may find objectionable or offensive,*  and be it, further |
| **RESOLVED:** | That the attached policy be effective upon signature by the campus President. |

**Rationale:** The *California State University, Stanislaus Policy on Time, Place, and Manner of Expression* has undergone extensive review by the Academic Senate, Senate Executive Committee, the Faculty Affairs Committee, and several local unions and is now presented to the senate for its consideration. The need for a clear statement by the campus is necessary to protect individual rights and to ensure a functional, educational environment.

Sims said this may be the most thoroughly vetted policy he has seen, and he supports it.

Petrosky said he can’t support the resolution without elimination of seventh bullet of VII A. He fails to see how prohibiting sustained dissent other than emasculation of such dissent.

**General Limitations and Guidelines for Public Expression on Campus**

At CSU Stanislaus, the time, place, and manner of expression are limited solely by the following conditions as defined in this policy. The exercise of free speech and assembly rights must comply with all applicable federal, state, and local laws, as well as university policies on university property or at any university function, no person may:

* Interrupt the campus educational environment through disruption of classes in session, and/or the educational use of the library;
* Block entrances and the free flow of traffic into and out of university property, including the campus and its buildings;
* Create noise in conflict with the University Use of Amplified Sound Policy;
* Threaten the health or safety of any person;
* Conduct libelous acts;
* Violate any federal, state, or local laws (such as regulations set by the State Fire Marshal), or university policies;
* Camp or lodge on university property other than in authorized facilities. Lodging/camping is defined as the use of campus property for livingaccommodation purposes such as sleeping, or making preparations to sleep, regardless of the intent of the participants or the nature of anyother activities in which they may also be engaged; or
* Fail to comply with the directions of a university official (Section IV and V) or other public official (example fire and police) acting in the performance of his or her lawful duties while on university property or at university functions.

Regalado asked if there were already designated areas for free expression. With primaries and other topics of discussion, where is it that faculty and students can gather, as things stand, right now. Have those places changed as a result of this policy.

Sims said that has come up several times. Shimek has addressed this. Free speech advocates do not support “zones” or areas because that has the opposite effect of what was intended. For instance, those can be placed far from where a significant event takes place. The policy does not designate zones.

Strahm replied to Petrosky that she had a similar question about “camping” and the way she understands it, that is covered by B, about spontaneous outdoor events. They need not be with advance notice, but still must be compliant with other policies.

Regalado returned to point #6 and expressed worry about the word “may,” as it presumes that the university may not. It is incumbent on the university to encourage free speech. The university should say it will provide a place for free expression. Kept as written, it suggests the university may not provide for it.

The exercise of free speech and assembly rights must comply with all applicable federal, state, and local laws, as well as university policies on university property or at any university function, no person may:

Peterson suggested Regalado had misread the sentence, because the “may” refers to the noun “restrictions.”

Petrosky stated that the issue he raised was not whether there were advance notice issues, but regarding VI.A., bullet seven, that sometimes the power of dissent is measured by extent. Bullet seven gives power to cut down dissent on the basis of time extent.

Cooper said that as it is stated now, there is ambiguity about whether someone must comply with the directions of a university official regardless of whether that direction is lawful. The text is as follows:

* Fail to comply with the directions of a university official (Section IV and V) or other public official (example fire and police) acting in the performance of his or her lawful duties while on university property or at university functions.

Sarraillé said CFA consulted on this and the administration, as he understood it, had acceded to add the word “lawful” before “direction.”

Shimek said the CFA issue was to clarify that the person was acting in lawful duties, not in a way that was arbitrary or capricious. This is about complying with provisions in the bullets.

Sarraillé noted that the word lawful was put in front of duties. Shimek stated he was more than pleased to make sure it’s clear as it was placed there based on a request he received.

Thompson wondered if it should be in both places. It was meant to go with the person but now the question is whether it is a lawful direction.

Nagel added that as a civil libertarian, his concern is that this policy would have the effect of setting restraints on free expression. In the absence of a policy there are no restraints on free expression.

Sims asked what was meant by the statement that absent the policy there are not restraints.

Nagel said that aside from those in case and statute law, this resolution would set a policy for the institution that can only add more constraints.

Strahm said she thought there was already a policy that limited the areas where we can have free speech. Doesn’t this expand the location where we can have free speech?

Nagel said that it may expand the locations but also adds restrictions.

Regalado interjected that he never got an answer to his question whether there is a permanent place for free expression, whether there would be moving areas, or whether we have them at all.

Thompson attempted to clarify: every place on campus is equally free, until free expression is limited by the policy. No place is more available for free expression than any other.

Sarraillé agreed, but is concerned about having a rule set about freedom of expression especially on a campus like this when from time to time, traditionally, some of the most important issues and developments have taken place regarding expression on college campuses. He hoped senators would consider this carefully, not only regarding content, but also whether we should consent to a rule set like this in our name.

Thompson thanked Shimek for bringing these policies through governance. This policy is not just applied to the faculty, but broadly across campus constituencies, much like the Strategic Plan would, but it is coming through senate for a recommendation to the president.

1. **Information/Discussion Items:**
   1. **Drug-Free Campus and Workplace Policy**

Thompson asked if Shimek would speak to this.

Shimek said he believed it was important to put all of these policies through senate. These are policies derived from EO or from state law. The purpose is to provide clarity and information to the campus community about these matters. He appreciated it is late in term, and that it is unlikely these will be taken up as action items until fall, but it was important to inform the campus that there are EO and laws pertaining to these matters.

Sims offered a “shallow” piece of advice: not calling it a “drug-free” policy, since that isn’t what it is, but instead a policy on unlawful use of drugs. There is no place that is drug free as many of us take medicine.

Regalado asked about the university’s policy with regard to marijuana.

VP Shimek said that the federal law applies to the university as we are recipients of federal funding.

Wood said he assumed this would still be the case even if California passes a law legalizing marijuana use.

Shimek said he was fairly confident that if such a law passed there would be discussions in the State of California about whether state agencies would review their policies. For now, the advice of Legal Counsel is that federal law pertains.

* 1. **The Sale Consumption and Possession of Alcoholic Beverages**

Petrosky advised the authors of the policy against excessive prudishness. We already ruined Warrior Day for our students, and several stakeholders are in the alcohol business.

Strahm questioned a direction about having alcohol with students. At the beginning of March and end of April she attended a disciplinary conference that included a presidential reception where there was an open bar. Students who are over 21 were present at the reception in the same room where there were faculty present. This policy would appear to have prohibited this. There are many places where faculty and student will encounter each other where alcohol will be present.

Cooper suggested that Strahm was referring to 7a. regarding restrictions for off-campus events. The policy says this is “strongly discouraged.” What sanctions would apply to a faculty member who does what is “strongly discouraged” but not prohibited?

VII. RESTRICTIONS FOR OFF CAMPUS ACTIVITIES

a. The consumption of alcohol during academic field trips, off campus student group activities, and other student-oriented off campus events is strongly discourage. If alcohol is consumed during such activities, it must be done so in strict accordance with all federal, state, local laws and regulations and subject to the terms and restrictions outlined in this policy. As a general practice, persons under the age of twenty-one should not be present where alcohol is being consumed.

Sims noted that the Risk Management approval language needs more information. What are the criteria that risk management will use for approving an event? As the policy stands, risk management has authority whether to approve events at, for instance, venues that serve alcohol.

Wellman said VII.b. could be clearer regarding “hosting at a commercial establishment,” and whether that would also require Risk Management approval.

Most likely these will be discussion items at the last Senate meeting and will come back in Fall 2016.

* 1. **Protection of Minors**

Strahm asked what she called a stupid question. When she was on UEPC, when discussing a policy on “academic minors,” they were strongly encouraged to use “academic.” Could this policy not benefit from similar clarification that we mean human beings who are legal minors?

* 1. **Consensual Relationships & Power Disparity Policy**

Sims explained that this was a revised version of the Power Disparity policy passed in 2011

(<https://www.csustan.edu/sites/default/files/FacultyHandbook/Publications/Polices/13-AS-11-FAC-SEC--PowerDisparityPolicy.pdf>).

EO 1096 for faculty and EO 1097 for students are now system policy. FAC collaborated with the Office of Faculty Affairs to distill EO 1096 and clearly point back to it in campus policy.

Regalado said he realized what FAC is attempting to do here is to update campus policy to comply with the standing EO 1096, but was struck by the phrase “affirmative consent…” He would love to see the permission slip, and added that he hoped he was currently in a free speech zone, because he felt this policy, by regulating behavior by consenting adults, was issuing a scarlet letter.

Strangfeld commented that “affirmative consent” refers to the notion of two adults engaging in a sexual activity and actively saying that they want this activity to happen. This is related to ongoing discussion of concern about rape and sexual assault. The language indicates that it is not enough to assume that consent is given unless it is denied. The phrase “affirmative consent” is important to include because it is consistent with what the way we talk with students about issues related to sexual assault.

Sims said any capitalized terms in the policy are terms specifically defined in EO 1096. FAC did get hung up wondering what this word means what in EO 1096. The glossary accompanying the EO defines affirmative consent as informed, conscious, voluntary expression of consent.

Regalado replied that there is a possibility that two people actually like each other.

Wagner asked about the location of the existing policy. Sims replied that the current Power Disparity policy is on the Faculty Handbook page, and repeated that it was already superseded by EO 1096.

Sarraillé asked for the referent in the last paragraph on the first page.

This prohibition does not limit the right of an employee to make a recommendation on personnel matters concerning a family or household member where the right to make recommendations on such personnel matters is explicitly provided for in the applicable collective bargaining agreement or MPP/confidential personnel plan.

Sims said it means you don’t have the right to make decisions on personnel matters for your spouse or your child. There are a few arrangements provided in our contract that speak to working with a spouse or family member in relation to conflict of interest. This is for anyone that you supervise.

Nagel asked what “extracurricular authority” meant.

Sims replied this was a good question and speculated it could refer to, for instance, situations in which someone may coach a student in an extracurricular sporting activity.

Regalado noted that extracurricular authority could mean by sitting and having a conversation with a student and having a cup of coffee. This is starting to become ridiculous.

1. **Open Forum**

Wood had been asked by colleagues to bring forth the issue of support staff in departments having to do support work for UEE. UEE staff are paid for administrative work, but department staff are doing work, for instance scheduling UEE summer sessions – and this could be a contractual violation.

Provost Strong said that is not a contractual violation, but the state side budget should be reimbursed for work that is done for UEE. Staff in Business & Finance provide support service to UEE because they have the expertise, and are in areas where the work will likely occur. UEE reimburses those areas. The stateside budget needs to be reimbursed by Extended Education.

Shimek concurred with the provost’s explanation.

Marvin Hooker stated he is a student government advisor. He was a member of the senate and wanted to make some comments on what occurred today. He was a bit disappointed with the senators at the table for not being willing to have a conversation, since that was all the student athletes were asking for today. He also referred to the GF meeting agenda being amendable by petition and questioned the ruling by Thompson. Speaker Thompson noted that the resolution had to have been brought by a faculty member. Nicole Larson is a senator and should have been able to bring it forward. He concluded by saying the group representing student athletes’ petition for early registration would remain after the meeting to talk about it and provide more information.

Thompson stated that the motion was to put early registration on as a first reading and not just a discussion item. He maintained that he was correct in ruling that if an item goes to SEC, then SEC makes the decision to put it on the senate agenda. He further clarified that there is a difference between a General Faculty meeting and an Academic Senate meeting. Larson is a senator but not a member of the General Faculty, so when she asked about that section of the constitution on how to get an item on the General Faculty Meeting agenda, which is the question he answered.

Andrews said she was at that first conversation. It is important to be sure that we separate two things. What Larson brought forward was from ASI, and this has clouded the issue. Larson brought the motion in order to be a responsible representative, and we need to consider their voice and their concerns as faculty members.

Espinoza said, at this point of the year, if we don’t find a way to entertain this question then they won’t be able to find answers to a matter that is of concern to the students. Larson was trying to find help and may have referred to the wrong section of the constitution, but she acted in good faith. She would like to find a way to bring this forward this year.

Sarraillé said that from what he’s heard, no one is trying to stop this from coming forward, the Standing Rules have to be followed. Faculty can’t just throw something on the table due to the rules. He heard people saying that they would like to do this soon, but had not heard why it has to be done today. The senate could suspend the rules, and do just about anything they want. Everything he’s heard so far that makes the inference that there’s been some overriding of the students’ interest or legitimate concerns, but that is unfair.

An unidentified student in attendance complained that everything get pressed back. They had been told earlier that student voices should matter, and he feels that student athletes should get priority registration. His brother was an athlete and the way it should be set up is athletes, seniors, etc. It’s like showing up late to class if they can’t get that early registration.

1. **Adjournment**

4:04pm