

# **S90-5 STUDENT RIGHTS AND RESPONSIBILITIES; ETHICS; STUDENT GOVERNMENT; PRIVACY; EQUAL OPPORTUNITY; FREEDOM OF ASSOCIATION AND ORGANIZATION; FREEDOM OF EXPRESSION; DISCIPLINE; GRIEVANCES**

## **Legislative History:**

**Document dated April 20, 1990.**

**At its meeting of March 19, 1990, the Academic Senate approved the attached Policy Recommendation, "Statement on Student Rights and Responsibilities," presented by Peter Buzanski for the Planning, Safety, and Finance Committee.**

**This policy REPLACES the July, 1972 Revision of Senate Policy 70-11.**

## **ACTION BY THE UNIVERSITY PRESIDENT:**

**"Approved and Accepted as University Policy. Effective immediately." Signed: Gail Fullerton, April 20, 1990.**

## **SAN JOSE STATE UNIVERSITY STATEMENT ON STUDENT RIGHTS AND RESPONSIBILITIES**

**S90-5**

### **PREAMBLE**

Academic institutions exist for the transmission of knowledge, the pursuit of truth, the intellectual growth of students, and the general wellbeing of society. As members of the academic community, students should be encouraged to develop critical judgment and to engage in a sustained and independent search for truth. Freedom of inquiry, expression, and action are indispensable to the attainment of these goals. Therefore, the academic community must not only permit, but also encourage all forms of action which do not interfere with the rights of other individuals or groups or with the essential functions of the academic community.

Students, as members of the academic community, accept both the rights and responsibilities incumbent upon all members of the institution. To the extent that their rights as students are not denied, students acknowledge the authority of the faculty in matters of scholarship and the authority of faculty and administrators in operating the university. Concomitantly, the faculty and administration realize and respect the rights of students to help in formulating university policies. Students also have the right to challenge within legal means the scholarship of others on scholarly grounds, to work for change believed necessary for the improvement of the institution and to challenge any attempt to deprive them of their rights either as citizens or students.

The policies and procedures contained in this document attempt to define both the student's freedom and the limits of that freedom. They are based on the principles that membership in the academic community involves rights and responsibilities but that the student is also a citizen or resident of the United States and that all rights, privileges, and responsibilities which accrue to the student as such are not abridged by membership in the academic community.

Corollary to any statement of student rights and responsibilities are procedures for hearing charges that students' rights have been denied either by other students, the faculty, administration, or staff of the university. This statement prescribes procedures by which these rights and the freedom of all segments of the university community may be protected.

While considering students' rights and responsibilities, it must be recognized that the campus is not a sanctuary immune from civil authority and law, and that students may be prosecuted for violation of the law, whether an action occurs on the campus or off; however, university sanctions will be imposed only for those violations that directly and significantly interfere with the university's responsibilities for ensuring the opportunities of all members of the academic community to pursue learning. This statement concerning Student Rights and Responsibilities is subject to and limited by all applicable provisions of the Constitution of the United States and of State law including the regulations and orders duly made by the Trustees and the Chancellor of the California State University.

## I. FREEDOM OF ACCESS TO HIGHER EDUCATION

### A. Equal Opportunity

San Jose State University is guided by the principle of equal opportunity, including the conviction that there will be no differential treatment of persons because of race, religion, national origin, age, sex, handicap, veteran status, or sexual orientation. This principle is expected to be observed in the admission, housing and education of students; in policies governing programs of extra-curricular life and activities; and in the employment of faculty, staff, and student personnel.

### B. Educational Equity

The University shall maintain a high priority for a campus wide educational equity plan which emphasizes the recruitment and retention of underrepresented ethnic and economic student groups. Responsibility for educational equity efforts shall be shared by administrators, faculty and students, and shall include programs and services which facilitate the admission and retention of underrepresented students, including their housing, counseling and instruction.

## II. STUDENT RIGHTS AND RESPONSIBILITIES IN THE CLASSROOM

The classroom is the essential part of any university. Both freedom to teach and freedom to learn should flourish in the classroom. The professor has the right and responsibility to control the classroom; however, as this control is exercised, the rights of students as set forth in this document should not be denied.

A. Students have the right to consistent and judicious evaluation by the instructor.

B. Students are free to take reasoned exception to the data or views offered in courses of study. They may be required to know the material set forth by the instructor, but they are free to reserve personal judgment as to the truth or falsity of what is presented.

C. Students have the right to have faculty meet their classes at the scheduled times and make presentations appropriate to the course. When circumstances require cancellation of a class, the instructor shall make an effort to notify students.

D. While faculty and administrators have primary responsibility in curricular matters, students shall have opportunity for participation in revising and improving the curriculum by serving on operational curriculum committees.

E. Students are responsible for meeting standards of academic performance established for each course. Performance in the course shall be the sole criterion by which students are measured and the professor shall take no action to penalize students because of their opinions or because of their conduct outside the classroom in matters unrelated to the class. Students have the right to a course grade which is a just measurement of performance in the course.

F. Information about a student's performance, views, beliefs, and political association which professors acquire in the course of their work as instructors, advisers, and counselors is considered confidential.

G. Students enrolled in a class may be denied admission to the classroom or may be expelled for the remainder of a class period only for considerations relevant to the educational purposes of the class. A faculty member may recommend to the Dean of Student Services that a student be permanently

withdrawn from a course if after suitable warning a student's disruptive actions are determined to be in violation of the University policy on "Student Discipline Relating to Conduct on State University Campuses".

H. Students have the right to have instructional faculty schedule a reasonable number of office hours for student conferences.

### III. RIGHTS AND RESPONSIBILITIES REGARDING STUDENT PRIVACY

A. According to federal and state law, students have the right to protection against improper disclosure of personal information. To minimize the risk of improper disclosure, the records of students' academic, counseling, disciplinary, financial and medical contacts with the university are kept separate from one another. The conditions for access to these records are set forth in the "Family Educational Rights and Privacy Act (20 U.S.C. 1232g) and the State analog to that act in Education Code, Section 67100, et. seq., as well as the "Information Practices Act" in Civil Code 1798, et. seq. Copies of these policy statements are available in the Dean of Student Services Office. Transcripts of academic records shall normally contain only information related to academic status and performance. However, in cases of disciplinary action, a notation of disciplinary status shall be added directly to the transcripts of any student who has been expelled or suspended with the notation for suspension to be removed at the end of the suspension period. Information from disciplinary, financial, counseling, medical, or academic records shall not be available to any person, on or off campus, without the express written consent of the student involved, except in accordance with law. No records shall be maintained on students which reflect their political or social views and activities. Provision shall be made for routine destruction of non-current disciplinary records in accordance with University policy.

B. The University shall reserve the right to enter university controlled student living quarters for the purposes of emergency, health, safety, maintenance, management of applicable rules and regulations, or for any other lawful purpose. The university shall exercise these rights reasonably and with respect for the student's right to be free from unreasonable searches and intrusions into study or privacy.

### IV. RIGHTS AND RESPONSIBILITIES PERTAINING TO FREEDOM OF ASSOCIATION

A. Students shall be free to organize and join associations to promote their common interests. Student organizations shall be free to examine and to discuss all questions of interest to them and to express opinions publicly and privately; and at the same time it should be made clear to both the university and the larger community that in their public expressions, students or student organizations speak only for themselves.

B. Student organizations shall be free from control by extramural organizations. Affiliation with such

extramural organizations will not disqualify an organization from university recognition; however, voting membership shall be restricted to members of the university community. All campus organizations, including those affiliated with extramural organizations, shall be open to all students without regard to race, religion, national origin, age, sex, handicap, veteran status, or sexual orientation except as sanctioned by law. (California Code of Regulations, Title 5, Section 41500 et. seq.; Education Amendments of 1972, Title IX).

1. Student organizations have the right to determine their need for faculty advisors and to select them.
2. Recognized student organizations shall be free to invite speakers of their own choosing. The university is not a public forum, however, where any person with a desire to be heard may demand an audience. Student groups who invite outside speakers are responsible for making arrangements for the event as specified in Section VII of the "President's Directive Regarding Use of Buildings and Grounds." University control of campus facilities shall not be used to prevent the free exchange of ideas.
3. Recognized student organizations have the right to use available university buildings, facilities, and other services. The right of such use involves the responsibility of following procedures established for the use of these facilities and services. Such policies and procedures shall not be used to restrict the freedom of student organizations, but shall be only those minimally necessary to protect State property from abuse or damage, to preserve the rights of other individuals and organizations and to maintain orderly scheduling of events.

## V. RIGHTS AND RESPONSIBILITIES OF ESTABLISHING AND OPERATING STUDENT GOVERNMENT

Associated Students exists as the government and voice of the students. Its primary responsibility is to represent and serve the students, with the stated purpose of providing essential activities closely related to, but not normally included as part of the regular instructional program of the college or university. The electorate of such a government shall consist of the entire student body. Students have the right as citizens of a democracy to form representative self-government which will adequately (1) reflect student opinion, (2) serve student needs, (3) assert fundamental student rights, and (4) actively participate in the planning, formulating, and instituting of university policies.

Associated Students is "under the supervision of the college or university officials" (Education Code 89300) but is free from arbitrary administrative intervention in its affairs whether by removal or suspension of officers, unlawful withholding of funds, changes in this document or otherwise.

## VI. RIGHTS AND RESPONSIBILITIES REGARDING PUBLICATION AND OTHER FORMS OF CREATIVE EXPRESSION

Student publications and the student press are a valuable aid in establishing and maintaining an atmosphere of free and responsible discussion and of intellectual exploration on the campus. They are a means of bringing student concerns to the attention of the faculty and the institutional authorities and of formulating student opinion on various issues on the campus and in the world at large. At the same time, the editorial freedom of student editors and managers entails corollary responsibilities to be governed by the canons of responsible journalism.

Student publications include all publications, magazines, newspapers, radio and television programs (excluding administration, faculty and staff publications and projects) authorized, financed, or sponsored by the university or the Associated Students. As safeguards for the editorial freedom of student publications the following provisions are necessary:

A. The student press should be free of censorship and advance approval of copy content, and its editors and managers should be free to develop their own editorial policies and news coverage while avoiding such constitutionally unprotected areas as libel, invasion of privacy, and obscenity.

B. Students on the staffs of student publications should be protected from arbitrary suspension and removal because of student, faculty, administrative, or public disapproval of legally protected editorial policy or content. Only for proper and stated causes should student staff be subject to removal and then by orderly and prescribed procedures. The agency responsible for the appointment of student staff should be the agency responsible for their removal.

C. All university published or supported and financed student publications should explicitly state on the editorial page that the opinions there expressed are not necessarily those of the university or student body.

## VII. RIGHTS AND RESPONSIBILITIES PERTAINING TO FREEDOM OF EXPRESSION AND ADVOCACY

Students have the rights of freedom of speech, assembly, petition, and association. They may assemble publicly to demonstrate support for or opposition to causes or candidates. So long as a student demonstration does not interfere with the classroom, and so long as the demonstration substantially complies with the university's time, place and manner rules and otherwise causes only minor inconvenience in areas of the campus outside of the classroom, the demonstration shall be permitted to proceed. Whenever an activity of individual students or groups denies the rights of others or seriously interferes with, obstructs, or disrupts the operation of the university or of organizations accorded the use of university facilities, such actions are subject to sanctions. Specifications of time, place, and manner of such activities are given in the "President's Directive Regarding Use of University Buildings and Grounds."

## VIII. IMPOSITION OF DISCIPLINARY SANCTIONS

A. The university has the primary responsibility to provide an opportunity for learning experiences. Its secondary responsibilities are to provide for the health and safety of persons in the university community, to maintain and protect property, to keep records, to provide living accommodations and other services and to sponsor non-classroom activities such as lectures, concerts, athletic events, and social functions. Sanctions may be applied by the university when student behavior interferes with these responsibilities. The purpose of student conduct procedures is to protect the rights of students and enforce student responsibilities to the university. Students, faculty, and administration all pledge themselves to avoid and prevent as far as possible the use of force in the resolution of university problems.

B. The university and the general governments --federal, state and local-- have separate and independent spheres of authority in regard to persons who are students as well as citizens. The university does not impose sanctions for violation of criminal law as such, nor do the general governments punish violations of university regulations as such. The imposition of university sanctions on students for significant interference with university responsibilities does not protect them from local, state, or federal court action; conversely, criminal proceedings against students do not prevent the university from imposing its own sanctions for misconduct in the special area of the university's responsibilities. If the same action violates general law and also significantly interferes with the university's responsibilities, students may be subject to independent action by both civil authorities and the university.

C. Disciplinary sanctions which may be imposed upon students by the university shall be commensurate with the seriousness of the violation. Actions which may be taken by the university are:

1. Establishment of a confidential record;
2. Letter of reprimand;
3. Disciplinary probation;
4. Suspension from the university;
5. Expulsion from the university;
6. Requirement of financial restitution to the university or any member of the university community.

D. Students who live in residence halls, who join fraternities or sororities, or who join other campus organizations have rights and responsibilities in addition to those enumerated in this document. They may be subject to sanctions imposed by these groups including expulsion from the residence hall or

group.

E. In the event that it is established by due process that a student organization did not take reasonable steps to prevent violation of the provisions of this document, the university may withdraw recognition or place the organization on probation.

F. Students may be subject to sanctions upon proof that they have violated Section 41301 or 41302 in Article 1, Chapter 5, Title V, of the California Code of Regulations, "Student Discipline Relating to Conduct on State University Campuses". (See Appendix) Copies are also available in the Dean of Student Services Office.

## IX. RIGHT TO DUE PROCESS AND APPEAL

A. The university has an obligation to see that sanctions are not imposed on students without adequate procedural safeguards. The student shall have the right of due process and appeal in matters of student discipline as prescribed by Executive Order 148, "Student Disciplinary Procedures for the California State Universities." These procedures are specified to assure that the rights of students are reasonably protected, that facts are fairly determined, and that the sanctions imposed are justified by evidence and are appropriate to the seriousness of the violations. A copy of Executive Order 148 is attached and copies are available in the Dean of Student Services Office.

B. Student judiciary boards, such as Associated Students Judiciary, Housing Judicial Board and IFC/Panhellenic Judicial Committees must insure due process and must conform to university regulations in any procedures and standards that they develop to address student conduct problems within the organization. The authority of each judicial board shall be limited to alleged violations of its own rules and regulations and actions taken at the request of the university president in accordance with the provisions of Section 11-a in Executive Order 148.

C. Appeals from decisions of the AS Judiciary and/or the AS Election Board shall be heard by a board of faculty and students. The board will hear an appeal only when it is alleged that in the original hearing there was a serious violation of prescribed procedures or absence of substantial evidence to support the decision.

If the appeals board finds no serious violation of prescribed procedure and if it finds that substantial evidence was presented to support the decision in a particular case, the decision of the AS Judiciary or AS Election Board shall be affirmed. If the appeals board finds that there were serious procedural violations or a lack of substantial evidence, it shall rehear the case and make a recommendation for appropriate action to the University President or designee.

If the University President or designee dissents from a board's recommendation, the President, before taking action, returns the recommendation to the board with a written request for clarification of specific



points. The President will not take final action until receiving the board's response, but the President may, if the matter is deemed urgent, require a response within a fixed time, not less than fifteen days.

D. Hearing procedures for violations of Title V of the California Administrative Code, "Student Discipline Relating to Conduct on State University Campuses", shall be conducted in accordance with Executive Order 148, "Student Disciplinary Procedures for the California State University and Colleges".

## X. STANDARDS FOR CASES INVOLVING STUDENT GRIEVANCES

A. In cases involving alleged denial of a student's rights by a professor, the student should first make every effort to resolve the matter with the professor involved. If this fails, the student should seek resolution with the department chair and then with the dean of the school concerned. If the student has a non-course related complaint against any office of the university, the student should first attempt to resolve the problem with that office. If the student believes that the problem has not been resolved at these levels, the student should submit the complaint to the University Ombudsman who shall refer the case to the appropriate committee per university policies governing the Academic Fairness Committee and Student Grievance Committee.

B. If a student believes that any of the rights specified in this document have been denied, the student shall be entitled to seek redress in conformity with Executive Order 148.