

SAN JOSE STATE UNIVERSITY ACADEMIC SENATE

2016/2017

Agenda

April 10, 2017, 2:00 pm – 5:00 pm

Engineering 285/287

- I. **Call to Order and Roll Call:**
- II. **Approval of Minutes:**
Senate Minutes of March 13, 2017
- III. **Communications and Questions:**
 - A. From the Chair of the Senate
 - B. From the President
- IV. **State of the University Announcements:**
 - A. Associated Students President
 - B. Provost
 - C. Vice President for Student Affairs
 - D. Vice President for Administration and Finance
 - E. Chief Diversity Officer
 - F. Statewide Academic Senators
- V. **Executive Committee Report:**
 - A. Minutes of the Executive Committee –
Executive Committee Minutes of March 6, 2017
Executive Committee Minutes of March 20, 2017
 - B. Consent Calendar –
Consent Calendar of April 10, 2017
 - C. Executive Committee Action Items –
- VI. **New Business:**
- VII. **Unfinished Business:**
- VIII. **Policy Committee and University Library Board Action Items (In rotation)**
 - A. University Library Board (ULB):
 - B. Curriculum and Research Committee (C&R):
AS 1651, Policy Recommendation, Research, Scholarship, and Creative Activity: Advisor-Student Relationship, Sponsored Projects, and Proprietary RSCA and Issues of Confidentiality (First Reading)

C. Instruction and Student Affairs Committee (I&SA):
AS 1648, Policy Recommendation, Graduate Student Revalidation of Courses that Exceed the 7-Year Limit (Final Reading)

AS 1649, Policy Recommendation, Registration Priority and Amendment A to S73-4 (First Reading)

AS 1650, Policy Recommendation, Undergraduate Honors Policy (First Reading)

D. Professional Standards Committee (PS):
AS 1530, Sense of the Senate Resolution, Requesting Changes in the System-wide Intellectual Property Policy (Final Reading)

AS 1647, Policy Recommendation, Rescinding and Replacing F97-7 University Policy on Privacy of Electronic Information (Final Reading)

AS 1646, Policy Recommendation, Selection and Review of Department Chairs (Final Reading)

E. Organization and Government Committee (O&G)
AS 1635, Policy Recommendation, Amendment A to S16-8, Selection and Review of Administrators (Final Reading)

IX. Special Committee Reports:

X. Adjournment:

2016/2017 Academic Senate

MINUTES
March 13, 2017

I. The meeting was called to order at 2:05 p.m. and roll call was taken by the Senate Administrator. Forty-Two Senators were present.

Ex Officio:

Present: Kimbarow, Van Selst, Lee,
Sabalius
Absent: Perea

Administrative Representatives:

Present: Faas, Feinstein
Absent: Blaylock, Papazian

Deans:

Present: Stacks, Jacobs, Green
Absent: Schutten

Students:

Present: Spica, Tran, Caesar
Absent: Balal, Medrano

Alumni Representative:

Present: Walters
Absent: None

Emeritus Representative:

Present: Buzanski
Absent: None

Honorary Representative:

Present: Lessow-Hurley

General Unit Representatives:

Present: Matoush, Higgins, Trousdale,
Kauppila

CASA Representatives:

Present: Schultz-Krohn, Shifflett, Grosvenor, Sen, Lee
Absent: None

COB Representatives:

Present: Reade, Rodan, Campsey

EDUC Representatives:

Present: Mathur
Absent: Laker

ENGR Representatives:

Present: Chung, Hamedi-Hagh

H&A Representatives:

Present: Frazier, Grindstaff,
Miller, Khan, Riley
Absent: Ormsbee

SCI Representatives:

Present: White, Cargill, Kaufman
Absent: Boekema

SOS Representatives:

Present: Peter, Wilson, Trulio, Hart

II. Approval of Academic Senate Minutes—

The minutes of February 13, 2017 were approved as written (42-0-0).

III. Communications and Questions –

A. From the Chair of the Senate—

Chair Kimbarow announced that the Spartans-Supporting-Spartans Campaign would be at the meeting at 3:30 p.m. and he encouraged Senators to contribute. Chair Kimbarow noted that staff make the least, but contribute the most to the university. For instance, Eva Joice, the Senate Administrator, contributes \$50 a month out of her pay to the Senate discretionary fund and has continued to do so for several years now.

Chair Kimbarow reminded Senators that there is an attendance policy and that the Senate Administrator does take a silent rollcall at every meeting. Senators need to be at the meetings to represent their colleges.

Chair Kimbarow announced that for the remainder of the semester due to the heavy volume of policies coming before the Senate, the amount of time spent on questions during first readings will be limited. Also, questions during final readings will be restricted to only those changes that have been made since the first reading.

B. From the President— None (President Papazian was off campus.)

IV. State of the University Announcements. Questions. In rotation.

A. Vice President for Student Affairs – No report.

B. Associated Students President – No report.

C. Chief Diversity Officer (CDO) – No report.

D. CSU Statewide Senators –

The CSU Academic Senate plenary begins this Wednesday, and continues through Thursday, and Friday, so this is a brief update today. There are four resolutions that should be coming back for final readings this week. These resolutions include employment security, California Master Plan and Tax Reform, GE and Intermediate Algebra, and support for Deferred Action for Childhood Arrivals (DACA) students. Other items of interest include discussions about the faculty nomination procedure for faculty trustees, the quantitative reasoning taskforce report and implementation procedures, and general education.

Questions:

What is behind the resolution regarding California's Master Plan and Tax Reform?

Answer:

There is a proposal out called the "\$48 plan" that proposes to increase a number of taxes in California including oil and gas extraction taxes. Some of this money would be used to bring the tuition for the CSU and UC back to zero. It is a very ambitious plan. However, the Faculty Affairs Committee does support the plan and will be bringing a resolution to the CSU Statewide Senate.

Question:

What in particular are the legislature and the Board of Trustees really interested in regarding general education?

Answer:

That depends on what college you come from. The faculty and the deans in the various colleges differ in their support for a wide and large general education package.

E. Provost – No report.

F. Vice President of Finance and Administration –

VP Faas announced that notices went out about furniture being removed from Clark Hall, but only certain furniture is slated to be removed. FD&O was over zealous in labeling the furniture to be removed and mislabeled some furniture. This has been corrected after consultation with departments in the area.

Question:

Can we create an app that would allow students to be notified when there is leftover food at the end of a meeting? I know catering must throw away some of this food.

Answer:

We have a whole presentation on sustainability and what we do with leftover food. For instance, some of it can't be given away, such as chicken if it is left out too long, but girl scout cookies can be reused. Very little gets wasted by Spartan Catering.

G. Vice President for University Advancement – (Note: Chair Kimbarow invited the VP of University Advancement – Paul Lanning to brief the Senate)

VP Lanning announced that our endowment distribution was only 3% last year, but this year the Tower Board approved a 4% endowment distribution. That will redirect about \$4.6 million to the campus and is a 40.7% increase from last year's distribution. This reflects the rate increase from 3% to 4% this year as well as growth in the endowment fund. This is very good news for us. The actual amount is \$4,567,072. Of this amount, 31.2% is designated for scholarships across the campus. The remainder of that distribution employs 52 students and staff across the campus, and provides operating flexibility to the colleges, athletics, and different university programs. As a comparison, in 2007 the endowment distribution was \$1,640,000, so we have increased fundraising threefold since that campaign. The endowment as a total right now is at about \$135 million. It was significantly below that over the last few years.

Question:

When a distribution goes out does it go to each individual department account?

Answer:

Yes. If there is ever a question about this feel free to contact the Tower Foundation COO.

As a result of a bylaw change that was adopted in the Fall, the Tower Foundation Board now has an at-large faculty position open. VP Lanning will distribute the application to Chair Kimbarow to distribute to the Senate and other faculty. If there are any questions about serving on the Tower Foundation Board, contact VP Lanning directly. The Tower Board would like to approve a faculty member in time for the last meeting of the year in June 2017, so that he/she will be ready to go in Fall 2017.

V. Executive Committee Report –

A. Executive Committee Minutes –

EC Minutes of February 6, 2017 – No questions.

EC Minutes of February 20, 2017 – No questions.

B. Consent Calendar –

The consent calendar of February 13, 2007 was approved as amended by AVC Schultz-Krohn.

C. Executive Committee Action Items:

VI. New Business – The Spartans-Supporting-Spartans Coffee Break, Time Certain of 3:30 p.m. to 3:45 p.m.

VII. Unfinished Business: None.

VIII. Policy Committee and University Library Board Action Items. In rotation.

A. Curriculum and Research Committee (C&R) –

Senator Mathur presented *AS 1641, Policy Recommendation, Amendment A to University Policy S16-14, Clarification of Internship (Final Reading)*. Senator Shifflett presented an amendment that was friendly to the body to change the Resolved clause on line 124 to read, "Resolved: That oversight of the renewal of UOAs is the responsibility of the Office of Student and Faculty Success in consultation with departments;..."

Senator Mathur presented an amendment that was friendly to the body to strike the Resolved clause on lines 113 through 117, and to add to the Resolved clause on line 61 to read, "Leadership; CCLL; which will develop procedures to address unique situations across departments and students."

The Senate voted and AS 1641 passed as amended (36-1-2).

B. Instruction and Student Affairs Committee (I&SA) –

Senator Kaufman presented *AS 1637, Policy Recommendation, Required Enrollment for Culminating Graduate Students (Final Reading)*. Senator White presented an amendment to lines 84 and 85 to strike "(often 298s although other course numbers are also used)." The White amendment failed (2-21-5). **The Senate voted and AS 1637 passed as written (33-2-0).**

Senator Kaufman presented *AS 1648, Policy Recommendation, Graduate Student Revalidation of Courses that Exceed the 7-year Limit (First Reading)*.

Questions:

Q: Did the committee consider adding in a clause that says when exceptions are needed consult with Graduate and Undergraduate Studies Offices instead of spelling out all this revalidation in the policy? (Line 53)

A: The committee did not discuss this, but will consider it.

Q: In line 56 it says students must have a B in the course to revalidate it, why a B?

A: Graduate students must maintain a 3.0 average, so a B was thought to be consistent with that.

Q: Are there any courses in say the field of Mathematics, where change would be impossible to occur over time and where this whole policy would be useless so that an exception might be written into the policy to accommodate those programs? Why make those students take these courses again?

A: Only because of the statutory time limit that the CSU education policy puts on us which says these units expire.

Q: You can't make an exception for that?

A: You still have to revalidate it. You don't have to test on new knowledge, but you still have to revalidate it.

Q: On page 2, line 68, it talks about course material that is outdated after 7 years, and my question is who decided on that time frame? Is that in the CSU statute?

A: The time limit is 10 years for undergraduates and 7 years for graduates, and is required by Title V.

Q: It says that in order to revalidate the course an exam will be given, but in some cases an exam isn't appropriate at all because the culminating experience for that course was a paper. Would the committee consider adding more flexibility by adding "exam or culminating experience"?

A: The committee will consider this.

Q: This proposal is extremely micromanaging and gets involved in departmental matters to the extent that I don't think university policy should. The policy borders on curricular matters and probably should be referred to C&R. Would the committee consider shortening this to just a paragraph covering the general principles while leaving the actual procedures and details about how this is done up to the individual departments?

A: The committee certainly would consider that.

Q: Would the committee consider clarifying for me that at the beginning of the policy it talks about course data being out of date, but at the end it refers to student knowledge being out of date. Is the intention that the student at the end of his/her career should have a requisite body of knowledge, and between the course content and his/her stale knowledge of the content etc., can this be better explained in number 2?

A: The committee will work on that.

C. Professional Standards Committee (PS) –

Senator Peter presented *AS 1643, Policy Recommendation, Amendment C to S15-6, Appointment of Regular Faculty Employees, Consideration for Early Tenure for Previously Tenured Faculty (Final Reading)*. **The Senate voted and AS 1643 was approved as written (33-0-0).**

Senator Peter presented *AS 1646, Policy Recommendation, Selection and Review of Department Chairs (First Reading)*.

Questions:

Q: In Section 3.7 and 4.2.1. regarding forwarding the name and results, why are there two categories with one being for lecturers and the other tenure/tenure-track faculty? I believe this creates further inequality in an already unequal system. Also pertaining to section 3.7 how would this work logistically, would it be forwarding the name of the candidate and then distributing the results? My third question pertains to 4.2.1. which states "must provide temporary faculty with the opportunity to provide confidential feedback on the search prior to final recommendation." What would the mechanism for this be?

A: First, section 3.7 comes from the existing policy and there is no change from the current policy in how temporary and permanent faculty votes are counted. Before 2002, lecturers did not vote at all and this comes from that policy. With regards to 4.2.1, different departments could do it different ways. Some departments do confidential surveys.

Q: Regarding section 11.1, Administrative Removal, I've had to deal with this section of the policy more than I would like. The statement on line 430 and 431 that says, "A Chair shall receive due process appropriate to the nature of the offense that justifies removal." Is this in alignment with the Collective Bargaining Agreement (CBA) between the CFA and CSU? The CBA states that department chairs shall be appointed by the President and shall serve at the pleasure of the President. It seems to me that this policy usurps the CBA.

A: The CBA does say the President can remove a department chair, but there is nothing saying a President couldn't agree to follow a system of due process. We are asking the President to endorse that by signing the policy to give the department chair a chance to defend himself/herself prior to removal. What we want to avoid is the past where chairs were called "heads" and the President appointed them with no faculty input. If a President can remove a chair without a system of due process, then the notion that the chair is a leader of the faculty has little meaning.

Q: Who becomes an arbiter of determining if any of these listed activities have been breached?

A: It is still the President.

Q: What was the reason for additional sentence regarding due process?

A: Policies are often made with either the memory of past presidents we have had, or the threat of what a new president could bring, and the concern here was not about a chair being removed for an offense that is very clear and is already dealt with in a system of due process such as Title IX, the issue here is what if a chair is removed for some other reason then the chair deserves to have their day in court and explain himself/herself.

Q: My comments are about lines 114 and 115 regarding the job description being developed in consultation with the department and being periodically reviewed. This strikes me as vague. It bothers me. Where did this come from?

A: In the last policy reform there was a requirement that there be a job description and that it be vetted by the department personnel committee. One of our deans objected to this particular language saying that in this particular college there were alternative ways in which job descriptions were created and there wasn't always a personnel committee. The PS Committee removed the language referring to the the department personnel committee and made the language a little more general by saying the job description needs to be developed in consultation with the department and be periodically reviewed. If you have other language that you think would work without offending our deans, please send it to the committee.

Q: On line 128 it states that at the open meeting faculty may nominate names to appear on the ballot for an election, is that the only mechanism in which faculty can have their name brought forward?

A: There is nothing that restricts or restrains other mechanisms.

Q: Would the committee consider replacing regular or permanent faculty with tenure or tenure-track faculty, and replacing temporary or part-time faculty with lecturer faculty?

A: The committee will consider this.

Q: Has the committee considered situations in which external search might be requested by someone other than the department, such as the dean?

A: No, we haven't. We did substantially change the external search after one of the deans made suggestions. You may recall under the old policy external searches were only allowed after the regular effort to nominate a chair failed. There was never even an opportunity to have an external search until a department had failed in its effort to elect its own nominee. The committee moved the request for an external search earlier in the process so that a department could request an external search early on. I would think that a dean could, in discussion with the faculty in a department, let it be known that an external search would be viewed favorably. The reason external searches are not done more often is due to budgetary concerns, and they are usually never granted. I would think this would be an informal mechanism that would be very effective.

Senator Peter presented *AS 1647, Policy Recommendation, Rescinding and Replacing F97-7 on Privacy of Electronic Information (First Reading)*.

In 1997, the Senate passed a policy that tried to protect the privacy of email and other electronic information on campus. We were aware that there were some limits even then, including Freedom of Information Act Requests, Civil Litigation, and Criminal Investigations. Nevertheless, many companies were reading their employees emails at that time, so we passed this policy. Over the years these policies on other campuses have evolved and ours has not. We were asked to take a look at the policy and to revise it. In doing so the PS Committee drew on two important sources, including the AAUP and UC

policies. The AAUP has a policy paper on privacy of electronic information, and we also found a UC policy that was considerably more helpful than similar CSU policies. After crafting an elaborate policy, the PS Committee realized that the Senate did not represent all groups that would be subject to the policy on campus such as the staff. Therefore, the PS Committee invited the Chief of Staff and the Information Security Officer to work with the committee on a compromise. The compromise was that the PS Committee would craft a policy of a few key principles, while the President works on a Presidential Directive that gets into the minutiae of how this policy would be implemented. The key principles are that electronic information should rarely be searched, and when it is the circumstances should be clearly defined. Also, when searches are conducted the President needs to authorize it. Finally, records should be kept on searches, and when records are searched they should use the least perusal necessary. Also, whenever an investigation is finished the people whose records are searched should be notified. There should also be some instructional accountability and oversight.

Questions:

Q: Has the committee considered that when a faculty member leaves the university and has not completed grades for his/her students that department chairs have limited access and in our department we have had several students' grades compromised because of this. Is there a way the committee could consider this in recommendations for the Presidential Directive primarily to expedite things for students?

A: That is exactly the level of detail that would belong in the Presidential Directive as far as the division of labor. I'll pass that along.

Q: On line 24 you have a typo of protect and protects. Can the committee consider building in here language that consultation with faculty, staff, and students take place prior to the development of policy or procedures? What comes to mind is the development of the email standards that have come along and consultation at the front end would have been great.

A: The committee will consider it.

Q: In section 2.5, how might those individuals be selected and what might they do with that information they receive, and what might they be allowed to do with information they receive?

A: The committee could try and be more specific about that in the policy. Here is the issue, clearly the results of individual searches would not be appropriate to share with stakeholders. What we want to do is track over time the numbers and kinds of searches so that if we have a brand new President and one day the number of searches quadruples, we would want to notice that. There might be a good reason for it, but we would want to know that. The problem about stakeholders is that more than just faculty are involved. Some of the people that are most involved are members of the staff who are charged with conducting these searches, so we didn't want to be too prescriptive about who would be in the group, but wanted to be sure that at least some people representing the Academic Senate would be involved with this group. I guess I view this that when you are dealing with confidential information, you want to have one group with representatives from all the groups that might be concerned that could discreetly monitor what is happening. The

specifics have currently been left to the President to decide.

Q: Every year we receive a report on how many cases of Academic Dishonesty occur and it doesn't list the individual cases, but gives general information on the types of cases.

Maybe this could be used as a model for institutional accountability.

A: The committee will consider it.

Q: Would the committee consider using language stating that the university does not read the contents of any faculty member's email except as compelled to do so by law?

A: That is sort of what it says, whether it is compelled by Title IX, a civil suit, or the Freedom of Information Act, etc. Are you asking that the language that states, "except as required by law" be more specific?

A: Yes.

D. Organization and Government Committee (O&G) –

Senator Shifflett presented *AS 1629, Policy Recommendation, Concurrent Membership on Operating and Policy Committees (Final Reading)*. **The Senate voted and AS 1629 was approved as written (33-0-4).**

Senator Shifflett presented *AS 1621, Policy Recommendation, Department Voting Rights (Final Reading)*. Senator Peter presented an amendment that was friendly to the body to change Section 2.1 to read, "The faculty of a department vote on a number of matters, including those assigned to them through university policies and the Collective Bargaining Agreement...Changes to the curriculum of the department must be approved by the department's faculty according to the department's voting guidelines/bylaws as explained below" (35-0-0). Senator Khan presented an amendment to line 166 to strike the word "preliminary." The Senate voted and the Khan amendment failed (7-25-3). The Senate voted and AS 1621 passed as amended (30-3-2).

Senator Shifflett presented *AS 1635, Policy Recommendation, Selection and Review of Administrators (First Reading)*. This policy pertains to search and review committees for administrators including AVPs and Deans. This is a second first reading of this policy. This seeks to address concerns about the representativeness of selection and review committees for deans where members are elected. Three options were considered. The first option was after the nomination period and before the election to take a look at the pool, and if it is not representative go back out for additional nominations. The second option and the one the committee went with was to look at the nominations after the nominating period and if the pool is not representative enough, then the Provost will consult with the Executive Committee. One remedy the Executive Committee could recommend is to allow the Provost to add up to two additional faculty members. The third option was to look at the pool after the nomination period and after the elections to see if it is representative. The committee recommended option two.

E. University Library Board (ULB) – None.

IX. Special Committee Reports -- None.

X. Adjournment – The meeting adjourned at 4:35 p.m.

Executive Committee Meeting

March 6, 2017

12-1:30, ADM 167

Present: Peter, Shifflett, Schultz-Krohn, Mathur, Frazier, Lee, Feinstein, Faas, Kaufman, Kimbarow, Papazian, Perea, Wong(Lau), Blaylock, Riley

Absent: Perea

1. The minutes of February 20, 2017 were approved as amended by Senator Shifflett and Senator Kaufman (14-0-0).
2. The consent calendar of March 6, 2017 was approved as written (14-0-0).
3. Election of Committee Chairs:
Chair Kimbarow will be sending an email to all operating committee/special agency chairs requesting that they conduct their spring elections for new chairs for next year by April 15, 2017. They will also be asked to provide the meeting dates and times for Fall 2017 so that faculty that wish to be on the committee will know if they can make the meetings. The elections of the committee chairs are needed early this year due to the change in the bylaws allowing for the seats to go at-large at an earlier date.
4. CIO Search Committee Update:
A faculty member on the CIO Search Committee resigned. The EC discussed and selected a replacement (14-0-0).
5. AVP Student and Faculty Success Search Committee:
The EC selected candidates from among the nominees received and recommended by the Provost (14-0-0). The Provost discussed problems that continue to arise with the nomination process, such as how to ensure diversity on the committee. The EC agreed to allow the Provost to add additional personnel as needed to ensure the diversity of the search and review committees.
6. Updates:
 - a. From the Organization and Government Committee (O&G):
Voting Rights for Faculty Policy:
O&G will be bringing the Voting Rights Policy for a final reading at the March 13, 2017 Senate meeting.

Selection and Review of Administrators Policy:
O&G will be bringing another first reading of the Selection and Review of Administrators Policy to the Senate at the March 13, 2017 meeting.
 - b. From the Professional Standards Committee (PS):
PS will be bringing the Consideration for Early Tenure for Previously Tenured Faculty Policy for a final reading to the March 13, 2017 Senate meeting. PS will also be bringing the Selection and Review of Department Chairs Policy as well as a policy rescinding F97-7, University Policy on Privacy of Electronic Information for first readings at the March 13, 2017 meeting.

- c. From the Curriculum and Research Committee (C&R):
C&R will be bringing a final reading of the Internship policy to the Senate at the March 13, 2017 meeting.
- C&R is working on additional referrals/policies including Research, Scholarship and Creative Activity (RSCA), Department Name Changes, Removal of WST prerequisite for graduate students.
- Graduate Studies and Research is working on revising the learning goals to divide graduate and undergraduate programs prior to WASC.
- d. From the Instruction and Student Affairs Committee (ISA):
I&SA will be bringing the Required Enrollment for Culminating Graduate Students, and the Graduate Student Revalidation of Courses that Exceed the 7-Year Limit policies to the Senate at the March 13, 2017 meeting.
- I&SA is working on a revision to the Honors policy and is considering whether to include or exclude part time students. In addition, as a result of impactation most of our students qualify by GPA to receive honors at entrance. This has significantly decreased the value.
- e. From the President:
President Papazian will be out of town and not available for the March 13, 2017 Senate meeting as well as the next Executive Committee meeting on March 20, 2017.
- The Board of Trustees will be holding a vote on tuition increases. President Papazian will bring back details when she returns from out of town.
- The VP of Innovation and Research will oversee the AVP of Research.
- f. From the Provost:
The Provost discussed the importance of Research, Scholarship, and Creativity Activities (RSCA) and its impact on our campus. He asked for input on the possibility of a new VP for Research and Innovation that would support the strategic development and implementation of research and innovation. He asked for input regarding increasing senior leadership on the campus and explained the current Office of Research structure.
- g. From the Vice President of Student Affairs:
Admitted Spartan Day is Saturday, April 8, 2017.
- h. From the Vice President of Administration and Finance:
The budget process for 2017-2018 is underway.
- i. From the Chief Diversity Officer (CDO):
The CDO has hired a new staff member—Fernanda Perdomo-Arciniegas.
- Twenty-six people on campus, mostly Associate Deans, have been trained on Title IX.

- j. From the Senate Chair:
At the March 13, 2017 Senate meeting there will be a 15-minute break and short presentation by the Spartans Supporting Spartans Campaign.
- k. The meeting adjourned at 1:34 p.m.

These minutes were taken and transcribed by the Senate Administrator, Eva Joice on March 6, 2017. The minutes were edited by Chair Kimbarow on March 15, 2017. The minutes were approved by the Executive Committee on March 20, 2017.

Executive Committee Meeting

March 20, 2017

12-1:30, ADM 167

Present: Peter, Shifflett, Schultz-Krohn, Mathur, Frazier, Lee, Feinstein, Kaufman, Kimbarow, Perea, Blaylock, Riley

Absent: Papazian, Wong(Lau), Faas

1. The minutes of March 6, 2017 were approved (12-0-0).
2. Updates from the Administrators:

- a. From the Provost:

- The Dean of Humanities and the Arts search process has commenced with the solicitation of individuals to serve on the search committee. No decision has been made yet on an interim dean. However, an interim dean will be appointed effective July 1, 2017.

This year we are in better shape from a planning perspective than previous years. Charlie Faas has instituted a rolling three-year budgeting process which has considerably improved our ability to plan. Provost Feinstein will be focusing funding requests on student success and RSCA.

Provost Feinstein attended the Records Clearance Event on Friday. There was a group of ~25 law students from Columbia University and our students working to clear records for 21 individuals. It gave our students a chance to work with students from a top law school.

The committee discussed graduation rate changes. Feinstein expressed concern about our 4- and 6- year rates for next year as they are based on a class that arrived in fall 2013. The 6-year rate will be based on the fall 2011 cohort. These cohorts were not as strong as more recent cohorts and may impact our rates negatively.

Questions:

A member expressed concern that there is some obsolete data on the university website. Provost Feinstein suggested sending him an email with the information that needs updating.

A member asked about what would be done with regards to the Hammer Theatre now that Dean Vollendorf would be leaving. The Provost will meet with VP Faas and COS Jaye Bailey to make sure it has proper oversight.

A member asked about Research, Scholarship and Creative Activity (RSCA). AVP Stacks is reviewing how we use assigned time. This is where a new VP of Research and Innovation position could be very helpful in moving along these types of issues. The Provost spends roughly \$1 million a year on RSCA. AVP Stacks is working on ensuring that all colleges measure RSCA performance.

A member asked if there was any progress on moving to a 3/3 class load. The committee discussed how SDSU moved to a 3/3 load by exploding class sizes. However, classrooms

at SDSU have been built large enough to support larger classes. It is left up to the departments to determine whether they will go with the larger classes.

A member asked how we are doing with regard to tenure density. We are at ~54%. The Provost hires 60 to 70 new faculty members each year, but retirements and other turnovers reduce the total each year.

A member asked if the Provost would be giving departments additional funding to meet the increase in student assistant salaries to match the minimum wage that the city of San José will be paying employees which jumps to \$13.50 an hour on January 1, 2018 and \$15 an hour on January 1, 2019. Provost Feinstein will be reviewing these costs.

A member asked if using instructional student assistants was being discussed. Provost Feinstein indicated that if they are to be used, the program would have to be well managed with proper oversight.

- b. From the Vice President of Student Affairs (VPSA):
Students are planning a walk out to protest against the proposed tuition fee increase starting at the Tommy Smith and John Carlos statues at noon on Tuesday, March 21, 2017.

The *Just in Time Mobile Food Pantry* will be at the Event Center on April 10th and May 8th.

There were 24 student inquiries for assistance during the recent floods for temporary housing, financial aid, and emergency monetary awards.

A total of 191 students have requested assistance through the SJSUCares website asking for counseling, medical referrals, grants, etc. A member asked how faculty are informed about this website? It is in the Student Affairs Newsletters. A member suggested including it as an update in the "Red Folder" that is automatically downloaded to all faculty and staff desktops.

There are two opportunities each week for students to sign up for CalFresh on campus. They can sign up every Monday from 9 a.m. until noon at Student Involvement, or every Tuesday from 1 – 2:30 p.m. at the Financial Aid and Scholarship Office.

VP Blaylock announced that AS President Hector Perea has been accepted into the graduate program and NYU. The committee congratulated President Perea.

There is a new search going on for a case manager for the Economic Crisis Response Team. The first search was a failed search.

There are 15 food shelves on campus.

- c. From the AS President:
Many members of the AS Board of Directors will be attending the Board of Trustees meeting Wednesday, March 22, 2017 to express their concern about the student tuition increase.

AS has 42 students running for 16 positions on the AS Board of Directors for next year. AS Elections will take place during the week of April 10 through April 13, 2017.

- d. From the CSU Statewide Senator:
The CSU Statewide Senate expressed support for DOKA.

Senators Sabalius and Filling were forwarded to the Governor as nominees for the Faculty Trustee seat on the Board of Trustees.

3. The committee discussed the CSU GE Proposal. Campus feedback is due June 16, 2017. Chair Kimbarow will resend the memo and response form today.
4. The committee discussed the CSU Intellectual Property policy draft. There is concern about the CSU policy superseding all campus policies. The CSU Systemwide policy refers to extraordinary support that embraces assigned time. It could weaken patent and intellectual support. In the proposal it says it will require collective bargaining agreement reopening. In addition, there is concern that teaching syllabi become the property of the CSU. The committee discussed crafting a Sense of the Senate Resolution. Senators Mathur and Peter will prepare a resolution for the Executive Committee to be presented to the Senate by the May 1, 2017 meeting.
5. The committee discussed the Selection and Review of Administrators policy. The initial proposal by O&G will be modified to better match current practice with regard to soliciting nominations. The call for nominations is handled by the Provost Office, not the AVC/Senate Office.

The committee discussed how to create diverse representation on these committees. The committee also discussed whether there was a need to have faculty demonstrate in their statements that they have experience in a diverse environment. The committee discussed community members on search/review committees. The committee agreed a community member could be very helpful in some instances. The committee agreed that search and review committees should be clearly informed about what their roles and responsibilities are when the committee is charged. A suggestion was given to the Provost to develop guidelines that could be handed out to the committee members.

6. Updates from the Policy Committee Chairs:
 - a. From the Chair of the Professional Standards Committee (PS):
The PS committee will not be bringing the Information Privacy policy back to the Senate for a final reading until the President's Office drafts their Presidential Directive.

The PS committee is working its way through the RTP guidelines from departments.
 - b. From the Chair of the Instruction and Student Affairs Committee (ISA):
The I&SA committee will be bringing an Honors proposal to the Senate at the next meeting. The policy will allow a group of people to apply the same as individuals for honors on their transcripts. Students could get an Honors designation for particular classes, and Honors in GE would be allowed under this policy.
 - c. From the Chair of the Curriculum and Research Committee (C&R):
The C&R committee received five pages of feedback regarding the RSCA policy. C&R has also sifted through the Program Planning policy and is now reviewing the guidelines. C&R is also working on a Department Name Change proposal.

7. The meeting adjourned at 1:30 p.m.

These minutes were taken and transcribed by the Senate Administrator, Eva Joice on March 23, 2017. The minutes were edited by Chair Kimbarow on March 23, 2017. The minutes were approved by the Executive Committee on April 3, 2017.

Consent Calendar

10-Apr-17

Committee	Last Name/First Name	Term	Phone	Seat/College
Student Fairness	Zhao, Tianyu			Student
Student Fairness	Carlson, Walter			Student
Strategic Planning Committee	Hirsh, Sandy		924-2491	College of Applied Sciences and Arts
REMOVE:				
Student Fairness	Sikeci, Birsen			College of Engineering
Student Fairness	Corrales, Samantha			Student
Student Fairness	Gonzales, James			Student
Budget Advisory Committee	Monsur, Sami			College of Education

1 **SAN JOSE STATE UNIVERSITY**
2 **Academic Senate**
3 **Professional Standards Committee**
4 **April 10, 2017**
5 **Final Reading**

AS 1530

6
7 **Sense of the Senate Resolution**
8 **Requesting Changes in the**
9 **System wide Proposed Intellectual Property Policy**

10
11 **Whereas,** The CSU central administration has drafted a proposed intellectual
12 property policy to be implemented system wide, and have requested "input
13 and feedback no later than 60 days from" March 14, 2017; and
14

15 **Whereas,** The Academic Senate of SJSU has reviewed the draft policy; now
16 therefore, be it
17

18 **Resolved,** That the ASCSU and the CSU should be apprised of our deep concerns
19 with both the process used to create the proposed system policy and with
20 a number of features present in its content; we have explained these
21 concerns and our conclusions in the attached white paper; be it further
22

23 **Resolved,** That this resolution be distributed to the Chancellor, to the Executive Vice
24 Chancellor and General Counsel, the Executive Vice Chancellor for
25 Academic and Student Affairs, to the ASCSU, and to all campus
26 Academic Senates.
27

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29
30 **Approved:** *April 5, 2017 by email after a 7-0-1 in-person committee vote on an earlier*
31 *draft*

32
33 **Vote:** *8-0-2*

34
35 **Present:** *Peter, Green, White, Lee, Kauppila, Hamedi-Hagh, Hwang, Reade,*
36 *Marachi, Caesar*

37
38 **Absent:** *None*
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White Paper: Faculty Intellectual Property at SJSU and the CSU Proposed System IP Policy

44

Concern with Process

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- 1) **An abrogation of collegiality.** The report acknowledges that 16 campuses have intellectual property policies of their own. The replacement of these 16 policies with a system wide policy may seem rational from the perspective of Long Beach, but we see it as an assault on collegial governance. Each campus policy, including our own, was written, debated, and amended through a collegial governance process featuring faculty, prior to being signed by our campus Presidents.

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The proposed system policy that would replace these collegial documents, however, was not created in a collegial fashion. It was written by 16 administrators who have excluded faculty input prior to this 60 day window (p. 5). Furthermore, no effort was made to involve each of the 16 campuses that have their own policies. ***SJSU, in the heart of the most important region in the world for the creation of intellectual property, was completely unrepresented on the IP Committee by faculty or administration.***

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The proposed system policy on intellectual property will abrogate collegial agreements between faculty and administration that have been carefully debated and negotiated over a period of years. For an entire issue-area, it replaces previous traditions of collegial governance with administrative authority. This is especially disturbing given that the American Association of University Professors (AAUP), notes that the “keys to proper intellectual property management are consultation, collaboration, and consent.”¹

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- 2) **The false restriction based on collective bargaining.** From time to time we have received intimations that the reasons the collegial process was so badly abrogated had to do with collective bargaining. We hesitate to explain the CSU’s position on this since our campus has not been offered a detailed rationale from the CSU for its actions. The theory—or rumor—that we have heard is that the CSU believes that items that are possibly subject to collective bargaining cannot be discussed through the collegial governance system. Furthermore, the current CBA does possess an article—39—which discusses some (but far from all) aspects of Intellectual Property.

¹ AAUP Report from June 2014, “Defending the Freedom to Innovate: Faculty Intellectual Property Rights after *Stanford v. Roche*, p.4.
https://www.aaup.org/sites/default/files/files/aaupBulletin_IntellectualPropJune5.pdf

78 If this is in fact the CSU's position, it should rethink it. HEERA does set up a
79 division of labor between collective bargaining and collegial governance, but that
80 division of labor can in no way be thought to restrict the role of academic senates
81 on this issue. The 16 campus policies on Intellectual Property have all existed
82 for many years under the collective bargaining agreement, including during the
83 time that article 39 has been in effect, and this provides *prima facie* evidence that
84 article 39 and policies crafted by Academic Senates can indeed coexist. If in fact
85 some of the policies are not in conformity with article 39, then CFA can be relied
86 upon to point out the non-conforming policies so that the affected campuses can
87 take corrective action.

88
89 The report of the CSU Intellectual Property Committee itself points out the fallacy
90 in the argument that collective bargaining somehow rules out full senate
91 consultation. As it describes article 39 in its section on "Need for Labor
92 Negotiations" (p. 9) it points out that the article only concerns certain narrow and
93 specific provisions related to intellectual property. The draft policy (and we might
94 add our campus policies) address a vast range of issues unrelated to article 39.
95 To rule out collegial governance on an entire issue area merely because a
96 narrow part of that area has been bargained is unreasonable.

97
98 Furthermore, the CBA and collegial governance already work in an integrated
99 fashion on a wide range of topics including (most especially) appointment,
100 retention, tenure, and promotion. The fact that the CBA sets a few parameters
101 on ARTP issues has never been taken as an excuse to suppress collegial
102 governance on those vital policies. Why then would similar parameters be used
103 to suppress full collegial participation on intellectual property? If every topic area
104 mentioned in the CBA were off limits to collegiality, then there would be very little
105 collegiality left indeed.

106
107 Fortunately, we suspect that this unreasonable argument that the CSU is alleged
108 to have made is in fact little more than rumor. The CSU, after all, has decided to
109 allow the ASCSU to comment on the proposed policy, which seems to be an
110 admission that collective bargaining does not in fact rule out the full operations of
111 the collegial governance system. We choose to accept this interpretation of the
112 actions of the CSU, and proffer this paper as our own collegial response to the
113 proposed policy.

114 **Concern with Content**

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116
117 We have spent some time comparing the proposed policy with our own policy and with
118 the UC policy. Given the short time frame for providing feedback, we cannot claim to
119 have done a careful analysis. However, we have noticed several provisions that we
120 believe will weaken the protection of intellectual property for faculty compared with
121 some campus and UC policies.

123 1) **Definition of Extraordinary Support excessively broad.** With all of these
124 policies, the absolute crux of the matter comes down to how “extraordinary
125 support” is defined. The reason for this is that all IP policies give ownership of IP
126 rights to the author (usually faculty) unless the CSU provides “extraordinary
127 support,” in which case the CSU will claim some level of ownership.

128
129 The proposed policy’s definition of “Extraordinary Support,” however, is overly
130 broad. It

131
132 may include, but not be limited to, funding for additional
133 employment, assigned time and other forms of payment, additional
134 operating expenses or additional equipment or facilities costs.” (p.
135 14.)

136
137 This is an expansive definition that does not establish limits on the term. We are
138 particularly concerned that the inclusion of “assigned time” would result in
139 classifying a preponderance of faculty intellectual property as subject to the
140 “extraordinary support” provision. IP developed on sabbaticals, for example, or
141 nearly any IP produced at campuses that have achieved a 3/3 load (such as
142 SDSU), or by junior faculty who have been given a course release(s) to get
143 started, or by anyone else who has earned a release from a 12 WTU load—could
144 be subjected to this overly broad definition of extraordinary support. This
145 definition needs to be rewritten to exclude all these routine uses of assigned
146 time.

147
148 Compare this excessively broad definition with the UC definition:

149
150 **Exceptional University Resources** University Resources
151 (including but not limited to University Facilities and University
152 Funds, as described below) significantly in excess of the usual
153 support generally available to similarly situated faculty members.
154 Customary secretarial support, library facilities, office space,
155 personal computers, access to computers and networks, and
156 academic year salary are not considered exceptional university
157 resources.²

158
159 This definition is narrow, and it takes pains to explain what exceptional resources
160 are NOT. The definition “significantly in excess of the usual support generally
161 available to similarly situated faculty members” is a far more reasonable
162 definition than “assigned time or other forms of payment” that takes no account of
163 whether such time is routine or truly exceptional.

164
165 2) **University’s license to course materials created without extraordinary**
166 **support is too broad.** In both the UC policy and in the CSU proposed policy,
167 the faculty member retains copyright to Course Approval Documents and Course

² <http://copyright.universityofcalifornia.edu/resources/ownership-course-materials.html>

168 Instructional Materials. In the UC policy, the UC gets license to use the approval
169 docs for educational purposes; the CSU version extends this license to the actual
170 course materials. This is a huge difference and a very troubling one. We believe
171 that the UC policy makes the proper distinction and the CSU proposed policy is
172 too broad in its claim to a permanent free license to faculty instructional
173 materials.
174

175 The AAUP statement on intellectual property makes this distinction clear, and
176 while the UC IP policy conforms to the AAUP statement, the CSU proposed
177 policy does not:

178
179 Course syllabi at many institutions are considered public
180 documents; indeed, they may be posted on universally accessible
181 websites. It is thus to be expected that teachers everywhere will
182 learn from one another's syllabi and that syllabi will be
183 disseminated as part of the free exchange of academic knowledge
184 Faculty lectures or original audiovisual materials, however, unless
185 specifically and voluntarily created as works made for hire,
186 constitute faculty intellectual property.³
187

188 The CSU, however, asserts a very broad claim that "CSU Course Instructional
189 Materials include documents, digital products, or other materials developed for
190 instruction of CSU courses," and while copyright resides with the Author, the
191 CSU

192
193 retains a free-of-cost, perpetual and nonexclusive worldwide
194 license to use the Course Instructional Materials for research and
195 educational purposes, including without limitation the right to
196 reproduce, prepare derivative works, distribute, perform and display
197 the Course Instructional Materials (p.12.)
198

199 The CSU assertion means, in our view, that lectures, lecture notes, lecture
200 presentations (e.g., PowerPoint, Keynote), recordings of our lectures, online
201 courses as a whole, and other materials prepared by a CSU Professor to teach
202 his or her section, could permanently be used by the CSU free of charge, long
203 after a faculty member departed, retired, or died—or could be taken involuntarily
204 from one faculty member and shared with others at other campuses. The CSU
205 should return to the more limited language of the UC policy and the AAUP
206 statement on intellectual property.
207
208

- 209 3) ***Written agreements should cover the ownership of intellectual property***
210 ***(including course materials) created with extraordinary support.*** In the UC
211 policy, faculty get to reach agreement with the university about how ownership

³ American Association of University Professors, "Statement on Intellectual Property," 2013.
<https://www.aaup.org/report/statement-intellectual-property>

212 will be handled when there is Extraordinary Support. In the CSU policy, rights
213 are automatically transferred to the CSU and the faculty member MAY be
214 granted license for educational use. According to the CSU proposed policy,
215

216 Ownership of CSU course materials (including Course Approval
217 Documents and Course Instructional Materials) created with CSU
218 Extraordinary Support, including copyright, resides with the
219 University” (p. 12).
220

221 Now compare with the UC Statement:
222

223 Ownership of the rights to Course Materials created, in whole or in
224 part, by Designated Instructional Appointees with the use of
225 Exceptional University Resources shall be governed by a written
226 agreement entered into between the Originator(s) and the
227 University. The agreement shall specify how rights will be owned
228 and controlled and how any revenues will be divided if the materials
229 are commercialized.⁴
230

231 We were particularly chagrined to learn that the AAUP cited a CSU Long Beach
232 administrative memo protecting faculty ownership of materials developed for
233 online instruction as an exemplar of resistance to the “emerging pattern of
234 coopting the faculty’s instructional intellectual property.”⁵ Presumably that model
235 campus policy at CSULB will be swept away by the system policy.
236

237 We believe that an IP policy should make it clear that any surrender of faculty IP
238 rights to the University—even when extraordinary support is given—should be
239 made in writing and in advance to avoid misunderstanding, confusion, and
240 litigation down the road. UC policy gives this right, but the proposed CSU policy
241 does not.
242

- 243 4) **Response to Bayh-Dole Act is excessive.** The CSU draft proposal notes that
244 the requirements of the Bayh-Dole Act allow universities to patent federally-
245 funded inventions and to retain those royalties. However, the draft CSU policy
246 goes further:
247

248 we recommend the adoption of the obligations required under the Bayh-
249 Dole Act as a reasonable set of objectives for the CSU to apply to all
250 inventions whether or not they are federally funded (p. 7).
251

252 Although the expansion to include inventions that are made with university
253 resources may be considered reasonable by some, it is not clear how faculty will

⁴ <http://copyright.universityofcalifornia.edu/resources/ownership-course-materials.html>

⁵ American Association of University Professors, “Defending the Freedom to Innovate: Faculty Intellectual Property Rights after Stanford v. Roche, June 2014, p. 8. <https://www.aaup.org/report/defending-freedom-innovate-faculty-intellectual-property-rights-after-stanford-v-roche>

254 be involved with the determination of ownership of their own inventions. In
255 contrast, the AAUP clearly states

256
257 Universities...have tried to claim that the only way they can
258 guarantee that faculty members will honor these responsibilities
259 [under Bayh-Dole] is by taking ownership of all faculty inventions,
260 but obviously there are contractual alternatives to what amounts to
261 a wholesale institutional grab of significant developments of faculty
262 scholarship. Indeed, faculty members have long been able to
263 honor these requirements without assigning their intellectual
264 property rights to the University.⁶

265
266 Furthermore, the landscape for faculty intellectual property rights changed as a
267 result of the 2011 *Stanford v. Roche* decision.

268
269 The US Supreme Court...in its landmark 2011 decision in *Stanford*
270 *v Roche*...firmly rejected the claims by Stanford and other
271 institutions favoring federally sanctioned, compulsory university
272 ownership of faculty research inventions.⁷

273
274 Indeed, AAUP drives home that the US Constitution, Federal Patent Law, and
275 the above-referenced Supreme Court ruling all hold that “inventions are owned
276 initially by their inventors,” and moreover, Bayh-Dole “does not alter the basic
277 ownership rights granted to inventors by law.”⁸ We believe that this aspect of the
278 IP policy should make clear that inventions can be created by faculty in many
279 ways (without university facilities, in conjunction with a non-federal sponsor) and
280 that faculty ownership as determined by campus policies should be retained or
281 negotiated in instances when inventions are created without federal support or
282 with university resources. The decision to craft a CSU system policy that
283 extends a claim of ownership beyond federally funded research is not required by
284 law and stands on shaky legal ground since Roche.

285
286 5) ***Scrutinize the proposed policy with an eye to incorporate the AAUP***
287 ***“Intellectual Property Principles Designed for Incorporation into Faculty***
288 ***Handbooks and Collective Bargaining Agreements.”*** The AAUP has spent
289 years perfecting 11 principles that should govern intellectual property at
290 universities. Any policy on IP could benefit from a careful and thoughtful edit to
291 incorporate these 11 principles. The principles can be read in full at the
292 conclusion of the cited AAUP article.⁹ A few highlights of these principles
293 include:

294 11. Faculty assignment of an invention to...the university...will be
295 voluntary and negotiated, rather than mandatory.

⁶ AAUP, “Defending...” p. 6.

⁷ AAUP, “Defending...” p. 6

⁸ AAUP “Statement on Intellectual Property”; AAUP, “Defending...” p. 7.

⁹ AAUP, “Defending...” pp. 17-19.

- 296 12. The faculty senate or an equivalent body will play a primary role in
297 defining the policies...that will guide university-wide management of
298 inventions...
299 13. Just as the right to control research and instruction is integral to
300 academic freedom, so too are faculty members' rights to control the
301 disposition of their research inventions.
302 15. When lifesaving drugs and other critical public-health technologies
303 are developed in academic laboratories...the university...will
304 ensure broad public access in both the developing and the
305 industrialized world.
306 16. ...The freedom to share and practice academic
307 discoveries...whether legally protected or not, is vitally important for
308 the advancement of research and scientific inquiry.
309 17. The university...and faculty will always work to avoid exclusive
310 licensing of patentable inventions....
311

312 A group of faculty experts in intellectual property should be given sufficient time
313 to scrutinize the proposed CSU policy to determine any changes that are needed
314 to bring it up to the AAUP standards.
315

316 **Conclusions**

317
318 The CSU draft proposal on intellectual property weakens existing protections of faculty
319 IP rights and does not measure up in quality to the standards enumerated by the AAUP
320 or even UC system policy or existing campus policies. The proposal is not a policy that
321 faculty would have written or assented to, had they been permitted to be a part of the
322 drafting process.
323

324 The CSU, however, should be concerned about this proposal not only because faculty
325 are incensed. The CSU is attempting to improve its stature in research, but the
326 promulgation of a policy that is hostile to faculty IP rights will likely drive our most
327 successful researchers out of the academy altogether or to other institutions that have
328 more flexible policies regarding intellectual property. In order to generate more
329 research dollars, the CSU needs to make itself more attractive to research faculty, not
330 less attractive. Tightening the rules to pinch every penny will drive the dollars away.
331

332 In an effort to be as constructive as possible under the circumstances, we suggest:
333

- 334 1) A modified version of the proposed system IP policy should be distributed as a
335 model to the campuses. Each campus that lacks an appropriate IP policy should
336 be required to create or amend a one to bring it up to standards by the end of AY
337 2017-18. Failure to do so could result in the issuance of the draft system policy
338 as a Presidential Directive on that campus. This would allow the collegial
339 governance system to function, allow for substantive faculty input, protect local
340 differences in the research enterprise, and also secure most of the stated
341 objectives of the reform.

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- 2) If a system wide policy must be adopted, then the SJSU Academic Senate recommends that the draft policy not be immediately adopted. Instead, it should be rewritten with the participation of faculty from throughout the CSU system, and then not adopted until endorsed by the ASCSU.

6
7 **Policy Recommendation**
8 **Modification of Policy on the Selection and Review of**
9 **Administrators (S16-8)**
10

11 Legislative History: Modifies S16-8 to allow for the participation of lecturers and tenure
12 track faculty on the search and review committees for academic Deans; college-wide
13 election of all faculty representatives; and clarifies how selection and review committee
14 chairs are determined.

15
16
17 Whereas: The selection and review of academic deans is important to all faculty in a
18 college, and

19
20 Whereas: Current policy provides seats on selection and review committees for only
21 tenured faculty, and

22
23 Whereas: Tenure track faculty and lecturers may be interested in serving on search
24 and/or review committees for their academic dean, and

25
26 Whereas: At SJSU we are committed to diverse and inclusive representation
27 including identity, demographics, expertise, and experience, therefore, be
28 it

29
30 Resolved That S16-8 be modified as provided for in this policy recommendation.
31

32
33 Rationale: All faculty have the opportunity to participate in the review and selection of
34 academic deans through solicited input. In addition, faculty should have, without
35 hindrance, opportunities for direct involvement in the search and review process for
36 administrators. ~~However,~~ Providing the faculty in each college with the option to elect
37 any faculty member who is interested in serving on a selection or review committee,
38 permits each college to select from among all its faculty, members the representatives
39 they would like to have serve on a selection or review committee for academic Deans.
40 ~~In addition, language was provided to better enable constitution of diverse~~
41 ~~search/review committees and to reinforce the importance of confidentiality throughout~~
42 ~~the search/review process.~~

43
44 Policy modifications focused on procedures were designed to increase the likelihood of
45 the inclusion of diverse voices on search and review committees for administrators. In
46 the review process we considered issues surrounding diversity, equity, and inclusion.
47

48 For these principles to be realized, efforts need to be made to include the full breadth of
49 voices of the campus community, with attention to those who are often absent or
50 silenced, and to ensure that norms in committee deliberations allow all voices to inform
51 the decision-making process.

52

53

54 Approved: 4/3/17

55 Vote: 6-1-1

56 Present: Bailey, Boekema, Higgins, Ormsbee, Shifflett, Tran,

57 Rajkovic, Laker

58 Absent: Grosvenor, Hart

59 Financial Impact: None expected

60 Workload Impact: No change from current situation.

61

62

Selection and Review of Administrators

1. Academic Administrator and Vice President Searches and Appointments

1.1 Applicability

This policy applies to searches for and reviews of Management Personnel Plan (MPP) administrators who serve university-wide as vice presidents and those within the Academic Division including the provost, deputy provost, deans and all other associate vice president or equivalent positions. Where not otherwise specified, the words 'academic administrators' as used in this policy means all those in the Academic Division.

1.2. Vacancies and Initiation of Procedures

As soon as practical after it is known that a vacancy has occurred or will occur in any of these positions, the President (for all vice presidents) or the Provost (for all other offices) shall cause a selection committee to be formed in accordance with these procedures.

1.3 Composition of Search Committees

Committees shall be large enough to allow for sufficiently broad representation, yet small enough so as not to be unwieldy. When feasible, an odd number of voting members will be appointed to eliminate the possibility of tied votes. Faculty, students, administrators and staff shall be represented. Consideration should be given to representation of the diversity of the campus. Faculty shall comprise a majority on all search committees for administrators in the academic affairs division and at least one-third of other committees. If appropriate, alumni and community representatives may serve on search committees.

1.3.1 Special Procedures for Deans of Academic Colleges: The search committees for college deans shall be composed of nine members: five faculty (tenured, tenure track, lecturers), at least four of whom are tenured, and at least two who are chairs, all elected by and from the college faculty (no more than two from any department); one staff member, elected by the staff of the college; one student, one Dean (from outside the college searching for a Dean), and one member of the community or an SJSU administrator (MPP), each designated by the Provost. The ~~faculty~~ committee chair shall be appointed by the Provost.

1.3.1.1 Recruitment Procedures

Recruitment of the faculty and staff members shall be arranged and conducted by the office of the provost. Associate Vice Chair of the Senate through normal committee on committees processes. Interested Faculty and staff will submit written statements to their college office reflecting their interest and qualifications for serving on the search committee including perspectives on diversity and inclusion.

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Each chair is expected to encourage faculty and staff from their department to serve on the search committee so that the resulting ballots, as best as possible, reflect the diverse nature of the programs, students, and faculty in their college and the campus.

1.3.1.2 Election Procedures

~~The Senate office will forward the statements of each candidate to the college office so they can~~ will be distributed to faculty and staff by the college office.

1.3.1.2.1 Elections for the faculty representatives from the college shall be arranged and conducted by an ad hoc election committee comprised of ~~all~~ department chairs not on the ballot in that college.

The ballot will be constructed by college staff to enable faculty to vote for five faculty including at least two chairs. Faculty receiving the most votes, taking into consideration tenure status, department, and the ~~need~~ requirement for at least two department chairs, shall be appointed to the committee by the Provost.

1.3.1.2.2 Election of the staff representative will be arranged and conducted by staff in the college office who are not on the ballot.

1.3.1.3 Appointment Procedures

1.3.1.3.1 Student: Each department in the college shall nominate one student from its majors. The Provost shall appoint, from among those nominated, one student as a committee member.

1.3.1.3.2 Dean and either a Community member or SJSU Administrator ~~and~~: The Provost shall appoint members who have experience or expertise relevant to one or more of the programs in the college and who understand our commitment to diversity and inclusion. ~~and/or the position of Dean.~~

1.3.1.3.3 Faculty/Staff: Following the conclusion of college elections for faculty and staff representatives, the Provost shall appoint those elected to the search committee.

1.3.1.3.3.1 Following elections and prior to finalizing appointments, the Provost shall review the committee membership and consider the extent to which the committee ~~is~~ a representative group. The review may include, ~~though~~ but is not limited to, representation of the programs in the college and the composition of the committee with regard to identity, demographics, expertise, and experience. ~~gender and ethnicity.~~

159 If the membership appears insufficiently representative, the Provost
160 shall consult with the Senate's Executive Committee to determine
161 how best to improve the representativeness of the search
162 committee. This could include the appointment of up to two
163 additional members while maintaining the requirement that a
164 majority of members be faculty.
165

166 *1.3.2 Special Procedures for the Dean of the University Library.* The search committee
167 shall be composed of nine members: three faculty librarians selected by and from the
168 faculty librarians; one Library staff member, selected by the staff of the university library;
169 one department chair from outside the library; one faculty member (not a chair) from
170 outside the library; one student, one Dean (from outside the Library), and one member
171 of the community, each designated by the Provost. The ~~faculty~~ committee chair shall be
172 appointed by the Provost.
173

174 1.3.2.1 Recruitment Procedures

175
176 Recruitment of the faculty, student, and staff members shall be arranged and
177 conducted by the office of the provost. Associate Vice Chair of the Senate
178 ~~through normal committee on committees processes.~~ Interested Faculty,
179 students, and staff will submit written statements to the library Dean's office
180 reflecting their interest and qualifications for serving on the search committee
181 including perspectives on diversity and inclusion.
182

183 1.3.2.2 Election Procedures for Library Faculty and Staff

184
185 The ~~Senate office will forward the~~ statements of each candidate will be
186 distributed to faculty and staff by the Dean's staff.
187

188 Elections for the faculty and staff representatives from the Library shall be
189 arranged and conducted by staff in the Dean's office who are not on the ballot.
190

191 1.3.2.3 Appointment Procedures

192
193 Student, Faculty (outside library) and Department Chair: By mutual consent with
194 the Senate Executive Committee, the Provost shall appoint members from
195 among those who applied.
196

197 Dean and a Community member and: The Provost shall appoint members who
198 have experience or expertise relevant to our joint library ~~and/or the position of~~
199 ~~Dean~~ and who understand our commitment to diversity and inclusion.
200

201 Library Faculty and Staff: Following the conclusion of library elections for faculty
202 and staff representatives, the Provost shall appoint those elected to the search
203 committee.
204

205 1.3.2.3.1 Following elections and prior to finalizing appointments, the
206 Provost shall review the committee membership and consider the extent

207 to which the committee it is a representative group. The review may
208 include, but is not limited to, representation of the programs in the library
209 and the composition of the committee with regard to identity,
210 demographics, expertise, and experience.

211
212 If the membership appears insufficiently representative, the Provost shall
213 consult with the Senate's Executive Committee to determine how best to
214 improve the representativeness of the search committee. This could
215 include the appointment of up to two additional members while
216 maintaining the requirement that a majority of members be faculty.

219 *1.3.3 Special Procedures for the Dean of International & Extended Studies (IES).*

220 The search committee shall be composed of nine members: five faculty (inclusive of two
221 department chairs); two IES staff members, selected by the staff of IES; one Dean (from
222 outside IES), and one student, each designated by the Provost. The ~~faculty~~ committee
223 chair shall be appointed by the Provost.
224

225
226 1.3.3.1 Recruitment Procedures

227
228 Recruitment of the faculty, student, and staff members shall be arranged and
229 conducted by the office of the provost. ~~Associate Vice Chair of the Senate~~
230 ~~through normal committee on committees processes~~. Interested Faculty,
231 students and staff will submit written statements to their Dean's office reflecting
232 their interest and qualifications for serving on the search committee including
233 perspectives on diversity and inclusion.

234
235 1.3.3.2 Election Procedures for IES Staff Member

236
237 The ~~Senate office will forward the~~ statements of each candidate ~~to the college~~
238 ~~office so they can~~ will be distributed to staff by the college office.

239
240 Elections for the staff representatives from IES shall be arranged and conducted
241 by Dean's office staff who are not on the ballot.

242
243 1.3.3.3 Appointment Procedures

244
245 Selected members should exhibit clear evidence of understanding IES, a history
246 of engagement with the programs and activities of IES, and an understanding of
247 our commitment to diversity and inclusion.

248
249 Student and Faculty: By mutual consent with the Senate Executive Committee,
250 the Provost shall appoint members from among those who applied.

251
252 Dean: The Provost shall appoint this person.
253

254 IES Staff: Following the conclusion of elections for staff members, the Provost
255 shall appoint those elected to the search committee.

256
257 1.3.3.3.1 Following elections and prior to finalizing appointments, the
258 Provost shall review the committee membership and consider the extent
259 to which the committee it is a representative group. The review may
260 include, but is not limited to, representation of the programs in the college
261 and the composition of the committee with regard to identity,
262 demographics, expertise, and experience.

263
264 If the membership appears insufficiently representative, the Provost shall
265 consult with the Senate's Executive Committee to determine how best to
266 improve the representativeness of the search committee. This could
267 include the appointment of up to two additional members while
268 maintaining the requirement that a majority of members be faculty.

271 **1.4 Recruitment and Selection of Committee Members**

272
273 1.4.1 *Recruitment.* Except as provided in 1.3.1, 1.3.2, and 1.3.3 above, an open
274 nomination process for potential members for search and review committees shall be
275 used. The office of the President or the Provost shall publish notice of intention to
276 appoint a search committee and shall solicit written statements either in hard copy or
277 electronically for membership on the committee from the University community.
278 Nominations (including self-nominations) must include a statement of reflecting their
279 interest and qualifications for serving on the search committee including perspectives on
280 diversity and inclusion. The statement will also include ~~inclusive of their understanding~~
281 ~~of and commitment to diversity and inclusion, and the nominee's include the signed or~~
282 electronic consent to serve by the published nomination deadline.

283
284 1.4.2 *Selection.* Except as provided in 1.3.1, 1.3.2, and 1.3.3 above, committee
285 members shall be selected, from among those nominated, by mutual consent of the
286 President and the Senate Executive Committee. They shall consider the need for a
287 representative group, including but not limited to academic discipline, identity,
288 demographics, expertise, and experience.

289
290 If the pool of nominees appears insufficiently representative, the President or Provost
291 and the Senate's Executive Committee shall determine how best to improve the
292 representativeness of the appointed committee members. This could include the
293 appointment of up to two additional members outside the pool of nominees to further
294 diversify the committee.

295
296 If the President and the Executive Committee cannot arrive at mutual agreement, the
297 President (or Provost, if the search is not for a vice president) shall confer with the chair
298 of the Senate to attempt to arrive at a mutually satisfactory course of action. Failing that,
299 the President or Provost shall appoint the membership. The President or Provost shall
300 select the committee chair from the committee membership.

302 **1.5. Scope and Procedures**

303
304 The President or Provost shall determine the scope and procedures of the search
305 process in consultation with the committee. The scope and procedures of the search,
306 the target date for the report, the minimum requirements for candidates, the
307 qualifications of the expected finalists, and other matters relating to the selection
308 process should be discussed. The scope of the search shall always be as wide as
309 feasible under the circumstances and shall be conducted in accordance with the
310 University's policies and procedures on equal opportunity and diversity. Likely
311 candidates must be interviewed. Provisions should be made for the campus community
312 to meet the candidates. The deliberations and recommendations of the committee shall
313 be confidential. Concerns regarding unethical conduct, inclusive of breaches of
314 confidentiality, must be reported to the Provost or President. Unethical conduct will
315 result in dismissal of the committee member by the Provost or President.

316
317 **1.6. Committee Recommendations**

318
319 At the conclusion of its search, the committee shall report to the President or Provost,
320 without ranking, the names of the best-qualified candidates. The President or Provost
321 shall meet with the committee to discuss its recommendations. The search committee's
322 records shall be turned over to the President or Provost with its report. Upon delivery of
323 the committee's report to the President or Provost all committee records shall be
324 destroyed.

325
326 **1.7. Action by the President**

327
328 The President or Provost may appoint any person recommended by the committee. If
329 the President or Provost decides not to appoint, or is unable to appoint, any of the
330 recommended candidates, the President or Provost may ask the committee to extend
331 the search, or the President or Provost may consult with the Senate Executive
332 Committee regarding appointment of a new selection committee for a new search,
333 consistent with the provisions of this policy.

334
335 **1.8. Interim Appointments**

336
337 An interim appointment occurs when a position covered by this policy has or will be
338 vacated and there is insufficient time or it is otherwise impractical to complete the
339 normal search process explained above. The President or Provost, in consultation with
340 the elected members of the Senate Executive Committee, may make interim
341 appointments.

342
343 Alternatively, at the discretion of the President or Provost, the selection process for an
344 interim appointee may utilize a selection committee wherein the interim position is
345 announced campus-wide and interviews are held. While there is no requirement to
346 announce the position off-campus, such announcement is not prohibited. The search
347 committee must be no smaller than three people and will be selected by the President
348 or Provost in consultation with the elected members of the Senate Executive
349 Committee. Interim appointments usually are for a period of one year, unless a different

350 period is specified at the time of the appointment. An interim appointment may be
351 renewed or extended by the President or Provost as needed in consultation with the
352 elected members of the Senate Executive Committee.
353

354

355 **1.9. Acting Appointments**

356

357 The title “acting” (e.g., acting dean) shall be applied to an individual who is designated
358 to act on behalf of an administrator covered by this policy, who is on a short-term
359 absence (illness, vacation, etc.), on leave, or has left his/her position on extremely short
360 notice. The President or designee in consultation with the elected members of the
361 Senate Executive Committee may make an acting appointment. In an emergency or
362 when the Senate Executive Committee is not available, acting appointments may be
363 made by the President or Provost in consultation with the Chair of the Academic
364 Senate. Acting appointments usually are of short duration, lasting until either the
365 incumbent returns or an interim appointment can be made according to the procedures
366 described in this policy. In unusual circumstances, an acting appointment may be
367 renewed or extended by the President or Provost in consultation with the elected
368 members of the Senate Executive Committee.
369

370

370 **2. Reviews of Administrators**

371

372 **2.1. Timing of Review**

373

374 If the incumbent wishes to continue in his or her position beyond the sixth year, a review
375 of the incumbent shall be initiated according to the provisions of this policy in the
376 second semester of the fifth year of an incumbent's term. The review shall be concluded
377 by the beginning of the sixth year of the incumbent's term. The President may at any
378 time initiate an interim review.
379

380

380 **2.2. Appointment and Composition of Review Committee**

381

382 For all offices covered by this policy, a review committee shall be appointed and
383 constituted in accordance with the procedures specified in Part 1, Sections 1.3 and 1.4
384 of this policy. The Provost shall not be eligible to serve on committees to review
385 academic administrators.
386

387

387 **2.3 Criteria for Review**

388

389 The review committee, in consultation with the President (for vice presidents) or the
390 Provost (for all other offices), shall specify the criteria for evaluating the incumbent's job
391 performance, based upon the incumbent's job description, goals and recommendations
392 arising from prior performance reviews (when such has occurred), and the function of
393 the particular administrative office. The incumbent shall be asked to examine the criteria
394 developed and to make such comments or suggestions as may seem advisable.
395

396

396 **2.4 Procedures for Review**

397

398 The review committee, in consultation with the President (for all Vice Presidents) or the
399 Provost (for all other offices), shall develop procedures for conducting the review. The
400 procedures shall be designed to secure (a) appropriate information, which can include
401 performance goals set by the appropriate administrator and (b) appraisals of
402 performance from as many persons as may be feasible who are knowledgeable of the
403 incumbent's duties and performance. In addition, available data for the time period of
404 the review should be analyzed as appropriate for the position (such as data on FTES,
405 FTEF, class size, graduation rates, and fundraising). If he/she so desires, the incumbent
406 shall be given an opportunity to provide the review committee with a self-evaluation
407 based upon the criteria developed by the committee. The opinions and judgments
408 received by review committees, the deliberations and reports of such committees, and
409 any accompanying materials, shall be confidential. Concerns regarding unethical
410 conduct, inclusive of breaches of confidentiality, must be reported to the Provost or
411 President. Unethical conduct will result in dismissal of the committee member by the
412 Provost or President.

413

414 **2.5. Report of the Review Committee**

415

416 2.5.1 The review committee shall consult with the President (for all vice presidents) or
417 the Provost (for all other offices) before drafting its report. Following that consultation,
418 and at the conclusion of its evaluative activities, the review committee shall prepare a
419 written report embodying findings and conclusions. The report of the review committee
420 shall include a statement of strengths found and improvements desired in the
421 incumbent's performance with respect to the evaluative criteria. All raw data collected
422 for review shall accompany, but not be part of, the review committee's report.

423

424 2.5.2 The report shall normally contain a specific recommendation by the review
425 committee that the incumbent be reappointed or not be reappointed, with or without
426 qualification. A majority vote of the review committee shall be sufficient to approve the
427 report; the numerical vote shall be stated in the report. A minority report or reports shall
428 be appended if requested by any member of the committee. Minority reports shall be
429 seen by all members of a review committee.

430

431 2.5.3 Before forwarding the report, the review committee shall:

432

433

434

435

436

437

438 2.5.4 The President (for all vice presidents) or the Provost (for all other offices) shall
439 again consult with the review committee to share his or her inclination and the reasons
440 therefore.

441

442 **2.6. Action of the President**

443

444 Ultimate responsibility for the retention of administrators belongs solely to the President.
445 If, after discussion with the review committee, the incumbent, and other appropriate

446 sources of information, the President is inclined to believe a decision other than that
447 recommended by the committee would best serve the interests of the University, before
448 acting on that inclination the President shall consult with the Executive Committee of the
449 Academic Senate, at which time both the report of the review committee and the
450 reasons why the President is inclined to a decision other than that recommended would
451 be revealed to and shared with the Executive Committee. The purpose of such a
452 meeting would be to ascertain if some mutually agreeable course of action or decision
453 can be found upon which the President could act. Failing that, the President shall make
454 such decision as he or she considers best for the welfare of the University.
455

6
7
8
9 **Policy Recommendation**
10 **Selection and Review of Department Chairs and Directors**
11

12
13 **Resolved:** That S14-8 be rescinded and replaced with the following policy, effective
14 immediately for all new nominations and reviews.
15

16 **Rationale:** *This revision of S14-8 incorporates the voting procedures for nominating*
17 *Department Chairs and Directors that were formerly only available in a*
18 *separate policy. The need to consult two separate policies each time a*
19 *department nominates a Chair has led to confusion and procedural errors in*
20 *the past. In addition, the policy has be reformatted for easier use and a*
21 *numerous corrections and clarifications have been incorporated at the*
22 *suggestion of the University Council of Chairs and Directors and the Deans.*
23 *Among those changes is a reordering of the policy to align chronologically*
24 *with the stages of a Chair’s nomination, election, evaluation, and possible*
25 *removal.*
26

27 **Approved:** April 3, 2017
28

29 **Vote:** 9-0-0
30

31 **Present:** Peter, Green, White, Lee, Kauppila, Caesar, Hamedi-Hagh,
32 Hwang
33

34 **Absent:** Caesar
35

36 **Financial Impact:** No direct impacts. It is possible that this policy, by clarifying
37 process, could result in some savings.
38

39 **Workload Impact:** No direct impacts, although the clarification of methods for
40 selection and review of department chairs could potentially
41 prevent some time consuming failures of process.

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POLICY RECOMMENDATION

Selection and Review of Department Chairs and Directors

1. INTRODUCTION

1.1. Preamble

Department Chairs are the leaders of communities of faculty as well as the most important stewards of the mission of the University at the local level. Their effectiveness depends upon the continual support of the faculty they represent. The selection of a Department Chair is therefore the most important collective decision of department faculty. This policy is designed to assure that Chairs are chosen and reviewed in a manner that assures their continual legitimacy and effectiveness as they carry out the numerous functions assigned to them by university policies and the Collective Bargaining Agreement.

1.2. Definitions

1.2.1. Throughout this policy, the term “Chair” refers both to Chairs of Departments and Directors of Schools, while the term “Department” refers both to Departments and to Schools.

1.2.2. Departments elect a “nominee” to be department Chair; the President appoints a nominee to become Chair. Hence department elections are a nomination process with the outcome of choosing a “Chair nominee” and are called “nomination elections.”

1.2.3. The terms “Professor” and “Associate Professor” are also understood to include the equivalent titles in faculty disciplines that use alternative names, such as librarians and counselors.

1.2.4. This policy uses the generic term “chair” to refer collectively to all categories of chairs regardless of the manner of nomination and appointment. When there is a need for greater differentiation, the policy will refer to “acting chair” and “interim chair” as defined later in the policy, and “regularly appointed chair” to refer to a chair who has been nominated by the department and appointed by the President for the standard four year term.

2. QUALIFICATIONS

Chairs should preferably be Professors but may be Associates, and should have earned rank and tenure prior to the time the appointment to Chair would become effective. Exceptions should only be made in rare instances and for compelling

96 reasons approved by the President in consultation with the Executive
97 committee.

99 3. DEPARTMENT NOMINATING PROCESS

100
101 Every four years, the department faculty shall identify a nominee for Department
102 Chair by secret ballot vote following these procedures. These are also the
103 procedures for departments to recommend candidates for role as acting Chair (in
104 section 10 below.)
105

106 3.1. Deans and departments should communicate about transitions as early as
107 possible to allow for a collegial and orderly process. The Chair's job
108 description—which should include the fraction of assigned time to be
109 provided to the Chair--should be developed by the Dean in consultation with
110 the Department
111

112 3.2. College Election Committee. The College will create a College Election
113 Committee that will consist of three individuals: 1) The Dean or the Dean's
114 designee, 2) a member of the College RTP committee (chosen by the
115 committee from a department other than the one holding the nomination
116 election), and 3) one tenured faculty member from the department (chosen
117 by the department RTP committee from among those department faculty
118 who are not candidates.)
119

120 3.3. Responsibilities of the College Election Committee. The College Election
121 Committee shall see that the department is informed of the requirements of
122 this policy, shall (with the help of Faculty Affairs) interpret and explain the
123 policy to the department when questions arise, shall count and certify the
124 votes, and shall see that the results are delivered to the President and to the
125 Department in the appropriate formats.
126

127 3.4. Charging the Department. The Dean (or, at the Dean's option, the College
128 Election Committee) should attend a Department meeting at the beginning
129 of the nomination process to provide this policy and the Chair's job
130 description and fraction of assigned time, and to explain the process for
131 nominating a Chair. All persons who are not members of the Department
132 should depart before deliberations begin, unless specifically invited to
133 remain by the majority vote of the faculty present.
134

135 3.5. Open meeting. A meeting shall be held to begin the election of a nominee
136 to serve as Department Chair. The department may determine the nature
137 and medium of the meeting according to its own preferences, but the
138 meeting must be open to all faculty in the department and publicized a
139 minimum of one week in advance.
140

141 3.6. Decision on external search. The department may decide at this stage,
142 through normal voting procedures, to seek permission to search for an
143 external chair (as per section 4.1 below) instead of proceeding immediately
144 with a normal nominating election. Should permission be denied the

145 department should proceed with the normal process to nominate a
146 department Chair.

- 147
- 148 3.7. At the open meeting, faculty may suggest names to appear on the ballot for
149 the nominating election. The meeting shall provide the opportunity to
150 ascertain the willingness of candidates to serve, for candidates to make
151 statements, and for candidates to take questions.
- 152
- 153 3.8. The nominating election. All faculty may then vote by secret ballot
154 (proportional votes for part-time faculty) on all candidates proposed and
155 willing to serve. Balloting must be available for 5 working days.
- 156 3.8.1. If there is just one candidate, balloting must still occur, with a choice
157 provided to “recommend” or “do not recommend” the candidate.
- 158 3.8.2. If there are two candidates, balloting will provide a choice between
159 the two candidates and a choice “do not recommend any candidate.”
- 160 3.8.3. If there are three or more candidates, the ballot may use ranked-
161 order preferential voting, as per Robert’s Rules Revised, with one
162 preference being “do not recommend any candidate.”
- 163
- 164 3.9. Counting the votes. The votes will be counted by the college election
165 committee. The candidates will be notified of the time and place of the
166 count at least one day in advance, and each may send one observer (other
167 than themselves.) The college election committee will assure that balloting
168 was secret. The results shall be tallied and certified (signed) by the election
169 committee.
- 170
- 171 3.10. Forwarding the results. Only the name of a candidate who receives a
172 majority of votes cast by the tenured and probationary faculty shall be
173 recommended to the President via the College Dean as the nominee of the
174 department.¹ The full results of the election shall be forwarded to the
175 President to provide context for the recommendation.
- 176
- 177 3.11. Distributing the results. A statement of the vote of all faculty, broken down
178 into two categories – vote by tenured/tenure track faculty and by lecturers --
179 including the actual number of votes cast in each category – will be
180 forwarded to the President via the College Dean. If the final vote total from
181 part-time faculty contains a fraction, it shall be rounded to help preserve
182 anonymity. The results shall also be distributed to the faculty from the
183 relevant department.
- 184
- 185 3.12. Second round nomination elections. If a department is unable to nominate a
186 Chair by a majority vote of the probationary and tenured faculty, it may
187 continue to try to obtain a nominee by repeating the process if they are
188 willing and the Dean determines that there is sufficient time. Otherwise the
189 situation will be resolved via section 6 “Failure to Obtain...”

190

191 4. EXTERNAL SEARCHES

192

¹ See CFA/CSU Agreement 20.30.

- 193 4.1. Request for an external search. An external search is a search in which
194 candidates from outside San Jose State University are invited to apply to
195 be hired as a tenured faculty member and as department Chair.
196 Department faculty may request an external search for department chair.
197 A department request for an external search should take the form of a
198 majority vote of the department (following normal procedures for
199 department voting rights). Such requests are not automatically granted.
200
- 201 4.2. Procedures for an external search. Successful completion of an external
202 search for a department Chair requires coordination of two separate
203 tasks: the appointment of a new faculty member in accordance with the
204 appointment policy and the recommendation to the President of a Chair
205 nominee in accordance with this policy. To expedite the successful
206 conclusion of such a search, departments may combine some procedures
207 that are common to both processes as outlined below. Departments
208 should determine which of these three alternatives they will use by majority
209 vote (following the normal procedures for department voting rights), and
210 they must do so prior to the start of a search. Whichever method the
211 department adopts, the recruitment committee must conform to the normal
212 requirements of the appointments policy.
213
- 214 4.2.1. Departments may designate all tenured and tenure track faculty as
215 a recruitment committee “of the whole” so that the appointment
216 recommendation and the nomination recommendation are
217 coterminous. When this method is chosen, the committee of the
218 whole must provide lecturers with the opportunity to provide
219 confidential feedback on the search prior to final recommendations.
220 A department may only use this method when there are more
221 tenured faculty than probationary faculty. If it chooses this method,
222 the normal prohibition of faculty serving on a personnel committee
223 evaluating faculty of higher rank is suspended.
224
- 225 4.2.2. Departments may use separate processes for the appointment and
226 for the nomination functions associated with an external search for
227 a department Chair. Using this method, a smaller recruitment
228 committee makes a recommendation under the normal appointment
229 policy. Then the department as a whole votes to endorse or not to
230 endorse the recommendation of the recruitment committee. For
231 each candidate, the department’s endorsement must specify
232 whether or not that candidate is acceptable as a Chair. If more than
233 one candidate is acceptable, the department must rank them in
234 order of preference. The department’s endorsement serves to
235 nominate a candidate to be Chair, but should be accompanied by
236 the recruitment committee’s report to justify the appointment. In
237 the event of conflict between the recommendations of the
238 recruitment committee and the department, the department makes
239 the final recommendation as to who to nominate as its Chair, but
240 may only nominate from among those candidates deemed to be
241 acceptable finalists by the recruitment committee. When this
242 method is chosen by a department, time must be budgeted to allow
243 these procedures to take place at the conclusion of the search.
244

245 4.2.3. Departments may choose to delegate their prerogative to nominate
246 a Chair exclusively to their recruitment committee.
247

248
249 4.3. In conformity with the Appointments policy, an external nominee for Chair
250 shall be reviewed and must receive a favorable recommendation for tenure
251 from the appropriate personnel committee of the department before the
252 appointment can be completed.
253

254 5. APPOINTMENT

255
256 5.1. The President appoints and removes the Department Chair in consultation
257 with the Provost, College Dean, and department faculty. The term of the
258 appointment is normally four years.
259

260 5.2. Except in rare instances and for compelling reasons, the President shall
261 appoint a person recommended by the department faculty
262

263 5.3. Technical details concerning the appointment of a Chair (appointment
264 letters, salary adjustments, etc.) will be coordinated by the Office of the
265 Provost.
266

267 6. FAILURE TO OBTAIN CHAIR NOMINEES AS DESCRIBED IN SECTIONS 3 268 (Nominations), 8 (Reappointment), and 10 (Acting)

269
270 Departments may be unable to successfully conclude a normal nomination for
271 Department Chair. This could be the case in a department with no senior
272 leadership qualified to be Chair, or no willing candidates. If a department fails to
273 reach consensus (majority vote of the tenured and probationary faculty) following
274 a normal nomination process (Section 3), the Dean shall consult with the faculty at
275 a department meeting to determine the best course of action. This could be either
276 the nomination of an interim or acting Chair, initiation of an external search,
277 extension of a prior interim appointment, or nomination of a non-departmental
278 interim Chair-- as per the relevant sections of this policy.
279

280 6.1. External Search. An external search may be requested as per section 4 of
281 the policy, although such requests are not automatically granted.
282

283 6.2. Extended interim Chairs. If there has been a failure to reach consensus,
284 and an interim Chair is serving and was not a candidate for Chair, the
285 interim Chair may be extended by six months to allow time for more
286 permanent solutions. Normally, a department should not have to operate
287 under interim leadership for more than one year.
288

289 6.3. Non departmental interim Chairs. In extreme cases, and only when all of
290 the aforementioned measures fail, the President may appoint a SJSU
291 faculty member from outside the department to serve as interim Chair,
292 after consultation with the College Dean and department faculty. External
293 departmental interim Chairs are subject to all the normal limits provided in
294 section 9. Consultation with the department faculty is normally done by
295 the Provost and Dean soliciting advice at a department meeting.
296

297 6.4. Extended interim Chairs. The extension of an interim appointment beyond
298 one year may endanger the principles of collegial governance and should
299 be avoided if possible. If this occurs the Organization and Government
300 Committee of the Academic Senate shall inquire into the reasons for the
301 situation and report its recommendations to the Senate and the President.
302

303 7. REVIEW OF DEPARTMENT CHAIRS

304
305 7.1. Timing of Normal Review: The Dean shall initiate the formal review of
306 each Department Chair during the fourth year of an incumbent's term,
307 unless the incumbent states that he/she will not be a candidate to
308 continue as Chair beyond the fourth year.
309

310 7.2. Early Review: Department faculty may initiate a formal review of the
311 Department Chair by submitting a petition to the Dean, provided that at
312 least one academic year has passed since the Chair's appointment or
313 previous review. The petition shall state simply that "The undersigned
314 faculty call for a prompt review of our Department Chair." If the petition is
315 signed by department faculty totaling more than 50% of the department
316 electorate, the College Dean will initiate a formal review of the Department
317 Chair. The petition should preferably be delivered early enough to permit
318 the review to be completed before the end of the current semester, but an
319 early review should always be completed within 40 duty days from receipt
320 of the petition. To determine if the petition exceeds the 50% threshold, the
321 signatures of both tenure/tenure track faculty and lecturers will be counted,
322 with the signatures of lecturers weighted according to the proportion of
323 their appointment. The Dean will announce the number of signatures and
324 whether the petition exceeds the threshold, but will keep the petition itself
325 and the signed names confidential from the incumbent chair.
326

327 7.3. Appointment and Composition of Review Committee: At the beginning of
328 the fourth year of the Department Chair's term, under the direction of the
329 College Dean, the tenured and tenure-track department faculty shall elect
330 from its ranks a peer review committee to evaluate the Department Chair's
331 performance². The review committee, in consultation with the College
332 Dean, will determine the procedures and scope of the review.
333

334 7.4. Criteria for Review: The review committee, in consultation with the College
335 Dean, shall specify the criteria for evaluating the incumbent's job
336 performance. The principal criteria shall be derived from the job
337 description that was provided to the Chair at the time of appointment. The
338 incumbent shall be asked to examine the criteria developed and to make
339 such comments or suggestions as may seem advisable.
340

341 7.5. Procedures for Review: The review committee, in consultation with the
342 College Dean, shall develop procedures for conducting the review. The
343 procedures shall be designed to secure appropriate information and
344 appraisals of performance from as many persons as may be feasible who
345 are knowledgeable of the incumbent's performance. If he/she so desires,
346 the incumbent shall be given an opportunity to provide the review
347 committee with a self-evaluation based upon the criteria developed by the
348 committee. The opinions and judgments received by review committees,

² See CFA/CSU Agreement Article 15

349 the deliberations and reports of such committees, and any accompanying
350 materials, shall be confidential.

351
352 7.6. Report of the Review Committee: At the conclusion of its evaluative
353 activities, the review committee shall prepare a written report embodying
354 findings and conclusions. The report of the review committee shall include
355 a statement of strengths found and improvements desired in the
356 incumbent's performance with respect to the evaluative criteria. All raw
357 data collected for review shall accompany, but not be part of, the review
358 committee's summary narrative. Before forwarding the final report to the
359 College Dean, the review committee shall:

360
361 7.6.1. Provide a draft copy of the narrative portion of the report to the
362 incumbent;

363
364 7.6.2. Provide the incumbent with an opportunity to meet with the review
365 committee in order to discuss the report;

366
367 7.6.3. Provide the incumbent with the opportunity to submit to the
368 committee a written statement which shall become part of the report
369 to the College Dean.
370

371 The review committee shall forward its final report to the College Dean.
372 The College Dean will discuss the findings with the Department Chair and
373 will report in general to the department faculty. On completion, the final
374 report from the review committee, additional evaluation by the College
375 Dean, and any response from the Department Chair will be forwarded to
376 the Provost.
377

378 7.7. Confidentiality. The review committee, college dean, and officers of the
379 University shall hold in confidence data received by the review
380 committee, its report, and accompanying materials.
381

382 8. REAPPOINTMENT OF A DEPARTMENT CHAIR 383 384

385 In order to serve one or more subsequent terms, the Department Chair must
386 proceed through the review process and regular nominating process.
387

388 9. SELECTION OF AN INTERIM CHAIR 389

390 An interim appointment occurs when a Department Chair's position has or will
391 be vacated and there is insufficient time or it is otherwise impractical to
392 complete the regular nomination process explained in Section I (Nominations).
393 The interim Chair serves only as long as required to complete the
394 appointment of a regularly appointed chair.
395

396 9.1. Appointment procedure. The President may make interim appointments
397 after consultation with the College Dean and department faculty, normally
398 by soliciting advice from as many faculty as possible at a department
399 meeting called for this purpose.
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401 9.2. Interim Chair requirements. Interim appointments should normally be a
402 member of the department in which they will serve and they should be
403 tenured faculty members (see section 6 for exceptions.)

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9.3. Transition to a regularly appointed Chair. While overseeing all the complex tasks of the department, the interim Chair's ultimate responsibility is to prepare the department for an orderly transition to a regularly appointed Chair. The interim Chair should serve until a regularly appointed Chair takes office, normally by the end of the first full semester following the appointment, with summer service being a matter of mutual agreement between the interim Chair and the President. For example, an interim Chair appointed in April could serve through the end of Fall semester, or an October appointee could serve to the end of Spring semester or (by mutual consent) through the summer. If the department cannot transition to a regularly appointed Chair within this time frame, the situation should be resolved under section 6 (Failure to Obtain) of this policy.

9.4. Technical details concerning the appointment of an interim Chair (appointment letter, salary adjustments, etc.) will be coordinated by the Office of the Provost.

10. SELECTION OF AN ACTING CHAIR

An acting appointment occurs when a Department Chair is on a temporary absence (illness, vacation, or leave) but is expected to return within a year. If the absence is less than one month, the Dean, in consultation (if possible) with the continuing Chair may determine that there is no need for an acting Chair. Otherwise, an acting Chair is appointed and serves only until the regularly appointed Chair returns.

10.1. Planned need for acting Chair. When the short-term absence of a Chair can be anticipated, the Department should nominate an Acting Chair using the procedures outlined in section 3 (normal nomination.)

10.2. Sudden need for acting Chair. When there is insufficient time or it is otherwise impractical to complete the regular nomination process explained in section 3, an Acting Chair should be designated using the procedures outlined in section 9 (interim.)

10.3. Limit on length of service. An Acting Chair should not serve more than one full academic year, and possibly the summer before or after the academic year. A Chair who is absent for more than one year should be replaced.

10.4. Technical details concerning the appointment of an acting Chair (appointment letter, salary adjustments, etc.) will be coordinated by the Office of the Provost.

11. REMOVAL OF DEPARTMENT CHAIR

In rare circumstances it may become necessary to remove a Department Chair prior to the expiration of the four year term. There are two possible situations in which a Chair may be removed.

11.1. Administrative removal. The administrative removal of a Chair previously recommended by the faculty of a department is a very serious matter, and

457 should only be undertaken for compelling reasons. A Chair will be given
458 an opportunity to meet with the Provost and Dean to defend his/her
459 record prior to removal. Following removal, the President or Provost
460 should meet with the Dean and the faculty assembled in a department
461 meeting to announce the action and solicit advice on the transition.
462 Replacement of the Chair should be initiated according to the procedures
463 in sections 3 or 9 of this policy.
464

465 11.2. Faculty initiated removal. Faculty may not initiate the removal of their
466 Chair unless a formal review has been completed within the previous six
467 months. (They may initiate such a review as per 7.2 of this policy.)
468 Following the conclusion of any faculty-initiated early review, the
469 department will vote to determine if their Chair should be recalled. A recall
470 vote will follow the same procedures as a vote to recommend a Chair
471 nominee as described in section 3 of this policy, save only that it requires
472 a vote of 2/3 of the tenure/tenure track faculty to forward a
473 recommendation to the President that the Chair be removed, with the
474 votes of lecturers also reported as per the above procedures. If removed,
475 replacement of the Chair should be initiated according to the procedures
476 in sections 3 or 9 of this policy.

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9 **POLICY RECOMMENDATION**
10 **Rescinding and Replacing F97-7 Policy on Privacy of**
11 **Electronic Information**

12
13
14 Resolved: That F97-7 be rescinded.

15
16 Resolved: That the following be adopted as policy effective immediately.

17
18 *Rationale: This document summarizes important principles on privacy of electronic*
19 *information found in the AAUP document "Academic Freedom and Electronic*
20 *Communications" and elements copied from the University of California system policy on*
21 *"Electronic Communications." Our archaic F97-7 was very vague and increasingly*
22 *obsolete. The CSU system policy has some useful protections, but does not directly*
23 *address information privacy in a forthright manner. This document explains the rationale*
24 *for protecting privacy of electronic information within the context of academic freedom and*
25 *the culture of a university of higher learning.*

26
27 *While Professional Standards originally created a bulkier and considerably more specific*
28 *policy draft, negotiations with the President's Chief of Staff and the Information Security*
29 *Officer persuaded us to slim the policy down to key principles and leave the minutiae to a*
30 *Presidential Directive that is currently under draft.*

31
32 *Approved: April 3, 2017*

33
34 *Vote: 9-0-0*

35
36 *Present: Peter, Green, White, Lee, Reade, Kauppila, Hamedi-Hagh, Hwang,*
37 *Marachi*

38
39 *Absent: Caesar*

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41 *Financial Impact: No direct impacts*

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43 *Workload Impact: No direct impacts*
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POLICY RECOMMENDATION

Principles Regarding Privacy of Electronic Information

1. Purpose

- 1.1. San José State University (SJSU) recognizes that principles of academic freedom and shared governance, freedom of speech, and privacy hold important implications for the use of electronic communications.
- 1.2. SJSU respects the privacy of electronic communications in the same way that it respects the privacy of paper correspondence and telephone conversations, while seeking to ensure that University administrative records are accessible for the conduct of the University's business.
- 1.3. SJSU recognizes the value of privacy as a condition for academic freedom and the benefits that privacy and autonomy bring to the individual, to groups, and to the culture of SJSU.
- 1.4. SJSU recognizes that faculty members and students have a reasonable expectation of privacy in their electronic communications.
- 1.5. San Jose State University supports privacy in the use of electronic communications and information storage to the maximum extent possible under state and federal laws.

2. Principles governing involuntary disclosure

- 2.1. ***Rarely used and clearly defined.*** SJSU does not examine or disclose the contents of electronic records without the consent of the individual participating in the communication except in rare cases that are clearly defined.
- 2.2. ***Clear authorization.*** When involuntary disclosure takes place, it must first be authorized by the President, and records of the authorization must be kept.
- 2.3. ***Least Perusal.*** Authorization shall be limited to the least perusal of contents and the least action necessary to resolve a matter.
- 2.4. ***Disclosure.*** SJSU shall at the earliest opportunity that is lawful and consistent with other University policy notify the affected individual of the action(s) taken and the reasons for the action(s) taken.
- 2.5. ***Institutional Accountability.*** In a manner consistent with law and concerns of confidentiality, SJSU shall prepare an annual report tracking the frequency and general purpose of all authorizations of involuntary disclosure. This report will be circulated to an appropriate body of stakeholders that will include tenured faculty chosen by the Academic Senate.

3. Implementation

The President will issue and maintain a directive that implements the purpose and principles of this policy

4. Privacy Advisory

Various laws and available security technologies affect the degree of privacy that users can expect. No electronic system is entirely secure from unauthorized

96 intrusions. Users should be warned that legal requirements may require
97 disclosure, such as disclosure under the Public Records Act, discovery in civil
98 litigation, and legal searches performed in cooperation with state and federal law
99 enforcement authorities.

1 **San Jose State University**
2 **Academic Senate**
3 **Instruction & Student Affairs Committee**
4 **April 10, 2017**
5 **Final Reading**

AS 1648

6
7 **Policy Recommendation**
8 **Graduate Student Revalidation of Courses that Exceed the 7-**
9 **Year Limit**

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Whereas: SJSU does not have policy on expiration or revalidation of graduate coursework; and

Whereas: the University Graduate Studies & Research Committee endorsed this policy unanimously; therefore be it,

Resolved: That the following policy be enacted.

Approved: March 6, 2017

Vote: 13-0-0

Present: Bruck (non-voting), Campsey, Kaufman, Khan, Nash, Ng (non-voting), Saran, Sen, Simpson, Spica, Torres, Trousdale, Walters, Wilson, Yao

Financial Impact: None

Workload impact: Slight increase for faculty supervising the revalidation process, though this is already university practice.

Graduate Student Revalidation of Courses that Exceed the 7-Year Limit

1. Courses taken by graduate students at SJSU expire 7 years from the point of grade posting, in compliance with California Code of Regulations, Title 5, Article 7, Section 40510. Any one student may revalidate a maximum of 9 units for a 30-unit program, or 12 units for a program with more than 30 units, of expired courses. Programs have the option of setting stricter policy limits on revalidation, such as allowing no units or fewer units to be revalidated. The student must have earned at least a “B” grade in a course to revalidate it. The department that offered the class must administer an examination of the student’s knowledge. The examination could be an oral exam, written exam, research paper, or of any other kind of format approved by the department. The examination must be graded by the faculty member who taught the original course, by one who has taught the course at another time, or by one who has reasonable knowledge of the course content. If there are no faculty members with the requisite knowledge in the discipline, the course cannot be revalidated. The exam must be a rigorous one, invariably requiring studying on the part of the student. It must not necessarily though require recollection of all of the material in the original class; thus, administering an exam similar to the original final exam would not be warranted.
2. Because the course material is considered outdated after 7 years, the goal must be to determine if the student’s knowledge is up to date. That is, simply knowing the original content of an outdated course is inadequate. Students may be presented with a list of relevant books or other materials that would help bring them up to speed with respect to current knowledge in the field. The exam should reflect and test their understanding of that more current material. Testing the current knowledge of the field should be the goal even if the course has changed little or the field has not progressed past the point of the original class.
3. Unless a department makes an exception, independent study, seminar, research, project, thesis, or comprehensive exam preparatory courses cannot be revalidated. Graduate courses taken as a senior undergraduate at SJSU to be used for graduate credit are eligible for revalidation (with departmental consent), but those taken at other institutions are not. If these courses expire, they must be repeated or replaced. Expiration of projects and theses is an extremely rare event given that they usually occur at the end of the curricular program. If they were to expire, they would have to be replaced by entirely new ones that did not repeat any material in the original one. Theses previously published would remain in the SJSU repository as legitimate contributions. Comprehensive exams would need to be retaken in their entirety to reflect the more current state of material in the field. Credential courses can be revalidated at the discretion of the department.

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4. If students can present a compelling case that their progress through the program was delayed unnecessarily by department advisors, unavailability of required courses, or other departmental circumstances beyond their control, they can appeal to the Associate Dean of Graduate Studies for an extension of the limit. Extensions should very rarely be awarded.
 5. Approval of the revalidation will be by the examining professor and the program's graduate advisor, and affirmed by the Associate Dean of Graduate Studies.

7
8 **Policy Recommendation**
9 **Registration Priority Policy**
10 **(also Amendment A to University Policy S73-4)**

11
12 **Legislative History:** Rescinds F14-1, Amends Section 2 of S73-4

13
14 Resolved:

15
16 **1.0 Scheduling of Registration**

17 Students shall be allowed to register in the following order:

- 18 ● Group 1: Specific Priority Categories (see 2.0 below)
- 19 ● Group 2a: Graduating seniors (those who have a graduation application on file
20 with an anticipated graduation date for the current or next
21 semester) in the California Promise program
- 22 ● Group 2b: Remaining graduating students (bachelors- and graduate-level
23 students who have a graduation application on file with an
24 anticipated graduation date for the current or next semester)
- 25 ● Group 3: Graduate students
- 26 ● Group 4a: Seniors in the California Promise program
- 27 ● Group 4b: Remaining seniors
- 28 ● Group 5: Second baccalaureate students
- 29 ● Group 6a: Juniors in the California Promise program
- 30 ● Group 6b: Remaining juniors
- 31 ● Group 7a: Sophomores and continuing frosh in the California Promise
32 program
- 33 ● Group 7b: Remaining sophomores and continuing frosh

34
35 Students in Groups 2-7 will register on the basis of rotating alphabetical cycles within
36 each group.

37
38 Note: First time frosh registration is based on orientation. Incoming transfer students
39 have a registration date dependent on when they matriculate.
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2.0 Categories of Group 1: Specific Priority Students

2.1 Category A:

- Students who are required by external agencies such as the National Collegiate Athletic Association, or by law, to receive priority. This excludes students covered by SB 412 , the California Promise program unless they also fall under another group with required priority registration. Priority registration for students in the California Promise program is addressed in the regular registration as outlined in Section 1.0.
- Students whose contributions to the university are recognized as being so extensive that their graduation would be postponed by the amount of time spent on their extracurricular duties.
- Students serving on Senate committees that require student participation in order to perform essential functions.
- Students who are part of any group that has a contractual agreement with SJSU to provide a full course load.

Groups in this category include

- Accessible Education Center (AEC) students
- AEC note takers
- Associated Students Board of Directors
- Student Fairness Committee members
- NCAA Athletics
- Guardian Scholars
- Reciprocal Exchange students
- Veterans (as per Cal. Educ. Code §66025.8)

This category does not require regular review by the Student Success Committee, though review may be requested if/when circumstances change.

2.2 Category B:

Students who would not otherwise graduate within a reasonable period of time because they participate in an ongoing, university sanctioned activity that meets all of the following criteria:

- the activity significantly benefits the University;
- the activity has a regularly scheduled class, event or practice offered only at specific times that conflict with a vast majority of prime time classes that are offered (i.e. 9:00 – 3:00 Monday through Thursday) and cannot be moved outside of prime time;
- participation at every class, event or practice is mandatory; the sponsoring organization must establish a minimum GPA and progress to degree criteria and monitor it each semester; mandatory meetings

85 must be set prior to the first day of the semester.
86
87

88 2.3 Category C:

89 Students enrolled in an integrated package of courses that meets all of the
90 following criteria:

- 91 ● covers at least four areas of the General Education Program
- 92 ● involves being part of a cohort group of students from multiple colleges
- 93 ● requires enrollment together in a specified course sequence over
94 multiple semesters.

95 Priority registration will be granted to students in this category beginning with
96 the second semester of enrollment.
97

98 2.4 Category D:

99 Students who are required by external scholarship granting agencies/donors
100 to meet progress toward degree milestones that are more rigorous than those
101 of the institution and/or whose benefits/eligibility to participate expire based
102 on time limitations of less than 6 years.
103

104 3.0 Implementation – Approval and Continuing Approval

105 3.1 It is the intention that no more than 10% of the FTES of SJSU be available for
106 priority registration under the policy.
107

108 3.2 The Accessible Education Center will review AEC students and note takers in
109 Category A each semester and provide an updated list.
110

111 3.3 Coordinators of all groups in Category B, C, and D who wish to apply for
112 priority registration on behalf of their group of students, including those that
113 currently hold such status, shall apply to the Student Success Committee for
114 continuation or granting of priority registration status.

115 Priority registration for groups of students in these categories normally shall
116 be awarded for periods of up to five years. The Student Success Committee
117 may authorize priority registration for a shorter time period, and when doing
118 so, will provide written justification describing concerns.

119 In the case of an application for continuing approval, the coordinator of each
120 currently approved group is responsible for resubmitting such an application
121 at least one full semester prior to the expiration of the previous granting of
122 priority registration.

123 In the case of an application for new approval, the coordinator of a group
124 seeking such approval must submit an application at least one full semester
125 prior to the requested implementation date.
126

127 3.4 The Student Success Committee shall determine which category each

128 applicant group qualifies for and shall notify the coordinator of the group
129 regarding the granting, extending, or denying of priority registration.
130 Applications for fall priority registration must be received by the Chair of the
131 Student Success Committee no later than April 1. Applications for spring
132 priority registration must be received by the Chair of the Student Success
133 Committee no later than September 1.

134
135 3.5 An increase of more than 10% of the original number of approved students
136 approved for priority registration will automatically require a statement of
137 justification submitted to the committee no later than April 1 for fall semester
138 and no later than September 1 for spring semester registration.

139
140 **4.0 Submission of student names and SJSU ID Numbers to the Registrar's Office**

141 Submission of student names and SJSU ID numbers to the Registrar's Office for
142 groups of students receiving priority registration is the responsibility of the
143 coordinator of the group. Each coordinator is responsible for contacting the
144 Registrar's Office for submission deadlines.

145
146 **Rationale:**

147 Senate Bill 412, passed on September 21, 2016, defines the California Promise
148 program and legislates the requirement of priority registration for California Promise
149 students. This program is available to frosh and to transfer students with an associate
150 degree for transfer. It facilitates a four year graduation rate for frosh and a two year
151 graduation rate for transfers with commitments on the part of the university and the
152 student. One such commitment on the university side is priority registration. There will
153 be an increasingly larger percentage of students eligible for the California Promise
154 program as SJSU works to meet our CSU Graduation 2025 goals of a 35% four year
155 frosh graduation rate and 36% two year transfer graduation rate. This policy integrates
156 the priority registration for students in the California Promise program into the
157 registration for all students by class level in order to balance the requirement to give
158 priority registration to students in the California Promise program with the need to
159 maintain access to classes for all students.

160
161 Approved: April 3, 2017
162 Vote: 11-0-0
163 Present: Kaufman (Chair), Walters, Yao, Simpson, Miller, Wilson, Nash,
164 Perea, Mendoza, Spica, Sen, Bruck (non-voting)
165 Financial impact: None
166 Workload impact: Initial work will be needed by enrollment services to adapt the
167 registration process to account for students in California Promise
168 program. Continued workload will be needed by the Office of
169 Student and Faculty Success to ensure the list of students enrolled
170 in the California Promise program are accurate.
171

1 **San Jose State University**
2 **Academic Senate**
3 **Instruction & Student Affairs Committee**
4 **April 10, 2017**
5 **First Reading**
6

AS 1650

7
8 **Policy Recommendation**
9 **Codification and Revision of Undergraduate Student Honors**

10 **Legislative History:**

11
12 In 1996, F96-5 codified several previous Senate policies on honors,
13 replaced previous University Policies S65-24, F86-5, S93-6, S66-7, F85-
14 9, S86-7, and used forgotten information from supposedly superseded
15 policies F65-12 and F67-10.
16

17 **REVISION OF STUDENT HONORS POLICY: F96-5**

- 18
19
20 Whereas, San José State University currently has one policy codifying student
21 honors: F96-5 from previous policies dating from 1965 through 1993; and
22
23 Whereas, Several conditions of F96-5 have not been consistent in their
24 implementation; and
25
26 Whereas, Awarding Honors at Entrance for freshmen based on GPA, ELM, and
27 EPT scores is difficult to implement because they are not awarded until
28 after the student matriculates; and
29
30 Whereas, Determining President’s and Dean’s Scholars based on a two-semester
31 “block of work” excludes the possibility of frosh earning honors their first
32 semesters; causes confusion for students and advisors, and complicates
33 the computing process, and
34
35 Resolved, The attached document rescinds previous policy F96-5 and implements
36 “Undergraduate Student Honors at San José State University.”
37

UNDERGRADUATE STUDENT HONORS AT SJSU

1.0 Overview and General Procedures

1.1 In order to encourage and reward outstanding academic achievement of students, San José State University awards honorific designations in these categories:

- [2.0 The Semester Honor Roll: President's and Dean's Scholars](#)
- [3.0 Departmental Major Honors](#)
- [4.0 Honors in a Special Course Sequence](#)
- [5.0 Latin Honors at Graduation](#)

1.2 All references to grade point average (GPA) in this document are to a 4.0 letter grading system, as defined in the SJSU catalog.

2.0 The Semester Honor Roll: President's and Dean's Scholars

2.1 Honor Roll designations will be determined twice a year, for the Fall and Spring semesters. Summer and Winter term coursework does not play any role in determining Fall and Spring Honors.

2.2 Only SJSU courses are counted for honor roll calculations. A minimum of 12 letter-graded units (UG) are required to qualify for consideration. Credit ("CR") grades are not counted either in the calculation of grade point average nor towards the 12-unit minimum. Any grades below "C" (2.0) and/or any No Credit ("NC") grades disqualify a student from consideration, as do any outstanding Incomplete ("I") and/or Report Delayed ("RD") grades on the student's record for the semester under consideration.

2.3 The determination and transcript notation of honor roll designations shall be done as soon as possible following the census date of the following Fall or Spring semester.

2.4 Semester honors will not be awarded retroactively for students who have Incomplete ("I") and Report Delayed ("RD") grades that are cleared after honors status reporting per Section 2.2 and 2.3 of this policy.

2.5 Any undergraduate student who has earned an SJSU GPA of 4.00 for the Fall or Spring semester shall be deemed to be a President's Scholar for that semester.

83 **2.6** Any undergraduate student who has earned an SJSU GPA of 3.65 or
84 higher **GPA** shall be deemed to be a Dean's **S**cholar for that semester.

85
86 **2.7** Recognition and Privileges

87
88 **2.7.1** All **h**onor **r**oll awards, whether earned for the previous Fall or for
89 the previous Spring, will be recognized at the yearly Honors
90 Convocation organized by the Office of the Provost and held during
91 the Spring semester.

92
93
94 **2.7.2** Honor **r**oll status will be shown on the transcript beneath the
95 semester in which it is earned, together with a notation explaining
96 what the designation means.

97
98 **3.0** Departmental Major Honors

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100 **3.1** Qualifications: Departmental **m**ajor **h**onors are awarded to students who
101 successfully complete an approved program with their major.

102
103 **3.1.1** Each department that elects to have a major honors
104 program should customize the program to its individual
105 discipline.

106
107 **3.1.2** Departmental **m**ajor **h**onors programs must be approved by the
108 same on-campus mechanisms that are used to approve other
109 academic programs. This includes review by the appropriate college
110 curriculum committee and the relevant curriculum committees of the
111 Academic Senate.

112
113 **3.1.3** Approved **d**epartmental **m**ajor **h**onors programs are then
114 filed with the Office of Graduate and Undergraduate
115 Programs, which then notifies the appropriate campus
116 agencies to begin implementation.

117
118 **3.2** Criteria for **d**epartmental **m**ajor **h**onors **p**rograms: **h**onors should be earned by
119 specific honors level work as contrasted to work only in regular classes and
120 should reflect the student's choice to attempt **d**epartmental **m**ajor **h**onors.

121
122 **3.2.1** Departmental **m**ajor **h**onors should be awarded strictly for academic
123 achievement (GPA and specified coursework).

124
125 **3.2.2** Departmental **m**ajor **h**onors will be given only to students who
126 distinguish themselves within their department with outstanding
127 academic achievement. Among the methods used to measure this
128 achievement, there must be a component that uses grades earned in

129 the department.

130

131 **3.2.2.1** This may include use of a minimum GPA requirement in the major

132

133 **3.2.2.2** This may include use of a minimum GPA
134 requirement in a specified group of departmental major
135 courses

136

137 **3.2.3** There must be a component of academic work that is unique to
138 the departmental major honors program, (e.g., honors thesis, an
139 honors colloquium, etc.)

140

141 **3.2.4** There may be other components as recommended by the
142 department and approved by the relevant committees.

143

144 **3.2.5** Programs must be constructed so as to provide the
145 opportunity for transfer students to participate.

146

147 **3.2.6** All indications of departmental major honors prior to
148 successful completion of all requirements must be noted as
149 tentative and dependent upon maintenance of honors standards
150 in the student's final semester.

151

152 **3.3 Recognition and Privileges**

153

154 **3.3.1** Departmental major honors status will be shown on the
155 transcript, together with a notation explaining what the designation
156 means.

157

158 **3.3.2** Departmental major honors status will be indicated on the official
159 diploma of the student.

160

161

162 **4.0 Honors in a Special Course Sequence**

163

164 **4.1** Qualifications: Honors in a Special Course Sequence (SCS) are awarded to
165 students who successfully complete an approved SCS honors program.

166

167 **4.1.1** SCSs are unique course sequences outside of a major
168 program, which provide students with an interdisciplinary
169 perspective on topics of broad interest. By their nature, SCSs
170 require curricular oversight and subject expertise across
171 departments and/or colleges.

172

173 **4.1.2** Honors requirements for a SCS must be approved by the same
174 on-campus mechanisms used to approve other academic programs.

175 This includes review by the appropriate college curriculum
176 committee(s) and the relevant curriculum committees of the Academic
177 Senate.

178
179 **4.1.3** Approved SCS honors programs are then filed with the
180 Office of Graduate and Undergraduate Programs (GUP),
181 which then notifies the appropriate campus agencies to begin
182 implementation.

183
184 **4.2** Criteria for SCS honors: honors should be earned by specific honors level
185 work in the designated SCS.

186
187 **4.2.1** SCS honors should be awarded strictly for academic achievement (GPA
188 and specified coursework).

189
190 **4.2.2** SCS honors will be given only to students who distinguish
191 themselves within their SCS with outstanding academic achievement.
192 Among the methods used to measure this achievement, there must
193 be a component that uses grades earned in the SCS.

194
195 **4.2.2.1** This may include use of a minimum GPA requirement in the SCS

196
197 **4.2.3** There may be other components as recommended by the
198 coordinating body and approved by the relevant committees.

199
200
201 **4.2.4** All indications of SCS honors prior to successful
202 completion of all requirements must be noted as tentative and
203 dependent upon maintenance of honors standards in the
204 student's final semester.

205
206 **4.3** Recognition and Privileges

207
208 **4.3.1** SCS honors status will be shown on the transcript, together
209 with a notation explaining what the designation means.

210
211 **4.3.2** SCS honors status will be indicated on the official diploma of the
212 student.

213
214 **5.0** Latin Honors at Graduation

215 **5.1** Qualifications

216
217 **5.1.1** The Latin honors designations depend upon the achievement
218 of a high grade point average at graduation in each of two
219 categories:

220

221 5.1.1.1 An “All College” GPA, which reflects all graded, accredited
222 baccalaureate work and assures that the honor is bestowed for
223 outstanding achievement in the earning of the entire degree; and
224

225 5.1.1.2 The “SJSU cumulative” GPA, which reflects all graded
226 collegiate work at this university and assures that the honor
227 (also) reflects outstanding achievement in work completed at
228 SJSU.
229

230 5.1.1.3 Each average will include work completed during the
231 semester immediately preceding graduation. Graduation programs
232 will note that indications of honor awards are tentative and depend
233 on maintenance of honors standards in the student's final semester.
234

235 5.1.2 Any undergraduate student who has earned a **3.90** or higher
236 GPA(both All College and SJSU Cumulative), shall graduate Summa
237 Cum Laude.
238

239 5.1.3 Any undergraduate student who has earned a **3.70 or higher,**
240 **but less than 3.90,** GPA (both All College and SJSU Cumulative),
241 shall graduate Magna Cum Laude.
242

243 5.1.4 Any undergraduate student who has earned a 3.50 or higher,
244 but **less than 3.70,** GPA (both All College and SJSU Cumulative),
245 shall graduate Cum Laude.
246

247 5.2 Recognition and Privileges 248

249 5.2.1 All those earning Latin honors shall be authorized to wear a
250 symbol on their academic regalia, which shall be chosen by an
251 appropriate Academic Senate committee.
252

253 5.2.2 Latin honors status will be indicated on the transcript, together
254 with a key explaining what the designation means.
255

256 5.2.3 Latin honors status will be indicated on the official diploma of the
257 student.
258
259

260	Approved:	April 3, 2017
261	Vote:	11-0-0
262	Present:	Kaufman (Chair), Walters, Yao, Simpson, Miller, Wilson, 263 Nash, Perea, Mendoza, Spica, Sen, Bruck (non-voting)
264	Financial impact:	None
265	Workload impact:	The result of this policy would be a decrease in the number 266 of students receiving honors (elimination of Honors at

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Entrance) and potentially smaller numbers of Latin honors designations due to higher GPA requirements. Semester honors designations will be determined on a shorter time scale, but by eliminating the use of the past 3 semesters work, fewer total honors designations are likely.

1 San José State University
2 Academic Senate
3 Curriculum and Research Committee
4 April 10, 2017
5 First Reading
6

AS 1651

7 **Policy Recommendation:**
8 **Research, Scholarship, and Creative Activity: Advisor-**
9 **Student Relationship, Sponsored Projects, and Proprietary**
10 **RSCA and Issues of Confidentiality**

11
12 **Legislative History: Rescinds S94-8**

13
14 Rationale: There is need to update the University policy on Research, Scholarship, and
15 Creative Activity (hereafter RSCA) in compliance with the [Integrated CSU](#)
16 [Administrative Manual Section 11000](#). In addition, policies, procedures, and practices
17 on campus have undergone significant changes in the last 20 years that necessitates
18 an update to our RSCA policy.
19

20 RSCA at a university advances the frontiers of knowledge, keeps faculty energized and
21 familiar with recent developments in their fields, and provides an experiential learning
22 context for students. These activities enrich a university community, contribute to
23 knowledge and progress in the profession, and contribute to high quality education. San
24 Jose State University (SJSU) endorses the principles of academic freedom in RSCA
25 and the University promotes conditions of free inquiry as outlined in SJSU University
26 Policy S99-8. As per S94-8, SJSU supports RSCA activity and the pursuit of research in
27 concert with other university duties. All RSCA undertaken by SJSU personnel and
28 students must be in compliance with all federal, state, CSU, and SJSU laws,
29 regulations, and policies (contact Office of Research for guidance on laws, regulations,
30 and policies). RSCA is defined by the discipline and may be further elaborated on within
31 departments and colleges. RSCA typically excludes individual consulting or individual
32 private business ventures.
33

34 **Whereas:** RSCA at SJSU includes a wide range of activities, funding approaches,
35 disciplines, and practices^[1], this policy covers only three RSCA areas: I. RSCA Advisor -
36 Student Relationship; II. Sponsored Projects; and III. Proprietary RSCA and Issues of
37 Confidentiality.

¹ See Table 1 for list of other University Policies relating to RSCA.

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I. RSCA Advisor- Student Relationship

The involvement of students as active participants in RSCA projects provides students with richly rewarding, and often unique, learning opportunities, and the University encourages student involvement in RSCA. Thus, one of the criteria that may positively influence the decision to undertake RSCA projects or to accept extramural support is the potential to enrich quality of the student learning experience. The University thus adopts the following policy governing the RSCA Advisor - Student Relationship:

A. RSCA Advisor role

When bringing students into a RSCA project as collaborators, the advisor should encourage the free pursuit of learning, should show respect for the student as an individual, and act as an intellectual guide and advisor/mentor.

B. Alignment of Commitments and Obligations

Situations may arise in which an advisor allows competing commitments/obligations or third-party involvement to influence his or her role as a teacher, mentor, or supervisor of RSCA, to the detriment of the student's educational experience. Such influence could include pressure on students to undertake RSCA in order to advance the direct interests of the external organization; transmission of student's RSCA results to the organization before the project has been completed; inability of an advisor who is frequently absent from the research setting to give appropriate advice on the conduct of student's RSCA; and pressure on students to change research directions to work on projects that strengthen an external organization's competitive position. The ultimate goal is to establish a clearly defined relationship between all parties and establish a quality educational experience.

Prior to bringing a student into a RSCA project, the advisor and the student should discuss student and advisor time constraints and commitments and establish their responsibilities (including any obligations to third parties) and discuss possible consequences. In some cases, the advisor and student may face conflicts when there are simultaneous academic and RSCA obligations. In these cases, the RSCA advisor and/or the student should contact the department chair for guidance.

C. Financial Support

The University affirms the student's right to know the source(s) of the RSCA funding. Should a student choose to reject financial assistance linked to the source, the student has the right to do so without adverse consequences.

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D. Monitoring

The responsibility for monitoring RSCA advisor-student relationships rests with the faculty and the University administration. The University, and by extension the RSCA advisor, is committed to protecting the educational interests of students and maintaining an open environment free from undue influence of private interests. Allegations of deviations from acceptable standards in this regard should be brought to the attention of the college or division head and/or the AVP for Research. Such allegations will be investigated, and, where appropriate, action taken by the appropriate administrative officer. Any action is subject to review by the next level of administration and through standard University grievance processes to the extent applicable by authorized employees.

E. Recognition

Significant scholarly or artistic contributions from students must be acknowledged by the RSCA advisor. Prior to bringing students into a RSCA project, the RSCA advisor must discuss what is meant by significant contributions within the discipline.

II. Sponsored Projects

Sponsored projects are funded activities in which there is a formal written agreement (i.e., grant, contract, or cooperative agreement) and may be thought of as a transaction in which there is a specified statement of work with a related, reciprocal transfer of something of value. An externally-funded sponsored project is an agreement between SJSU and an external sponsor; such agreements are enforceable by law and performance is usually accomplished under time and fund use constraints with the transfer of support revocable for cause.

The University adopts the following guidelines governing sponsored projects:

A. Administration of Sponsored Projects

With respect to externally-funded sponsored projects, the policies in [Integrated CSU Administrative Manual Section 11000](#) “serve as the fundamental system-wide requirements governing the California State University’s (CSU) involvement with the solicitation, acceptance and administration of awards from extramural sponsors for the conduct of research and scholarly activity, and other sponsored activities.” [ICSUAM Section 11001.00]. ICSUAM Section 11002.01. Section 1.5 defines "Recipient" of a sponsored project as the university or auxiliary, but not an individual, department or other constituent unit. Section 1.8 "Sponsored

118 Program Administrator" (SPA) is defined by the Recipient as the entity that will
119 administer the grant or contract. At SJSU, it can be the University, the Research
120 Foundation (Office of Sponsored Programs) or the Tower Foundation (pre-award
121 work for Tower Foundation is performed by Corporate and Foundation
122 Relations).

123
124 In consultation with the Associate Vice President (AVP) for Research or his/her
125 designee (hereafter: the term AVP for Research includes his/her designee except
126 where specified), SPAs help the Principal Investigator (PI) address the
127 requirements governing proposal preparation and submission, award negotiation,
128 and post-award management . SPAs assist with identification of possible funding
129 opportunities, management of solicitation of internal applications for limited
130 submission opportunities, and facilitate development of current and pending
131 reports. SPAs also negotiate and execute Materials Transfer Agreements, Non-
132 Disclosure Agreements, IP and Tech transfer agreements, and other legal
133 instruments associated with sponsored programs.

134
135 The PI, acting for and on behalf of SJSU, has primary responsibility for the
136 management of his/her sponsored project in accordance with federal, state,
137 University, and sponsor requirements. For every funded award, a single PI must
138 be designated who personally participates in the project to a significant degree.
139 In circumstances where a sponsor specifies that the PI must be the President,
140 Provost or Dean, the designated PI will serve on behalf of the President, Provost,
141 or Dean.

142

143 **B. Principal Investigator Eligibility**

144 1. Internal Eligibility

145 The PI and any co-PIs must be qualified by education, training and experience
146 in the area in which the funded RSCA or other project is being conducted.
147 Generally, faculty members at SJSU on the tenure-line having the rank of
148 Assistant, Associate or Full Professor as described in their letter of
149 appointment are eligible to be a PI on sponsored projects. A co-PI may be a
150 faculty member, student, or other University personnel.

151

152 2. External Eligibility

153 Certain sponsors or funders may specify PI or co-PI eligibility criteria. Such
154 criteria may include degree(s), awards/honors, tenure, how many times the
155 individual has been a PI, faculty membership, etc. In addition to the sponsor's
156 criteria, the potential PI or co-PI must be aware of his/her own responsibilities,

157 have approval from his/her unit, and meet PI and co-PI eligibility requirements
158 as dictated by SJSU policy.

159
160 3. Exceptions

161 An administrator, faculty member in the Faculty Early Retirement Program
162 (FERP), emeritus, temporary, adjunct, visiting, volunteer faculty, University, or
163 auxiliary employee may serve as PI or co-PI with the prior authorization of the
164 AVP for Research. For academic personnel, PI and co-PI status must be
165 recommended at the department and/or college level pertaining to expertise
166 and by the Dean or designee based on the stated willingness of the potential
167 PI to comply with administrative and fiduciary requirements. Non-academic
168 personnel will use a parallel recommendation process. The petition for
169 exception is forwarded along with a Curriculum Vitae or resume to the AVP for
170 Research for final decision. The exception may provide limited approval for a
171 specific proposal or provide status for submissions for a specified period. If the
172 AVP for Research does not approve the request, the dean will be notified and
173 alternative PI solutions will be discussed.

174
175 **C. Externally-Funded Proposal Submission, Review, and Approval**

176 All requests for externally-funded, sponsored projects (including but not limited to
177 letters of intent, contracts or grant proposals that might be construed as a SJSU
178 commitment to the external party) shall only be submitted to sponsoring agencies
179 with prior written approval of the president and the chief financial officer, or their
180 designees (at SJSU, the AVP for Research and AVP for Finance, respectively).
181 The designees work closely with the SPA through which external funding
182 proposals are submitted and subsequent awards are received. Other
183 responsibilities of the SPA include: negotiating and accepting awards on behalf
184 of the University and PI (it must be emphasized that all awards are given to the
185 institution and not to the PI); drafting, negotiating and executing subcontracts;
186 representing SJSU and the PI when interacting with sponsors. The Office of
187 Research, SPA, and the PI are jointly responsible for ensuring institutional
188 compliance with Federal and State regulations; sponsor policy and University
189 policy compliance; coordinating pre-award and post-award actions that require
190 either institutional or sponsor prior approval; and reporting responsibilities.
191 Individual faculty members or non-authorized staff may not negotiate, sign,
192 amend, or accept externally funded contracts and grants on behalf of SJSU or its
193 auxiliaries. As noted above, each contract or grant proposal for extramural
194 funding of RSCA, training, and public service projects, and extramural awards
195 received for such projects, must name an eligible employee of the University or

196 auxiliary to serve as a principal investigator (see Section II B. to review eligibility
197 guidelines).

198 Funding proposals to support students' RSCA activity must be sponsored by
199 an eligible PI, as the designated PI. A student may be listed as a co-PI, but
200 may not be the point of contact or PI for the project. In general, students who
201 participate in sponsored programs must conform to all rules under the RSCA
202 Student-Advisor Section 1, in addition to the policies listed in Table 1.

203

204 **D. Principal Investigator Responsibilities**

205 While there may be any number of co-PIs, there must be one individual who is
206 recognized as PI (Lead PI) and is ultimately responsible to:

- 207 • Conduct the sponsored project and complete required reports and
208 deliverables in accordance with applicable University, SPA, and
209 sponsor or funder policies and guidelines;
- 210 • Ensure that all required University and SPA forms and
211 certifications are completed in a timely manner;
- 212 • Conduct the work on the project according to the research
213 protocol or statement of work that was submitted with the original
214 proposal or as subsequently modified by the sponsor or funder in
215 agreement with the PI and the University/SPA;
- 216 • Manage the project budget so that funds are spent in accordance
217 with financial and administrative policies and ensure timely submission
218 of expenses for reimbursement;
- 219 • Manage project personnel in compliance with federal and state
220 laws, as well as University and SPA policy;
- 221 • Manage the retention and storage of all programmatic technical
222 materials and reports in accordance with sponsor or funder guidelines
223 and requirements.

224

225 **E. Principal Investigator Performance, Compliance, and Review**

226 Satisfactory progress and review of sponsored programs are determined by the
227 sponsor or funding agency on a project-by-project basis. Any issues or concerns
228 with the performance or regulatory compliance of a PI regarding adherence to
229 University and SPA policies and procedures initially will be addressed with the PI
230 by the SPA in consultation with the AVP for Research. If the PI is non-responsive
231 or if the response does not result in adherence to applicable policies and
232 procedures, the AVP for Research will involve the dean or University official to
233 resolve the circumstances including possible reassignment of PI responsibilities
234 to accomplish compliance.

235

236 **III. Proprietary RSCA and Issues of Confidentiality**

237 In general, while it is the policy of SJSU that RSCA should be accomplished openly and
238 without prohibitions on the publication and dissemination of the results of academic and
239 RSCA activities, in certain circumstances issues related to confidentiality or proprietary
240 RSCA may take precedence. Proprietary RSCA refers to information or materials that
241 cannot be made public or disseminated without the approval of the entity that owns the
242 proprietary rights to that information or materials. SJSU recognizes that some
243 publishable work can best be accomplished if a University investigator(s) has access to
244 a sponsor's proprietary information or materials. Confidential research is any research
245 that may need be kept non-public, but is not necessarily proprietary (e.g., medical or
246 academic records). Specific situations are governed by complementary policies.
247 Classified research is covered by SJSU University Policy F69-12. Student theses are
248 governed by SJSU University Policy S14-10. RSCA involving human subjects are
249 governed by SJSU University Policies S08-7 and F08-1. RSCA dissemination related to
250 Intellectual Property and Conflict of Interest is governed by SJSU University Policies
251 S96-11, F98-3, and S99-11. The pursuit of RSCA upholds the principles of Academic
252 Freedom and Professional Responsibility as outlined in SJSU University Policy S99-8.

253 254 **A. Confidentiality with RSCA Projects**

255 Information gathered and/or generated in RSCA projects may need to be
256 considered as confidential or proprietary. This information may include, but is not
257 limited to, personal information regarding other RSCA team members, industry
258 partners, and funders, as well as intellectual property, marketing plans, and
259 financial and operational information. Every member of a RSCA team must take
260 all reasonable precautions to ensure that access to this information is restricted
261 to authorized individuals as determined by the PI of the team. RSCA team
262 members may travel with confidential information to a location on campus or
263 outside the campus, but team members must receive permission to do so from
264 the PI. PI's should inform students on the requirements of confidentiality and to
265 mentor students as to the appropriate uses and contexts for sharing RSCA
266 information. When contacted by the media regarding a RSCA project, only
267 designated media spokespersons are authorized to communicate with media
268 sources.

269 270 **Non-Disclosure Agreements**

271 A Non-Disclosure Agreement (NDA) is a legally binding agreement that typically:

- 272 ● Defines and describes information, knowledge, or materials to be
273 shared between or among the parties; and
- 274 ● Restricts the usage and disclosure of the shared information,
275 knowledge, or materials.

277 Any NDA which purports to apply to SJSU or any department or unit thereof (or
278 to commit or bind SJSU) can only be signed by an authorized SJSU
279 administrator. Any SJSU faculty or staff member who signs without authorization
280 could face individual legal liability for non-compliance with the NDA. NDAs which
281 are related to individual private business or consulting are not subject to SJSU
282 authorization. However, if these partnerships develop into a RSCA activity, a
283 conflict of interest declaration must be made and managed by an authorized
284 SJSU administrator, and a new NDA may be required. A conflict of interest
285 declaration is also required if the RSCA member is participating both in an
286 individual consulting and a sponsored RSCA project with the same entity.
287

288 NDAs may be proposed when the University is considering entering into a
289 business relationship with a company or individual and where there is a need to
290 understand or evaluate each other's technology, research or processes, some of
291 which might be proprietary or otherwise sensitive in nature. Any questions
292 regarding proprietary research, confidential research, or the use of NDAs should
293 be referred to the Office of Research.
294

295 **B. Relationships with External Entities**

296 The following statements establish the basis, under this general policy, on which
297 SJSU will enter into contractual agreements with external entities dealing with
298 RSCA. External entities may operate within a proprietary environment while the
299 University functions on the principle of free inquiry and open expression. To
300 serve the common interests of both the University and the external entities,
301 reasonable and workable guidelines for collaborative work must first be
302 established.

303 1. SJSU enters into no contractual agreement that restrains it from
304 disclosing the existence of the agreement, the broad nature of the work,
305 and the identity of the sponsor.

306 2. SJSU will not enter into any Non-Disclosure Agreement (NDA)
307 agreement that permanently bars investigator(s) from publishing or
308 otherwise disclosing the findings publicly. However, the AVP for
309 Research, on behalf of the institution and with the concurrence of the
310 investigator(s), may negotiate in advance to delay publication and/or
311 presentation for a maximum of 180 days to allow sponsors to determine
312 whether their proprietary information may be revealed, or whether they
313 will exercise their rights under patent clauses in agreements with the
314 institution. The AVP for Research on behalf of the institution with the

315 concurrence of the investigator(s) may agree to an additional delay of
316 up to 180 days.

317 3. Exceptions to Section III.B.2 may be granted by the AVP for
318 Research who may rely on the recommendation of an ad hoc
319 committee. The AVP for Research will make an annual report to the
320 President specifying exceptions granted under this provision.

321 4. This section on “Relationships with External Entities” does not
322 apply to individual, private, consulting projects.

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Table 1: Other University Policies Relating to Research, Scholarship, and Creative Activities

Roles and responsibilities	
S99-8	Academic Freedom and Professional Responsibility
S99-11	Conflict of Interests Policy for Principal Investigators
S05-13	Reporting of Organized Research and Training Units
F69-12	Prohibition of Classified Research; Academic Freedom
F12-5	Responding to Allegations of Research Misconduct
S15-7	Retention, Tenure and Promotion for Regular Faculty Employees: Procedures
S15-8	Retention, Tenure and Promotion for Regular Faculty Employees: Criteria and Standards
Intellectual property	
F98-3	Intellectual/Creative Property

S96-11	Fair Use of Copyrighted Materials; Intellectual Property
Treatment of research subjects	
S14-6	Policy and Assurance for Humane Care and Use of Animals at SJSU
S08-7 , F08-1	Policy for Protection of Human Research Subjects

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330 **Approved (C&R):** April 5, 2017

331 **Vote:** 11-0-0

332 **Present:** Buzanski, Cargill, Chang, Chung, Grindstaff, Heil, Mathur,
333 Matoush, Rodan, Stacks, Trulio

334 **Absent:** Anagnos, Medrano

335

336 **Curricular Impact:** None anticipated.

337 **Financial Impact:** There is potential for University personnel to expand their
338 grant and funding opportunities.

339 **Workload Impact:** The Office of Research may have increased workload as
340 University personnel contact them for guidance in
341 conducting RSCA, proprietary research and confidential
342 research.