SAN JOSE STATE UNIVERSITY ACADEMIC SENATE

2018/2019

Agenda

October 1, 2018, 2:00 pm – 5:00 pm

Engineering 285/287

I. Call to Order and Roll Call –

II. Approval of Minutes:
Senate Minutes of September 17, 2018

III. Communications and Questions:

A. From the Chair of the Senate

B. From the President of the University

IV. State of the University Announcements:

A. Statewide Academic Senators
B. Provost
C. Associated Students President
D. Vice President for Administration and Finance
E. Vice President for Student Affairs
F. Chief Diversity Officer
G. CSU Faculty Trustee (by standing invitation)

V. Executive Committee Report:

A. Minutes of the Executive Committee –
EC Minutes of September 10, 2018

B. Consent Calendar –

C. Executive Committee Action Items –

VI. Unfinished Business:

VII. *Policy Committee and University Library Board Action Items (In rotation)*

A. Professional Standards Committee (PS):
AS 1711, Policy Recommendation, Principles Regarding Privacy of Electronic Information, Rescinds and Replaces F97-7, Policy on Privacy of Electronic Information (Final Reading)

AS 1710, Sense of the Senate Resolution, Advocating Additional Protections for the Privacy of Electronic Information at San José State University (Final Reading)

B. Organization and Government Committee (O&G):
AS 1708, Policy Recommendation, Charge and Membership of the Institutional Review Board (Final Reading)

AS 1669, Amendment to Senate Constitution Regarding Administrative Representatives (Final Reading)

AS 1656, Modification of Bylaw 1.10 Pertaining to Administrative Representatives on the Senate (Final Reading)

C. University Library Board (ULB):

D. Curriculum and Research Committee (C&R):

E. Instruction and Student Affairs Committee (I&SA):

VIII. Special Committee Reports:

IX. New Business:

X. Adjournment:

2018/2019 Academic Senate

MINUTES
September 17, 2018

I. The meeting was called to order at 2:00 p.m. and roll call was taken by the Senate Administrator. Fifty Senators were present.

Ex Officio:
Present: Frazier, Van Selst, Manzo, Lee, J., Rodan

Administrative Representatives:
Present: Day, Ficke, Wong(Lau) Papazian
Absent: Faas

Deans:
Present: Ehrman, Stacks, Elliott, Olin
Absent: None

Students:
Present: Fernandez-Rios, Gallo, Gill, Pang, Rodriguez
Absent: Kethepalli

Alumni Representative:
Present: Walters

Emeritus Representative:
Present: Buzanski

Honorary Representative:
Present: Lessow-Hurley

General Unit Representatives:
Present: Higgins, Matoush, Monday, Trousdale
Absent: Hurtado

CASA Representatives:
Present: Schultz-Krohn, Shifflett, Grosvenor, Chin, Sen
Absent: None

COB Representatives:
Present: Bullen, He, Khavul
Absent: None

EDUC Representatives:
Present: Marachi, Mathur
Absent: None

ENGR Representatives:
Present: Ramasubramanian, Kumar, Sullivan-Green
Absent: None

H&A Representatives:
Present: Khan, Riley, McKee, Mok, Ormsbee
Absent: None

SCI Representatives:
Present: Cargill, French, Kim
Absent: White

SOS Representatives:
Present: Peter, Wilson, Curry, Hart
Absent: Trulio

II. Approval of Academic Senate Minutes–

The minutes of May 14, 2018 (Last meeting of 2017-2018) were approved.
The minutes of May 14, 2018 (First meeting of 2018-2019) were approved.

III. Communications and Questions –

A. From the Chair of the Senate –

Chair Frazier made a few comments on the passing of Dr. Amy Strage regarding how committed and dedicated Dr. Strage had been to the University and the Academic Senate; the Academic Senate and Emeritus Faculty Association expressed condolences. More information will be available on services for Dr. Strage in the near future.

Chair Frazier welcomed new senators; Interim Provost Joan Ficke and VP Patrick Day.

The Athletics Division will be scheduling a presentation sometime this semester to the Academic Senate on the topic of concussions.

B. **From the President of the University** –

President Papazian expressed condolences to Dr. Army Strage's family on her recent passing. This reminds all of us how precious life is.

President Papazian commented that the university is completely committed to the faculty with regard to the Research, Scholarship, and Creative Activity (RSCA) movement and the university is in it for the long haul. This was a long time in coming and the President thanked Interim Provost Ficke for putting it into action. It is up to the faculty now to embrace it and produce the kind of work she knows they are capable of.

The President's Office will be putting out a call for a new Faculty Athletics Representative (FAR) in accordance with university policy and will be working with the Senate Chair and the Athletics Board. The current FAR has received a grant for research that will not allow him to complete his term.

The Provost Search Committee has met and finalized the position description. We are now in serious recruiting mode. The President hopes to bring finalists to campus right after Thanksgiving. The President thanked Interim Provost Ficke for her assistance and said she was already making a positive impact.

The President will be moving ahead with the creation of the VP of Innovation and Research position. She has discussed it with the administration and feels the time is right.

The Board of Trustees approved the design for the new Science building. They were a little shocked to learn the university had not had a new academic building in 30 years. The President reminded them outside the meeting that we hope not to wait another 30 years for another building. There will be eight floors. Each floor will have laboratories and space for teaching.

The President hopes to wrap up work on the goals and objectives of the Strategic Plan this Fall.

We had a respectable budget this year, but the process is already beginning for next year. The trustees are very interested in developing a three-year budget so we have some ability to plan. They would also like to move toward a different funding model so that there is a sustainable source of funding that is separate from the discretionary budget the Governor decides to give us each year.

Questions:
C: Thank you on behalf of the Academic Senate for the RSCA plan that you and your administration have produced. Research has been unfunded for faculty at SJSU for 40 years.

IV. Executive Committee Report:

A. Minutes of the Executive Committee:

Executive Committee Minutes of May 7, 2018 –
Executive Committee Minutes of May 21, 2018 –
Executive Committee Minutes of June 14, 2018 –
Executive Committee Minutes of July 17, 2018 –
Questions:
Q: What is a power lounge and what does it mean to be SJSU branded?
A: At the San José Mineta Airport, Gate 18, there is a lounge in terminal A and a lounge in terminal B that have lots of outlets. The airport calls them power lounges. The one in Terminal B has images of alums and faculty members from San José State University such as Yosh Uchida.
Executive Committee Minutes of August 16, 2018 –
Executive Committee Minutes of August 27, 2018 –

Consent Calendar:
The consent calendar of September 17, 2018 is approved.

B. Executive Committee Action Items:

Chair Frazier presented ***AS 1704, Sense of the Senate Resolution, Information to the campus community for serving and assisting undocumented Spartans (First Reading).*** Senator Shifflett presented a motion to suspend the rules and make AS 1704 a final reading. The motion was seconded. The Senate voted and the motion passed with No Nays and 1 Abstention. [Senator Manzo suggested that prior to hanging the the sign provided, faculty and staff attend the training at the UndocuSpartan Student Resource Center so they know what to tell students. Senator Mok suggested that UCCD ask one department member to take training and then train all their faculty. Chair Frazier will ensure the resolution is distributed widely.] **The Senate voted and AS 1704 was approved unanimously as presented with No Nays or Abstentions.**

Chair Frazier presented a motion to switch the October 1 and October 15 Senate meetings. The motion was seconded. VP Faas has requested additional time to prepare the budget presentation and is requesting the budget presentations be held at the October 15 Senate meeting. **The Senate voted and the motion passed with No Nays or Abstentions**.

V. Unfinished Business:

VI. Policy Committee and University Library Board Action items (In rotation):

A. Organization and Government Committee (O&G):

Senator Shifflett presented ***AS 1707, Senate Management Resolution, Rescind Outdated Resolutions: SM-F82-3, SM-S84-4, SM-S87-3, SM-F88-2, SM-S89-3, SM-S90-3 (Final Reading).*** Senator Shifflett presented a friendly amendment to remove "SM-S89-3" from the title and line 24, as well as to strike all language pertaining to SM-S89-3 in lines 37-40. **The Senate voted and AS 1707 passed as amended with No Nays or Abstentions**.

Senator Shifflett presented ***AS 1669, Policy Recommendation, Amendment to Senate Constitution: Regarding Administrative Representatives (First Reading)***.

Question:
Q: Can you provide the Senate an example of an AVP from outside Academic Affairs?
A: In Academic Affairs the AVPs include the AVP for GUP, the AVP for Faculty and Student Success, the AVP Research, and the AVP for Academic Budgets and Planning. Outside of Academic Affairs there are 11 AVPs.
C: Maybe a list of both would be beneficial prior to debate.
A: I will share that with the committee.

Q: You took out the language about the staggered two-year terms, is there a reason?
A: We worked really hard to separate membership and process in the constitution and bylaws. The term would be changed in the bylaws.

Q: Did the Executive Committee discuss reevaluating where the Senate feels it wants to put its priority, because it has been mentioned that it is not a faculty Senate but an Academic Senate and we know there are a lot of functional areas in other divisions. One of the challenges would be determining who among the 11 outside of Academic Affairs would be the best person to have on the Senate. I got the sense from our previous discussion that this may depend on what issues are coming before the Senate, so where do we want to put our strengths?
A: We have had all those discussions and more. O&G did talk about needing at the leadership level representation on the Senate, which is our President and VPs. However, we also discussed needing leadership at the level of where it gets done and that would be the AVPs. The actual selection of the AVP outside of Academic Affairs would be made by the President in consultation with the Executive Committee.

Q: Did the committee consider having someone from University Advancement that has outreach to donors?
A: There are four AVPs in University Advancement that would be in the mix of the 11 AVPs outside of Academic Affairs for consideration. The VP of University

Advancement used to sit on the Senate, but the Executive Committee and the Senate agreed that the VP of University was needed elsewhere rather than stuck in Senate meetings. The seat was then removed from the Senate and replaced with the Chief Diversity Officer.

Senator Shifflett presented ***AS 1656, Modification to Bylaw 1.10 Pertaining to Administrative Representatives on the Senate (First Reading).***

Questions*:*
Q: I'm not understanding the need to identify who is an AVP outside of Academic Affairs and who reports to the Provost. What is the objective?
A: What we are trying to do is clean-up language. In the bylaw right now, it speaks to Academic Deans reporting directly to the Provost.
Q: They are all within the division, so there are a lot of language issues. If you are looking for Academic Affairs Leadership Team that would include a range of folks that might or might not report directly to the Provost.
A: I agree. We have cleaned-up the language and removed "Academic Deans" and in its place added an "AVP within Academic Affairs." This takes away vague language that was there that really didn't have a meaning on campus and puts in its place the concrete language, "AVP within Academic Affairs."

Senator Shifflett presented ***AS 1708, Policy Recommendation, Charge and Membership of the Institutional Review Board (First Reading).***

Questions:
Q: On page 3, line 100, can you explain the differences in the number of faculty from the various colleges?
A: My understanding is that the volume of IRB proposals necessitates additional representation from Education, Health and Human Sciences, and Social Science.
C: Yes, the increase in faculty was in response to a task force report evaluating workload issues and was specifically to get certain disciplines and have the expertise available since they were having an overwhelming number of protocols from those disciplines. However, it has turned out that the number of protocols per year remains high, around 400 per year. It is interesting that we have a single IRB Coordinator, where other campuses have two or three. Our coordinator is extremely capable and we have a responsive IRB. Thus, we have been able to keep up with the demands. There is one other thing on the horizon. The federal government has notified us they are changing some of the rules. We should see a decrease in the number of protocols going out, because they will only need to be registered and not evaluated. In the future, we may have a diminished need for some of the membership, but we are not there yet.

Q: Even with the federal changes it seems to me that if we change our standards we could have the potential for compromising some of the protocols going out?
A: The way the process is happening currently is that there is a decision tree that the PI makes you use and if there is any doubt then it comes to the coordinator. If the

coordinator signs off on it then the institutional officer (the AVP) looks at it as well, so there are always two people overseeing it.
Q: I'm questioning not having the Associate Dean for Research be on the IRB, especially when the AVP must sign off on it?
A: The AVP has always reviewed and signed off after the IRB process.
Q: So there is no additional value to having the AVP on the committee?
A: No.

Q: Why are you switching the Associate Dean with the IRB Coordinator?
A: It is a matter of why duplicate when you only need one or the other. The Office of Research is already represented by the IRB Coordinator, so the Associate Dean being there is not needed. This is coming from the IRB.
C: We were not in this position say 10 years ago, but we've invested considerable amount of professional development for the IRB Coordinator. The IRB Coordinator is an Analyst III position, which is a high level Analyst position that has a ton of certifications to do with data privacy, ethics, etc. Every year the coordinator attends additional training to ensure she stays up-to-date. In the past, if we had someone that was just going through the mechanical administrative kind of work, we would not have moved to have this position become a voting member which we did several years back.
C: This reminds me that we are lucky to have a capable person in the coordinator spot now, but what if that person leaves? Maybe we'd be better off having an appointee from the Office of Research as a member of the IRB.

Senator Shifflett presented ***AS 1709, Senate Management Resolution, Modification to the Membership of the Professional Standards Committee (Final Reading). Senator Stacks presented a friendly amendment to add the Student Senator seat that was accidentally dropped from the resolution***. **The Senate voted and AS 1709 was approved as amended with 1 Nay and No Abstentions.**

B. University Library Board (ULB): No report.

C. Curriculum and Research Committee (C&R):
Senator Schultz-Krohn presented ***AS 1705, Policy Recommendation: Rescind S02-6: Metropolitan University Scholars Experience (MUSE) New Student Seminar Program in Core General Education (First Reading).*** Senator Schultz-Krohn presented a friendly amendment to correct the vote to "9-0-1." Senator Shifflett presented a motion to suspend the rules and make AS 1705 a final reading. The motion was seconded. The Senate voted and the Shifflett motion passed. **The Senate voted and AS 1705 passed as amended with No Nays or Abstentions.**

Senator ***Schultz-Krohn presented AS 1706, Policy Recommendation, Rescind S73-10, Admission of Disqualified Students to Extension Courses (First Reading).*** Senator Mathur presented a motion to move the resolution to a Final Reading. The motion was seconded by Senator Shifflett. The Senate voted and the Mathur motion

passed with 4 Nays and 0 Abstentions. **The Senate voted and AS 1706 passed with 4 Nays and 3 Abstentions**.

D. Instruction and Student Affairs Committee (I&SA): No report.

E. Professional Standards Committee (PS):
Senator Peter presented ***AS 1711, Policy Recommendation, Principles Regarding Privacy of Electronic Information: Rescinds and replaces F97-7 (First Reading).*** Some of the language in the broad principles came from the AAUP document. We believe the statement of principles is stronger than the old 1997 policy. This policy recommendation will be implemented through a Presidential Directive. This gives the President the authority to figure out the best way to put it into practice.

Questions:
Q: When this comes back can we switch the order so that we approve the new policy prior to rescinding the old policy?
A: This policy rescinds the old policy simultaneously with passing the new policy. However, it is important that we reach a final action on the policy recommendation before we reach a conclusion on the Sense of the Senate Resolution on the same subject, because the Sense of the Senate Resolution refers to the new policy.

Q: When I do research I cannot make contracts on behalf of the university, so I rely on the contract the university has with me, which is that they will maintain the privacy of all the records I have. In the past, when colleagues have faced situations of intrusion, attempts to get research records, etc. the university has stood by them. This document doesn't look like something that would protect me. If I go forward with research on people that could be harmed can I tell the IRB that I have things in place that will protect the subject?
A: You mean with regard to this particular policy recommendation?
Q: Yes.
A: Well, this is more than what we have right now.
Q: If I say someone is going to be protected, I think I'm overstepping my bounds.
A: There are other protections in the ethics and misconduct policies. The university may choose to defend the integrity of your research whether there is policy or not. The 1997 policy is vaguer and less protective than this one, and that is what we've been operating under for 21 years.

Q: We were all recently sent information on cybersecurity protection being mandated by the Chancellor's Office. Looking at 1.5 and storage, what would that fall under that?
A: When this first came up I started googling and found some detailed info at other campuses. PS is interested in learning more about this before bringing a final document.

Q: Would you ask the committee if there is room in the policy to add a paragraph

that speaks to minimum intrusion?
A: Yes. There was language in the original replacement policy the Senate passed, but that was not acceptable to the President. However, we are urging that that language appear in the Presidential Directive.

Q: At some point can someone explain to us how information is stored and passed around?
A: I'd recommend the Senate invite the Information Security Officer to come and speak to the Senate. The Information Security Officer spoke to the PS Committee twice.

Q: Would there be a possibility to add another principle for algorithmic transparency and accountability?
A: Email me the language and PS will review it. We'd prefer to put most of the changes in the Sense of the Senate Resolution. We are trying to adhere to what the President wants in the policy as this policy has been three years in the making. I'm not sure if the President would approve another principle or not.

Senator Peter presented ***AS 1710, Sense of the Senate Resolution, Advocating Additional Protection for the Privacy of Electronic Information at SJSU (First Reading).***
This resolution accompanies the policy recommendation we discussed earlier. The PS Committee adhered to the direction of the President when preparing the policy recommendation. However, the PS Committee maintains that the privacy protections presented in the previous policy the President vetoed are essential and this Sense of the Senate Resolution urges the President to include them in a Presidential Directive. There were also numerous accompanying documents included in an attachment that were sent to the Senate. The PS Committee believes the privacy protections that were deleted from the original policy recommendation are consistent with commonly accepted standards for the protection of privacy at a university and the committee is concerned, for example, that without the incorporation of those protections in some manner, our faculty, staff, and students will have a lower level of privacy protection than that recommended by the UC and the AAUP. In the President's message, a great deal was made of the CSU Responsible Use Policy. The Responsible Use Policy covers many things besides privacy. There are several brief mentions about privacy in the Responsible Use Policy, but they are very vague. The PS Committee urges faculty to read both the Policy Recommendation and the Sense of the Senate Resolution carefully so that you understand what we are dealing with today. The final resolved clause urges that these concerns be allayed by the incorporation of some of these privacy protections into the Presidential Directive. The PS Committee outlines five of these in particular, so you understand how others have done this and what we will lack if this language is not incorporated into a Presidential Directive. The Responsible Use Policy for the CSU specifically makes provisions for campus policies to supplement it. If the policy recommendation is adopted, it calls for a Presidential Directive.

Questions:

C: Thank you so much for this. It is so timely. There was an FBI publication last week raising alarm on education technology and student data privacy. I just wanted to add that I'm not sure where that statement of algorithmic transparency would be more appropriate, either in the Policy Recommendation or the Sense of the Senate Resolution. I'll send you information. There are a number of key important updates. Also, can there be something about communication with the campus community routinely about information privacy and updates like that FBI announcement, etc.

Q: Thanks for the footnotes. They help put everything in context. When I step back and think about privacy protection, I don't see any distinction between the UC and CSU. I don't see why something might be needed in the CSU that isn't needed elsewhere. Am I missing something?

A: No.

Q: Could you give us a brief rundown on other campus policies and possibly add one more footnote?

A: We been a leader on this since 1997. I think we had the first privacy policy in the CSU. It is a good question. Most of the other campuses do rely heavily on the CSU's Responsible Use Policy and I believe the provision in the CSU Responsible Use Policy that says campuses can have their own policy is because of our 1997 policy. PS will do some research to see what the other campuses have.

VII. State of the University Reports:

A. Provost:

Those of you that saw the memo the Interim Provost sent out on September 4, 2018 regarding Research Scholarship and Creative Activity (RSCA) know that it is a three-year process. The Office of the Provost has worked very hard on this. There are two prongs. The first is a disciplinary prong. All of the deans and their faculty have worked on metrics that they think are sensitive to the needs of the disciplines of their colleges, so one is not the same as the other. The other prong is a university expectation that this will be real scholarship. We are looking at something that connects directly with their teaching excellence. It is not about just one less course. Interim Provost Ficke thanked AVP Stacks, Marc D'Alarcao, and Deputy Provost Carl Kemnitz for their hard work on RSCA.

We will be having a site visit in early October or November 2018 to evaluate our graduate programs. As the President is fond of saying, "We have more graduate students than Stanford has Undergraduate students." This is followed by a visit in November 2018 by Shawn Gallagher who will be looking at the post-baccalaureate eco system.

B. AS President:

AS had their audit approved.

Senator Chelby Gill is leading a team working on a restructure of AS Student Government this year. Part of that structure will be an Academic Affairs Council that will have students from each college.

AS approved a $30,000 donation for the Economic Crisis Response Team.

The AS Annual Report will be out soon.
There was a recent graduate student mixer hosted by AS and the students expressed a lot of interest in working with faculty on their research projects. Please reach out to them they are eager to help.

C. Vice President for Administration and Finance:
VP Faas could not be here today, but he sent a message. Faculty and staff can enjoy all you can eat in the commons on Fridays for $6.

D. Vice President for Student Affairs:
The VPSA is going to be spending a lot of time thinking about and working on the safety of the residential quad on campus.

The VPSA will also be looking at and working on the student conduct process and evaluating job descriptions and any structural issues.

The last thing the VPSA will be looking at is enrollment. Census is just a few days away and we are looking at 35,172. It is a strong enrollment, but it is a dip from last year and not necessarily a small dip. It is nothing to be worried about, but it is about a 500 student dip. We are up in some of our student population such as transfer students. However, we are down in other areas such as International students and we need to know exactly where those numbers are moving so we can catch and make changes.

[Senator Shifflett presented a motion to extend the meeting by 5 minutes. The motion was seconded by Senator Buzanski. The Senate voted and the Shifflett motion passed.]

E. Chief Diversity Officer (CDO):
The CDO is continuing the Faculty Diversity search committee training that she began last semester. Using funds from the faculty diversity grant the CDO received, she is sending several faculty members to conferences. The CDO is also working on developing exit interviews for faculty.

The Title IX Coordinator will start on October 22, 2018. The CDO will now be looking for a Diversity Trainer.

There were 101 campus members that signed up for the Intergroup Dialogue Training that spans 4 ½ days.

F. CSU Faculty Trustee (by special invitation): Report distributed electronically.

This is Constitution Day. Trustee Sabalius sent out his preliminary report to the Senate listserv. The report doesn't include the recent financial deliberations. Trustee Sabalius will have more to report on that at the next Senate meeting. The Board of Trustees approved the Interdisciplinary Science Building design. Trustee Sabalius will have three reports to talk more about at the next meeting and they include the Graduation Initiative, International Education, and RSCA.

G. CSU Statewide Senators:

The ASCSU has been discussing GE changes from the Chancellor and Shared Governance and Processes in the CSU. Senator Lee will forward additional information to Senators.

VIII. Special Committee Reports:

A. Annual Report on Recruitment, Hiring, and Retention of a Diverse Faculty by Interim Provost Joan Ficke, Time Certain: 3:00 p.m.

A handout was distributed to all Senators. There have been 65 newly hired tenure track faculty hired for this Fall and equally as many lines approved for next year. Surprisingly, while 56% are white, 24% are Asian, 7% are Hispanic/Latino, 3% are Black, .4% are American Indian, and 10% are in the Other category. Although this doesn't match the undergraduate student population, it is something SJSU should be very proud of being in the heart of Silicon Valley. While there is still a way to go, SJSU has come a great distance. The ratio between lecturers and tenure-track faculty has shifted considerably on other campuses, but not so much here. SJSU has been able to establish some consistency with regard to the number of lecturers (see handout for details).

Questions:

Q: Can you speak to the reason for the departures? We seem to be doing a good job recruiting, but aren't so successful keeping our faculty.
A: It is difficult to live in this area and keep qualified people due to the cost of living in the area. People are not leaving because they are unhappy with SJSU. They are probably having some issues living in this geographical region. However, we are recalibrating the opportunity for tenure-track faculty to have the kind of professional life offered in other places. I suspect this will change things in the future. Interim Provost Ficke thinks within two years you will see a real difference.

Q: Why is the ratio of lecturers much higher in the college of Humanities and the Arts?
A: I don't know for sure, but particularly with artists, you are getting people that aren't from the academy that participate in non-traditional academic departments.

Q: I'm curious if anyone is tracking how the ratio of men to women plays out across disciplines?
A: We do this across colleges, but that can be a suggestion.

Q: Is there any way we can do exit interviews or surveys to see why faculty are leaving? I know personally over the last ten years that four of our faculty left within the first two years of arrival.
A: I've done that in the past and I'm open to suggestions. Places I have worked have had either the department chairs handle it, someone from Human Resources, or someone in the Office of the Provost. One of the Interim Provost's goals is to formalize the language used when "onboarding" new faculty. In places the Interim Provost has worked, faculty were compelled to come to orientation and were assigned a senior faculty member as a mentor.

Q: I'm curious, there are a number of long-term lecturers here that have terminal degrees and might like the opportunity to convert to tenure-tenure-track faculty. Is this something you would support?
A: My feelings about it is that I'd have to look at what the contract does or doesn't prohibit. In some places if you aren't hired for a tenure/tenure-track line you can't be in a tenure-track line. Can they be in a pool as an applicant for a position? I'd have to look at what the procedure is for that to occur. Assuming there are no barriers, there is no reason in the world a lecturer couldn't compete in a pool for a tenure-track position.

C: The CDO is hoping to use some funding from the University Diversity Grant and add some additional demographic variables other than ethnicity and gender to report on. Right now we use what is required by the national system.

Q: Those of us that do research struggle to find places to do it in. We need spaces that pull people in.
A: The Interim Provost is familiar with these concerns. The new Interdisciplinary Science Building will have both classrooms and laboratories on every floor.

C: I recommend reading the Sense of the Senate Resolution, SS-S14-1, which is the Report on Tenure Density from 2013. At that time, we were 10 or 11 points lower than other campuses in tenure density. We then flatlined at 53%.
A: This is a pattern on many campuses. You will go down when there is a budget crisis, and it takes time to recover.

B. Annual Report from the University Library Board (ULB), Time Certain: 3:30 p.m.

Chair Nick Taylor sent out the annual report by email so that Senators had a chance to read it prior to the meeting and could go right into questions. The ULB spent most of last year talking about open access publishing. The ULB was reminded that there was an Open Access Taskforce convened in 2009 to study this issue. Part of the report issued by the taskforce in 2010, was a recommendation that the ULB report back on our progress on the five resolutions that the taskforce report contained. One resolution was a Sense of the Senate Resolution that was almost word-for-word what we were proposing last Spring. That was passed in April of 2010. The second

recommendation involved student thesis. It was recommended that the policy on student thesis be reviewed so that student theses could be published on the institutional repository which is now SJSU Scholarworks. Emily Chan, the Interim Associate Dean for Research and Scholarship for the library runs Scholarworks and is here today to answer any questions about it. Those of you that have been here since 2014 know that the master's thesis and doctoral dissertation policy was revamped and republished as S14-10. The third recommendation was encouraging faculty to disseminate their published research on the institutional repository, SJSU Scholarworks. The library has done quite a bit of work on that including periodic emails that go out to faculty reminding them about Scholarworks, or introducing them to Scholarworks, and encouraging them to contact Emily with any questions or concerns. The library also participates in faculty orientation. The fourth recommendation was regarding residual rights. The university does not have an official policy requiring faculty to retain their residual rights, but in most cases it is possible for faculty to publish pre or post-print versions of their research in their institutional repository in addition to publishing in any proprietary journals that they choose. The ULB plans on sending out a faculty newsletter called "Smart Notes" on that topic this year. The fifth and final resolution was to modify RTP guidelines to treat open access publications on par with other publications. The RTP guidelines were not modified. The ULB was told this was not appropriate for a university-level policy and that it should be handled at the college and departmental level. Our plan for extending our education on this issue to departments is to work with the Professional Standards Committee on model language that can be given to departments that they can incorporate into their departmental RTP standards. I know that the English Department has incorporated some language like this in their standards. Finally, the ULB added a note about predatory journals. That is journals that pose as open access and then try to extract fees from faculty members who are hoping to publish. This is especially true with junior faculty members and with faculty members in other institutions around the world. The ULB is going to send out a newsletter about this as well.

Questions:
Q: The Political Science Department's RTP Guidelines were published and they contain language about open access if anyone wants to review them.
A: I congratulate you on that.

Q: Can you explain more about the resources available to help with predatory journals?
A: When faculty receive unsolicited emails relating to open access, I would suggest they check that title against the library's list of approved journals. The smart notes are newsletters that ULB has published throughout the semester.
C: I would suggest that the list be distributed to the departments for further distribution to the faculty.

Q: You mentioned that you are encouraging faculty to negotiate residual publishing rights, so that if they have a publication out there they are able to publish on

Scholarworks is that correct? So, in likewise fashion would a master's thesis be on Scholarworks? I have run into this whereby our students are trying to publish sections or part of it and it is coming up through their plagiarism mechanism. What do we do about this, or is this addressed in this particular opposition statement?
A: That's not addressed in this particular opposition statement, but with the recent Senate approval of S14-10 there is an embargo that can be placed on student work for up to five years. If a student wishes to publish part of their master's thesis they can suppress that for up to five years. Additionally, some publishers do not consider putting your work in an institutional repository as publishing. Depending on the journal publisher, they see master's level work or a doctoral dissertation as a very different thing than a journal article. It depends on the discipline and the publisher.

IX. New Business: None

X. Adjournment: The meeting adjourned at 5:07 p.m.

	Committee	Consent Calendar Last Name/First Na	Zip	1-Oct-18 Term	Phone	College/Seat
ADD:						
	University Library Board	Ramsour, Mariah		2019	mariah.ramsour@sjsu.edu	graduate student

		9/24/2018				
ADD:						
	International Students & Prograr	Zartoshty, Parinaz	0221	EXO	46571	Director, Int'l Pgms and Svcs/A
	Athletics Board	Neighbors, David	no campu	EXO	408-294-1025	Spartan Foundation Pres or designee/D
	Professional Standards	Kemnitz, Carl		EXO		A
	University Library Board	Crudo, Jason		EXO	jason.crudo@sjsu.edu	1/AS President or designee
REMOVE:						
	International Students & Prograr	Makhni, Leanne Che	0221	EXO	46571	Director, Int'l Pgms and Svcs/A
	Athletics Board	Donahue, David		EXO		Spartan Foundation Pres or designee/D

Executive Committee Minutes
September 10, 2018
ADM 167, 12:00 p.m. to 1:30 p.m.

Present: Frazier, Shifflett, Lee, Peter, Day, Sullivan-Green, Ficke, Marachi, Manzo, Faas, White, Papazian, Mathur, Wong(Lau), Riley

Absent: None

1. The Executive Committee minutes of August 27, 2018 were approved as amended by Senator Shifflett and Interim Provost Ficke.

2. There was no dissent to the consent calendar of September 10, 2018.

3. The committee discussed and selected faculty-at-large members to the Accreditation Review Committee (ARC) and the Institutional Review Board (IRB).

4. The committee discussed AS 1703, Policy Recommendation, *Firearms Policy*. The discussion focused on whether this should be a university policy or a presidential directive. The administration feels this is a management issue and should be handled by management with consultation and communication from the campus.

5. Update from the President:

   The President will be sending out a call for a new Faculty Athletics Representative (FAR). The current FAR has received a grant and will need time for research activity. The President will work with the Senate Chair and the Athletics Board Chair in accordance with university policy.

   The design for the new Science Building is on the upcoming Board of Trustees' Agenda.

   Questions:
   Q: When will information go out to departments about budgets with regard to what they can and cannot do?
   A: There has been no change to what departments have done in the past except for unused headcount resources. If departments need additional Operating Expenses (O&E) funds, then they should submit a request to the Provost Office based on O&E actual need as extra funds from unused headcount resources will not be available.

6. The committee discussed and approved as amended AS 1704, Sense of the Senate Resolution, *Information to the campus community for serving and assisting undocumented Spartans*. The resolution will be introduced at the next Senate meeting.

7. Updates from the VPs, AS President, and Policy Committee Chairs:
    a. From the Vice President for Student Affairs:
    A mobile food pantry was held today.

    The VPSA continues to work with the student that was abducted at the ATM.

    The VPSA will have more information on enrollment at the next meeting.

    Questions:
    Q: Will there be a centralized food pantry, and are we reaching all faculty and students about it?
    A: There is discussion about this right now.

    b. From the AS President:
    AS recently held a transfer student mixer.

    AS has $2,700 available for student organizations.

    Spartan Legacy training will be held on September 27, 2018.

    AS will host a Community Action Summit next Friday.

    Homecoming week is coming. AS will host the “Fire on the Fountain” event as well as a Gulf Cart Parade for departments that wish to participate.

    At the most recent board meeting AS approved their budget audit.

    AS has donated $30,000 to the Economic Crisis Response Team.

    c. From the CSU Statewide Senate:

    The ASCSU met last Thursday, Friday, and Saturday. There is discussion about a CSU system-wide Human Resources package. Faculty would be recognized in the new system separately from other employees.

    The Chancellor is considering the concept of an international experience and is spotlighting things faculty are doing with international students.

    The General Education (GE) Taskforce made recommendations on how to change GE. Students are being told they don’t need to take history anymore, and multicultural classes don’t fit with GE classes. Community colleges are giving credit for military service and offering weekend classes for adult learners.

d. From the Provost:
The workload realignment, to a 3/3 course load with reassigned time for research-active faculty, will phase in over three years. The deadline for Spring 2019 is September 28, 2018.

A group of consultants will be on campus October 1st, 2nd, and 3rd, 2018 that evaluate graduate schools. In addition, Sean Gallagher will be on campus to analyze the post-baccalaureate ecosystem on November 27th or 28th, 2018.

e. Chief Diversity Officer (CDO):
The CDO has hired a new Title IX Coordinator and Title IX Investigator.

The CDO has set up a faculty diversity reading group for this semester.

The CDO held a two-hour faculty search committee diversity training last week.

Using some of the funds from the Faculty Diversity Grant that the CDO received ($30,000), several faculty members will be sent to training scheduled in Alberto.

f. From the Vice President for Administration and Finance (VPAF):
The accounting group will be moved from the 5th floor of the Clark Building to 4th Street in the spring, in order to allow additional Academic Affairs and Student Affairs personnel to be relocated from the Administration Building. These additional people will join the previously announced President's Cabinet location on the 5th floor of Clark Hall (along with the Senate Chair). University Personnel will later relocate from the 7th Street garage to join the Faculty Affairs team in the Administration Building. Additionally, we will add some Engineering faculty and the Office of Diversity, Equity & Inclusion to the Administration building. Another relatively short-term goal is the movement of student-facing personnel out of the 10th street garage. Those services were never meant to be permanently housed in the garage.

An offer has been made and hopefully the VPAF will be able to hire a new Clery Coordinator. The Clery Report will be published soon.

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

These minutes were taken and transcribed by the Senate Administrator, Eva Joice, on September 10, 2018. The minutes were edited by Chair Frazier on September 18, 2018, and approved by the Executive Committee on September 24, 2018.

San José State University
Academic Senate
Organization and Government Committee AS 1656
October 1, 2018
Final Reading

Policy Recommendation
Modification of Bylaw 1.10 Pertaining to Administrative Representatives on the Senate

Legislative History: This proposal would Modify bylaw 1.10 so as to keep all process matters pertaining to the selection of administrative representatives to the senate in the bylaws while keeping identification of who the administrative representatives are in the Senate's constitution.

Whereas: Administrative changes and reporting lines have changed in the academic affairs division with the appointment of a deputy provost, and

Whereas: The language in bylaw 1.10 presently conveys that AVPs report directly to the provost, which is no longer the case, therefore be it

Resolved That bylaw 1.10 be modified as follows:

1.10 ~~The phrase "academic deans" as used in~~ With regard to Article II, Section 2 of the constitution, ~~means~~ college deans within Academic Affairs will select their two representatives for staggered two-year terms. ~~and~~ Associate Vice Presidents (AVP) within Academic Affairs will select their one representative for a two-year term. ~~reporting directly to the Provost.,~~ The President, in consultation with the Senate Executive Committee, will select an Associate Vice President from outside Academic Affairs for a two-year term. ~~Elections of representative deans shall be conducted and reported by~~ The Provost will report the selection of representative Deans and Associate Vice President from Academic Affairs to the Senate Chair. ~~and~~ Any vacancies arising before the end of a term shall be filled for the balance of that term by selection as outlined above. ~~special elections~~

Rationale: In conjunction with changes to the constitution being considered concurrently with this bylaw change, the bylaw now appropriately focuses on process. For the AVP representative outside of academic affairs, the selection process is intended to meet the needs of the Academic Senate in any given year. It therefore involves recommendations from both faculty and administrators to facilitate discussions related to the needs of the Senate in the context of University initiatives, challenges, and priorities.

Approved: 9/24/19
Vote: 8-0-0
Present: Bailey, Capizzi French, Gallo, Higgins, Ormsbee, Rodan, Shifflett,
Absent: Curry, Grosvenor, Saldami

Financial Impact: None

Workload Impact: None

Note: For easier reading, proposed new language without edits – for reference; this will not be included in policy recommendation.

1.10 With regard to Article II, Section 2 of the constitution, college deans within Academic Affairs will select their two representatives for staggered two-year terms. Associate Vice Presidents (AVP) within Academic Affairs will select their one representative for a two-year term. The President, in consultation with the Senate Executive Committee, will select an Associate Vice President from outside Academic Affairs for a two-year term. The Provost will report the selection of representative Deans and Associate Vice President from Academic Affairs to the Senate Chair. Any vacancies arising before the end of a term shall be filled for the balance of that term by selection as outlined above.

San José State University
Academic Senate
Organization and Government Committee AS 1669
October 1, 2018
Final Reading

Policy Recommendation
Amendment to Senate Constitution Regarding Administrative Representatives

Legislative History: This proposal, if subsequently approved by the full faculty, would modify the Senate's constitution related to administrative representatives to the Senate so that an AVP from outside the academic affairs division would be selected by the President in consultation with the Senate's Executive Committee. This proposal also clarifies representation from the academic affairs division from among Deans and AVPs.

Whereas: SJSU's challenges, initiatives, and strategic goals evolve over time, and

Whereas: Clarification is needed regarding administrative representatives from the academic affairs division, and

Whereas: Interest has been expressed in a wider representation of administrators on the Academic Senate, therefore be it

Resolved That Article II, section 2 of the Senate Constitution pertaining to administrative representatives be amended as follows:

ARTICLE II -- MEMBERSHIP

Section 2. Administration representatives shall consist of the President, the Provost, the Vice President for Administration and Finance, the Vice President for Student Affairs, and the Chief Diversity Officer~~, ex officio~~; ~~and four (4) academic~~ two college deans from academic affairs inclusive of CIES and the library; one Associate Vice President from Academic Affairs; and one Associate Vice President from a division outside academic affairs. ~~at least two of whom shall be deans of colleges, elected by the academic deans for staggered two-year terms.~~

Rationale: This modification allows for the selection of administrators to the Senate whose expertise would be particularly valuable in any given year in the context of the University's changing needs over time. Historically, substantive benefits to the Senate have been realized due to the fact that our Senate is an Academic Senate inclusive of administrative representatives who can be engaged in discussions at the starting point regarding the formulation of university policy proposals. The particular designation of representatives in our constitution highlights the Senate's need for collaboration with administrators engaged in a wide range of leadership responsibilities from visionary planning to concrete implementation responsibilities across divisions.

The change also clarifies representation from among the Deans and AVPs in a way that does not require further definition in Senate bylaws. In conjunction with changes being considered to bylaw 1.10, the change keeps this section of the constitution focused on membership and places process in the bylaws.

Approved: 9/24/18
Vote: 8-0-0
Present: Bailey, Capizzi, French, Gallo, Higgins, Ormsbee, Rodan, Shifflett
Absent: Saldami, Grosvenor, Curry

Financial Impact: None
Workload Impact: None

Note 1: For easier reading, proposed new language without edits – for reference; this will not be included in policy recommendation.

> Section 2. Administration representatives shall consist of the President, the Provost, the Vice President for Administration and Finance, the Vice President for Student Affairs, and the Chief Diversity Officer; two college deans from academic affairs inclusive of CIES and the library; one Associate Vice President from Academic Affairs; and one Associate Vice President from a division outside academic affairs.

Note 2: Listing of AVPs – for reference; this will not be included in policy recommendation.

AVP's Academic Affairs
GUP
Faculty & Student Success
Office of Research
Academic Budgets & Planning
AVP's Student Affairs
Campus Life
Enrollment Services
Student Services
Transition & Retention Services
AVP's Administration & Finance
Facilities Development & Operations
Finance
AVP's Advancement
Alumni Relations
Development

Strategic Communications and Public Affairs
Advancement & Campaign Operations
University Personnel
University Personnel (senior AVP)

San José State University
Academic Senate
Organization and Government Committee AS 1708
October 1, 2018
Final Reading

Senate Management Resolution
Charge and Membership of the Institutional Review Board

Legislative History: This proposal amends the membership of the Institutional Review Board Committee to remove the Associate Dean, Research. This would supersede the charge/membership section of F17-1 (Protection of Human Research Subjects) and re-establish in this policy, membership details that were contained in F15-8 (Modification of Human Subjects Institutional Review Board Membership).

Whereas: There are presently two administrative representatives from the same office serving on IRB, and

Whereas: The IRB-HS Committee recommends eliminating the Associate Dean for Research seat, therefore, be it

Resolved That the Ex-Officio position for the Associate Dean, Research be removed,
and be it further

Resolved That the charge and membership provided here replaces the section of F17-1 pertaining to the charge and membership of IRB, and be it further

Resolved That the charge and membership provided here reinstates the section of F15-8 pertaining to the recruitment and appointment of IRB members.

Rationale: O&G this past year invited all committees to review their charge and membership. The IRB committee proposed the change in membership and the AVP for Research concurred noting that in the past, from the Office of Graduate Studies and Research, the AVP had a seat on the IRB committee. We received feedback (from OHRP, Office of Human Research Protection, a federal office) that it was a conflict to have the AVP sit on the committee and also at the end of the process approve the protocols for the institution.

The senate then passed a change to replace the AVP with the Associate Dean, but as a non-voting member. Over time, we were able to hire an Analyst Exempt III with Human Protections Analyst as her title. The senate then changed the policy to move the IRB coordinator to a voting member.

It is not necessary to have the Associate Dean on the IRB - two seats from the same office. The AVP stays informed of issues through Chair and the IRB Coordinator.

Finally, policy pertaining specifically to the charge and membership of committees is best contained in it's own document rather than embedded in other policies (e.g., F17-1 (Protection of Human Research Subjects). F17-1 rescinded S08-7 which had been modified by F15-8. However, the details regarding IRB membership contained in F15-8 were not carried forward. This update corrects that oversight and puts information related to the charge and membership of the IRB in its own policy.

Approved:	9/24/18
Vote:	8-0-0
Present:	Bailey, Capizzi, French, Gallo, Higgins, Ormsbee, Rodan, Shifflett
Absent:	Curry, Grosvenor, Saldami
Financial Impact:	None
Workload Impact:	None

Charge and Membership of Institutional Review Board - Human Subjects Committee

Charge: Facilitates the responsible conduct of inquiry by reviewing all proposals for human subject research to be conducted under the direction of University personnel, including University students; ensures that, before data collection is begun, all appropriate measures have been taken to protect the safety, personal rights and dignity of all individuals and social groups involved as participants in the project. The Board may also provide information to the campus community on IRB-HS procedures and compliance with applicable rules and regulations.

Recruitment and Appointment of Members.

1.0 Each faculty member serves a 3-year term renewable for one additional 3-year term. Student and community members serve 1-year terms. Recruitment of faculty and student members to serve on the IRB-HS will be done through the normal Committee on Committees process for the seats designated for faculty and student members.

(2) All applicants will submit a one page written statement describing their qualifications to serve on the board. It is strongly recommended that applicants attach their certificate verifying completion of one of the approved human subjects research courses (see http://www.sjsu.edu/research/irb/irb-researcher-training/index.html). Upon appointment members must complete an approved IRB reviewer course prior to voting at their first scheduled meeting.

(3) Recommendations for a physician to serve as Kinesiological Consultant will be solicited from the SJSU Kinesiology Department Chair.

(4) When there are multiple applications for any seat, the Executive Committee of the Academic Senate will select individuals to serve. In considering potential IRB-HS members, attention should focus on the person’s research skills and experience and careful consideration of the balance of new and continuing members so the board retains experienced members yet also brings on new members.

Membership

~~Assoc. Dean, Research~~
IRB Coordinator
1 faculty, Business
2 faculty, Education
1 faculty, Engineering
2 faculty, Health and Human Sciences
1 faculty, General Unit
1 faculty, Humanities & Arts
1 faculty, Science
2 faculty, Social Science

1 student
1 Community-at-large
Physician or licensed health professional
Physician (Kinesiological Consultant) - as needed
Prisoner Advocate - as needed

Note: To be compliant with federal regulations, the IRB must have a Physician or Nurse Practitioner, a student, and a community member. Link to the relevant portion in the regulations - see 46.107c

https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=83cd09e1c0f5c6937cd9d7513160fc3f&pitd=20180719&n=pt45.1.46&r=PART&ty=HTML#se45.1.46_1107

SAN JOSE STATE UNIVERSITY
Academic Senate
(Professional Standards Committee)
October 1, 2018
(Final Reading) **AS 1710**

Sense of the Senate Resolution Advocating Additional Protections For the Privacy of Electronic Information At San José State University

Resolved: That the Academic Senate thanks the President for her detailed veto message of S17-8 which made possible a compromise recommendation (conveyed separately); be it further

Resolved: That through this resolution the Academic Senate records its continued support for those privacy protections contained in S17-8 that were deleted to conform with the President's message. We hold that those provisions are consistent with commonly accepted standards for the protection of privacy at universities. We are concerned that SJSU faculty, staff, and students will have a lower level of privacy protection than their counterparts at the University of California (UC)[1] and a lower level of protection than that recommended by the American Association of University Professors (AAUP.)[2] Be it further

Resolved: That the Academic Senate finds that system wide "Responsible Use Policy"[3] lacks the safeguards needed to adequately protect privacy to the reasonable levels recommended by the AAUP or enacted by the UC.[4] Consequently, we find that augmentation by a supplemental campus policy (as provided for in the CSU Responsible Use Policy) is required;[5] be it further

Resolved: That our concerns could be allayed by the incorporation of certain commonly accepted privacy protections into the Presidential Directive referred to in the (new) policy setting forth "Principles Regarding Privacy of Electronic Information."

1. SJSU should adopt rules that make the invasion of privacy of faculty, staff, and students a rare event and one that only takes place under circumstances that are carefully defined and published. Every member of the SJSU community should know the circumstances under which their communications and records may be searched or disclosed without their consent or without their knowledge.[6]

2. SJSU should adopt rules that identify who shall be responsible for authorizing any involuntary search, and should keep clear records of each search that is authorized and the rationale for doing so.[7]
3. SJSU should adopt rules that limit the involuntary searching or disclosure of information to the least perusal of contents and the least action necessary to resolve a given matter.[8]
4. SJSU should adopt rules that require disclosure of involuntary searches to the individuals involved, following the conclusion of the investigation and subject to any legal requirements.[9]
5. SJSU should adopt rules that promote accountability for acts of involuntary disclosure. This should include some mechanism for internal oversight by a responsible party who is not responsible for authorizing the searches.[10]
6. SJSU should adopt rules that promote transparency and accountability in the design and implementation of any analytic systems that gather, use, and/or store data about SJSU community members. For example, consider adopting the suggestions provided by the Association for Computing Machinery US Public Policy Council (USACM).[11]

Rationale:

On April 20, 2018, President Papazian returned (vetoed) S17-8, which was a policy recommendation designed to secure privacy protections for electronic information at SJSU commensurate with those in place currently in the University of California system, and similar to those recommended in its white paper by the American Association of University Professors (AAUP.) Current policies pertinent to privacy of electronic information at SJSU include our obsolete campus policy (F97-7) and the CSU system "Responsible Use Policy."

In order to foster a cooperative relationship with the President and our campus Administration, the Academic Senate has produced a new policy recommendation that conforms to the instructions in the veto message. However, we continue to believe that stronger privacy protections—similar to those initially proposed--are warranted, and propose this resolution to record our support for those protections. We hope that these protections can be included in the expected Presidential Directive.

Attached to this resolution are the documents needed to understand the development of this issue:

1. *F97-7 Privacy of Electronic Information and Communications*
2. *S17-8 Privacy of Electronic Information (unsigned)*
3. *Memo From Mary Papazian RE: "Policy Rescinding and Replacing F97-7 on Privacy of Electronic Information (S17-8)*
4. *Electronic Communications Policy. University of California, Office of the President.*
5. *"Academic Freedom and Electronic Communications," AAUP*

6. *CSU Responsible Use Policy.*

Approved: (September 10, 2018)

Vote: (9-0-2)

Present: (Chin, Kumar, He, Monday, McKee, Cargill, Peter, Hart, Kemnitz, Rodriquez, Mahendra)

Absent: (none)

Financial Impact: No direct impacts

Workload Impact: No direct impacts

Endnotes:

[1] Electronic Communications Policy; University of California Office of the President. Issued November 17, 2000. Revised August 18, 2005.

[2] "Academic Freedom and Electronic Communications." See especially section IX. American Association of University Professors Committee A on Academic Freedom and Tenure, revised November 2013. "Faculty members should be involved in the setting of institutional policies surrounding the monitoring of and access to content and traffic data in electronic communications" (page 55.)

[3] California State University. "Responsible Use Policy." Last revised 6/5/2013.

[4] The Responsible Use Policy does reference privacy in its provisions 3.6, 3.9, and 4.3. While welcome, these protections are vague and fail to meet the standards of the UC or AAUP. For example, "The CSU supports and protects the ***concepts*** of privacy…" or "the CSU does not ***generally*** monitor or restrict content…" (emphasis added.)

[5] The Responsible Use Policy specifically allows for campus supplemental policies. "2.2 The policy may be augmented, but neither supplanted nor diminished, by additional policies and standards adopted by each campus."

[6] AAUP states "The policy should clearly state that the university does not examine or disclose the contents of electronic communications and traffic data without the consent of the individual participating in the communication except in rare and clearly defined cases" (page 54.)

UC system policy states "An electronic communication holder's consent shall be obtained by the University prior to any access for the purpose of examination or disclosure of the contents of University electronic communications records in the holder's possession, except as provided for below" and then lists four specific exceptions (pages 10-11.)

CSU San Marcos's *Acceptable Use of Information Technology Resources* policy (9/7/2016) contains an "Information Privacy" section contains similar language "The

consent of an electronic communication holder or account owner shall be obtained prior to the inspection, capture or disclosure of the contents of electronic communication records except as provided…" followed by a list of legal exceptions.

[7] AAUP states "Policies on electronic communications should enumerate narrow circumstances where institutions can gain access to traffic logs and content unrelated to the technical operation of these services. If a need arises to get access to electronic-communications data, a designated university official should document and handle the request, and all parties to the communication should be notified in ample time for them to pursue protective measures—save in the rare case where any such delay would create imminent risk to human safety or university property" (page 55.)

UC system policy states "such actions must be authorized in advance and in writing by the responsible campus Vice Chancellor…" (page 11.)

[8] AAUP states "Accessed data may not be used or disseminated more widely than the basis for such exceptional action may warrant" (page 55.)

UC system policy states "In emergency circumstances as defined in Appendix A, Definitions, the least perusal of contents and the least action necessary to resolve the emergency may be taken immediately…."

[9] UC system policy states "The responsible authority or designee 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.

[10] UC system policy states "Each campus will issue in a manner consistent with law an annual report summarizing instances of authorized or emergency nonconsensual access pursuant to the provisions of this Section IV.B Access Without Consent, without revealing personally identifiable data."

[11]The Statement on Algorithmic Transparency and Accountability, Association for Computing Machinery US Public Policy Council (USACM), January 12, 2017.

San José State University
Academic Senate
Professional Standards Committee **AS 1711**
October 1, 2018
Final Reading

POLICY RECOMMENDATION
Principles Regarding Privacy of Electronic Information Rescinds and Replaces F97-7 Policy on Privacy of Electronic Information

Resolved: That F97-7 be rescinded.

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

Rationale: This policy recommendation marks the culmination of several years of efforts to replace F97-7, which has been perceived as increasingly obsolete. Much has changed since 1997 regarding both information and privacy.

After extensive consultation beginning with the Qayoumi and Martin administrations and culminating with the Papazian administration, a replacement policy for F97-7 was drafted by Professional Standards and passed by the Senate on April 10, 2017, with no dissent. This policy recommendation was sent forward to the President as S17-8. It was returned (vetoed) with an explanatory message from the President on April 20, 2018, thus closing out action on S17-8.

The attached document accepts the President's instructions so as to provide a policy recommendation that is acceptable for signing. Differences between the President and the Senate on this issue, and various supporting documents, are addressed with separately in a Sense of the Senate Resolution.

Approved: (September 10, 2018)

Vote: (7-0-0)

Present: (Chin, He, McKee, Cargill, Peter, Hart, Rodriquez)

Absent: (Monday, Kumar)

Financial Impact: No direct impacts

Workload Impact: No direct impacts

POLICY RECOMMENDATION
Principles Regarding Privacy of Electronic Information

1. Principles

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 part of academic freedom and the benefits that privacy and autonomy bring to the individual, to groups, and to the culture of SJSU.

1.4. SJSU respects the privacy of person-to-person communications in all forms including telephone, electronic mail and file transfers, graphics, and videos.

1.5. SJSU supports privacy in the use of electronic communications and information storage to the maximum extent possible in accordance with CSU policy, state and federal laws, and consistent with computer system maintenance demands.

2. Implementation

The principles of this policy will be implemented by Presidential Directive.

3. 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 intrusions. Users should be warned that legal requirements may require disclosure, including but not limited to, disclosure under the Public Records Act, discovery in civil litigation, and legal searches performed in cooperation with state and federal law enforcement authorities.