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September 21, 2015

**Via Email**

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Jeremiah A. Gilbert, Ph.D.  
Academic Senate President  
San Bernardino Valley College  
San Bernardino Community College District

Denise Allen-Hoyt  
Academic Senate President  
Crafton Hills College  
San Bernardino Community College District

**Re: Request for Written Response to Academic Senates' Resolutions**

Dear Mr. Gilbert and Ms. Allen-Hoyt,

On behalf of the District's Governing Board, I am responding to your request that the Board provide a written response to the resolutions that were presented to the Board on April 9, 2015. These resolutions include: (1) a resolution adopted by the Academic Senate at San Bernardino Valley College (SBVC) opposing Gloria Fisher's work on a master's degree while serving as President (Resolution SP15.03), and (2) a "Vote of No Confidence for Chancellor" resolution adopted by the Academic Senates at SBVC and Crafton Hills College (CHC) (Resolutions SP15.02 and SP15.04).

You requested a written response pursuant to Board Policy 2510 which provides: "For purposes of academic and professional matters, the Board shall rely primarily on the advice of the Academic Senate. If the Board has a compelling reason for not accepting the advice of the Academic Senate, it shall provide that reason in writing upon request of the Academic Senate."

Please be advised that the Board is not required to provide a written response because the above-referenced resolutions are not covered by the collegial consultation provisions contained in Title 5 regulations and/or Board Policy 2510.

Section 53200(b) of Title 5 provides that an academic senate's primary function is to make recommendations to administration and the Board with respect to academic and professional matters. "Academic and professional matters" are defined exclusively in Section 53200(c) of the regulations, and in Board Policy 2510, to include the following:

1. Curriculum, including establishing prerequisites.
2. Degree and certificate requirements.
3. Grading policies.
4. Educational program development.
5. Standards or policies regarding student preparation and success.
6. District and college governance structures, as related to faculty roles.
7. Faculty roles and involvement in accreditation processes.
8. Policies for faculty professional development activities.
9. Processes for program review.
10. Processes for institutional planning and budget development.
11. Other academic and professional matters as mutually agreed upon.  
(Title 5, section 53200(c).)

The resolutions presented to the Governing Board do not fall within any of the categories enumerated above.

First, with regard to the vote of no confidence resolution, the resolution states the Academic Senates at SBVC and CHC "have no confidence in the ability of Chancellor Baron to lead our institutions in a collegial manner that best serves our students," and cites a number of reasons for the vote. While the resolution reflects the Academic Senate's concern regarding the Chancellor's leadership with respect to certain issues, the concern itself is not an "academic and professional matter" enumerated in Section 53200(c) requiring collegial consultation. This is true regardless of the validity of the underlying reasons for the vote.

The only potentially relevant category requiring collegial consultation for the no confidence resolution is contained in Section 53200(c)(6) which identifies "district and college governance structures, as related to faculty roles." However, in *Diablo Valley College Faculty Senate v. Contra Costa Community College District* (2007) 56 Cal.Rptr.3d 294, the California Court of Appeal held that a district must only consult collegially with faculty when the district seeks **to change aspects of governance structures that are related to "faculty roles"** such as, for example, curriculum or faculty hiring committees. The Court of Appeal went on to state that faculty members are not "uniquely qualified to manage their peers or to decide which management structure" a college or district should use. *Id.* Because the no confidence resolution does not involve any changes in District "governance structures" related to faculty roles, collegial consultation is not required. Furthermore, because no other category enumerated in Section 53200(c) is involved in the no confidence resolution, the Board is not required to provide a written response.

Jeremiah A. Gilbert, Academic Senate President, SBVC  
Denise Allen-Hoyt, Academic Senate President, CHC  
Re: Request for Written Response  
September 21, 2015

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Second with regard to the resolution opposing Gloria Fisher's work on a master's degree while serving as President, this resolution also does not fall within any of the categories enumerated in Section 53200(c). By letter to San Bernardino Valley College, dated February 6, 2015, the ACCJC recommended, among other things, that the college "ensure that the President hold an appropriate degree from an institution accredited by a recognized U.S. accrediting agency at the time the degree was awarded." To meet this recommendation, the District determined to allow President Fisher to work toward obtaining the degree while serving as President of Valley College.

The only potentially relevant category requiring collegial consultation identified in Section 53299(c) is subdivision (7): "Faculty roles and involvement in accreditation processes." However, this regulation relates only to the accreditation "process." The Academic Senate's function in this regard is to make recommendations to the Board with respect to "faculty roles and involvement" in the accreditation process. For example, the faculty's role with respect to producing accreditation reports to be acted upon by the Governing Board. Consistent with this requirement, after following the collegial consultation process, the Governing Board adopted Administrative Procedure 3200 (AP 3200), "Accreditation," which sets forth the faculty's role in the accreditation process (e.g., AP 3200 requires the Accreditation Steering Committee to include faculty members and also requires the colleges to provide their self-evaluation reports to the faculty (and other groups) for review and comment before providing to the Governing Board for final approval). As such, the District's determination to allow President Fisher to work toward obtaining a master's degree while serving as President of Valley College does not implicate the faculty's role in the accreditation *process*.

In sum, because the Academic Senates' resolutions do not fall within the categories of "academic and professional" matters subject to collegial consultation under Title 5 or BP 2510, the Board is not required to "rely primarily on the advice of the Academic Senate" with respect to these issues, and is thus also not required to provide its reasons for not doing so in writing.

Sincerely,



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