

D1140 Annotated by Robyn Wornall, August 2018 for Council of Presidents Meeting 082118 (Item 7.1)

I. REVIEW OF LEGAL REQUIREMENTS RELATED TO GOVERNANCE AND DECISION MAKING

Proposed Revisions Pertaining to Section I.A:

- Retain wording of BP 2510 Participation in Local Decision Making (3/2004)
- Do not migrate additional details from Section I.A of D1140 to BP 2510 (see highlighted sections of D1140 language and color-coded linkage to rationale below)

Rationale:

- AB 1725 was signed in 1988 (remove outdated reference).
- BP 2510 includes updated references to Education Code, Title 5, and Accreditation Standards.
- Remove details regarding specific duties that are identified in cited references

BP 2510 reads:

“The Board is the ultimate decision-maker in those areas assigned to it by state and federal laws and regulations. In executing that responsibility, the Board is committed to its obligation to ensure that appropriate members of the District participate in developing recommended policies for board action and administrative procedures for Superintendent/President action under which the District is governed and administered.

“Each of the following shall participate as required by law in the decision-making processes of the district: . . .”

(. . . The policy goes on to list specific roles/opportunities for Academic Senate(s), Staff, and Students.)

A. Laws Related to Authority of Board of Trustees, College President, and Administrative Staff Long before AB 1725 was passed, the Education Code spelled out the authority of the Board of Trustees to establish policy for the district and the authority of the college president and administrative staff to "direct and manage" the operations of the district. These powers and authorities are spelled out in Education Code sections 70902, 72400, and 87002 and *Title 5* sections 53200-53204.

The duties and powers of the Board of Trustees and, through delegation, the administration include – but are not limited to – the exclusive right to determine its organization; direct the work of its employees; determine the times and hours of operation; determine the kinds and levels of services to be provided, and the methods and means of providing them; establish its educational policies, goals, and objectives; insure the rights and educational opportunities of students; determine staffing patterns; determine the number and kinds of personnel required, maintain the efficiency of district operations; build, move, or modify facilities; establish budget procedures and determine budgetary allocation; determine the methods of raising revenue; contract out work; and take action on any matter in the event of an emergency. In addition, the district has the right to hire, classify, assign, evaluate, promote, terminate, and discipline employees.

The passage of AB1725 did not nullify any of the above provisions with regard to the final decision-making authority resting with the Board of Trustees and others it designates. However, specific rights were granted to faculty, students, and staff.

Proposed Revisions Pertaining to Section I.B:

- Identify faculty's 11 academic and professional matters in BP 2510
- Categorize matters into "primarily rely"/"rely primarily" and "consult collegially"
- Update language to reflect sources cited in "Reference" section at beginning of BP (e.g., "policy development and implementation matters")
- AP 2510 to then include additional citations (e.g., Education Code § 87360 Faculty Hiring and § 87663 Faculty Evaluation) as well as definitions of "primarily rely"/"rely primarily" and "consult collegially," and descriptions of NVC practices/mechanisms pertaining to areas of responsibility.

Rationale:

- Although the cited Title 5 §53200(c) lists the 11 "academic and professional matters," explicitly identifying the 11 areas within the BP will help create a shared understanding of roles and responsibilities.
- The review of policies across the CCC system indicates that it is a local decision whether and where to identify the 11 academic and professional matters. Among single-campus districts with BPs and APs posted online in August 2018: 11 listed the "10+1" areas in the BP; 16 in the AP; 2 in both; and 1 did not list the areas in either document.

B. Laws Related to Faculty Rights

As codified, AB1725 requires the governing board to "consult collegially with the Academic Senate when adopting policies and procedures on academic and professional matters." The faculty's 11 academic and professional matters are defined (*Title 5 Section 53200*) as follows:

- (1) Curriculum, including establishing prerequisites and placing courses within disciplines
- (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, including self-study and annual reports
- (8) Policies for faculty professional development activities
- (9) Processes for program review
- (10) Processes for institutional planning and budget development, and
- (11) Other academic and professional matters as mutually agreed upon between the governing board and the Academic Senate No agreement has been reached in the district to include any additional matters.

In addition, Ed Code Sections 70901 and 70902 give Academic Senates "primary responsibility for making recommendations in the areas of curriculum and academic standards," which gives them greater weight in these areas.

BP 2510 reads: "**Academic Senate(s)*** (Title 5, Sections 53200-53206**)

The Board or its designees will consult collegially with the Academic Senate, as duly constituted with respect to academic and professional matters, as defined by law. Procedures to implement this section are developed collegially with the Academic Senate."

Notes for Revision of BP 2510:

- *Remove "(s)"
- **Review to consider expanding citations within Title 5 (and Education Code?)
- List 11 academic and professional matters, divided into appropriate categories
- Update language to reflect cited references
- AP 2510 to include details such as definitions, delineation of "primarily rely"/"rely primarily" and "consult collegially," and additional citations

Proposed Revisions Pertaining to Section I.C:

- Identify areas “that have or will have a significant effect on students” in BP 2510
- Update language to reflect sources cited in “Reference” section at beginning of BP
- Move details into AP 2510

Rationale:

- Although the cited Title 5 §51023.7 lists the 10 areas of “college policies and procedures that have or will have a significant effect on students,” explicitly identifying the 10 areas within the BP will help create a shared understanding of roles and responsibilities.
- The review of policies across the CCC system indicates that it is a local decision whether and where to identify the 10 areas for students. Among single-campus districts with BPs and APs posted online in August 2018,
 - 8 listed the 10 student areas in the BP;
 - 7 listed them in the AP;
 - 15 did not list the areas in either document.

C. Laws Related to Student Rights

Students must be "provided an opportunity to participate in formulation and development of district and college policies and procedures that have or will have a significant effect on students. This right includes the opportunity to participate in processes for jointly developing recommendations to the governing board regarding such policies and procedures" [*Title 5*, Section 51023.7(b) and (c)]. The law specifies that district and college policies and procedures with a "significant effect on students" include the following:

- (1) Grading policies
- (2) Code of student conduct
- (3) Academic disciplinary policies
- (4) Curriculum development
- (5) Courses or programs which should be initiated or discontinued
- (6) Processes for institutional planning and budget development
- (7) Standards and policies regarding student preparation and success
- (8) Student services planning and development
- (9) Student fees within the authority of the district to adopt; and
- (10) Any other district and college policy, procedure or related matter that the district governing board determines will have a significant effect on students. The board approved the shared governance policy as a way of providing students with an opportunity for input into college-wide policies and regulations.

In addition, the board must "give reasonable consideration to recommendations and positions developed by students regarding district and college policies and procedures pertaining to the hiring and evaluation of faculty, administration, and staff."

BP 2510 reads: “Students (Title 5, Section 51023.7)

The Associated Students shall be given an opportunity to participate effectively in the formulation and development of district policies and procedures that have a significant effect on students, as defined by law. The recommendations and positions of the Associated Students will be given every reasonable consideration. **The selection of student representatives to serve on district committees or task forces shall be made after consultation with the Associated Students.”**

Notes for Revision of BP 2510:

- List 10 areas of college policies and procedures that have or will have a significant effect on students
- Update language to reflect cited references
- **Consider removing reference to committees and task forces from BP** – include in AP or another document (covering committee structures)
- AP 2510 to include details such as definitions, process, additional citations, and information removed from BP

Proposed Revisions Pertaining to Section I.D:

- Address both classified and administrative/confidential employees in BP 2510 (by including a separate paragraph for each employee group)
- Update to reflect language of cited sources
- AP 2510 to include details regarding mechanisms for appointment of administrative/confidential staff – by Administrative Senate (representation purpose) or District (defined by position)

Rationale:

- Title 5 § 51023.5 states, “. . . for the purposes of this section, management and nonmanagement positions or groups of positions shall be separately defined or categorized.”
- Provide additional clarification regarding participation structures and procedures for staff

D. Laws Related to Staff Rights

Title 5 (Section 51023.5) also provides staff (classified and administrative/confidential employees) with "opportunities in the formulation and development of district policies and procedures and in those processes for jointly developing recommendations for action by the governing board, that the governing board reasonably determines, in consultation with staff, have or will have a significant effect on staff." The board approved the shared governance policy as a way of providing classified and administrative employees with an opportunity for input into college-wide policies and regulations.

BP 2510 reads: “Staff (Title 5, Section 51023.5)

Staff shall be provided with opportunities to participate in the formulation and development of district policies and procedures that have a significant effect on staff. The opinions and recommendations of the Classified Senate will be given every reasonable consideration.”

Notes for Revision of BP 2510:

- Incorporate language describing participation of administrative/confidential staff (through Administrative Senate and District appointment structures)
- Update language to reflect cited references
- AP 2510 to include details such as process and mechanisms for input and appointment

Proposed Revisions Pertaining to Section II:

- Incorporate one-sentence, introductory statement underscoring **College's and the Governing Board's** commitment to participatory governance into BP 2510
- Do not migrate additional details from Section II of D1140 to BP 2510 (see highlighted sections of D1140 language and color-coded crosswalk to rationale below)

Rationale:

- Including a statement about the College's/Governing Board's commitment to participatory governance appears in approximately 20% of the BPs of single-campus districts (in the form of an introductory statement, summary of principles, philosophy statement, or definition of participatory governance)
- Expand commitment statement to be inclusive of both the Governing Board and the College/District
- **Redundancy of two paragraphs (Board as well as Board and all constituent groups)**
- **Ultimate authority of Board already incorporated into BP 2510**
- Focus is on participatory governance (not bargaining or administrative processes)

II. PHILOSOPHY AND BASIC PRINCIPLES OF DECISION MAKING AT NVC

The Board of Trustees embraces the concept of open communication and collaboration in decision making in a spirit of trust as a fundamental policy of the college, while retaining its own rights and responsibilities as the ultimate authority in all areas defined by state laws and regulations.

Napa Valley College and the Board of Trustees and all constituent groups are committed to an open process of decision making which allows and encourages participation of all constituent groups in accordance with need, function, and the law as outlined in this policy. The Board of Trustees recognizes that governance consists of three complementary decision-making processes that function within the college: the collective bargaining process, the administrative process, and the shared governance process.

Notes for Revision of BP 2510:

- Incorporate one-sentence commitment statement at beginning of BP 2510, underscoring commitment of College and Board to an open decision-making process in accordance with law, as outlined in the policy
- The first two paragraphs of the current BP 2510 would follow:
 - "The Board is the ultimate decision-maker in those areas assigned to it by state and federal laws and regulations. . . ." and
 - "Each of the following shall participate as required by law in the decision-making processes of the district: . . ."
- *(For complete wording of first two paragraphs, see annotation under Section I.A.)*

Proposed Revisions Pertaining to Section III:

- Do not incorporate reference to “collective bargaining” in BP 2510, as it is covered separately, by a Board Policy designated to collective bargaining

Rationale:

- BP 7140 Collective Bargaining (3/2015) describes the policy regarding representation of employs, District recognition of certified employee organizations, and the intent to meet and negotiate within the scope of bargaining as defined by law.

III. THE COLLECTIVE BARGAINING PROCESS

The collective bargaining process deals with compensation and contractual matters related to working conditions as defined by law. Campus collective bargaining units are the Napa Valley College Faculty Association (NVCFA/CTA/NEA) and the Napa Valley College Association of Classified Professionals (NVC-ACP/SEIU). Mutual Gains is the vehicle by which the Administrative Senate and the district make decisions regarding working conditions and compensation.

Proposed Revisions Pertaining to Section IV:

- Do not migrate information from Section IV into BP 2510

Rationale:

- Section IV covers information outside of the bounds of “participatory decision-making” (which is the focus of BP 2510).
- Some portions of Section IV could be incorporated into AP 2510 or a future “Decision-Making Guide.”

IV. THE ADMINISTRATIVE PROCESS

The administrative process deals with the operations of the college within established policies and regulations. It is important to clarify the role of the Board of Trustees vis-à-vis the college president and Administrative staff. The role of the Board of Trustees is to make policy, whereas the college president and administrative staff are responsible for carrying out policy. The board delegates responsibility for day-to-day decision making about operational issues to the president and administrative staff. The college president is responsible for making final administrative recommendations to the board.

The administrative staff includes all those persons serving the district in an administrative capacity, including faculty-elected division chair.

The administrative process includes providing leadership in making decisions and being responsible for carrying out all of the day-to-day operational matters in units or divisions. It is important to recognize that administrators possess specialized expertise, including their familiarity with the laws governing their areas, long-term knowledge about past practice and issues, special education and training in their areas and in management principles, and memberships in professional organizations. Administrators base their decisions upon this expertise. They are accountable for the effects of their decisions upon their units and the college.

Decisions to be made through the administrative process include all areas except the eleven academic and professional matters, which are the purview of the Academic Senate. (See Section V-A below.) The college president and administration maintain the authority and responsibility for operational decisions at this level, including all responsibilities outlined in the Education Code above.

A. Process for Input into Administrative Decision Making

Decision making at Napa Valley College ranges across a continuum from unit-level to college-wide decisions.

When carrying out their administrative duties, all people in leadership positions at Napa Valley College (including administrators and faculty-elected division chairs) will make decisions in an open, participatory way, conferring with those affected by the decisions as appropriate, in accordance with the level and type of operational decision.

Administrators will make sure sufficient time and notice are given to allow input before decisions are made, except in emergencies.

1. Within the Unit: When dealing with operational decisions which must be made to manage the work of the unit and deliver quality instruction and services to students and staff, all people in leadership roles will hold regular staff, department, or division meetings at which
 - (a) timely information is shared, and
 - (b) unit members have a chance to put items on the agenda and provide input regarding decisions which affect them.

It is important that these decisions be made at the lowest possible level in the organization in order to be efficient, avoid excessive meetings, and get the buy-in of those responsible for carrying out the decisions. As stated above, administrators make decisions within the unit through reliance on their administrative expertise and experience and with input from individual meetings and staff meetings.

2. Multi-Unit: To decide matters that affect a limited number of operational units, administrators consult the administrators of other units, faculty, and staff, as appropriate. Administrators of the other units will consult their staff members, as appropriate.
3. Across Service Segments: To obtain input regarding matters affecting the entire spectrum of instructional, student, or administrative services, administrators will consult with the appropriate district committees developed to address larger college issues. These committees address a wide range of issues. A complete list of the current district committees is available in the President's Office.

The role of district committees is to provide a college-wide or service-wide perspective on issues under the committee's jurisdiction and to allow suggestions for policies, procedures, and other matters that should be sent to the Council of Presidents. These committees will invite representation from each constituent group.

4. College-Wide: Policies and regulations that are suggested for board approval through district committees or through task forces or workgroups, rather than committees, will be handled through the shared governance process, described in Section V below.
5. Major Campus Decisions: With regard to major campus decisions that are not policies or regulations, the college president may inform and/or consult with or convene a meeting of constituent group presidents and/or others, if she/he deems appropriate, but reserves the administrative prerogative to make the decision in a timely manner. The president will decide what constitutes a major campus decision.

Proposed Revisions Pertaining to Section V:

- Update and incorporate details regarding definition of “participatory decision-making” at NVC into AP 2510
- [Note: Not all details regarding the “shared governance” process (as outlined in D1140) will be migrated/incorporated into AP 2510. Content of AP 2510 to be determined subsequent to any revision of BP 2510.]

Rationale:

- Detail in Section V reflects historical context – most notably introduction and implementation of AB 1725 (referenced in the policy) – and is outdated as a result.
- Proposed introductory/commitment statement described in annotation for Section II reflects the nature of the first six paragraphs of Section V.
- Details regarding process and “how” will be included in AP 2510.

V. THE SHARED GOVERNANCE PROCESS

Shared governance as it is used in this section, is a vehicle used to implement the provisions of AB1725 as outlined in the first section and to accomplish our mission and fulfill the college's vision of student success.

Shared governance at Napa Valley College adheres to the letter and spirit of the law and elevates our sense of community on campus.

Shared governance is a commitment to an open process, which allows and encourages participation of all constituent groups in accordance with need, function, and the law. The process offers anyone affected by a decision the opportunity to comment on that decision.

Shared governance is a commitment to open communication and collaboration in a spirit of trust. Everyone works to achieve what is best for the entire college and its future, making students the primary focus.

Shared governance at Napa Valley College is a dynamic process that reflects the specific needs of the college and is subject to periodic review.

The shared governance process develops, reviews, and recommends to the college president and the Board of Trustees policies and regulations of the college that affect all aspects of the college community.

The shared governance process at Napa Valley College occurs through three processes: mutual agreement with the Academic Senate, planning and budgeting, and consultation with all constituent groups through the Council of Presidents.

Proposed Revisions Pertaining to Section V.A:

- Incorporate list of “10+1” matters into BP 2510, with matters categorized as “consult collegially” and “primary responsibility”/“primarily rely” (as outlined in Section I.B)

Rationale:

- Section V.A describes the mechanisms that NVC uses to ensure that BP 2510 is put into action (i.e., “the how”).
- Details (regarding Mutual Agreement process, membership/representation, how policy is ensured) to be incorporated into AP 2510.

A. Mutual Agreement with the Academic Senate

The governing board recognizes the Academic Senate as the body representing faculty in governance related to academic and professional matters and reaffirms the senate's primary role in academic and professional matters. The Academic Senate and the board's designee (the college president) are to reach mutual agreement in writing on academic and professional matters, as defined in Title V of the State Code of Regulations. The board acknowledges the definition of academic and professional matters to mean the following, as defined in Title V of the State Code of Regulations:

- (1) Curriculum, including establishing prerequisites and placing courses within disciplines
- (2) Degree and certificate requirements
- (3) Grading policies
- (4) Educational program development
- (5) Standards or policies regarding student preparation and success
- (6) College governance structures related to faculty roles
- (7) Faculty roles and involvement in accreditation processes, including Self-Study and annual reports
- (8) Establishing 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 between the governing board and the Academic Senate

The Mutual Agreement Committee

- a. This committee shall be the means by which mutual agreement in academic and professional matters is reached.
- b. Members will be the college president, the vice president of Instruction, the Academic Senate president, and one of the Academic Senate vice presidents.
- c. The Mutual Agreement Committee will meet on an agreed-upon regular basis and forward agreements on academic and professional matters to the college president for presentation to the Board of Trustees.

Proposed Revisions Pertaining to Section V.B:

- Do not migrate information from Section V.B into BP 2510

Rationale:

- Process pertains to “the how” – details more appropriate for AP or another document (such as committee structure or “Decision-Making Guide”).

B. Planning and Budgeting Process

Institutional planning and budgeting decisions are referred to the planning and budgeting committees, in accordance with the planning and budget policy, 1141, which was adopted by the Board of Trustees on March 10, 1994.

Proposed Revisions Pertaining to Section V.C:

- Incorporate general statement identifying represented/recognized groups into AP 2510
- Update group names (Senates, ASNVC; not associations)
- Include select details about the Council of Presidents – those directly/most pertinent to participatory governance – in AP 2510
- Identify appropriate document for details such as charge/responsibilities of Council of Presidents to reside (e.g., BP 2410 & AP 2410 cover procedure of policy review and details regarding timeline)

Rationale:

- AP to address “the how” – structures for ensuring the policy include the Council of Presidents

C. Consultation with Constituent Groups

1. The Board of Trustees recognizes the following constituent groups and representative bodies: **students**, represented by the Associated Student Body; **faculty**, represented by the Academic Senate; **classified staff**, represented by the Napa College Association of Classified Employees (NC-ACE/SEIU), and **administrative/confidential staff**, represented by the Administrative Senate. These constituent groups also have shared governance rights established by *Title 5* regulations relating to shared governance, described in the first section of this document.

2. Council of Presidents

a. Composition: The Council of Presidents is established as a group composed of the college president and the president of each of the four identified constituent groups or his/her designee.

b. Responsibilities of the Council of Presidents

- (1) The council provides a final review of all non-academic and professional policies and regulations sent to the college president for adoption by the Board of Trustees, whether they come from committees, individuals, or constituent groups.
- (2) Council members will share information on state, federal, and local issues with the constituent groups.
- (3) The Council of Presidents will conduct a biennial evaluation of the committee structure of non-academic and professional committees (see definitions in Section VI) and make recommendations to the college president and Board of Trustees of findings and recommended changes no later than May 15.

c. Procedures for Council of Presidents:

(1) Requests for Input Made Directly to Constituent Group Presidents: When a college-wide issue that needs shared governance input arises, the college president will send the information out to the presidents of the four identified constituent groups, requesting that the policy or regulations be shared with constituent groups. (See form in Appendix A.)

Timeliness: Because the college must operate in a timely fashion, each group will be given at least four weeks during regular academic sessions to respond to the request for input. If a group does not respond by the deadline given, the policy will be sent forward to the board, providing all other groups concur. If one or more groups do not concur with the policy as proposed, the issue will be discussed at a meeting of the Council of Presidents.

Every effort will be made to reach consensus. If consensus cannot be reached, the college president will make the final decision regarding a recommendation to the Board of Trustees. A minority report will be shared with the board.

(2) Sharing of Information: Information on issues that may have a significant effect on the college as a whole will be sent out to constituent group presidents, with the request that the information be shared with the group. (See form in Appendix A.)

D 1140 **COLLEGE GOVERNANCE, DECISION MAKING, AND RESPONSIBILITIES** (SHARED GOVERNANCE)

Proposed Revisions Pertaining to Section VI:

- AP 2510 to refer to Council of Presidents and committee structure (in general way) as mechanisms for ensuring opportunity for participation
- To be determined whether AP 2510 will include information on types of committees/groups (review other policies/documents and identify appropriate location)
- [Note: committees will not be listed by name in BP 2510.]
- Roles and responsibilities as outlined in D1140 to be reviewed and determine whether/where they should reside

Rationale:

- BPs – “the what” and “the why” to remain relatively static – details/“the how” to reside in APs or elsewhere
- Appropriate location of information on committees to be determined
- Current/Recent practice does not reflect what is in the policy (e.g., list of outstanding items provided by President’s Office each semester; orientation for student representatives).

VI. COMMITTEES

1. All college committees will fall under one of the categories described below. These categories are intended to provide a structure for committee work within the college.

2. Categories of Committees

- a. Academic Senate Committees - established through the constitution and by-laws of the Academic Senate
- b. District Standing Committees - established through state mandates, or by the board, college president, or Council of Presidents

(1) All constituent groups will be represented on all district committees – through representatives either appointed or serving by position. If ASB is unable to find adequate numbers of students to fill all committee positions, agendas will still be sent to them and information will be made readily available to ASB on any issue being discussed.

(2) Representatives are to report back to their constituent groups and give input to the committee based on the response of the constituent group.

- c. Ad Hoc Committees - established by the college president, the Academic Senate, or the Council of Presidents for no more than one year to address or study a particular area
- d. Contractual Study Committees - established on an as-needed basis through the collective bargaining process
- e. Task Forces - ad hoc committees created by the board, the college president, or the Academic Senate to meet specific institutional purposes

f. Any constituent group may appoint committees to help carry out the operations and activities of that particular group, such as revising by-laws, planning staff development activities for the group, and organizing social events. Such committees are not intended as a means of formulating policies on college-wide issues (except for collective bargaining issues).

- 3. Chairs of all committees dealing with issues that affect the entire campus will be responsible for sending agendas to constituent group heads as a way of improving communications and ensuring the opportunity for input.
- 4. To ensure timely action by committees, the President's Office will publish a list of outstanding items at least once a semester, identifying what the topic is, who is responsible for the topic, and what the current status of the item is. This system will be evaluated one year after the revised policy has been adopted by the Board of Trustees to ensure that it has been effective in work being completed in a timely manner. A review of the effectiveness of the entire policy will be done at the same time.
- 5. Students serving on committees will be provided orientation and mentored to assist them in participating in committee deliberations. It shall be part of the committee chair's role to make sure at least one mentor is appointed for each student.

Approved 09/12/91; Revised 5/14/92, 6/27/96; Update Constituent Group Name Change 9/00

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