

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

Legislative History:

Document dated April 20, 1990.

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

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

ACTION BY THE UNIVERSITY PRESIDENT:

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

SAN JOSE STATE UNIVERSITY STATEMENT ON STUDENT RIGHTS AND RESPONSIBILITIES

S90-5

PREAMBLE

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

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

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

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

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

I. FREEDOM OF ACCESS TO HIGHER EDUCATION

A. Equal Opportunity

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

B. Educational Equity

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

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

III. RIGHTS AND RESPONSIBILITIES REGARDING STUDENT PRIVACY

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

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

IV. RIGHTS AND RESPONSIBILITIES PERTAINING TO FREEDOM OF ASSOCIATION

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

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

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

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

V. RIGHTS AND RESPONSIBILITIES OF ESTABLISHING AND OPERATING STUDENT GOVERNMENT

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

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

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

Student publications and the student press are a valuable aid in establishing and maintaining an atmosphere of free and responsible discussion and of intellectual exploration on the campus. They are a means of bringing student concerns to the attention of the faculty and the institutional authorities and of

VIII. IMPOSITION OF DISCIPLINARY SANCTIONS

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

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

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

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

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

group.

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

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

IX. RIGHT TO DUE PROCESS AND APPEAL

A. The university has an obligation to see that sanctions are not imposed on students without adequate procedural safeguards. The student shall have the right of due process and appeal in matters of student discipline as prescribed by Dm student
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points. The President will not take final action until receiving the board's response, but the President may, if the matter is deemed urgent, require a response within a fixed time, not less than fifteen days.

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

X. STANDARDS FOR CASES INVOLVING STUDENT GRIEVANCES

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

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