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FACCCCTS

Looking at Academic Freedom





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An educational environment that is equitable, accessible, and appropriately funded led by a diverse and empowered faculty.

Every faculty a member, every member an advocate, every advocate informed.

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We value students and the significance of the student-faculty relationship and the opportunity to foster mutual growth and success.

We value diverse voices, perspectives, and cultures of both students and faculty in the quest for social justice and equity.

We value community colleges as a driving force for economic growth, social cohesion, and opportunities for personal advancement for all Californians.

We value collegiality and a working environment that recognizes the importance of all organizational and personal voices in serving students.

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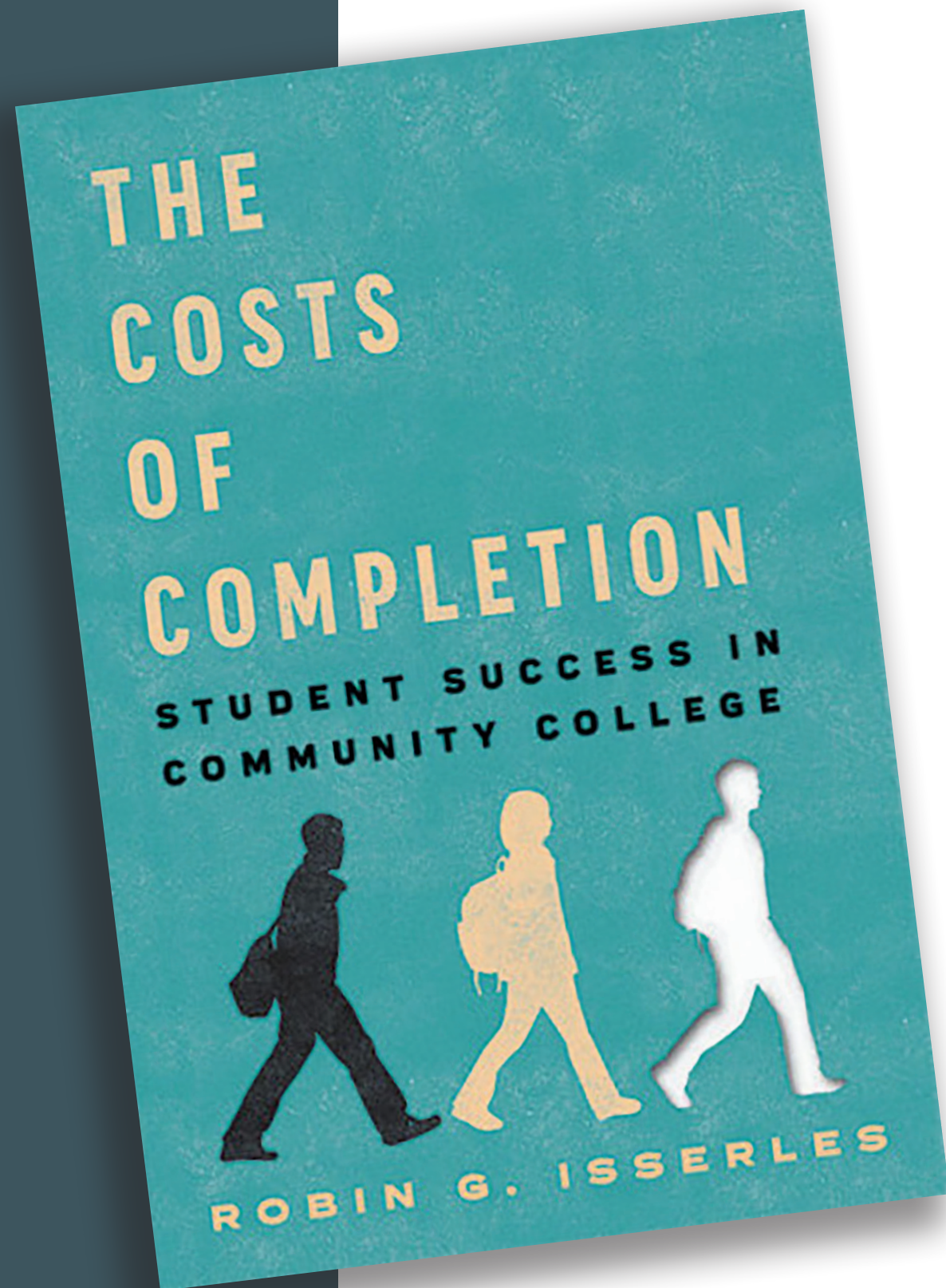
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Baltimore: Johns Hopkins University Press, 2021

Reviewed by John Fox

I am baffled by the incessant community college reform initiatives,

including Student Learning Outcomes, the Associates Degree for Transfer, the Student-Centered Funding Formula, changes in remedial education in the form of AB 705, and most recently Guided Pathways. Champions of these reforms often proclaim “research says...” while providing no analysis of the research, no citation, and no identification of who is funding the research. Many reforms are backed by politically powerful educational philanthropists outside the community college system, including the Bill and Melinda Gates Foundation and Lumina Foundation, complete with a neoliberal agenda.

Robin G. Isserles’ *The Costs of Completion: Student Success in Community College* is a powerful pushback against this agenda. Isserles skillfully unpacks several neoliberal initiatives, critiquing studies that supposedly justifies the reforms, and proposes how community colleges could increase student success by creating caring institutions that don’t treat students as “widgets in a knowledge factory.” While much of the book highlights her experience at the City University of New York, California community college instructors will recognize the neoliberal agenda as it is manifested in our state.

Isserles’ central argument is that the so-called completion crisis will not be solved by the neoliberal education philanthropists because their research ignores the subjective reality of students’ lives, especially our most precarious students. “Neoliberal ascendance” (a term from Wendy Brown) is further possible by manufacturing a crisis in the manner of Naomi Klein’s concept of the “shock doctrine” in which the solutions “are market-driven and anti-democratic.”

One example of the market-driven orientation toward community colleges is an ideology called “College for All,” in which the path toward building a strong workforce is a college education for everyone. Low completion rates provide the opportunity for educational philanthropists and politicians to manufacture a crisis. Consequently, policies are implemented based on either no solid research, research that doesn’t

justify the solution, or research that ignores students’ lived experiences.

Isserles shows that performance-based funding, like California’s Student Centered Funding Formula, is not an effective path to degree completion. Additionally, educational philanthropists fund research organizations, such as the Community College Research Center and Complete College America. Studies produced by these organizations are often used, and misused, to shape policy. For example, while CCRC’s 2015 book *Redesigning America’s Community Colleges* is often cited to show that remedial education is a failure, the authors explicitly state that “we do not advocate... the elimination of developmental education, the placing of all students into college courses, or the wholesale conversion of developmental education into a co-requisite model.” Finally, Isserles critically analyzes the research that led to the development of Guided Pathways, which also emerged from the CCRC’s book:

But here is what happens in the neoliberal era of austerity-ravaged public universities: problems are identified, research is conducted by those external to the college, and partnerships are forged with expensive consultants who come up with very enticing ways to fix problems. These investments come without much direct knowledge of educating community college students, and with little respect for the essential features of an academic environment such as shared governance, deliberation, an openness to dissenting viewpoints, and most importantly, pedagogical expertise.

One organization assisting colleges in implementing Guided Pathways is EAB, an educational consulting firm owned by Vista Equity Partners. EAB’s online toolkit Navigate produces student profiles that are based on quantitative data, such as GPA and credits earned to predict success. EAB targets faculty to buy into Guided Pathways uncritically.

A white paper on Guided Pathways included one section with this introduction by a community college president: “Change is scary. But if you think change and failure are so scary that you don’t want to improve our ability to serve students, then get a dog. It’s not my job to comfort you, it’s my job to educate our

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Academic Freedom in Contemporary Context

By Wendy Brill-Wynkoop



Academic Freedom is neither new nor limited to the United States.

The American Association of University Professionals (AAUP) 1940 Statement of Principles on Academic Freedom and Tenure has become the standard and defines it as the freedom for faculty to conduct research, the freedom to discuss their subject in the classroom, and the freedom from institutional censorship when they speak as citizens. There are a few accepted caveats—faculty should stick to their discipline in the classroom, and when speaking as citizens be clear that they are not speaking for their district or college.

The American Federation of Teachers further clarifies that “academic freedom is the right of faculty members, acting both as individuals and as a collective, to determine without outside interference: (1) the college curriculum; (2) course content; (3) teaching; (4) student evaluation; and (5) the conduct of scholarly inquiry.”

Academic freedom protects the exchange and expression of ideas and freedom of inquiry and debate essential to learning. It’s not a free for all, and faculty members are bound by the course outline of record, col-

lege policy, the collective bargaining agreement, and professionalism to remain current in their discipline.

While academic freedom is called out in the college’s accreditation standards, the AAUP’s 1940 Statement is not codified in law. Academic freedom has been the subject of many United States Supreme Court decisions because the principles and tenets of academic freedom are often married and confused with the first amendment.

In 1957, the U.S. Supreme Court decision regarding *Sweezy v. New Hampshire*, 354 U.S. 234, 250, is an early test of the importance of academic freedom:

“The essentiality of freedom in the community of American universities is almost self-evident. No one should underestimate the vital role in a democracy that is played by those who guide and train our youth. To impose any strait jacket upon the intellectual leaders in our colleges and universities would imperil the future of our Nation. No field of education is so thoroughly comprehended by man that new discoveries cannot yet be made. Particularly is that true in the social sciences, where few, if any, principles are accepted as absolutes. Schol-

arship cannot flourish in an atmosphere of suspicion and distrust. Teachers and students must always remain free to inquire, to study and to evaluate, to gain new maturity and understanding; otherwise our civilization will stagnate and die.”

A decade later, the court declared academic freedom essential to protecting the “marketplace of ideas” in the academy in *Keyishian v. Board of Regents*, 385 U.S. 589 (1967).

With the growth of partisan politics in the United States, academic freedom is under threat as less than one-third of faculty members in higher education are protected by tenure. The need for the protection of academic freedom is even direr.

In his 2019 book *The Future of Academic Freedom*, Henry Reichman states, “And if there is any lesson to be learned from the more than one-hundred-year history of the AAUP, it is that academic freedom can never be taken for granted. While academic freedom is one of the foundations of greatness in the American higher education system, it has always been—and always will be—contested and vulnerable.”

Corporate-funded special interests groups focused on pushing education policy of applying corporate principles and efficiency to the California community colleges have been pushing initiatives through legislation that diminish student and faculty academic freedom on campus. The political attacks on faculty members include recording teachers without their permission, posting excerpts to social media to have such videos go viral, and characterizing the faculty as overly liberal. Untenured part-time faculty without due process are the most at risk of these attacks.

In one instance, a part-time faculty member of color at Cypress College had to take a leave of absence after a student posted a vi-

ral video of her challenging his assumptions of the historical origins of policing in America. The media narrative skewered the faculty member for berating the student rather than reporting the importance of a teacher asking students to challenge and stretch their knowledge in the spirit of inquiry.

At the College of the Canyons, a faculty member had her syllabus—which encourages students to take a white privilege quiz—posted to the Red State website along with her personal contact information. She was harassed for weeks and even received physical threats. Reichman’s book reports that faculty members reported to the AAUP 50 instances of harassment through social media in 2016, and 48% of those reports concerned race.

In late 2019, the California Community Colleges Chancellor’s Office convened the Diversity, Equity, and Inclusion Task Force (DEIA) in the wake of the murder of George Floyd in the summer of 2020. A system-wide call to action asked the California Community Colleges to “create an action plan to create inclusive classrooms and anti-racism curriculum,” in addition to shortening the time of implementation of the DEIA Task Force. In response, community college faculty members are working to make their classrooms more culturally responsive and decolonize the curriculum. The Academic Senate of the CCC 2020 Rostrum article

With the growth of partisan politics in the United States, academic freedom is under threat as less than one-third of faculty members in higher education are protected by tenure.

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The California Higher Education Legislative Machine: From Sputter to Full Speed Ahead

by Elizabeth Norvell

When I started my full-time articulation officer (AO) position at San Diego City College in 2014, California's system of higher education had already profoundly enriched my life.

My first experience was as a young undergrad at UCLA in the 1980s, then as a lifelong learner at San Diego City College where I was lucky to land an adjunct non-classroom faculty position as a curriculum writer in 2001. I truly aspire to give back to a system that has provided so much enrichment to my own life.

And, like all CCC AOs I know, I feel profoundly responsible for "getting it right" for students, doing all I can to facilitate their pathway to a CSU, a UC, or a private college or university. Truthfully, this responsibility was much easier to uphold before the emergence of what I am currently calling the California Higher Education "legislative machine." In fact, this machine, largely fueled by various corporate foundations that fund its legislative agenda, has kept the California Community Colleges (CCC) so tied up in implementing the legislation du jour and resolving the ancillary problems it creates, that it has greatly increased the difficulty of serving our students' transfer needs on a daily basis. And, at this point, it seems almost impossible to turn it around.

When SB 1440, the Student Transfer Achievement Reform Act of 2010, was implemented at the CCCs, the California higher education "legislative machine" was just warming up and quite frankly, it sputtered a bit. The law required that each CCC develop two Associate Degrees for Transfer (ADTs) in two different majors. Upon completion of the degree, students would be guaranteed admission to a California State University (CSU), but not necessarily to their CSU of choice and not necessarily to the major of choice. Rather, students transferring with an ADT may be placed in a major similar to the one they had chosen.

With very few teeth, SB 1440 made no sense for a CCC instructional or counseling faculty member to recommend it to students when the smoothest pathway to a CSU or a University of California (UC) campus was to complete the preparation for the major for the desired university through one of the three general education patterns (CSU GE Breadth for transfer to a CSU; IGETC for transfer to a UC; or IGETC for CSU to leave your options open).

Apparently, however, the California higher education legislative machine was equipped with an intelligence capacity allowing it to modify itself in order to rev up production,

as illustrated by the creation of SB 440, the Student Transfer Achievement Reform Act of 2014. Realizing that to generate its desired CCC ADT outcome, it could establish a specific, predictable pathway in which all transfer students in a given major would complete the same courses on the same pathway within the same two-year timeline. It even learned how to sweeten the deal by adding a .2 GPA bump for students receiving an ADT. This addition is particularly helpful when applying to impacted CSUs, with results varying based on the level of impact. Additionally, it required development of a CSU redirection system to redistribute students who did not receive their first choice of campus.

The key to implementing SB 440 is the required development of a template for each subject area, a Transfer Model Curriculum (TMC). In my experience, subject area faculty

members from both segments meet for a day to hammer out which core courses are a must for any given major. Once the core is established, the faculty team decides on courses that may be optional in categories, such as "any course articulated to a CSU" in the major, or "any GE course in a given general education area," or, in some cases "any CSU transferable course."

Each TMC is assigned a California Taxonomy of Programs (TOP) code. Any CCC with a currently active associate degree that carries the same TOP code is required to create an ADT in that major. Additionally, although not explicitly required by SB 440, a course identification numbering system (C-ID) was developed for just about all the core courses for every TMC. This



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process involves faculty experts from the CSUs and CCCs coming together, this time to develop course templates to which CCC faculty must match their campus CORs. This is labor-intensive as CCC faculty often must revise the Course Outline of Record (COR) to meet the C-ID descriptor requirements. The revised CORs are then submitted to C-ID for CSU subject area faculty review. If the COR requires revision, that can take up to a year to go through the CCC campus curriculum review process. If a COR sits for more than 45 days waiting for a CSU faculty expert to review, it may be used in a TMC. Once it is reviewed, it may require revision. Some CORs submitted to C-ID have never been reviewed.

Currently, ADTs are widely recommended to students for the GPA bump, especially when students are applying to impacted campuses or impacted majors. CCC counselors also recommend the ADT when it is deemed similar to a student's desired CSU major at the local campus, because most CSU campuses prior-

itize local area students with an ADT. From there it varies, depending on the receiving CSU's priority admissions policy as policies differ among campuses.

In 2020, about 43% of CCC students continued to choose the simplest, most direct route to transfer to a CSU: preparation for the major and one of the three general education patterns mentioned above.

Should the reader assume that I decided to employ the metaphor "California higher education legislative machine" as a 21st-century production assembly line churning out CCC students to be finished off at a CSU or UC, this was not my creative mind at work.

In fact, the images are spelled out in AB 928 (Berman), the Student Transfer Achievement Reform Act of 2021. In the first paragraph of the Legislative Counsel's Digest, the wording used to explain the CCC system to the reader states, in part, that the CCC system "among other things, provides its students with a

transfer pathway, facilitated by mechanisms, such as the associate degree for transfer, allowing students to apply academic credit earned at a community college toward receipt of a bachelor's degree at a four-year post-secondary educational institution."

Four paragraphs down from that, the Associate Degree for Transfer Intersegmental implementation Committee is introduced as "the primary entity charged with the oversight of the ADT." That is interesting in and of itself, but what caught my eye was the wording at the end of the same paragraph requiring the committee "on or before December 31, 2023, to provide the Legislature with recommendations on certain issues impeding the scaling of the ADT and streamlining transfer across segments for students."

Clearly, the California higher education legislative machine has reached full speed ahead. Will the CCCs be the production lines? If so, are the instructional and counseling faculty now to be line workers?

As an AO reading AB 928, I know I will be provided with specific details regarding my "role in communicating the value of the ADT pathway" once the Associate Degree for Transfer Intersegmental Implementation Committee has decided what those details will be.

As for AB 1111, Common Course Numbering System, the California higher education legislative machine has clearly recognized a glitch in its production of AB 440 and is attempting to autocorrect. AB 440 required the development of the TMP templates, and each of those templates is an extension of the law.

When students take courses at a variety of CCCs, their transcripts must be evaluated at the CCC at which the student is attempting to complete the ADT to determine whether or not a particular course is C-ID approved for the same course. If it is, then the course may be used. If it is not C-ID approved for whatever reason, then the course must be researched further to attempt to find out whether or not it articulates to the major at the CSU to which the student is planning to transfer—or any CSU, if it comes to that. If articulation is in place, then the course is generally approved to be used toward completion of the ADT.

Yes, this is complicated. These situations arise all the time. They take a lot of time to resolve. If all CCC courses had the same number, that would be helpful,

“Clearly, the California higher education legislative machine has reached full speed ahead. Will the CCCs be the production lines? If so, are the instructional and counseling faculty now to be line workers?”

“Apparently, however, the California higher education legislative machine prototype was equipped with an intelligence capacity allowing it to modify itself in order to rev up production as illustrated by the creation of SB 440, the Student Transfer Achievement Reform Act of 2014.”

but there are complications. Numbers can be used only once at any given campus. If a campus reuses a number, a student who took the course that originally carried that number may be penalized if and when that student needs their transcript evaluated for any reason. It's complicated, and so potentially confusing that the California higher education legislative machine may just blow a fuse.

Please contact your local state legislators' offices. Create a relationship with the legislator and the staff. Tell your story. Listen to theirs. Slow the machine down. ■

ADVOCACY & POLICY CONFERENCE MARCH 6-7, 2022

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JOHN VASCONCELLOS
LEGISLATOR OF THE
YEAR AWARD



Looking at Academic Freedom



by David E. Balch

“Mask required to enter the bank.”

“Please practice social distancing.”

“Please be ready to show proof of vaccination.”

The pandemic created a number of changes and challenges that went beyond masking and social distancing. For the academic community, it changed how coursework was presented mid-semester and led to re-evaluating each semester as conditions change and new variants of the virus appear.

At the same time, faculty were dealing with a number of incidents relating to free speech and academic freedom. While colleges wrestled with COVID-19, they also started hearing more and more from the media about controversies related to critical race theory and other hot-button issues.

The *Chronicle of Higher Education* published an article titled “Foundation for Individual Rights in Education,” wherein the author wrote, “Academic freedom is in the worst position of my career, and perhaps the worst condition it has been in decades—perhaps since the Red Scare.”

As more of these issues were reported, the line between academic freedom and freedom of speech started to blur. This article examines the scope of these two freedoms and how they interreact.

First Amendment Defined. The Constitution states, “Congress shall make no law respecting an establishment of religion or prohibiting

the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”

Academic Freedom Defined. The American Association of University Professors (AAUP) provides the definitive definition of Academic Freedom: “Academic Freedom is an indispensable requisite for unfettered teaching and research in institutions of higher education.” Alstyne (1990) noted the 1940 statement is “soft law” unlike the First Amendment to the Constitution, managed by the AAUP rather than the courts, in most cases.

Examples of the Application in California Community Colleges

Academic Senate for California Community Colleges. In 1995, the Academic Senate for California Community Colleges passed Resolution 09.03 supporting the primacy of the instructor to deliver course instruction based on the “course outline of record” and opposing any attempt of the administration to direct the teacher to teach in a way that “violated academic freedom.” The faculty member must relate course content to the approved syllabus.

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Rio Hondo College. Rio Hondo College enacted a board policy stating, “Since faculty are experts in course content and pedagogy, they should be free to evaluate the performance of their students, including assigning grades, without fear of reprisal for relatively higher or lower success metrics.” However, the policy noted that “The maintenance of freedom of speech, publication, religion, and assembly (each of which is a component of intellectual freedom) is the breath of life in a democratic society.... Campus members should at all times attempt to (1) be accurate, (2) should exercise judiciousness, (3) show respect for the opinions of others, and (4) should indicate when they are not speaking for the College.”

Academic Freedom and Free Speech The “Who” and “What”

Free Speech. Sometimes the concept of academic freedom is confused with the constitutional right to free speech, since both concepts regard principles of free expression. However, these rights differ both in those “who” possess them and in “what” they guarantee.

The “who” is every individual in the United States and is enshrined in the First Amendment. There is no requirement on the quality and type of expression, and it indeed protects all forms of expression from interference by the government with some exceptions.

Academic Freedom. In 1967, the U.S. Supreme Court found that “[o]ur Nation is deeply committed to safeguarding academic freedom, which is of transcendent value to all of us and not merely to the teachers concerned.” Thus, the relationship between academic freedom and the First Amendment is typically left unclear. In 2007, Miriam Cooke noted that academic freedom is not a right but a basic necessity. The classroom is one place where students should expect to be challenged and to be exposed to a wide variety of new ideas. The new ideas may be in conflict with the views, norms, and values they bring to the class.

The “who” is a right held by educators in pursuit of their discipline to examine, with students, how facts are shaped into persuasive, moralizing narratives by opinions, judgments, and standpoints.

The “what” is defined by the Organization of American Historians (OAH) Committee on Academic Freedom as the rights within the educational contexts of teaching, learning, and research, both in and outside the classroom for individuals at private as well as public institutions.

While the pandemic may seem like it’s slowly coming to an end, the fight to protect academic freedom is just heating up. Understanding what it is and how it’s different from freedom of speech is imperative for protecting it. ■

“As more of these issues were reported, the line between academic freedom and freedom of speech started to blur. This article examines the scope of these two freedoms and how they interreact.”

students.” The narrative: administrators and companies know more than faculty members about educating students.

Much of the neoliberal agenda is based on the theory of academic momentum, or the idea that “the more integrated a student is (academically and socially) the more likely the student will persist and complete a degree.” Theoretically, momentum is created by “behaviors and choices” that will “snowball” into integration. While this is an individual approach, colleges play a role by encouraging behaviors that lead to integration, such as encouraging students to take 15 units per semester and a summer class.

To assess Academic Momentum, Isserles participated on a research team at the City University of New York (CUNY) that tested the theory through three interventions: summer remediation, becoming full-time in the second semester, and taking a summer course after the first year. While some of this research showed positive effects, many students dropped out of the study completely and others did not follow the plan of the researchers. Additionally, Isserles analyzed a CUNY program called Accelerated Study in Associate Programs, which helps students succeed in community college by providing financial and academic support. The results were again positive, yet 40% of students did not graduate. The research favored by educational philanthropists does not, empirically, show why students leave.

Isserles introduces the concept of “student sensibility,” which examines how students’ lives intersect with the social structures in which they live, or “link these individual situations with the larger world of higher education.” As opposed to the “consumer sensibility” that emerges out of neoliberalism, student sensibility has much to do with how students see their educational experiences.

Specifically, Isserles focuses on three “layers”: the validation of students’ experiences (borrowed from Laura Rendón), a sense of belonging, and developing an identity as a college student. Her analysis of student emails shows how students are experiencing college, including internalized pressure to finish quickly; dealing with school bureaucracy; and the social conditions outside of college that interfere with completion, such

Much of the neoliberal agenda is based on the theory of academic momentum, or the idea that “the more integrated a student is (academically and socially) the more likely the student will persist and complete a degree.”

as work, homelessness, and domestic violence. Isserles provides these most precarious students a voice.

To serve these precarious students, Isserles proposes a caring institution: “Care theory places the labor and practice around care at the center of all our human interactions and activities.” Care is not only an individual orientation but a system of institutional practices. Institutions can care, and not just by creating a “culture of care,” but “[f]or an institution to be truly caring, there must be structural inclusion in every facet of the organization, not just at the individual level.” In other words, colleges must be organized around care, and care is a collective responsibility. To that end, Isserles proposes initiatives, such as addressing mental health and training for faculty advisors, expanding work opportunities on campus, adding more value to vocational programs, and refining our pedagogies that create caring communities.

Throughout these 330 pages Isserles is reflective regarding her assumptions about students, admitting that she often applied middle-class values to her students who couldn’t finish the class or turn in assignments. It is no surprise then that her pedagogy is influenced by Paulo Freire, John Dewey, and Bell Hooks. Because the book is so rich with detail and theory, I am omitting many important points in this limited space. When we see reforms on the horizon it is our responsibility as educators to interrogate these reforms, the research on which it is based, and the political agenda of the sponsors. The Costs of Completion does this superbly. I invite my colleagues, especially those who might support the neoliberal agenda, to read this book with an open mind and critical eye. ■

TO KILL AB 2705

Sponsorship, Costs, and Cervisi v. Unemployment Insurance Appeals Board

by Ryan Tripp

In late 1983, Gisele Cervisi and Sophia Lenetaki, part-time faculty members at City College of San Francisco, accepted part-time teaching assignments and subsequently taught French and Greek through spring 1984. Cervisi's name would later become synonymous with part-time faculty unemployment benefits and the idea of reasonable assurance through the landmark case *Cervisi v. California Unemployment Insurance Appeals Board*.

Nearly a quarter of a century later, this history-changing case would have a significant impact on a bill intended to rename "part-time faculty" to "contingent faculty" in California's education code.

In February 2014, former State Assemblyman Das Williams introduced AB 2705, which would have replaced the term "part-time" or "adjunct" with "contingent" in Ed. Code. The bill was sponsored by faculty at Butte College, Mt. San Jacinto College, and College of the Sequoias, who had joined the University Professional and Technical Employees-Communications Workers of America (UPTE-CWA). UPTE-CWA provided bargaining assistance and ultimately lobbied for the introduction of what would become AB 2705 (Williams). According to UPTE-CWA 2014 position papers, "many part-time faculty have been searching for a more accurate name/designation to better reflect their role within the CCC system. The current terms—'temporary'

and 'part-time'—are not only applied haphazardly but have also proven to be problematic due to their negative connotations."

The equation of "temporary" with "part-time faculty," declared the UPTE-CWA, "demeans their value, assumes they are not giving their full attention to student success and negates the fact that they are the instructional backbone of every community college." UPTE-CWA additionally held that California community college departments "use[d] this as an excuse to prevent part-time faculty members from engaging in department decisions, curriculum decisions and academic decisions in general." UPTE-CWA argued that the reclassification of "part-time faculty" and "temporary faculty" to "associate faculty" would leave local contracts unaltered while still precipitating "change [that] will provide clarity and bring recognition."

John Martin, an instructor at Butte College, a UPTE-CWA affiliate, served as chair of the

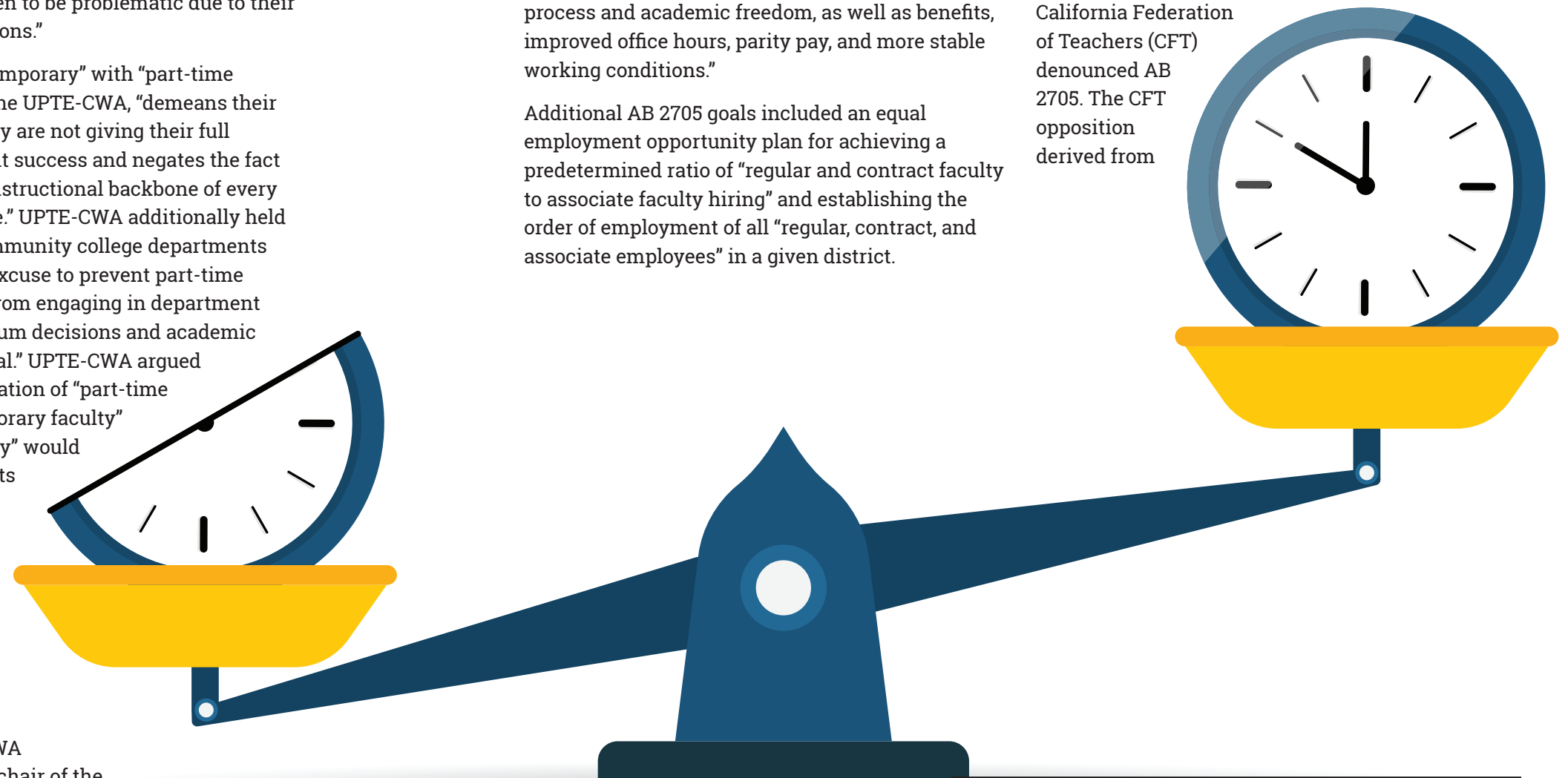
California Part-Time Faculty Association (CPFPA). Martin spearheaded co-sponsorship of AB 2705 by the CPFPA, adamant that the reclassification of "part-time" and "temporary" to "associate" would not compromise "the ability to secure unemployment benefits when faculty are not engaged in teaching either between terms or during the summer."

According to Martin, the reclassification "is a step toward self-empowerment and self-identification" and a "major step in the process of respecting and acknowledging the ongoing contribution of non-tenured faculty to student success and the commitment to faculty development and governance." He wrote that "what we choose to call ourselves is as important as gaining recognition in our ongoing efforts to gain not only respect but inclusion in shared governance, rights to due process and academic freedom, as well as benefits, improved office hours, parity pay, and more stable working conditions."

Additional AB 2705 goals included an equal employment opportunity plan for achieving a predetermined ratio of "regular and contract faculty to associate faculty hiring" and establishing the order of employment of all "regular, contract, and associate employees" in a given district.

Less than a month later, the steering committee for the California Conference of the American Association of University Professors, which represented professors in the California State University, University of California, and California community college systems, endorsed the bill, declaring, "The bill only changes terminology, but we feel that this is an important first step in addressing the inequitable two-tier professoriate that has emerged in the California community college system." The steering committee hoped that AB 2705 would ignite a "larger conversation about removing the artificial distinctions that segregate contingent and non-tenure-track faculty, and preclude their full participation in what AAUP calls 'the life of the university' [and community college]."

Despite support from some in the field, the California Federation of Teachers (CFT) denounced AB 2705. The CFT opposition derived from



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the American Federation of Teachers' (AFT) previous role in a court case on unemployment insurance for "part-time" and "temporary" instructors who do not receive assignments in a given semester. In May 2014, the CFT posted a 25-year anniversary retrospective essay on this case.

The authors of AB 2705 assured constituents that "it is the intent of the Legislature, in enacting this act, to act consistently with, and in no way to compromise or limit, the holding of the Court of Appeals in the case of *Cervisi v. Unemployment Insurance Appeals Board* (1989), 208 Cal.App.3d 635."

In response to CFT's opposition, the Assembly Higher Education Committee, chaired by Das Williams, amended AB 2705. In a crucial revision, legislators reclassified "associate faculty" to "contingent faculty," which explicated the uncertainty of course loads for AB 2705 instructors on a semesterly basis. This alteration conformed with the rationale offered for the *Cervisi* appellate decision.

Jason Lee, deputy legislative counsel for the State Assembly, drafted an opinion arguing that the reclassification was unnecessary and that "part-time" and "temporary" instructors in California community colleges "who are eligible for unemployment insurance would not lose their eligibility as the result of their titles being statutorily changed to 'associate' faculty."

The Legislative Counsel's opinion rested on three premises. First, the *Cervisi* decision did not set the legal parameters for instructor unemployment insurance in California community colleges. Rather, compensation benefits were payable to eligible unemployed instructors by the

California Unemployment Insurance Code §1253.3. Any "reasonable assurance" of course assignments or employment in a subsequent semester or term rendered a given instructor ineligible for unemployment insurance. The code defined "reasonable assurance" as including, but not limited to, "an offer of employment or assignment made by the educational institution, provided that the offer or assignment is not contingent on enrollment, funding, or program changes."

Second, Counsel argued that "reasonable assurance" was the barometer for unemployment insurance eligibility. In this telling of the 1989 *Cervisi v. Unemployment Insurance Appeals Board*, the decision proffered the argument that any employment contingent on "adequate enrollment, funding, and approval of the District's Board of Governors" is not "reasonable assurance" of continued employment.

In the appellate case, the Court of Appeals upheld the *Cervisi* trial court decision, making the claimants eligible for unemployment insurance. The appellate court based its ruling on the "administrative record," which included a "standard faculty assignment form," stating that "employment is contingent upon ... adequate class enrollment." The "administrative records" also established that the entire district had undergone a significant drop in enrollment. "A contingent assignment," then, "is not a 'reasonable assurance' of continued employment."

Legislative Counsel premised its opinion—that the shift to "associate faculty" would not result in instructor ineligibility for unemployment insurance—reiterated that the appellate court "determined that they [claimants] did not have reasonable

Additional AB 2705 goals included an equal employment opportunity plan for achieving a predetermined ratio of "regular and contract faculty to associate faculty hiring" and establishing the order of employment of all "regular, contract, and associate employees" in a given district.

assurance under the plain meaning of §1253.3" and that AB 2705 would "not alter, add, or remove particular conditions of employment."

The Part-Time Faculty Committee for the Faculty Association of California Community Colleges (FACCC) also reviewed the bill and recommended that FACCC support it; however, concerns remained about the potential impact on access to unemployment insurance. "It appears that during the recent language change from 'associate' to 'contingent' important language was deleted specifying regular and contract full-time faculty, and this must be restored."

CFT representatives were not satisfied with the Assembly Committee on Higher Education's assessment of the bill, nor with the qualified support issued from the FACCC.

The Assembly Higher Education Committee analysis of AB 2705 noted that the current classification was "convoluted and inconsistent; the terms 'part-time' and 'temporary' are used interchangeably and haphazardly throughout the code." The sheer number of "extensive, complex statutes, many of which apply to 'full-time,'

'part-time,' 'temporary,' 'contract' and other academic employees, in a wide array of situations related to multiple aspects of district employment," exacerbated "the confusion" and heightened the need for a "standardized term."

The analysis also addressed the *Cervisi* case. The 1989 ruling set a precedent by affirming "AFT's view that part-time faculty do not have 'reasonable assurance' of assignment rights in the next school term and therefore should not be ineligible for unemployment benefits during periods of lay off ... part-time faculty who are unemployed after the end of any semester or summer session can therefore apply for and receive benefits."

According to CFT, any attempt to change the definition of "part-time faculty" and "temporary faculty" could potentially render the *Cervisi* decision "moot, and at the least give Administrative Law Judges throughout the state a basis upon which not to apply the findings in *Cervisi*." CFT argued that the bill, "while well intended," changed "the definition of part-time faculty in the ED" and "may have the effect of inviting courts to revisit the *Cervisi* decision held by the California Court of Appeals (1989), and make it harder

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to vindicate the rights of temporary CCC teachers to collect unemployment benefits." In the CFT assessment of Cervisi, "the appellate court ruled that part-time, temporary instructors are eligible for unemployment if they have a teaching assignment that can be cancelled for lack of funding, low enrollment, or other factors." In AB 2705 the change from "part-time and temporary faculty" to "contingent faculty," while offering "some intangible benefit to employees who prefer to not be called part-time," really amounted to "a case of unintended consequences." The Education Code and case law did not deploy "part-time, temporary faculty" solely as "an accurate description." This classification was what "labor attorneys rel[ied] on for their opinions and cases under the Education Code."

In August 2014, consultants for the California Senate Appropriations Committee provided a synopsis of revisions to the bill. In the revised AB 2705, Das Williams included a new field office

directive for the Employment Development Department in order to appraise the purpose of "unemployment insurance benefits that reflect the substitution of the term 'contingent faculty' for the terms 'part-time faculty' and 'temporary faculty' in the California Education Code."

Consulting staff for the Senate Appropriations Committee noted that Education Code §87481, which similarly governed "the employment of part-time and temporary faculty, continue[s] to identify them as such." The result would be "inconsistent references" that could "potentially both impact collective bargaining agreements and invite litigation." The report further explicated this potential impact: in all likelihood, the 72 California community college districts would have to revise local collective bargaining agreements. The labor required to "review and revise documents could be deemed reimbursable," but if any party disagreed "about when to use 'contingent faculty' and when to use 'part-time

faculty' or 'temporary faculty' in the agreement (especially in light of inconsistency in the code sections), there will be additional costs to renegotiate contracts, and negotiation costs are currently reimbursable under the existing mandate." If deemed reimbursable, the costs would be minimal for California community college districts. Conversely, the costs would be deflected to the California state government and, ultimately, taxpayers. Approximations of these costs "exceed[ed] \$100,000 (General Fund) statewide."

In AB 2705 the change from "part-time and temporary faculty" to "contingent faculty," while offering "some intangible benefit to employees who prefer to not be called part-time," really amounted to "a case of unintended consequences."

The fiscal reservations of the California Senate Appropriations Committee, in concert with ongoing CFT opposition, effectively submerged AB 2705 into a legislative abyss. In the fall 2014 issue of *Academe Magazine*, the CFT Council president rejoiced, proclaiming that the "CFT succeeded in defeating an ill-considered legislative bill which purported to bring 'respect' to adjunct faculty members by changing their Education Code classification from 'temporary' to 'contingent.'" The president argued that supporters of the bill had "overlooked the potential loss of unemployment benefit eligibility this change to the code would create. Fortunately, after a great deal of lobbying by the CFT, community college districts, and others, we were able to kill AB 2705." He assured readers that the CFT planned on bringing "real dignity to part-time faculty" by launching a statewide campaign for pay equity, paid office hours, and employment security. The CFT also had begun to organize "a series of statewide actions that we hope will culminate in the governor recognizing these important needs in his January [2015] state budget proposal." Designations such as "associate faculty" and "contingent faculty" heralded neither "dignity" nor accurate representation of "part-time faculty" contributions. Misled efforts by authors and sponsors of the bill had not been necessary in any case. In the CFT purview of "dignity," gubernatorial budget allocations for pay parity accomplished the same goals with none of the consequences.

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AB 2705 perished in California legislative committee review, but the ideas contained therein live on. In 2021, amid remote instruction and the COVID-19 pandemic, instructors from the Santa Rosa Junior College District's All Faculty Association (AFA) revived demands for district administrators to reclassify "adjunct" and "part-time faculty" to "associate faculty" in administrative documents. Despite pushback from some faculty, members of the Santa Rosa Junior College District's AFA overwhelmingly approved measures to reclassify "part-time faculty" and "adjunct faculty" to "associate faculty." Implementation is pending, but the movement breathed new life into the ideas conceived by authors and sponsors of AB 2705. Proponents of the Santa Rosa reclassification hope that the outcome of their district referendum will spark proposals in additional California community colleges. They anticipate many lives for such ideas and not reburials of the same. ■

Building a Mystery: The eLearning Ecosystem in 2022

by Amy Leonard

As educators reflect on the lessons learned during the past two years, there is no doubt that eLearning has forever changed the landscape of education. The question now is what does the modern eLearning Ecosystem look like for higher education?

Initially, the pandemic had educators scrambling to “Zoomify” their classrooms and survive with basic learning management knowledge, but that has opened the door to robust calls from educators, administrators, and—most importantly—students to build durable and dynamic online learning spaces. Dynamic instruction is fueled mostly by trends in mobile-first learning and virtual reality/mixed reality.

Students want their educational experiences to mirror their daily lives, including on-demand instruction, social platform interaction, and varied

mediums of assignment—e.g., Adobe Express style papers, instead of traditional research papers, with podcast and documentary options, Kahoot! quizzes and a general desire to have assignments with relevancy beyond the classroom (Portela 2022). The pandemic pushed higher education to realize there is life beyond the traditional paper or quiz assignments and that to remain relevant, instructors need to create living assignments rather than ones that die at the classroom door.

Furthermore, the pandemic altered the way we traditionally think of socializing. In-person study groups have given rise to class Discord channels and Slack classrooms, transforming how students and instructors interact.

This evolution has created a need to strategize social interactions, as Cavanagh (2021) asserted: “We want to be student-centered instructors, but not at the expense of our own well-being. Strategizing how to be a high-touch instructor can go a long way towards maximizing both the student and the instructor experience of the course.” This means that institutions may have to rethink policies on communication and compensation, as well as providing training on new platforms and best practices.

The higher education landscape must now embrace learning management systems. At the community college level, this is challenging because “Nearly half (48%) of respondents to the 2022 ITC Annual National Distance Learning Survey indicated they had no dedicated staff (16%) or only 1–2 dedicated staff (32%) to deal with the challenges of moving all instruction online” (Lokken 2022). To reach this brave new world of high-touch teaching, online education will need to rethink its approach to staffing so that eLearning ecosystems can reflect the dynamism of instructors and the desires of students.

Ultimately, the modern eLearning ecosystem is an evolving space that needs to be nimble enough to meet the changing social and intellectual needs of students, while providing a platform that gives instructors the dynamic capacities to incorporate a variety of learning tools to best fit their content.



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makes the argument for academic freedom in the pursuit of equity:

The proliferation of new theories and disciplines by the end of the twentieth century is a testament to the importance of academic freedom in the role of creating a robust exchange of ideas. By asserting their right to academic freedom and using that right to challenge traditional theories, scholars have been able to create a more diverse and robust exchange of ideas that introduces students to that “multitude of tongues” identified by the Supreme Court. The results of this progress are evident in the proliferation of disciplines such as ethnic studies, gender studies, and LGBTQ studies, among others. The existence of these disciplines indicates a more robust “marketplace of ideas” where students learn to analyze subjects from a diverse variety of lenses. Academic freedom has played an essential role in the establishment of critical theories, ensuring that colleges and universities no longer rely on “the single story.”

Academic freedom is particularly essential to young, non-tenured, diverse faculty focusing on implementing culturally responsive teaching practices and curriculum who

are working to decolonize the curriculum as “academic freedom gives faculty members substantial latitude in deciding how to teach the courses for which they are responsible.”

To ensure the future of academic freedom for its members, FACCC is sponsoring California State Senate Resolution SR 45, “Relative to academic freedom,” authored by Senator Dave Min of Orange County. The resolution asserts that the concept of academic freedom “entitles teachers to freedom in the classroom discussing their discipline, and states that teachers should not introduce into their teaching matter that has no relation to their discipline; that under an academic freedom policy, a faculty member can, within their discipline, articulate or even advocate positions or concepts that may be controversial in nature without fear of retribution or reprisal by the institution; and that academic freedom is an essential requisite for teaching and learning in California Community Colleges.”

FACCC seeks to partner with the Legislature to solidify academic freedom in the California Education Code to secure protections for scholars, both faculty and students, in the future. With the help of faculty advocates, this landmark legislation is possible. ■

Resources for further exploration on academic freedom:

- » American Association of University Professionals: The Redbook
- » Academic Senate for the California Community Colleges position paper: *Protecting the Future of Academic Freedom During a Time of Significant Change*
- » Academic Senate for the California Community Colleges *Rostrum* article: “Academic Freedom and Equity”



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