

Chabot-Las Positas Faculty Association

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May 1, 2009

TO: All Faculty

FROM: Charlotte Lofft, FA President (Written in collaboration with FA attorney, Mr. Robert Bezemek.)

RE: Assignment of Grades - Faculty Right to Assign Grades Based on Class Attendance

As some of you may know, some concerns arose this term regarding the current and common practice of most vocational tech programs, as well as the practice of faculty in other disciplines, to assign grades based on class attendance.

FA has looked into this matter and initiated discussions with the administration and determined that the administration AGREES that both the State Education Code, various court cases, and the FA Collective Bargaining Agreement (the "Contract") guarantee that faculty have the right, under academic freedom, to determine grading, and may assign a failing grade to students who fail to meet specified attendance standards that are determined by faculty—either program-wide or individually.

Because this is such an important issue to faculty, and is part of our Contract, we are writing to ensure that any confusion over this issue is clarified.

To that end:

All faculty are permitted by law to establish standards of attendance and drop students from their classes and assign failing grades, or reduce grades, for students who do not meet those attendance standards;

These standards may be set by a program (such as many of our vocational tech programs), or by individual faculty in academic or other disciplines;

Students should be advised at the beginning of classes of standards of attendance—and that failure to meet those standards will result in being dropped from the class and/or receiving a failing grade or other consequences;

Program-wide standards should ordinarily appear in the materials about the program and individual faculty that use attendance standards shall also include them in their syllabi.

Letter to Faculty: Grading by Attendance
May 1, 2009

The FA attorney, Mr. Robert Bezemek, has provided the following information for all faculty. If you are challenged by the District or any of your supervisors for assigning a failing grade, lowering a grade, or dropping a student based on attendance, please contact the FA immediately, and we will assist you in upholding your rights.

Mr. Bezemek pointed out that the law expressly provides that faculty have the right to issue student grades, so long as there is no mistake, fraud, bad faith or incompetency in the process. This right was assured when the legislature adopted section 76224, which provides:

(a) When grades are given for any course of instruction taught in a community college district, the grade given to each student shall be the grade determined by the instructor of the course and the determination of the student's grade by the instructor, in the absence of mistake, fraud, bad faith, or incompetency, shall be final.” (NOTE: This section of the Ed. Code is referenced in our Contract, Article 9L. A violation would be grievable.)

This protective provision of the Education Code is duplicated in Title 5. (5 Cal. Code of Regs § 55025) This Education Code language is in Article 9L of our Contract.

The FA is pleased that after inquiry it was determined that the District shares FA’s understanding of the law, and has worked cooperatively to confirm our mutual understanding.

As stated above, our Contract does memorialize the relevant section of the Education Code with respect to faculty rights in grading. The FA takes these rights very seriously, and we want to hear from you if you feel these rights are being violated.

I hope information this is helpful to faculty.

Yours truly,

Charlotte Lofft

Cc: College and District Administration