Assigning Grades

An instructor’s grade sheet is not one of the documents listed for inspection in his or her comprehensive evaluation (Agreement Articles 19.13.G.3 and 42.C.2.a); “other relevant materials” are not grade sheets. No document inspection is part of a basic evaluation (19.F) unless there is a “mutual agreement” to do so, and grade sheets are again not listed. Grades are the property of the student as a contractual result of intellectual endeavor with the instructor.

Assigning student final grades is completely and solely the responsibility of the instructor. No department chair, dean, or college vice-president can assign, change, or assume authority for those final grades. That is the law. And no college “policy” or “past practice” to the contrary can leap frog that law, stated in the Calif. Education Code 76224(a): “When grades are given for any course of instruction taught in a community college district, the grade given to each student shall be 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.”

Grades cont.

Labor attorney Larry Rosenzweig confirmed, “No policy can circumvent the law.”

Reviewing an instructor’s grade sheet to “prove” incompetence or fraud is a perversion of Board Rule 6705, which not only echoes the state law that the “determination of the student’s grade is final in the absence of mistake, fraud, bad faith, or incompetency…” but adds, “The removal or change of an incorrect grade from a student’s record shall only be done upon authorization by the instructor of the course.”

The BR does not include information that such a change of grade is the basis for an inspection of the instructor’s complete grade sheet for the entire class or for that one student. The instructor has clearly discovered an error, usually at the request of a student for review, or changes a grade because the student made-up a final that was missed. “Incompetence, fraud, and bad faith” have nothing to do with the grade change.

No college president, vice-president or dean, or any faculty organization, can create a college policy that modifies, contradicts, or supersedes any provision of the Agreement (6.A, D, E, F).

2011-14 Contract

The AFT Faculty Executive Board voted to accept new language for the 2011-14 Agreement.

New to the contact is an additional year for the department AFT adjunct representative, from 1 to 2 years (Article 17.B.3) and a combined adjunct winter-summer priority list, in other words one list (15.B).

New to “Leaves” is language for “Maternity/Paternity Leave” and “Pregnancy Disability Leave” (25.L,M), for probationary faculty to qualify for “Family Medical Leave” (25.K.2), for an increase to five illness days one can donate to another (25.E.13).
### Adjunct Faculty

It’s the law, not a privilege.

“Whenever possible:

“Part-time faculty should be considered to be an integral part of their departments and given all the rights normally afforded to full-time faculty in the areas of book selection, participation in departmental activities, and the use of college resources, including, but not limited to, telephones, copy machines, supplies, office space, mail boxes, clerical staff, library, and professional development” Education Code (87482.8[d]).

These rights are echoed in our Agreement, including, but not limited to, sections of Articles 13, 16, 17, 19, 22, 31, and 43 and Appendices A, D, and E.

“Whenever possible” does not mean at someone’s convenience. It also does not mean, as 15 faculty and I heard a temporary campus president say, that adjunct faculty like to work out of their cars.

“Whenever possible” does mean that adjunct faculty are not exceptions or after-thoughts to departmental matters, such as book selection specifically. It does mean that office space must be available even if the campus is in the middle of new construction or renovation.

All is possible, and nothing is an excuse. Collegiality (Art. 16.D) is always possible and contractual.

EC 87482.8 also assures adjunct faculty “should be informed of assignments at least six weeks in advance” (a), “should be paid for the first week of an assignment when class is cancelled less than two weeks before the beginning of a semester” (b), and “names of part-time faculty should be listed in the schedule of classes…”(c).

### Permit Instructors

About 68 full- and part-time instructors would not have had teaching assignments at the beginning of the fall 2010 semester had not the District Academic Senate, AFT College Guild, and district administration worked together to find a solution to this issue.

The campuses told the instructors in late summer 2010 that their permits to teach were no longer recognized by the state chancellor’s office. The instructors included some who had been teaching in the district with these annual permits for over 20 years. The permits had replaced, before state and district minimum qualifications were implemented in 1990, the requirements of their respective disciplines prior to MQs.

District management agreed to allow the instructors to continue their assignments for fall 2010, and then, after several consultations with the faculty representatives, they were allowed to continue through spring 2011.

After several more meetings, the three constituency groups – the Academic Senate (including research by Kathleen Bimber, Eloise Crippens, and David Beaullieu), the AFT Faculty Guild (Joanne Waddell and the chief grievance guy), and administration (Adrianna Barerra and Camille Goulet) – reached an agreement that these instructors will have their assignments for fall 2011 and thereafter.

All instructors who were the focus of the research and discussion were found to have equivalency. The Senate EPAC approved.

Permits no longer exist, and former “permit faculty” continue to work in their assignments.

### Union Assistance

As discussed here in a past issue, the U.S. Supreme Court announced 35 years ago that employees have a right to a union representative during an investigatory interview, a right that is known as the Weingarten Right or Rule (NLRB vs. Weingarten, Inc. 420 U.S. 251, 88 LRRM 2689).

This right applies when an employee, in our case a faculty member, reasonably believes that he or she may face adverse consequences from what he or she says in the meeting or interview. The faculty member should have the campus chapter president or other union representative present.

A union representative is not to be an observer only, but has the right, according to the Supreme Court, to “assist and counsel” the faculty, may call for a caucus with the person, ask for clarification of a question of the supervisor, and has the right to know the nature or subject of the interrogation.

A union rep. may not tell the one being interviewed to refuse to answer a question or what to say.

The faculty member must know his right to ask for a union representative, however. It is not the responsibility of an administrator or a compliance officer to inform him or her of this right.

If a faculty member is called to such a meeting, he or she should meet first with the union member and go over the issue(s), determine his or her course of action by reviewing any documents that may be related to the pending interview and possible questions that will be asked, and any contract or Education Code articles that may be violated concerning the administration’s request for the meeting.