



MEMORANDUM
Office of the President

March 5, 2012

TO: Academic Senate
c/o Dr. Michael Mahoney, Chair

FROM: Leroy M. Morishita, President *Leroy M. Morishita*

SUBJECT: Academic Senate Resolution 2011-12 BEC 5, Policy on Time, Place and Manner of Free Expression
[Academic Senate Action Item passed by the Academic Senate on November 29, 2011]

Historically, collegiality and the shared governance process between faculty and administrators are fundamental and have been vital to the success of higher education in the United States, and I want to reinforce how critical and central they are to achieving Cal State East Bay's mission. The CSU Board of Trustees underscored the role of collegiality in a 1985 *ad hoc* committee report stating:

Collegial governance allows the academic community to work together to find the best answers to issues facing the university. Collegial governance assigns primary responsibility to the faculty for the educational functions of the institution ... This includes admission and degree requirements, the curriculum and methods of teaching, academic and professional standards, and the conduct of creative and scholarly activity. ...

“Central to collegiality and shared decision-making is respect for differing opinions and points of view ...”

The CSU statewide academic senate and the American Association of University Professors (among others) have also written eloquently about the importance and role of the faculty in shared governance.

With this understanding, at the same time, Title 5 of the California Code of Regulations, the CSU, and even the Cal State East Bay faculty constitution recognize that the president has both the authority and the responsibility to manage the university. This responsibility involves providing leadership for university-wide issues and functions and the administration of all divisions affecting all constituents of the university in support of the academic mission.

Such is the case with the University policy on the Time, Place, and Manner of Free Expression, Title 5 of the California Code of Regulations, specifies this as a presidential responsibility:

The president of the campus may permit the use of campus buildings and grounds for public meetings, performances, rallies and similar events held in accordance with reasonable directives issued by the respective campus president as to the time, place and manner thereof. ... (Section 42353)

In order to seek input and advice on university-wide matters, Cal State East Bay has established university-wide standing committees, such as the University Planning, Assessment and Budget Committee, the Student Success and Assessment Committee, and the Space Policy Advisory Committee. The Cabinet also appoints occasional university-wide task forces to address short-term topics as necessary. The faculty is always represented on these committees and task forces, which also include student and staff representatives – and sometimes when appropriate, alumni, friends and members of the larger community and other critical constituencies of the University. Recommendations to the Cabinet from university-wide committees and task forces are often operational in nature, but sometimes also result in the adoption of university policies that are published as University Executive Directives.

Given this context and responsibilities described previously, and while I appreciate the discussion by the Academic Senate, I cannot accept Resolution 2011-12 BEC 5, Policy on Time, Place and Manner of Free Expression, as adopted by the CSUEB Academic Senate on November 29, 2011. The University policy on Time, Place and Manner of Free Expression is being published as University Executive Directive #11-04.