

ORANGE COAST COLLEGE

Academic Senate Meeting | Nov. 14, 2023 | 11:30 am - 12:30 pm | Student Union
214/Zoom Link: <https://cccd-edu.zoom.us/j/89711704637>

Academic Senate Member Attendance

Karen Baker , <i>Math & Sciences</i>	Present	Lee Gordon , <i>at-Large, President</i>	Absent
Jason Ball , <i>Part Time Faculty</i>	Absent	Kelly Holt , <i>at-Large</i>	Present
Carol Barnes , <i>Counseling</i>	Present	Marilyn Kennedy , <i>Lit & Lang, PDI Chair, Secretary</i>	Present
Tyler Boogar , <i>at-Large</i>	Present	Jodie Legaspi-Kiaha , <i>Athletics & Kin</i>	Present
Eric Budwig , <i>Technology</i>	Present	Irene Naesse , <i>at-Large</i>	Present
Irving Chavez Jimenez , <i>at-Large</i>	Present	Jeanne Neil , <i>Business & Computing</i>	Absent
Eric Cohen , <i>Consumer & Health Science</i>	Present	Lori Pullman , <i>Curriculum Chair</i>	Present
Sean Connor , <i>at-Large</i>	Present	Sara Qubbaj , <i>Part Time Faculty</i>	Present
Eric Cuellar , <i>at-Large</i>	Present	Loren Sachs , <i>at-Large</i>	Absent
Jodie Della Marna , <i>Library</i>	Present	Katherine Sheehan , <i>Visual & Performing Arts</i>	Present
Rendell Drew , <i>at-Large, Vice President</i>	Present	Jordan Stanton , <i>Social & Beh. Sciences</i>	Present
Cyndee Ely , <i>Part Time Faculty, Parliamentarian</i>	Present	Rina Yamauchi , <i>ASOCC Student Representative</i>	Absent

Please see the Voting Tally Chart after these minutes for individual members' votes.

Guests (Optional & Voluntary Sign-In): Rob Schneiderman, Andreea Serban, Renee De Long, Jason Constein, Bob Fey, Adolfo Paz, Larissa Nazarenko, Kim Nguyen, Stephen Gilbert.

1. Preliminary Matters

- A. **Call to Order:** Vice President Drew called the meeting to order at 11:30 A.M.
- B. **Opportunity for Public Comments:** Adolfo Paz.
- C. **Approval of the Minutes:** Motion 1: Senator Kennedy moved to approve the November 7, 2023, minutes, with minor changes for clarity; motion approved.
- D. **For the Good of the Order:**

Senator Irving Chavez Jimenez: Reminded all that the ARC Faculty Appreciation Luncheon will take place on Wednesday, November 15. from 11:30 a.m.-3 p.m. There will be a walking tour of the office as well as a Q&A session panel hosted by the ARC Director Jason Constein, as well as other counselors.

The DEIA Ad Hoc Workgroup met to discuss the Culturally Responsive Curriculum and Pedagogy Grant. They reviewed the verification sheet, tied to what they presented last time where they asked fellow senators to make the rounds at their respective divisions to solicit interest and participation from faculty to submit proposals for this grant. This verification will be used for data tracking purposes. They will later disseminate that to everyone. That way they can keep a record of those who were reached and those who they communicated this grant information and opportunities with. **Senator Cuellar:** This is done in the spirit of collaboration and to have a clear path of communication between academic senators as a body, and as well to continue to move this for the good of the campus.

Senator Jordan Stanton: Extended an invitation to the Student Presentations on Indigenous Cultures of the Americas taking place this Thursday, November 16, from 1-3 p.m., in the Student Union Multipurpose Room. It is recognition of Native American Heritage month. Extra credit slips will be provided.

Senator Jodie Legaspi: Extended an invitation to the Orange Coast College Softball Pickleball Fundraiser on December 2, at the new Tennis Center facility off Pirate Way. The entry fee is \$25 per single or \$50 for a pair. You do not have to have any experience. There is going to be a novice and an advanced group. Sign-ups close on November 25.

Senator Sean Connor: Shared that he has a project in his class where he requires them to do something good for the world, so they decided to host a clothing drive. They got approval to host a stand outside the bookstore on Wednesday, November 15, 2023, from 10 a.m.-1:30 p.m. He requested that they encourage fellow students to donate. He encouraged faculty to offer extra credit for those students who are able to donate. He shared that there is a Speech and Debate Showcase taking place on Wednesday, November 15, 2023, at 6 p.m. in the Science Hall. Extra credit slips will be available.

Senator Kennedy: Announced that December 1 is the deadline for PDI applications for this semester, and since announcing that, PDI has received many responses. If faculty are applying for conference funding, the deadline is for domestic conferences up to mid-February, but if they are international, including Hawaii or Alaska, the conference date is through mid-March, due to the District's six-week requirement.

2. Unfinished Business

A. Resolution on Pope Tech Accessibility and 10+1 - Irene Naesse & Marilyn Kennedy:

Senator Kennedy: Reminded the Senate and guests that they presented to the Senate twice in the last two weeks. First, the Academic Freedom Committee reported out along with the Transparency Committee Chair, and then last week Computer Science Professor Gilbert gave a very well-written and detailed PowerPoint about the problems with the Pope Tech Accessibility App and Review process from all different perspectives.

This resolution is a compilation of that information, and every *whereas* is a summary of what the Senate has already read, heard or seen. There is only one new piece of information, and that is the history section that contains the initial trigger for this: Los Angeles Community College District (LACCD) lost a disability lawsuit. This is why all the districts are now making sure that we have accessibility and as Professor Irene Naesse said, we're all on board with that, and we all want that; we want that to work well. I want to let everyone know what the case was based on because there's a misunderstanding. The jury found that LACCD violated the ADA in fourteen different ways, and they did so with deliberate indifference. The reason they did this. It wasn't just because of Canvas. I really want to make that clear.

The reason they lost the case was not just because of Canvas or online teaching. A blind student and other disabled students were shut out of the school's websites, course materials in class, hard copies on campus, information on whiteboards, web-based learning platforms, the library search system, and more. It was the entirety of the college, not just Canvas. There is a link for people to look at in the history portion of the resolution to read the case. In response to those issues, it seems that the Coast District focused on a single aspect of accessibility issues: Canvas materials.

Senators Kennedy and Naesse alternated in reading the resolution to the Senate. [A larger version of the resolution is in the appendix of these meeting minutes.]



Academic Senate Resolution F-2023-2

Resolution on the Pope Tech Accessibility, Its Review Process and the 10 + 1, Liability, and Working Conditions (Academic Freedom, Accessibility, Curriculum, Due Process, Transparency)

Moved by Senators Marilyn Kennedy and Irene Naesse
Seconded by Vice-President Rendell Drew
November 14, 2023

History/Background: LACCD lost a disability lawsuit when in Payan v. L.A. Cmty. Coll. Dist. No. 2:17-cv-01697-SVW-SK. A jury found that LACCD violated the ADA in 14 different ways and, in most cases, did so with deliberate indifference. The jury awarded the plaintiffs over \$240,000 in damages. While attending LACCD between 2015 and 2018, Ms. Mason and Mr. Payan experienced accessibility barriers in all aspects of their education: they were shut out of the school's websites, course materials [hard copy, in on-campus classes], web-based learning platforms, library resources, and more. Professors even told Mr. Payan that he could not stay in their classes because he is blind (BGL Team n. pag.). In response, the Coast Community College District focused on a preventative remedy, but mostly on a single aspect of the accessibility issues in Payan v. LACCD, and selected Pope Tech Accessibility app/software for Canvas shells. Administration also required a Pope Tech review process, making it a mandatory process for ten percent of randomly selected OCC faculty.

- Whereas, OCC faculty support and advocate for equal access for disabled students, with accurate and trustworthy accessibility tools. Therefore, this resolution is focused on the Pope Tech accessibility software's inability to holistically evaluate, consequently reporting false errors that have led faculty to delete course content because the software incorrectly identifies content as inaccessible.
Whereas, the Pope Tech Accessibility app/software and its review processes were neither vetted nor approved by the OCC Academic Senate; further, no OCC faculty members (per Senate appointment) were on the District committee that made this decision. These lapses have led to transparency and 10 +1 issues revolving around curriculum, standards, process, and academic freedom.
Whereas, ten percent of the OCC faculty who have been randomly selected to mandatorily complete the Pope Tech Accessibility review process have had excessive hours of work added to their workload, well beyond the CFE Contract, Article XI. Hours of Service;
Whereas, the selected faculty voiced concerns that they are unable to accurately answer Question 10, accepting potential legal liability, in the Pope Tech Accessibility review process given the reported false errors as well as the complexities and intricacies of the myriad of course content at the college;
Whereas, the OCC Senate E-Board, after receiving these concerns, charged its Academic Freedom Committee with reviewing, vetting, and reporting its findings regarding these concerns to the Senate;

- Whereas, the Academic Freedom Committee met with the Transparency Committee Chair and Computer Science Professor to review these concerns and those of the Computer Science Department and other faculty;
Whereas, the Academic Freedom Committee reported its findings to the OCC Senate on October 31, 2023. Computer Science Professor Stephen Gilbert presented a related report the following week, in Problems of Accessibility Course Review, detailing the coding and technical inaccuracies, plus the potential legal liabilities of faculty signing yes to question 10 in the Accessibility Review Form;
Therefore, the Academic Freedom Committee presented the following recommendations to the OCC Senate on October 31, 2023, and asked for Senate consideration and endorsement for the recommendations:
Review and Recommendations for Senate Endorsement
A. Request an answer to this question: Who authored and approved the Pope Tech Accessibility Review Final Form?
B. Follow up with CFE: Given the additional workload, CFE needs to address the working conditions aspect of this issue for those who have completed the accessibility review.
C. Find a New Way via Faculty, Due Process, and the Union: There was a lack of due diligence causing this to happen. Improving accessibility must be done in an alternative, positive, and productive way with faculty involvement in the process.
D. Endorse the Three-Point Advisory List and Forward to the Faculty:
1. Remind faculty that the CFE union has advised faculty that there will be no repercussions to faculty members in evaluations or discipline regarding the Pope Tech Accessibility Review.
2. Encourage faculty not to participate in the Pope Tech Accessibility review. Suggest instead that the faculty member make a good faith effort to make the course accessible and make a statement that they did so. This could be followed up with a note in their Canvas class asking any students who find an accessibility issue in their class to contact the professor immediately.
3. If faculty choose to participate in the accessibility review or have already done so, request that they complete a time log and/or take a quick survey of the time spent for the process. Advise faculty to click no to question 10 in order to avoid potential liability.

BGL Team Secures \$240,000 Jury Verdict for Blind Students in Discrimination Lawsuit against the Los Angeles Community College District. Brown, Goldstein, and Levy. 2 June 2023.
BGL Wins \$240K Verdict In Victory Against LACCD - Brown Goldstein Levy

Vice Chancellor Serban: Wanted to clarify and stated that this process was not caused by that lawsuit in LA. That was one factor of many. The statement that this was not vetted through the Academic Senate is factually incorrect. She was at the Senate last spring discussing this very process. She sent an email to President Gordon. She claimed that when she came to the Senate last spring, she presented a number of reasons why they need to undertake a formal process that needs to be done regularly. That is driven by guidelines that she said came from the State Chancellor's Office and specific language and guidance that the State Chancellor's Office presented. That lawsuit is not a motivating factor. That was an informational item. The motivating factor is a much bigger issue, which is the accessibility guidelines that the State Chancellor's office provided and the obligation we have as a district to have a formal process. The process itself was actually vetted through all three academic senates and some senates chose to spend more time on it last spring than OCC senate chose to do.

There are faculty in the campus coordination work group, including the OCC Distance Education Faculty Barbara Cooper, as well as faculty from the other colleges, as well as administrators and others. She does not believe that this resolution accurately reflects the process that was done before the process itself was finalized.

Regarding the statement that by checking the box on question 10, the form simply states, I have completed a manual review of this course, including any non-canvas content, such as files. The fact that some faculty chose to delete whole pages, she is not sure why that was done. The point was for faculty to reach out to your group on campus led by Dr. Taylor, Curtis Williams, Eric Wilson, and Sue Harlan, as the trainings that were provided were to be that the intent is not to delete pages but rather to fix pages or replace them with content, if needed,

that is accessible. And that's not a 10 + 1 issue. That's an issue of simply fixing accessibility of content.

This is not an evaluation, and we stated that up front numerous times in various venues. It is not about using this for evaluation purposes but simply meeting our compliance requirements to have an annual formal process as well as improvement over time.

No accessibility tool is ever perfect and such an expectation is not set for any tool, because there is no such perfect tool. We have various tools that have been available for some time that you all have available to use for checking and fixing accessibility issues. However, this tool is the only one that provides a summary format that can be used in a meaningful way. She appreciates the effort that's being made but wants to be clear; it is important that facts be stated accurately in any resolution or any other formal document.

Vice-President Drew: He was not clear what Dr. Serban is in disagreement with. The faculty feel that we were not consulted. He doesn't know the background, but the reality is that all the things that are stated in this resolution are very on point and the faculty sometimes feel that there are policies and things that are imposed on them that are not vetted or discussed with them.

Senator Boogar: Stated that there are a few friendly amendments to the resolution that will still keep the main point of it. In the time he has been at OCC, he has never seen so many faculty, both full and part-time, unanimously bothered by something. That means something went wrong. That does not mean that there is any one person to blame. He vividly remembers this item coming to the Senate but does not think it was endorsed. He suggested we look at the minutes. It was just presented as an information item. There was a question posed at the time, which was about compensation for the work being done, and the answer to that question was that that is part of the legal obligation. He stated that the District has the legal obligation. It does not automatically mean that legal obligation carries over to the faculty to implement. Other places he has worked at, faculty submitted materials to experts. We as an institution can make that decision as to how we do that; It does not automatically fall to the faculty. Largely, this is a CFE issue about faculty's expectations to do that. If so, it needs to be a negotiated item. That is what was overstepped more than anything with the Senate.

Senator Kennedy: Stated that she would be happy to take out the paragraph in the history section about the single remedy, but as to the history of *Payan v LACCD*, it was a part of this. She reviewed the minutes to that meeting [[March 7, 2023 Senate Minutes](#)], her notes from that meeting, and the recording of that meeting, and there was no discussion and no vetting. The person Dr. Serban stated represented OCC faculty wasn't appointed by the Senate and didn't come and talk about this. We were just told that this was going to be done and that was the end of it and we had no say in it. Senator Boogar stated that this affects faculty workload, this is of concern to so many faculty who are upset and concerned. There is a big disconnect. We need to share Computer Professor Gilbert's presentation last week. He is an expert who writes code and reads computers, and who communicated with John Pope for over two months. In fact, I think it went over a year, and there were still problems, and we would be glad to share that with you.

Motion 2: Senator Kennedy moved to extend the time on this agenda item by five more minutes; motion seconded; motion approved.

Professor Gilbert: Stated that his concern was that faculty were asked to use a third-party tool rather than their professional judgement. If you apply that same third-party tool on the OCC website, you would essentially have to take down the website because it has five errors. Now, that website is perfectly accessible. The tool is saying it is not accessible. As faculty members we are told "you must get rid of all these errors." Faculty are not allowed to use their professional judgment to determine if it is accessible or not. There is no mechanism for recourse.

There is nothing on the form that says, "Can you explain why you have these five errors?" He still has 499 errors on one course that he has corrected the errors on. The Pope Tech summary report does not recognize the corrections that were made.

Senator Boogar: Requested that Secretary Kennedy review the minutes from that meeting to verify what occurred.

Senator Kennedy: Stated that she would do so. Due to time constraints at this meeting and the looming Pope Tech review deadline, she advised that the senators recommend to their faculty to hold off on submitting anything right now until they get the resolution back to the Senate next week because there are issues with CFE hours of service, liability, and inaccuracies. As Professor Gilbert said, he had everything corrected, but Pope Tech still reports it as 499 errors. Faculty need to have something that works well. We want functionality and accessibility; unfortunately, Pope Tech does not do those things.

3. New Business

- A. **ASCCC Plenary Resolutions - Rendell Drew:** The Fall 2023 Plenary Session is this week from November 14-16. He encouraged senators to look over the resolutions to be voted on and contact him if they have any recommendations. He shared a highlighted list with the Senate.
- B. **Discussion of Accessibility Resource Center (ARC) Audio and Video Recording Reasonable vs Unreasonable Accommodations:**

Vice-President of Student Services (VPSS) Madjid Niroumand: Introduced Coast Community College District (CCCD) General Counsel Jack Lipton who attended the meeting to offer legal perspective on accommodations for students with disabilities. He appreciated the questions submitted by the Senate beforehand.

General Counsel Jack Lipton: Started his PowerPoint presentation [see file attachment sent out with the minutes] with background on Education Code Section 78907. It provides that the use by any person, including a student, of any electronic listening or recording device in any classroom, without the prior consent of the instructor is prohibited except as necessary to provide reasonable auxiliary aids and academic adjustments to disabled students. This is a serious violation because any person who is not a student who willfully violates the statute is guilty of a crime, a misdemeanor. Except that any student violating this statute is subject to not a misdemeanor, but appropriate disciplinary action. Finally, this Education Code section provides that it shall not be construed as affecting the powers, rights, and liabilities arising from the use of electronic listening, or recording devices, as provided for by any other provision of law. That refers to intellectual property rights and things of that nature. This statute does not intend to diminish any of that. The **Administrative Procedure 5500 Student Code of Conduct** states that unauthorized recording is expressly a violation of the student code of conduct. He answered the following pre-submitted questions:

If a student has an AV recording on their accommodation letter, does the teacher have a right to deny that accommodation in their classroom?

The instructor does not have the right to deny a student's approved audio recording accommodation, but the instructor can require that the student stop recording when the classroom discussion includes personal information, sensitive topics, or subjects that are not directly pertinent to the class. It is his understanding that the ARC approves only audio recording accommodations, not audio visual, which was embedded within the question.

If an instructor has a pre-recorded video lecture covering the same material and notes, is that a sufficient alternative that the instructor could provide in lieu of audio recording?

If the instructor provides pre-recorded video lectures to the student, and this is a class that primarily utilizes a lecture format, then that could be considered a reasonable alternative to audio recording so long as exam questions or class assignments based on the lecture are covered in that video, so that provides an alternative to the accommodation.

If the answer to both of these questions is “no, can we as an institution not grant the audio recording accommodation at all to avoid the issue of a student expecting it in the first place?”

The college, as a matter of law, has a legal obligation to provide students with verified disabilities, equal access to education, and this includes the provision of approved accommodations and auxiliary aids where appropriate. He is advised that the two most common accommodations approved by the ARC at OCC are extra testing time and peer-note taking. For some students with certain types of educational limitations after review of their verification, documentation, and completion of the interactive process, it is determined that audio recording accommodation is necessary to help those students to help ensure their equal access.

Director of ARC Jason Constein: Last year they served about 1200 total students. On a given semester, they receive requests for the use of an accommodation such as having a peer notetaker for a class or taking an exam with extra time. This semester they have had 197 students out of 842 making requests for peer notetaking. That is 23%. That is the second most popular accommodation. The most popular accommodation requested and granted would be testing. Out of 842 students who submit a request, 439 of those have taken at least one test in the testing center. That is a total of 52%. When they get down to the audio recording accommodation that combines students who have come to the ARC to check out audio recording devices or who have let them know that they will use their phones to record, they have agreements that state that students can only use the recording for educational value. They are not allowed to upload those to social media or violate any copyrighted material. If they use a device from the ARC, those recordings get deleted. Out of the 842 students this semester, only 26 students have made this request. That is only 3%. More students have that accommodation but just because they have an accommodation, it does not mean they will use it. About 70%–80% of students have testing accommodations but only about 52% of them make use of them.

CCCD General Counsel Jack Lipton: Although the college has a legal obligation to provide educational accommodations to disabled students, factors other than the needs of the disabled students need to be considered, and how the accommodation is administered. These other factors to be considered include the academic integrity of the class as well as the rights of other students and the rights of faculty. If a disabled student is granted an audio recording accommodation, they are contractually prohibited from utilizing the recording for any other purpose, and they are prohibited from sharing or posting the recording.

CCCD General Counsel Jack Lipton: Agrees that an accommodation should not undermine the academic integrity of a class or affect what the class is supposed to do. If it does, then that accommodation should not be granted. He agrees that a faculty should have a role in many of these situations because every class is different.

Senator Kennedy: At most other campuses, community colleges and universities, they have the *Fundamental Alteration* (legal language at the federal level) process which includes faculty in that process. A *fundamental alteration* is any change to a course, curriculum, or

course outline of record that is so significant that it alters the required objectives or content of the curriculum in the COR. Most colleges have a process where faculty can do one of two things. They are either involved at the start in the decision making process, or if they want to appeal the process, there is a formal appeal process. That is not happening at our school. That is where faculty are frustrated. She has examples from other colleges and universities like UCLA, Fullerton College, etc. One needs to simply Google to discover that other campuses have faculty processes. For instance, in her class, they have times when they talk about things that are sensitive. She has already been told by students that they will not speak if they think they are being recorded. In her critical thinking class about current events students have to be able to be assured that they can explore critically all of the ideas without being restricted and sometimes the recording restricts that. **Senator Naesse:** Asked clarification about students being able to record on their phones. As a faculty member she feels very uncomfortable with students using their own private personal devices for recording in class. She would feel much more comfortable if they are recording using devices that are controlled by the ARC where the ARC then can go and delete content and monitor and manage that content.

Director of ARC Jason Constein: They have a process to loan equipment. They do engage with the students and offer them that option. There are some students who struggle using audio digital recorders and prefer to use their own cell phones. They do have an agreement with them that they will not use the content anywhere else. Out of the twenty-six students who have been granted that accommodation only six of them are using their cellphones. The rest are using loaned-out devices from the ARC. They do inform students of their rights and responsibilities.

ARC Counselor Rebecca Sims Ogaz: Her recommendation is for faculty to work closely with the ARC. There needs to be a collaborative process. She is in attendance to protect fellow faculty.

VPSS Madjid Niroumand: Clarified that [AP 5140 Disabled Student Program and Services](#) is inclusive of both faculty and students. If there is an objection to an accommodation, his suggestion is that it is discussed with the ARC director and expert faculty. They also have Coordinator Shannon Quihuiz who is a resource for appeals.

Senator Boogar: Appreciates the presentation. He would like to see the actual process and mechanism. When there is a concern, who do they go to? He is of the opinion that the audio recording does affect the reality for the other students in the room. Students do not feel safe when they are being recorded. It lowers the quality of education for all the other students. He does not want to underestimate the work done by the ARC. They do a great job.

ARC Counselor Rebecca Sims Ogaz: She is also a faculty member. She records herself with her iPad when giving a lecture. Before handing it out, she deletes parts of the recording that are not meant to be shared. She also tells students to stop their recording when personal things are being shared.

CFE President Schneiderman: He would like to see the closing of the loop to so that when faculty receive those letters from the ARC that it would have a comment on there that if you have an issue related to some of these exemptions that Jack Lipton just mentioned, please contact a contact person. Therefore, if there is a problem with confidentiality that they can close that loop on that and make other reasonable accommodations for that students He will consult with the other Senate presidents, as well, if OCC is okay with that.

Senator Holt: Stated that the letter needs to be vetted as the letter states the student has the accommodation in every course. It needs to provide more detailed information and ways to exempt, as different courses have different expectations.

4. Adjournment

Vice-President Drew adjourned the meeting at 12:27 p.m.

5. Approval of the Minutes: November 21, 2023

MINUTES: First draft written by Beatriz Rodriguez Vaca, Administrative Assistant to the Senates. Revision of first draft and Senate-approved drafts written by Senate Secretary, Marilyn Kennedy, who also distributes the final Senate-approved version to the Chancellor, Board of Trustees members and secretary, union presidents, GWC and Coastline Academic Senate presidents, OCC College President, and faculty as per OCC Senate bylaws.

Senate Membership & Voting Tally Chart	Motion 1	Motion 2
	Minutes 11/07/23	Extend the time for item 2.A, in Unfinished Business
Baker, Karen: Math & Sciences Senator (2023-2026)	Abstain	Abstain
Ball, Jason: Part-Time Senator (2023-2024)	Absent	Absent
Barnes, Carol: Counseling Senator (2021-2024)	Aye	Aye
Boogar, Tyler: Senator-at-Large (2023-2026)	Aye	Aye
Budwig, Eric: Technology Senator (2023-2026)	Aye	Aye
Chavez Jimenez, Irving: Senator-at-Large (2021-2024)	Aye	Aye
Cohen, Eric: Consumer Health Sciences Senator (2023-2026)	Aye	Absent
Connor, Sean: Senator-at-Large (2023-2024)	Aye	Aye
Cuellar, Eric: Senator-at-Large (2021-2024)	Aye	Aye
Della Marna, Jodi: Library & Learning Senator (2023-2026)	Aye	Aye
Drew, Rendell: Vice President, Senator-at-Large (2023-2026)	Abstain	Aye
Ely, Cyndee: Parliamentarian, Part-Time Senator (2023-2024)	Abstain	Abstain
Gordon, Lee: President, Senator-at-Large (2022-2025)	Absent	Absent
Holt, Kelly: Senator-at-Large (2023-2026)	Aye	Aye
Kennedy, Marilyn: Secretary, Lit. & Lang. Senator (2022-2025)	Aye	Aye
Legaspi, Jodie: Athletics and Kinesiology Senator (2023-2026);	Aye	Aye
Naesse, Irene: Senator-at-Large (2023-2026)	Aye	Aye
Neil, Jeanne: Business and Computing Senator (2022-2025);	Absent	Absent
Qubbaj, Sara, Part-Time Senator (2023-2024)	Aye	Aye
Sachs, Loren: Senator-at-Large (2022-2025)	Absent	Aye
Sheehan, Katherine (2021-2024ss); 11:59am	Absent	Absent
Stanton, Jordan: Social & Beh. Sciences Senator (2022-2025)	Aye	Aye

Appendix

Academic Senate Resolution F-2023-2

Resolution on the Pope Tech Accessibility, Its Review Process and the 10 + 1, Liability, and Working Conditions (Academic Freedom, Accessibility, Curriculum, Due Process, Transparency)

Moved by Senators Marilyn Kennedy and Irene Naesse

Seconded by Vice-President Rendell Drew

November 14, 2023

9

History/Background: LACCD lost a disability lawsuit when in [Payan v. L.A. Cmty. Coll. Dist. No.: 2:17-cv-01697-SVW-SK](#), “A jury found that LACCD violated the ADA in 14 different ways and, in most cases, did so with deliberate indifference. The jury awarded the plaintiffs over \$240,000 in damages.” “While attending LACCD between 2015 and 2018, Ms. Mason and Mr. Payan experienced accessibility barriers in all aspects of their education: they were shut out of the school’s websites, course materials [hard copy, in on-campus classes], web-based learning platforms, library resources, and more. Professors even told Mr. Payan that he could not stay in their classes because he is blind” (“BGL Team” n. pag.);

In response, the Coast Community College District focused on a preventative remedy, but mostly *on a single aspect* of the accessibility issues in Payan v. LACCD, and selected Pope Tech Accessibility app/software for Canvas shells. Administration also required a Pope Tech review process, making it a mandatory process for ten percent of “randomly selected” OCC faculty.

10

11 **Whereas**, OCC faculty support and advocate for equal access for disabled students, with accurate and
12 trustworthy accessibility tools. Therefore, this resolution is focused on the Pope Tech accessibility
13 software’s inability to holistically evaluate, consequently reporting false “errors” that have led faculty to
14 delete course content because the software incorrectly identifies content as inaccessible.

15 **Whereas**, the Pope Tech Accessibility app/software and its review processes were neither vetted nor
16 approved by the OCC Academic Senate; further, no OCC faculty members (per Senate appointment) were
17 on the District committee that made this decision. These lapses have led to transparency and 10 +1
18 issues revolving around curriculum, standards, process, and academic freedom.

19 **Whereas**, ten percent of the OCC faculty who have been “randomly selected” to mandatorily complete
20 the Pope Tech Accessibility review process have had excessive hours of work added to their workload,
21 well beyond the CFE Contract, Article XI. Hours of Service;

22 **Whereas**, the selected faculty voiced concerns that they are unable to accurately answer Question 10,
23 accepting potential legal liability, in the Pope Tech Accessibility review process given the reported false
24 errors as well as the complexities and intricacies of the myriad of course content at the college;

25 **Whereas**, the OCC Senate E-Board, after receiving these concerns, charged its Academic Freedom
26 Committee with reviewing, vetting, and reporting its findings regarding these concerns to the Senate;

1 **Whereas**, the Academic Freedom Committee met with the Transparency Committee Chair and Computer
2 Science Professor to review these concerns and those of the Computer Science Department and other
3 faculty;

4 **Whereas**, the Academic Freedom Committee reported its findings to the OCC Senate on October 31,
5 2023. Computer Science Professor Stephen Gilbert presented a related report the following week, in
6 “Problems of Accessibility Course Review,” detailing the coding and technical inaccuracies, plus the
7 potential legal liabilities of faculty signing “yes” to question 10 in the Accessibility Review Form;

8 **Therefore**, the Academic Freedom Committee presented the following recommendations to the OCC
9 Senate on October 31, 2023, and asked for Senate consideration and endorsement for the
10 recommendations:

11 **Review and Recommendations for Senate Endorsement**

12 **A. Request an answer to this question:** Who authored and approved the Pope Tech Accessibility Review
13 Final Form?

14 **B. Follow up with CFE:** Given the additional workload, CFE needs to address the working conditions
15 aspect of this issue for those who have completed the accessibility review.

16 **C. Find a New Way via Faculty, Due Process, and the Union:** There was a lack of due diligence causing
17 this to happen. Improving accessibility must be done in an alternative, positive, and *productive* way
18 with faculty involvement in the process.

19 **D. Endorse the Three-Point Advisory List and Forward to the Faculty:**

20 1. Remind faculty that the CFE union has advised faculty that there will be no repercussions to
21 faculty members in evaluations or discipline regarding the Pope Tech Accessibility Review.

22 2. Encourage faculty not to participate in the Pope Tech Accessibility review. Suggest instead that
23 the faculty member make a “good faith effort” to make the course accessible and make a statement that
24 they did so. This could be followed up with a note in their Canvas class asking any students who find an
25 accessibility issue in their class to contact the professor immediately.

26 3. If faculty choose to participate in the accessibility review or have already done so, request that
27 they complete a time log and/or take a quick survey of the time spent for the process. Advise faculty to
28 click “no” to question 10 in order to avoid potential liability.

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30 “BGL Team Secures \$240,000 Jury Verdict for Blind Students in Discrimination Lawsuit against
31 the Los Angeles Community College District.” *Brown, Goldstein, and Levy*. 2 June 2023.

32 [BGL Wins \\$240K Verdict In Victory Against LACCD - Brown Goldstein Levy](#)