

RESOLUTION OF THE FULLERTON COLLEGE FACULTY SENATE OF THE NORTH ORANGE COUNTY COMMUNITY COLLEGE DISTRICT

Resolution No. 2024-1: Demand for Corrective Action and Accountability in Response to PERB Decision

Whereas, NOCCCD administration was found guilty of illegal retaliation and unfair labor practice, according to a Notice to Employees posted by order of the Public Employment Relations Board from December 13, 2023: “After a hearing in Unfair Practice Case No. LA-CE-6708-E, *United Faculty of the North Orange County Community College District, CCA/CTA/NEA v. North Orange County Community College District*, it has been found that the North Orange County Community College District (District) violated the Educational Employment Relations Act (EERA), Government Code section 3540 et seq. by (1) its agent filing and pursuing a formal discrimination complaint against an employee who serves as Lead Negotiator for the United Faculty of the North Orange Community College District [sic] (United Faculty); (2) failing to immediately stop its investigation of the discrimination complaint after acquiring information that it was based on the employee’s protected activity; and (3) by concluding that the employee’s protected speech violated the District’s code of ethics and threatening corrective action. The District also violated the above section of EERA by issuing the employee a directive not to discuss the investigation with employees except his representative;”¹

Whereas, North Orange County Community College District Administrative Policy 3050 Institutional Code of Ethics “recognizes [the District’s] responsibility and obligation to the public to conduct its business with honesty, integrity, professionalism” and expresses the expectation that all employees of the district “conform their actions to the requirements of the law and District policy related to their positions and areas of responsibility, and to ethically and effectively carry out their responsibilities.” Further, AP 3050 asserts that “no employee of the District shall engage in any employment practice that is a violation of law or District policy, or use his or her position to intimidate subordinate employees;”²

Whereas, both the Associate³ and Vice Chancellor⁴ of Human Resources of NOCCCD are employed as the responsible officers in matters of employee relations, including the

¹ State of California. *Notice to Employees*, Public Employment Relations Board, 13 December 2023, https://nocccd.edu/files/notice-to-employees-posted-by-order-of-the-perb-uf-v-nocccd_17247.pdf.

² North Orange County Community College District. Administrative Policy 3050 Institutional Code of Ethics, https://www.nocccd.edu/files/3050apfinalrevisedcst-2016-09-14_57648.pdf.

³ North Orange County Community College District. *Job Description: Associate Vice Chancellor, Human Resources*, https://www.nocccd.edu/files/associate-vice-chancellor-human-resources_09176.pdf.

⁴ North Orange County Community College District. *Vice Chancellor of Human Resources*. Edjoin.org, <https://www.edjoin.org/Home/JobDescription/114614>.

responsibility to oversee investigations, unfair labor practices, and conduct disciplinary action in alignment with district policies and procedures;

Whereas, faculty are officers of an educational institution, and their academic freedom extends beyond the classroom. The American Association of University Professors asserts that academic freedom includes the right of faculty members “to express their views...on matters having to do with their institution and its policies...and to do so even if their views are in conflict with one or another received wisdom.” Further, “the protection of the academic freedom of faculty members in addressing issues of institutional governance is a prerequisite for the practice of governance unhampered by fear of retribution; and”⁵

Whereas, *United Faculty of NOCCCD v. NOCCCD* (Case Number: LA-CE-6708-E) highlights that “EERA protects employee speech if it is ‘related to matters of legitimate concern to the employees as employees so as to come within the right to participate in the activities of an employee organization for the purpose of representation on matters of employer-employee relations.’” Further, “An individual employee’s criticism of management or working conditions is protected activity when its purpose is to advance other employees’ interests or when it is a logical extension of group activity;”⁶

Resolved, Fullerton College Faculty Senate expects that the District, Chancellor and Campus Administration will adhere to the ruling in a timely manner and that the District will go beyond the minimum requirements of the ruling and take corrective action against the responsible parties guilty of unlawful and unfair labor practice, in violation of the EERA and district policies and procedures in *United Faculty of NOCCCD v. NOCCCD* (Case Number: LA-CE-6708-E);

Resolved, Fullerton College Faculty Senate calls on the District to engage in research and reflection on the cultures and structures in our district that abetted the violations described in *United Faculty of NOCCCD v. NOCCCD* (Case Number: LA-CE-6708-E). This research and reflection should begin in a timely manner, and results as well as plans for improving issues that are found to exist published in a formal report and shared widely throughout the district;

⁵ “On the Relationship of Faculty Governance to Academic Freedom.” *American Association of University Professors*, June 1994, <https://www.aaup.org/report/relationship-faculty-governance-academic-freedom>.

⁶ State of California Public Employment Relations Board. *United Faculty of the North Orange County Community College District, CCA/CTA/NEA v. North Orange County Community College District*. Case No. LA-CE-6708-E, 11 November 2023. https://ufnorthorange.com/uploads/1/2/7/6/127684977/uf_unfair_practice_charge_perb_case_lace6708e.pdf.

Resolved, Fullerton College Faculty Senate calls on the North Orange County Community College Chancellor and Board of Trustees to publish the job descriptions of its highest-ranking administrators, Vice Chancellors and Chancellor, in the District's website. This disclosure shall improve clarity of professional roles and responsibilities; and

Resolved, Fullerton College Faculty Senate calls on the District to share regular reports on internal District investigations—to the extent possible while respecting the rights and privacy of people involved— disclosing pertinent data about the nature of conducted investigations, cost, and the demographics of people involved as way to improve transparency about the usage of public funds for legal services.