

To: Shared Governance Council

From: Dr. John B. Cook, President

Action: **Denial: Recommendation to codify SGC Consensus to include voting**

Date: May 26, 2023

Next Steps: To be shared with STCC Board of Trustees on June 26, 2023

A recommendation was moved forward to the Shared Governance Council (SGC) in February of 2023 by leaders from the All-Unit Congress (AUC). Details include the following:

“...consensus [should] be used at two times during the SGC process...Consensus Time 1: When proposals are first submitted to the SGC they are brought to the entire committee from any of the individual members...Consensus Time 2: When reviews are done of proposals by all parties, an emphasis should be placed to discuss these findings, as equals at the SGC table... A yes response from at least 80% should be required... [Further] Stand aside votes would then be considered yes votes ... In very rare cases, SGC members would have the ability to block completely with a NO vote.”

Discussion of the recommendation occurred at the February SGC meeting, with an additional invitation for discussion at the April SGC meeting. After a great deal of diligence and consideration in light of the enabling vote (June 27th 2022) establishing the SGC by the STCC Board of Trustees, as well as the governance standard set forth by the New England Commission of Higher Education (NECHE), the request is denied: **what the All-Unit Congress requests is untenable given parameters in the two collective bargaining contracts, and what the AUC requests more generally is not a policy recommendation, but rather a procedural consideration.**

Background & Context:

As part of the STCC Board of Trustee motion establishing a Shared Governance Council, constituencies to be represented included the All-Unit Congress, students, representatives from the two collective bargaining units, as well as members of President’s Cabinet. Importantly, as a public institution, the authority and structure of college governance is largely determined by Massachusetts General Laws (MGL). In MGL Part I, Title II, Chapter 15A, Section 22, the powers and duties of the community college boards of trustees are enumerated, including their ultimate authority over policy and operations. This statutory authorization has been described for the New England Commission of Higher Education (NECHE) as part of the 2021 Self Study, as well as during the 2023 focused visit regarding a Notice of Concern (Governance).

As has been discussed by the SGC, and was discussed during consideration of this recommendation, the relationship between a given union (Association) and Board of Trustees

(Employer) cannot be bargained “outside the contract.” Specific to the MCCC contract, Article 4.01 of the MCCC Day Contract states: “all management's rights and functions, except those which are clearly and explicitly abridged by the specific terms of this Agreement, shall remain vested with the Employer.” A similar “management right” clause is included in the AFSCME contract as well. Given that MCCC leadership (Chapter President) and AFSCME leadership (Unit Steward) serve as members of the SGC, voting, and participation in the blocking of college actions, however rare, has the potential to infringe on management right per these two contracts. Related, the implication, again while potentially applicable in “very rare cases,” bears on student leadership, who themselves would potentially have the ability to contribute toward the blocking of a college action. In as much as student voice is essential, and student participation as a formal SGC member has been key, it is similarly untenable if students can formally contribute to the blocking of college policy. Inviting this type of relationship with employers or students is anathema to the notion of “appropriate” roles described in the NECHE standard, where stakeholder participation and inclusion is important, but with recognition that students, faculty and administrators do not carry the same responsibilities as one another.

As a reminder, at the college level, codified in the AFSCME contract is a quarterly labor/management meeting, and the MCCC contract defines a Management Association Committee on Employee Relations (MACER), with three members representing administration, and three representing the Association, to “discuss matters of mutual concern to the employee and the employer.” MACER is a codified part of the STCC system of governance, and as a longstanding internal forum, provides one avenue for unit member voice (including all full-time and part-time/DCE faculty). Referenced in a previous SGC decision, the consultant utilized by STCC in the Spring of 2022 described in the final submitted report how “institutions that operate under a collective bargaining agreement must clearly differentiate between the roles of the unions and shared governance. The jurisdictions can sometimes blur and create confusion.” It remains important for STCC to continue distinguishing operation and policy elements that have labor considerations. **Therefore, the recommendation is untenable given parameters in the two collective bargaining contracts.**

Additional Considerations:

The recommendation also cited work by the governance consultant, and materials for consideration by the working group were indeed provided in Spring 2022 by multiple stakeholders, including the All-Unit Congress, as well as administrators. Some of those materials do include references to versions and descriptions of consensus, including the use of voting. However, in the final report submitted to the college by the consultant, the following suggestion was explicitly stated:

“The body will operate on a consensus mode rather than voting. The President will present to the Board of Trustees recommendations from each of the bodies with his/her opinion as to what action the Trustees should take.”

At times, reference to governance at other community colleges has also been discussed, including the model established at Berkshire Community College (BkCC) in Western

Massachusetts. Voting has been included by BkCC as part of their governance process, with a preamble that included the following:

“An effective system of shared governance requires working toward a common solution, despite differences. This comes through collaboratively shaping a proposal until it meets as many of the participants' concerns as possible. Shared governance requires that groups spend time discussing issues and reaching consensus whenever possible.”

Insofar as the efforts at Berkshire Community College are to be appreciated, they are a separate and individually accredited institution, with a separate Board of Trustees. STCC has indeed learned from other community colleges, but must chart its own course. To this point, the STCC Board of Trustees utilized their exclusive policy authority to clarify governance roles and process, by voting to establish the Shared Governance Council. This specific authorization serves as a foundational reference not just for the All-Unit Congress, but by definition, for all STCC employees and students, and did not codify consensus via voting. Rather, Board enabling seeks high-level policy recommendations, with operational function of the SGC delegated to the president, particularly in light of collective bargaining agreements.

As part of the materials submitted in support of the recommendation under consideration, there are important references to be found within the article “The Basics of Consensus Decision Making (T. Hartnett, 2010). These include the principles of participation and deliberation, as well as inclusion and cooperation. For STCC, it is clear that for some stakeholders, a more quantitative and formalized voting process is desired. We see this from the All-Unit Congress themselves, when by a vote of 47 employees (out of approximately 650 eligible, or 7%), a recent resolution was moved forward directly to the Trustee Board Chair and Vice Chair. This resolution was moved in reference to SGC decision FY23-06. Candidly, there may be certain instances where consensus is not achieved, but a given recommendation is nevertheless moved forward by the president to Trustees which comports with framing by the Trustee motion. This subject has been discussed by the Shared Governance Council, and distinctions/differences would be made clear for Trustees. As a theoretical conception however, it is difficult to provide an example for what and why this would occur, but administrators at times will need to make unpopular decisions.

The ethic invited by a non-voting (qualitative) approach at STCC supports a solutions outlook specific to policy. Such a contextualized notion can be translated as seeking a degree of acceptability, as opposed to measuring (quantitative) support or objection. The process at STCC welcomes input and feedback from representatives of stakeholder groups, or from those with designated accountability and expertise (i.e. the Vice President of Administration/Chief Financial Officer), and again, this comports with the NECHE standard. As opposed to dissent, or even the prospect of blocking, and as opposed to procedural considerations that might highlight opposition, building an understanding for a given decision is the collective SGC work.

Governance at STCC does remain a work in progress, and procedure will certainly continue to be a point of discussion. **But because what the AUC requests more generally is not a policy recommendation, but rather a procedural consideration, it is denied.** No action is therefore needed by Trustees with respect to this specific decision, and this decision will be shared with the Board at the June meeting.