

## A RESOLUTION IN SUPPORT OF ACTIVE PUBLIC REPRESENTATION AND THE RIGHT TO DISSENT

Whereas, Peralta Board Policy 2200 (Board Duties and Responsibilities) states that “The Board of Trustees governs on behalf of the citizens of the Peralta Community College District” and that “The Board is committed to fulfilling its responsibilities to... Represent the public interest;”

Whereas, Peralta Board Policy 2715 (Code of Ethics and Standards of Practice) states that “Board members use care not to represent their individual opinions or actions as those of the Board” and “Board members are aware that they are responsible to all citizens of the district... They strive to promote the highest quality educational opportunities to all members of the community while ensuring fiscal, stability, institutional integrity and operational efficiency;”

Whereas, The Community College League of California Trustee Handbook notes that “Trustees are individuals” and that “As elected officials, they must consider and represent the many interests in their communities... Therefore, they have the duty to uphold what is good for the college district above all other interests and rights.” (p. 28)

Whereas, the Peralta Community College District Board of Trustees in their agenda for a Board Retreat, Tuesday, November 27, 2018 have agendized a motion for a Censure of Trustee Nicky González Yuen;

Whereas, this Censure Motion states amongst its charges that “Trustee [González] Yuen, as a rogue Trustee, is a severe detriment to the Peralta Colleges and his behavior must be modified;”

Whereas, this Censure Motion is based upon Trustee González Yuen’s public advocacy regarding issues of fiscal instability repeatedly raised by faculty and the Academic Senate through both the shared governance process as well as Academic Senate Resolution as part of faculty efforts to exercise their acknowledged “10+1” roles in institutional planning, budget preparation, and shared governance;

Whereas, Trustee González Yuen’s advocacy is subjectively consistent with Board Policy and Trustee best practices;

Whereas, other behavior cited in the Censure Motion is neither specific nor documented in a clear or consistent manner or tied to specific complainants (e.g. “[He] assumes a manner in his interactions with the staff members that he is the “boss” and everyone is to bow down to his presence and dictates.”)

Whereas, this Censure Motion has itself not followed the established process for censure stated in Board Policy 2715 (Code of Ethics and Standards of Practice) that “Allegations of violations of this code shall be directed to the President of the Board... The President will first discuss the violation with the Board member to reach a resolution. If resolution is not achieved and further action is deemed necessary, the President will bring the matter to the full Board for possible sanctions and may include a recommendation for censure;”

Whereas, the Peralta Academic Senate supports and depends on the right of elected officials, faculty, and local citizens to represent public interests and dissent, when deemed necessary, against the actions of the Board and to challenge the Board, the Chancellor and the District to do better and to be better; and

Whereas, this action by the Board of Trustees to sanction another Trustee in this manner for echoing faculty and Academic Senate concerns threatens to further erode faculty voices and undermine the Peralta Academic Senate’s role to collegially consult with the Board and the Board to rely on the recommendations of the Academic Senate as stated in Board Policy 2510 (Participation in Local Decision Making) and Administrative Procedure 2511 (Role of Academic Senates in District and College Governance);

Resolved, that the Peralta Academic Senate strongly recommends to the Board of Trustees that Board of Trustee censure be reserved only for actions specifically in direct violation of established Board Policy such as ethical violations, cited and demonstrated misconduct, or gross negligence or abandonment of fiduciary responsibilities in order to encourage positive behavior rather than seeking to punish “dissent;”

Resolved, that the Peralta Academic Senate, asserts its opposition to Censuring a Trustee under any circumstance without following the due process of board policy as laid out in Board Policy 2715;

Be It Further Resolved, that the Peralta Academic Senate expects a written response to these recommendations, per Board Policy 2510 and Administrative Procedure 2511, by the Peralta Community College Board of Trustees by the next regular Board of Trustee meeting in December 2018.