

**Committee on Academic Freedom
Conditional Report:**

**Faculty and Grading: Grade Penalties
& Due Process in the Era of Generative AI**

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I. Introduction and Context

There has been a recent explosion of cheating and plagiarism amongst the student population at the College of the Canyons (and presumably at other colleges and universities, as well). This problem has been exacerbated by the combination of larger numbers of online course offerings, and the development of large-language models of generative artificial intelligence (GAI) available to the student population. Hence, it is no longer a rarity for a faculty member to find that a student has used GAI to complete some particular assignment or prompt on an exam.¹ The nature of plagiarism and cheating has changed significantly with the advent of GAI. An instructor typically sees less blatant, word-for-word plagiarism lifted out of an online site or written source. This “old style” plagiarism is rather easily detected and detection does not require expertise in subject matter. However, today, instructors see prose that has been produced by GAI. The GAI content will often be reasonably accurate about what it is describing, but will also display a conspicuous absence of conceptual details emphasized by the instructor in their particular class or speak in a “voice” unlike the student’s. In other words, the content of the submission demonstrates a significant disconnect from the specific content of the class, yet is reasonably “on target” as general information. This is a problem, and the type of problem that someone who has not taught the class (e.g., administrators or staff) could reasonably notice and identify. Further, one of the signs of GAI plagiarism is the use of relatively sophisticated phrasing that typical college students, still in lower-division courses, have not yet developed. This is especially true in a course whose content is a student’s initial exposure to the subject. This, again, is not easily detectable by someone who is not an expert in the field. Such concerns underscore the value and necessity of faculty responsibility for grading and assessment.

¹It is acknowledged that in some disciplines, use of GAI may be appropriate for some student work. The problem we are concerned with here is any kind of student academic use of Chat-GPT that has been specifically prohibited by the instructor. These would be cases where it is important for students to learn to be able to think and put ideas together for themselves, as opposed to depending on some other entity to do so for them.

In light of the above, the question has arisen as to whether a faculty member has the right to assign a score of zero on a particular assignment if they have found the student to have cheated or committed plagiarism.² There is disagreement within our institution on this question. The reason for the disagreement centers on tensions existing between legal requirements, the current Santa Clarita Community College District's administrative policy surrounding academic dishonesty, and academic freedom on the part of faculty. In this Conditional Report we shall explain the relevant legal requirements, the Academic Policy at COC being used currently, and principles of academic freedom of faculty to assign grades³ communicated by American Association of University Professors (AAUP).

II. The Legal Requirement

The US Supreme Court has declared that public institutions must provide at least minimal due process in connection with many forms of student discipline.⁴ A number of cases have held that students are entitled to due process when discipline is imposed for academic dishonesty. Accordingly, policies at public institutions of higher education commonly provide for due process when associated with "grade penalties" for academic dishonesty.⁵

The term "grade penalty" may be used to mean a grade assigned in order to register some form of student misconduct in connection to a course assignment. In other words, if a student is caught cheating or plagiarizing content, a decreased grade may be given on the assignment in question. In such cases, a "grade penalty" has been invoked. The law requires some minimal form of due process for students in this case. Students receiving a "grade penalty" on a particular assignment must be made aware of the reason for the penalty, and must be provided an opportunity to challenge the appropriateness of the assigned grade.

² We are using the following definition of plagiarism: the use of ideas other than one's own in writing, speaking, or artistic-content without acknowledging their proper source.

³ The Committee seeks to make clear what has been written by the most authoritative entity for academic freedom in the US – the American Association of University Professors – concerning faculty responsibility in assessment and grading.

⁴ *Goss v. Lopez*, 419 U.S. 565 (1975); Fourteenth Amendment.

⁵ Gary Collis is acknowledged for his assistance with this legal analysis.

Nowhere in the above stated legal requirement is there detailed specification of the exact form such due process must take. Hence, the door is open for a number of options an institution might choose to fulfill the legally required due process.

III. The College of the Canyons Student Conduct Code Provisions

The current policy for alleged misconduct of students for academic violations such as plagiarism is to bring the matter to the attention of the Office of the Dean of Students (or designee).⁶ The Student Conduct Code⁷ (SCC) states, “the Dean of Students *in consultation with the Academic Senate* [italics ours] will develop specific procedures to address alleged violations of academic and/or classroom misconduct” (26).

There are two issues with the current SCC policies (or lack thereof) in relationship to student plagiarism and academic freedom. First, the procedure to be followed to ensure due process, specifically related to a grade penalty, is not addressed within the SCC. While the text outlining the policies provides broad outlines of procedures the Dean of Students may take in a case of academic misconduct, it does not adequately address how the college should deal with plagiarism cases, and particularly those assisted by GAI.⁸ Indeed, much of the SCC discussion of due process seems to focus predominantly upon misconduct relating to sexual assault and/or harassment, as opposed to academic violations. Finally, while the text of the SCC states that consultation with the Academic Senate will take place to develop a process to “address alleged violations of academic and/or classroom misconduct,” no such process has seemingly been established that would ensure due process. The first issue, therefore, is that the SCC does not present a clear policy directing how due process will take place.

⁶ The COC Policy Committee is presently working on a new policy regarding cases where grade penalties are assigned. To the Committee’s credit, it is attempting to formulate a policy that is practical and functional in light of the plethora of cases of cheating and plagiarism at the College. However, at this point, it appears that administrative personnel will have a decision-making role in the due process procedure, possibly undermining faculty judgment in such cases.

⁷ Student Conduct Code, Santa Clarita College District: Board of Trustees Policies 5529, 5530, 5531 (Revised June 2018) <https://www.canyons.edu/studentservices/conduct/>

⁸ The Committee recognizes that the issues surrounding plagiarism facilitated by GAI have arisen more recently. Yet, while this omission is understandable, we believe it ought to be addressed.

Second, the content which does appear in the SCC potentially challenges the academic freedom of faculty to assign grades on academic work submitted by students. This is due to the unilateral power afforded the Dean of Students (or designee) in cases where a student has been accused of academic misconduct and may have received a “grade penalty.” For example, the SCC states that the Dean may, without limit or consultation, determine that there is no violation by a given student, and accordingly close the case:

In cases in which the Dean (or designee) determines that there is not cause to believe that a violation may have occurred, the Dean (or designee) may decide that the case will not be pursued further. If the allegation concerned academic and/or classroom misconduct, the Dean (or designee) will contact the complainant to explain his or her reasoning. The complainant may appeal the decision to not pursue discipline, within 10 working days, to the Vice President of Instruction (28).⁹

The term “complainant,” above refers to a faculty-member bringing a case against a student (for example, in the event of plagiarism, cheating, or inappropriate use of GAI). In academic misconduct cases, a close reading of the SCC text explains that if the Dean of Students believes there is no evidence to substantiate the case being brought by a faculty-member, it may simply be closed unilaterally. The faculty-member is thus left without recourse, unless he or she appeals the case to the Vice President of Instruction.

The Dean of Students (or designee) may also choose to “refer the matter to other campus and/or community resources” (28). If the Dean makes this choice, it is also a unilateral decision, as the text of the SCC makes clear. Faculty-members are not a part of that decision-making process.

Finally, the Dean of Students may call for an interview with the student-respondent for the purpose of an “initial hearing” (29). The procedures for this hearing do not stipulate that faculty be included. However, at this hearing, an “Informal Agreement of Resolution” may be determined wherein the student conceivably agrees to an arrangement to resolve the case (for example, the student may be disciplined or perhaps a grade penalty is assigned). To be clear,

⁹ Student Conduct Code, Santa Clarita College District: Board of Trustees Policies 5529, 5530, 5531 (Revised June 2018) <https://www.canyons.edu/studentservices/conduct/>.

none of the options outlined by the SCC clearly guide a process of adjudicating academic grade penalties with due process *which include faculty*. While a “Student Conduct Committee” is mentioned in the SCC, it is the Dean of Students (or designee) who decides whether or not a case will be forwarded to this Committee. There is only one exception: that is when a student makes a request that the Dean do so. Careful examination demonstrates that faculty are not involved in the current policies and procedures governing academic misconduct and due process. As we make clear below, the omission of faculty from this process—particularly where a grade penalty has been given, is a violation of academic freedom, because faculty must be the source for academic assessment and grading.

IV. The AAUP and Faculty Responsibility in Grading and Assessment

The AAUP clearly states that faculty, and only faculty, have the responsibility to assign grades on academic work submitted by students.¹⁰ The AAUP goes on to say “. . .[t]he review of a student complaint over a grade should be by faculty, under procedures adopted by faculty, and any resulting change in a grade should be by faculty authorization.”¹¹ Clearly, the policy indicates that supplementing the judgement of faculty in the assignment of grades is a breach of academic freedom. Moreover, the AAUP writes in *The Freedom to Teach*, faculty have the right to “assess student academic performance in teaching activities for which faculty members are individually responsible, without having their decisions subject to the veto of a department chair, dean, or other administrative officer.”¹² Not only are faculty assigned the sole responsibility for grading students, but according to the AAUP, “Under no circumstances should administrative officers on their own authority substitute their judgment for that of the faculty concerning the assignment of a grade.”¹³ In short, the current policies in the College’s SCC open the door for an administrator (or a designee of that administrator) to make decisions about

¹⁰“The Assignment of Course Grades and Student Appeals,” AAUP, *Policy Documents and Reports*, 11th ed. (Baltimore: Johns Hopkins University Press, 2015), 29-30.

¹¹“The Assignment of Course Grades and Student Appeals,” AAUP, *Policy Documents and Reports*, 11th ed. (Baltimore: Johns Hopkins University Press, 2015), 29.

¹²“The Freedom to Teach,” AAUP, *Policy Documents and Reports*, 11th ed. (Baltimore: Johns Hopkins University Press, 2015), 28.

¹³ “The Assignment of Course Grades and Student Appeals,” AAUP, *Policy Documents and Reports*, 11th ed. (Baltimore: Johns Hopkins University Press, 2015), 29-30.

academic violations—specifically grade penalties—that may override faculty control of assessment of student work, thus limiting the academic freedom of faculty.

V. Recommendations

Students have the right to appeal a grade and this appeal process should respect the prerogatives of instructors and the rights of students.¹⁴ The current policies and procedures outlined in the SCC ought to be revised to accommodate the new realities of GAI, and a consideration of academic freedom of faculty in assessment and grading matters. The AAUP recommends an initial discussion between the course instructor and the student in cases wherein a grievance arises over the assignment of a grade.¹⁵ If that discussion does not resolve the issue, then another member of the faculty should be brought into the process (perhaps the department chair). If the issue is still not resolved, the matter should be referred to an *ad hoc* committee.¹⁶ However, there are some caveats to consider in the creation of such a committee. Any group tasked with hearing student grade challenges will need to make choices about how it is comprised, the processes that might be followed, and the chronological steps to be taken. The AAUP's position is that the process and decision-making regarding grades should ultimately rest with faculty. And while such an *ad hoc* committee might include administrators, staff, and/or students, there are restrictions upon how those individuals contribute to the work of the committee and its ultimate decision making. An administrator may be able to helpfully connect students with needed services available on campus that may come to light during a conversation about a grade on an assignment, for example. A student's voice on the committee may help an instructor understand another student's situation in ways that may be significant in the case. In this way, others on a college campus may assist in a dispute and provide feedback in

¹⁴ American Association of University Professors, "The Assignment of Course Grades and Student Appeals," Policy Documents and Reports (Washington D.C., 2015) 29.

¹⁵ Unfortunately, because of the significant disconnect between students and faculty due to the dynamics of distance learning (relative to in-person education), the importance of this initial discussion between instructor and student is often all but forgotten.

¹⁶ "The Assignment of Course Grades and Student Appeals," 30.

discussions of a disputed grade assignment. However, academic freedom requires that the procedures for an ad hoc committee must be faculty driven, and furthermore, that the ultimate judgment of student work must be made by faculty ensuring that any change in a grade be made by faculty authorization.