

## **Policy and Procedure Review College Council 11-12-2020**

**BP 2220 Committees of the Board** – Added Sustainability Committee charge and removed Fund Development Committee.

**AP 3600 Auxiliary Organizations** - This procedure is legally required and was updated to clarify that auxiliary boards of directors should adopt conflicts of interest and document retention policies, and explains that auxiliaries with more than \$2 million in annual revenue must make their annual audit financial statements available to the public required for Form 990. Director of Advancement made minor, clarifying edits.

**AP 5013 Students in the Military** – Suggested good practice/optional with minor edit, the removal of “active duty” language. Approved without changes.

**AP 5020 Nonresident Tuition** – added language recommended by Board Policy Review Committee, on 10/06/2020, to address ambiguity about information to be noticed on the website. Fiscal and Enrollment Services reviewed, with edits.

**AP 5203 Lactation Accommodation NEW** – Effective January 1, 2020, districts were required to provide reasonable accommodations for a lactating student to express breast milk, breast-feed an infant child, or address other needs related to breast-feeding. A procedure on lactation accommodations for students is not legally required but is suggested as good practice. Reviewed and approved by Student Accommodation and Services and Maintenance and Operations.

**AP 5030 Fees** - Legally Required and updated to reflect prohibited fees and that the student representation fee is now a required fee for those districts that have a student body association. This procedure was also updated to modify the list of prohibited fees to include students who have been exonerated of crimes through a writ of habeas corpus or pardon. This procedure was updated to replace the term “credit by examination” with “credit for prior learning.” Past Fiscal edits included, approved by Enrollment Services.

**AP 7337 Fingerprinting** – This update is legally required and includes language to address fingerprinting requirements for individuals providing services in a childcare center. In addition, language was revised related to the reporting requirements regarding the designated records custodian who handles criminal records. Additional language by Human Resources included.

**AP 7346 Employees Called to Military Duty** – This update is legally advised to state that employees on military leave for longer than 30 days may elect to continue health coverage for up to 24 months. Administration approved without changes.

**AP 7348 Accommodations NEW** - Legally required - Corresponds with AP 5203 (lactation accommodation for students). Human Resources edits included.

For current Board Policies and Administrative Procedures that are posted online please see **[Policies & Procedures](#)**.

### Status Update

BP 2355 Decorum – Administrative Review

BP 3725 Information and Communications Technology and Accessibility & Acceptable Use (NEW) – Board 2<sup>nd</sup> read on November 17, 2020

BP/AP 3430 Prohibition of Harassment – Administrative Review

AP 3415 Immigration Enforcement Activities – Administrative Review

AP 3435 Discrimination and Harassment Complaints and Investigations - Administrative Review

BP 4220 Standards of Scholarship – Administrative Review

BP/AP 4235 Credit by Examination [Credit for Prior Learning] - Administrative Review

BP/AP 5015 Residence Determination - Administrative Review in conjunction with BP/AP 3415

BP/AP 5050 Student Success and Support - Administrative Review

AP 5017 Responding to Inquiries of Immigration Status, Citizenship Status, and National Origin Information - Administrative Review in conjunction with BP/AP 3415

AP 5040 Student Records, Directory Information, and Privacy - Administrative review

AP 5130 Financial Aid - Administrative Review

AP 6340 Bids and Contracts - Administrative Review

AP 6345 Bids and Contracts – UPCCAA – Administrative Review

AP 6365 Contracts – Accessibility of Information Technology - Administrative review

## Board of Trustees

**Removed Fund Development Committee and added Sustainability Committee and charge 10/27/2020**

**BP 2220 COMMITTEES OF THE BOARD****Reference:**

Government Code Section 54952

The Board of Trustees may by action establish committees that it determines are necessary to assist the Board in its responsibilities. Any standing committee established by Board action shall comply with the requirements of the Brown Act and with these policies regarding open meetings.

Board committees that are composed solely of less than a quorum of members of the Board of Trustees that are advisory are not required to comply with the Brown Act, or with these policies regarding open meetings, unless they are standing committees.

Board committees that are only advisory have no authority or power to act on behalf of the Board of Trustees. Findings or recommendations shall be reported to the Board of Trustees for consideration.

The Board of Trustees has established the following standing committees:

- **Board of Trustees Self-Evaluation Committee:** This standing committee is charged with conducting the annual Board Evaluation Survey and develops recommendations for the Board to become more efficient and effective. (Also see BP 2745 titled Board Self-Evaluation)
- **Superintendent/President Evaluation Committee:** This standing committee is charged with conducting the annual evaluation of the Superintendent/President. (Also see BP 2435 titled Evaluation of the Superintendent/President)
- **Policy Review Committee:** This standing committee is charged with reviewing and revising Board Policies and Administrative Procedures relating to the operation of the Board of Trustees as a whole.
- ~~**Fund Development Committee:** This standing committee is charged with evaluation of external funding development within the community.~~
- **Sustainability Committee:** This standing committee is charged with the development and monitoring the sustainability initiatives.

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Date Adopted: September 21, 2010

(Replaced College of Marin Policies 1.4010, 1.4020, and 1.4030)

**Date Reviewed/Revised:**

**General Institution**

**CCLC Update #35** This procedure is legally required and was updated to add a note explaining that this procedure may be used as the implementing statute, Education Code Section 72670 requires. In addition, this template was revised to clarify that auxiliary boards of directors should adopt conflicts of interest and document retention policies. Another revision explains that auxiliaries with more than \$2 million in annual revenue must make their annual audit financial statements available to the public required for Form 990. Mici 10/07/2020  
To Greg/Peggy/Keith 10/15/2020  
Keith R. 10/20/2020

**AP 3600      AUXILIARY ORGANIZATIONS****References:**

Education Code Sections 72670 et seq.;  
Government Code Sections 12580 et seq.;  
Title 5 Sections 59250 et seq.

**Definitions**

**Board of Directors:** The term board of directors as used herein means the governing board of an auxiliary organization.

**Board of Trustees:** The term Board of Trustees as used herein means the Board of Trustees of the District.

**Board of Governors:** The term Board of Governors as used herein means the Board of Governors of the California Community Colleges.

**CEO:** The term CEO (chief executive officer) as used herein means the Superintendent/President of the District or designee.

**District:** The term District as used herein means the ~~name of District~~ Marin Community College District.

**Associated Student Body:** The terms Associated Student Body, Associated Student Organization, Student Association, Student Organization, or ASB as used herein means an organization formed by any group of students from a College of the District in accordance with the provisions of Education Code Section 76060. All clubs and organizations recognized by an Associated Student Body or Organization shall be included in any auxiliary organization established by the Student Body or Organization.

**Recognition and Establishment of Auxiliary Organizations**

The Superintendent/President shall submit a recommendation to the Board of Trustees to establish an auxiliary organization when the organization will serve the District. The recommendation includes, but is not limited to, the following:

- The purpose(s) for which the auxiliary organization is to be established;

- Whether the proposed auxiliary organization will primarily serve the District or a particular ~~District College~~;
- The functions which the auxiliary organization is intended to perform;
- The proposed bylaws and articles of incorporation for the auxiliary organization, including the size and composition of the board of directors; and
- The proposed written agreement between the auxiliary organization and the District addressing, among other things, all of the requirements of Title 5 Section 59257 subdivision (j), as required in Title 5 Section 59259.

The process of recognition shall be as follows:

- When the Superintendent/President receives a request to establish an auxiliary organization, the Superintendent/President shall submit a recommendation concerning the establishment of ~~said the~~ organization to the Board of Trustees within three months.
- The Board of Trustees shall hold a public hearing on each recommendation concerning the establishment of an auxiliary organization.
- At a subsequent scheduled meeting after the public hearing, the board shall announce its decision concerning the establishment of the organization, and, if approved, authorize the functions it may perform, identify the number and category or categories of the board of directors and approve contractual arrangements.

At such time as the District recognizes an auxiliary organization, it shall submit to the California Community Colleges Chancellor's Office any written agreements with the auxiliary organization, as well as the articles of incorporation, bylaws, or other governing instruments.

### **Recognized Services, Programs and Functions**

Auxiliary organizations may be recognized and established by the Board of Trustees to perform services, programs and functions which are an integral part of the community college educational programs. The following supportive services and specified programs have been determined to be appropriate:

- Student association or organization activities;
- Bookstores;
- Food and campus services;
- Student union programs;
- Facilities and equipment, including parking;
- Loans, scholarships, grants-in-aid;
- Workshops, conferences, institutes and federal and specially funded projects;
- Alumni activities;
- Supplementary health services;
- Gifts (cash and in-kind), bequests, ~~devises~~, endowments and trusts; and
- Public relations programs.

This section shall not be construed to prohibit an auxiliary organization from taking actions essential to satisfy the non-profit corporation or tax laws of the State of California or the Federal tax laws.

Operations of commercial services on a campus shall be self-supporting when operated by an auxiliary organization.

### **Authority and Responsibility of Auxiliary Organizations**

~~Participation in workshops, conferences, or institutes offered by auxiliary organizations shall not be included in reports to the state for the purpose of receiving apportionment funding or County property taxes.~~

All services, programs, and activities that may be undertaken by an auxiliary organization must be for the purposes of providing activities that are an integral part of the community college educational programs. ~~shall be maintained for the general benefit of the educational program of the District.~~ For example, ~~Upon~~ Board of Trustees approval, an auxiliary organization may assume any of the services, programs, and activities listed in these procedures in order:

- To provide the fiscal means and the management procedures that allow the District to carry on educationally related activities not normally funded by State apportionment or County property taxes;
- To eliminate the undue difficulty that would otherwise arise under the usual governmental budgetary, purchasing and other fiscal controls except as expressly prohibited by the Education Code or Title 5, or the District's procedures; or
- To provide fiscal procedures and management systems that allow effective coordination of the auxiliary activities with the District in accordance with sound business practices.

### **Composition of Boards of Directors**

The board of directors of each auxiliary organization shall have the following composition:

**Student Associations or Organizations:** The board of directors shall consist primarily of students. The Director of Student Activities and Advocacy may attend and participate in meetings of the board of directors in order to advise on policy and to provide for the control and regulation required by Education Code Section 76060.

**Other Auxiliary Organizations:** Any other District approved auxiliary organization that is established pursuant to Section 72670 et seq. of the Education Code shall have a board of directors appointed in accordance with the organization's articles of incorporation or bylaws and consisting of voting membership from one or more of the following categories: administration, staff; members of the community; students.

The size of the board of directors of an auxiliary organization shall be at least large enough to accommodate the one or more categories from which board members are selected.

The board of directors shall have the advice and counsel of at least one attorney admitted to practice in California and at least one certified public accountant. Upon being notified of the certified public accountant selected by an auxiliary organization, the ~~the~~ District shall forward the applicable auditing and reporting procedures to the selected certified public accountant.

### **Conduct of Boards of Directors**

No member of the board of directors of an auxiliary organization shall be financially interested in any contract or other transaction entered into by the board of which he/she is a member. Any contract or transaction entered into in violation of this section is void.

No contract or other transaction entered into by the board of directors of an auxiliary organization is void under the provisions of Education Code Section 72677; nor shall any member of such board be disqualified or deemed guilty of misconduct in office under such provisions, if pursuant to Education Code Section 72678 both of the following conditions are met:

- The fact of such financial interest is disclosed or known to the board of directors and noted in the minutes, and the board thereafter authorizes, approves, or ratifies the contract or transaction in good faith by a vote sufficient for the purpose without counting the vote or votes of such financially interested member or members.
- The contract or transaction is just and reasonable as to the auxiliary organization at the time it is authorized or approved.

The provisions of Education Code Section 72678 ~~above~~ shall not be applicable if any of the following conditions are met:

- The contract or transaction is between an auxiliary organization and a member of the board of directors of that auxiliary organization.
- The contract or transaction is between an auxiliary organization and a partnership or unincorporated association of which any member of the governing board of that auxiliary organization is a partner or in which he/she is the owner or holder, directly or indirectly, of a proprietorship interest.
- The contract or transaction is between an auxiliary organization and a corporation in which any member of the board of directors of that auxiliary organization is the owner or holder, directly or indirectly, of five percent or more of the outstanding common stock.
- A member of the board of directors of an auxiliary organization is interested in a contract or transaction within the meaning of Education Code Section 72677 and without first disclosing such interest to the governing board at a public meeting of the board, influences or attempts to influence another member or members of the board to enter into the contract or transaction.

It is unlawful for any person to utilize any information, not a matter of public record, which is received by the person by reason of his/her membership on the board of directors of an auxiliary organization, for personal pecuniary gain, regardless of whether he/she is or is not a member of the board at the time such gain is realized.

To help ensure compliance with these provisions, the Board of Directors of any auxiliary organization should adopt a conflict of interest policy. Each director must review and acknowledge the conflict of interest policy annually. The conflict of interest policy may address, among other things, the following: appropriate board conduct, gifts, confidentiality, fiduciary responsibilities, and conflicts of interest.

### **Bylaws**

The bylaws of an auxiliary organization shall include, but not be limited to, specifying:

- The number of members of the board of directors, the categories from which members shall be selected and the method by which they shall be selected.
- The size of the board of directors.
- That at least one public business meeting will be held each quarter.
- The time table for the preparation and adoption of its program and annual budget and the submission of both for review to the Superintendent/President.

- That an attorney admitted to practice in this state and a licensed certified public accountant shall be selected to provide advice and counsel to the board of directors. Each shall have experience appropriate to the responsibility and shall have no financial interest in any contract or other transaction entered into by the board which he/she serves. Neither the attorney nor the certified public accountant needs to be a member of the board of directors.
- The procedures for approving expenditures.
- The procedures for accepting gifts, donations, bequests, trusts and specially funded grants and other income.

### **Master Agreement between District and Auxiliary Organizations**

In the recognition and establishment of an auxiliary organization, there shall be a written agreement between the District and the auxiliary organization which sets forth the purposes of the auxiliary organization as permitted under this Regulation, and Title 5 Section 59259.

Should an auxiliary organization provide more than one service, program or function, such service, program or function may be authorized in one of more written contracts with the District. Such services, programs and functions thereby performed by an auxiliary organization may also be part of a joint powers agreement in accordance with Education Code Section 72671 and Government Code Sections 6500 et seq.

An auxiliary organization shall provide only those services, programs or functions authorized by a written agreement. No other service, program or function shall be permitted or performed unless a written agreement between the District and the auxiliary organization is amended to provide otherwise.

The agreement shall include, but is not limited to, the following provisions:

- The services, programs, or functions the auxiliary organization is to manage, operate or administer.
- A statement of the reasons for administration of the functions by the auxiliary organization instead of by the District under usual District procedures.
- The areas of authority and responsibility of the auxiliary organization and the District or College.
- The facilities and services to be made available by the District to permit the auxiliary organization to perform the services, programs or functions specified in the written agreement.
- The charge or rental to be paid to the District by the auxiliary organization for the facilities used or services provided in connection with the performance of its function. The charge or rental specified shall be identified in sufficient time before it is incurred so that the organization may determine to what extent it is liable.
- Full reimbursement to the District for services performed by the District or by District employees in support of the auxiliary organization. No more than 50% of the reimbursement may be made in the form of non-monetary benefits that the auxiliary organization provides to the District, such as increased community awareness or other such benefits that are agreed upon by authorized District officials and the auxiliary organization. The District shall assign a good-faith reimbursement value to such non-monetary benefits. Student body auxiliary organizations may be exempt from reimbursing all or any portion of the costs for such services, unless the organization was established as an "auxiliary organization" pursuant to Education Code Sections 72670 et seq.
- Simple and equitable ~~methods~~ of proration where services are performed by District employees for the organization shall be ~~as~~ mutually determined.



- A simple and stable mutually agreed upon method of determining in advance to what extent the organization shall be liable for indirect costs relating to specially funded programs (including federally sponsored programs.).
- The responsibility for maintenance and payment of operating expenses.
- Proposed expenditures for public relations or other purposes which would serve to augment District appropriations for operation of the District. With respect to these expenditures, the auxiliary organization may expend funds in such amount and for such purposes as are approved by the board of directors of the auxiliary organization. The board of directors shall file with the Superintendent/President a statement of such policy on accumulation and use of public relations funds. The statement shall include the policy and procedure on solicitation of funds, source of funds, amounts, and purpose for which the funds will be used, allowable expenditures, and procedures of control.
- The disposition to be made of net earnings derived from the operation of the auxiliary organization, including earnings derived from facilities owned or leased by the auxiliary organization, and provisions for reserves.
- The disposition to be made of net assets and liabilities on dissolution of the auxiliary organization or cessation of the operations under the agreement.
- The covenant of the auxiliary organization to maintain its organization and to operate in accordance with Education Code Sections 72670-72682 and with Title 5 Sections 59250 et seq. as well as ~~District B~~board Ppolicy and these procedures.
- The understanding that the auxiliary organization shall obtain the services and counsel of an attorney admitted to practice in the State of California whenever the need arises.
- The understanding that the auxiliary organization shall not enter into any contract or other business arrangement involving real property either by lease involving payments of more than \$25,000 per annum and duration terms of more than one year, or by purchase without prior notification and consultation with the Superintendent/President.

### **Personnel**

Each auxiliary organization shall develop general regulations to govern its operations, including policies and regulations concerning the salaries, working conditions and benefits of its employees.

The aforesaid regulations shall not conflict with the implementing policies adopted by the Board of Trustees or with these procedures.

Except as otherwise provided in any board rules, the board of directors of each auxiliary organization shall, pursuant to Education Code Section 72672, provide salaries, working conditions and benefits for its full-time employees that are comparable to those provided District employees performing substantially similar services. For those full-time employees who perform services that are not substantially similar to the services performed by District employees, the salaries established shall be at least equal ~~comparable~~ to the salaries prevailing in other educational institutions in the area or commercial operations of like nature ~~in the area~~.

Regular District employees may be employed by the auxiliary organization. District employees must resign or request a personal leave of absence from the District in order to accept employment with the auxiliary organization. District officers and employees who are required by the District's Conflict of Interest Code (AP 2712) to file disclosure of financial information are responsible to determine whether or not they are eligible to accept employment with the auxiliary organization immediately upon resignation from the District.

- **Educational Administrators or other Management Employees** may be granted a personal leave of absence for two semesters, which may be extended to a maximum of ten consecutive semesters
- **Classified management employees** may be granted a personal leave of absence for up to one year. This leave may not be extended beyond one year without the employee first having returned to active duty.
- **Academic (faculty) employees** may be granted personal leave of absence for two semesters. The leave may be extended for not more than six consecutive semesters.
- **Classified employees** may be granted a personal leave of absence for up to one year. This leave may not be extended beyond one year without the employee first having returned to active duty.

The board of directors of each auxiliary organization may provide retirement benefits different from those provided comparable District employees and may withhold retirement benefits or permanent status benefits or both from temporary employees and executive employees. For the purposes of this procedure, a temporary employee is:

- An employee employed for a specific research project, workshop, institute or other special project funded by any grant, contract or gift; or
- An employee whose contract of employment is for a fixed term not exceeding three years.

~~The board of directors of each auxiliary organization may withhold permanent status benefits from executive employees.~~ For the purposes of this procedure, an “executive employee” is any management employee with responsibility for the development and execution of the auxiliary organization's policies and includes, but is not limited to, general managers, business managers, directors and the like, as determined by the board of directors of each auxiliary organization.

Should retirement benefits be provided, they may but need not be provided by the Public Employees' Retirement System. Any newly created auxiliary organization is exempted from the requirement of providing retirement benefits for a period not to exceed three years from the date on which the Board of Trustees recognizes the establishment of such auxiliary organization.

An auxiliary organization may contract with the District for the services of a District employee and reimburse the District for that portion of the employee's full-time assignment (and corresponding benefits) that is spent in providing ~~said~~ services.

### **Accounting and Reporting for Auxiliary Organizations**

The fiscal year of the auxiliary organization shall coincide with that of the District.

Each auxiliary organization shall develop an accounting system that is in accordance with generally accepted accounting principles.

The auxiliary organization shall implement financial practices that will assure its fiscal viability. Such standards shall include professional management, adequate working capital, adequate reserve funds for current operations, capital replacements, contingencies and adequate provisions for new business requirements.

Each auxiliary organization serving the District shall submit its programs and budgets for review at a time and in a manner specified by the Superintendent/President.

Funds derived from indirect cost payments shall only be appropriated with the specific approval of the Superintendent/President. All uses of such funds shall be regularly reported to the District's governing board.

Should the Superintendent/President determine that any program or appropriation planned by an auxiliary organization is not consistent with District policy, the program or appropriation shall not be implemented. Further, should a program or appropriation which has received approval, upon review, be determined by the Superintendent/President to be operating outside the acceptable policy of the Board of Governors or the District, then that program or appropriation shall be discontinued by direction of the Superintendent/President until further review is accomplished and an appropriate adjustment is made.

The board of directors of an auxiliary organization shall approve all expenditure authorizations.

~~NOTE: The following language applies only if auxiliary organizations receive or accrue in any fiscal year gross revenues of \$2 million or more.~~

If the auxiliary organization receives or accrues in any fiscal year gross revenue of two million dollars (\$2,000,000) or more, it shall also include in its bylaws an audit committee appointed by the board of directors. The audit committee may include persons who are not members of the board of directors, but the member or members of the audit committee shall not include any members of the staff, including the president or chief executive officer and the treasurer or chief financial officer. If the auxiliary committee has a finance committee, it must be separate from the audit committee.

Members of the audit committee shall not receive any compensation from the ~~auxiliary corporation~~ in excess of the compensation, if any, received by members of the board of directors for service on the board and shall not have a material financial interest in any entity doing business with the ~~auxiliary corporation~~. Subject to the supervision of the board of directors, the audit committee shall be responsible for recommending to the board of directors the retention and termination of the independent auditor and may negotiate the independent auditor's compensation, on behalf of the board of directors.

~~The audited financial statements shall be available for inspection by the Attorney General and shall be made available to members of the public. The auxiliary organization must also make its annual audited financial statements available to the public in the same manner prescribed by IRS for Form 990 no later than nine months after the close of the fiscal year to which the statements relate.~~

The board of directors, or an authorized committee of the board, shall review and approve the compensation, including benefits, of the President or Chief Executive Officer and the Treasurer or Chief Financial Officer to assure that it is just and reasonable. This review and approval shall occur initially upon the hiring of the officer, whenever the term of employment, if any, of the officer is renewed or extended, and whenever the officer's compensation is modified. Separate review and approval shall not be required if a modification of compensation extends to substantially all employees.

#### **Records and Annual Report of Auxiliary Organizations**

Personnel and payroll records shall be maintained as permanent records by each auxiliary organization.

Adequate records of all other transactions of an auxiliary organization shall be maintained for a minimum of five years, or as otherwise prescribed by any document retention policy adopted by the organization, which may set different retention periods. Transactions of the organization include, but are not limited to, purchases, disbursements, and investments.

An annual report shall be submitted to the Board of directors of the auxiliary organization and to the Superintendent/President by September 15. The report shall include, but is not limited to:

- All financial statements required to be filed with the California Community Colleges Chancellor's Office
- A comparison of budgeted and actual expenditures
- A description of major accomplishments of the organization
- A description of improvements proposed for operation of the organization.

Records maintained by an auxiliary organization shall be available to the public to inspect or copy at all times during the office hours of the auxiliary organization, pursuant to and with the exceptions provided in Education Code Sections 72690 et seq.

#### **Annual Audit**

Each auxiliary organization shall have an annual fiscal audit of any and all funds. The audit shall be performed by a certified public accountant in accordance with procedures prescribed by the Chancellor. Copies of the annual audit report shall be submitted to the Board of Trustees and to the California Community Colleges Chancellor's Office within 30 days after it is received by the auxiliary organization. Thereafter, it shall be a public record, except as otherwise provided by law. Such audits may be conducted as part of a fiscal audit of the District itself.

Auxiliary organizations shall annually publish an audited statement of their financial condition, which shall be disseminated as widely as feasible and be available to any person on request. A reasonable fee may be charged to cover the costs of providing a copy. An auxiliary organization shall comply with this requirement by:

- Publishing the audited financial statement in a campus newspaper; or
- Publishing a notice in a campus newspaper indicating the on-campus location where copies of the financial statement may be obtained or reviewed; or
- Publishing or noticing the audited statement in a campus bulletin or other appropriate medium if a campus newspaper is unavailable.

The audited financial statements shall also be available for inspection by the Attorney General and shall be made available to members of the public in the same manner prescribed by IRS for Form 990 and no later than nine months after the close of the fiscal year to which the statements relate.

#### **Insurance**

An auxiliary organization shall secure and maintain insurance adequate to protect its operations from catastrophic losses and as required by law, including but not limited to, the following:

- Comprehensive general liability;

- Property and extended coverage, when applicable;
- All risks, money and securities;
- Fidelity and performance bonds covering its chief fiscal officer;
- Automotive liability when applicable; and
- Workers' Compensation

In any insurance policy secured by the auxiliary organization, the District shall be named as additional insured.

A copy of each policy or endorsement or insurance certificates setting forth the coverage and limits shall be provided to the District within 30 days from the receipt of the document.

In obtaining the insurance coverage, the auxiliary organization may secure the insurance directly through its own broker or through the District.

#### **Auxiliary Organizations: Use of Facilities**

Facilities may be made available by the District to an auxiliary organization to perform the functions specified in these regulations or in an agreement, under the following circumstances:

- The auxiliary organization may occupy, operate, and use such District facilities as are mutually identified as appropriate for the functions ~~and/or~~ activities that have been undertaken by the auxiliary organization.
- The auxiliary organization shall pay to the District a charge or rental for the District facilities ~~to be~~ used by it in connection with the performance of its function or functions.
- The charge or rental to be paid by the auxiliary organization shall not require involved methods of computation, and shall be identified by the District and the auxiliary organization in sufficient time before it is incurred so that the auxiliary organization may determine to what extent it shall be liable.
- The charge or rental to be incurred by an auxiliary organization for use of District facilities ~~in excess of five days~~ shall be incorporated into the agreement between the parties.
- An auxiliary organization shall provide full reimbursement to the District for any services performed by District employees under the direction of the auxiliary organization. Methods of proration where services are performed by District employees for the auxiliary organization shall be simple and equitable.

#### **List of Auxiliary Organizations in Good Standing**

Each year, the Superintendent/President shall provide to the Board of Trustees a list of all auxiliary organizations in good standing. All auxiliary organizations which, after periodic review in the manner specified hereinafter in these regulations, are found to be in compliance with applicable laws, policies and regulations shall be included in the list.

When the Superintendent/President has reason to believe that a particular organization should be removed from the list of auxiliary organizations in good standing, a conference shall be held to determine whether such grounds for removal do in fact exist. The Superintendent/President shall be present at the conference, along with other appropriate District representatives, as determined by the Superintendent/President. The District shall give the auxiliary organization Board of Directors reasonable notice that such conference will be held, and representatives of the Board shall be entitled to be present at the conference, and to be heard. The ~~B~~oard of ~~D~~irectors of such organization shall

be entitled to participate in this conference, and shall have a minimum of one month's notice to prepare a response to the issues which have been raised.

Based upon such conference, the Superintendent/President shall recommend to the District's Governing Board decide whether the particular organization shall be removed from the list of auxiliary organizations in good standing. The District's Governing Board may, in its sole discretion, remove such an auxiliary organization from the list, and may make such other provisions consistent with law as may be appropriate with respect to an auxiliary organization not included on the list.

An organization so removed shall not be permitted to do any of the following:

- Use the name of the District;
- Have as a director any official in the District acting in his/her official capacity;
- Operate a commercial service for the benefit of the District or ~~any of~~ its Colleges; and
- Receive gifts, property or funds to be used for the benefit of the District or ~~any of~~ its Colleges.

If the auxiliary organization is dissolved or ceases operations upon removal from the list of organizations in good standing, its net assets and liabilities shall be distributed according to the terms of the written agreement between the organization and the District.

#### **Limitation on Transfer of Funds to Auxiliary Organizations**

No funds or resources, other than funds or resources derived from gifts or bequests, shall be transferred by the District to any of its auxiliary organizations for the purpose of either avoiding laws or regulations which constrain community college districts or providing the District with an unfair advantage with respect to the application of any state funding mechanism. Such state funding mechanisms include, but are not limited to, general apportionment funding, capital outlay funding, Extended Opportunity Programs and Services funding, and funding for programs and services for disabled students.

#### **Compliance Review by Superintendent/President**

All auxiliary organization procedures and practices shall be reviewed to determine compliance with Education Code Sections 72670 et seq., and the policies, rules and regulations of the Board of Governors, and of the District. The Superintendent/President shall designate the individual to conduct this review, which shall be conducted at the end of the first complete fiscal year after its establishment and at least once every three years thereafter.

When the Superintendent/President's designee determines, after inspection and review, that certain auxiliary organization procedures and practices are not in compliance with policies, rules, and regulations of the Board of Governors and the District, a recommendation concerning the items of noncompliance shall be communicated in writing to the Superintendent/President and to the board of directors of the auxiliary organization. The board of directors shall reply in writing within one month, either describing the actions which will be taken, including time table, to bring ~~said~~ procedures and practices into compliance; or describing the reasons why the board considers the procedures already to be in compliance.

If the Superintendent/President's designee considers the proposed corrective actions to be acceptable, the auxiliary organization shall be so informed. A second compliance review shall be held at the end of the time agreed to and the results communicated in writing to the Superintendent/President and to the board of directors.

When the auxiliary organization fails to provide an acceptable proposal for corrective actions or fails to implement successful corrective actions within the agreed upon time, the Superintendent/President shall inform the board of directors of such further action as he/she considers appropriate, which may include a recommendation to the Board of Trustees for termination of the contract.

**Revision of Rules and Procedures and Reports to the State Chancellor's Office**

Rules and procedures for the administration of auxiliary organizations may be revised as necessary by the Superintendent/President or designee. The board of directors of each auxiliary organization in good standing shall be promptly notified in writing of such revisions and be informed of the date by which any changes in the organization's procedures must be accomplished.

Any such revisions shall be submitted to the State Chancellor's Office for approval.

The District shall report, as may be required from time to time, on the operation of its auxiliary organizations.

Office of Primary Responsibility: Administrative Services

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**Date Adopted:** August 15, 2017

**Date Reviewed:**

## Student Services

CCLC Update 34 – Suggested good practice with minor edit. Mici 9/21/2020

Approved without changes 11/3/2020

**AP 5013          STUDENTS IN THE MILITARY****References:**

Education Code Sections 68074, 68075, 68075.5, and 68075.7;  
Title 5 Sections 55023, 55024, 54041, 54042, 54050, and 58620;  
Military and Veterans Code Section 824;  
38 U.S. Code Section 3679

**Residence Determinations for Military Personnel and Dependents**

A student who is a member of the armed forces of the United States stationed in California ~~on active duty~~, except a member of the armed forces assigned for educational purposes to a state-supported institution of higher education, is entitled to resident classification. Such student shall retain resident classification in the event that the member of the armed forces is thereafter transferred on military orders to a place outside of California or thereafter retires from active duty, so long as the student remains continuously enrolled in the District.

An undergraduate student who is a natural or adopted child, stepchild, or spouse who is a dependent of a member of the armed forces of the United States stationed in this state on active duty shall be entitled to resident classification. Such student shall retain resident classification if he/she is thereafter transferred on military orders to a place outside of California, so long as the student remains continuously enrolled in the District.

A veteran who was discharged or released from at least 90 days of active service less than three years before the date of enrollment in a course commencing on or after July 1, 2015, and his/her dependents, regardless of the veteran's state of residence is entitled to resident classification.

An individual who is the child or spouse of a person who, on or after September 11, 2001, died in the line of duty while serving on active duty as a member of the Armed Forces who resides in California is entitled to resident classification.

An individual who is entitled to transferred Post-9/11 GI Bill program benefits by virtue of their relationship to a member of the uniformed services who is serving on active duty is entitled to resident classification.

A parent who is a federal civil service employee and his/her natural or adopted dependent children are entitled to resident classification if the parent has moved to this state as a result of a military mission realignment action that involves the relocation of at least 100 employees. This classification shall continue until the student is entitled to be classified as a resident, so long as the student continuously attends an institution of public higher education.



A student claiming the residence classifications provided for in this procedure must provide a statement from the student's commanding officer or personnel officer providing evidence of the date of the assignment to California, and that the assignment to active duty in California is not for educational purposes. A student claiming the residence classifications provided for here for the dependent of military personnel shall provide a statement from the military person's commanding officer or personnel officer that the military person's duty station is in California on active duty as of the residence determination date, or has been transferred outside of California on active duty after the residence determination date, or that the military person has retired from active duty after the residence determination date. (Title 5 Sections 54041; 54042)

### **Withdrawal Policies for Members of the Military**

A student who is a member of an active or reserve United States military service and who receives orders compelling a withdrawal from courses shall be permitted to withdraw upon verification of such orders. A MW symbol will be assigned to the student's academic record. Military withdrawal shall not be counted in progress probation, dismissal calculations, or in calculating the permitted number of withdrawals. In no case may a military withdrawal result in a student being assigned an "FW" grade. In no case may a college require a student who is required to report for military duty to withdraw from a course by a specified date in order to receive a full refund of the tuition and fees the student paid to the college for the academic term in which the student was required to report for military service.

The student will be eligible to receive a full refund for all fees paid in the term for which the military withdrawal was granted.

A student who has received military orders compelling a withdrawal from all courses must submit their military orders along with a Drop Form and a Request for Refund Form to the Office of Enrollment Services. A student, who has been deployed suddenly, may request to have his/her documents completed and submitted by a specified third party.

### **Military Credit**

Students who have completed at least one year of active military service may submit a copy of their DD214 showing an honorable discharge and receive 5 units of PE.

These units will appear in the memoranda section of the grade record. Students must have successfully completed 12 units at College of Marin to be eligible.

Office of Primary Responsibility: Office of Enrollment Services

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**Date Approved:** May 18, 2010

*(Replaces part of former College of Marin Procedure 4.0003 DP.1)*

Revised: June 19, 2012

Revised: February 20, 2018

**Reviewed/Revised:**

## Student Services

CCLC Update 24, 26, 30 and 34 Mici 9/16/2020

Peggy Isozaki and Jon Horinek 9/30/2020

Board Policy Review Committee website language revised to address ambiguity 10/6/2020

## AP 5020 NON-RESIDENT TUITION

## References:

Education Code Sections [68075.65](#), 68130.5 and 76140 et seq.;

Title 5 Section 54045.5

Exemptions to the non-resident tuition fee requirements include any students, other than non-immigrant aliens under 8 U.S. Code Section 1101(a)(15), who meet the following requirements:

- [either high school attendance in California for three or more years OR attainment of credits earned in California from a California high school equivalent to three or more years of full-time high school coursework and a total of three or more years of attendance in California elementary schools, California secondary schools, or combination of those schools.](#)
- graduation from a California high school or attainment of the equivalent thereof
- registration or enrollment in a course offered for any term commencing on or after January 1, 2002
- completion of a questionnaire form prescribed by the State Chancellor's Office verifying eligibility for this non-resident tuition exemption and
- in the case of a student without lawful immigration status, the filing of an affidavit that the student has filed an application to legalize his/her immigration status, or will file an application as soon as he/she is eligible to do so

Any students who meet the following requirements:

- [demonstrates financial need;](#)
- [has a parent who has been deported or was permitted to depart voluntarily;](#)
- [moved abroad as a result of that deportation or voluntary departure;](#)
- [lived in California immediately before moving abroad;](#)
- [attended a public or private secondary school in the state for three or more years; and](#)
- [upon enrollment, will be in his/her/their first academic year as a matriculated student in California, and will file an affidavit with the District stating that he/she/they intend\(s\) to establish residency in California as soon as possible.](#)

Any nonimmigrant aliens granted "T" or "U" visa status under title 8, U.S. Code Section 1101(a)(15)(T)(i) or (ii), or section 1101(a)(15)(U)(i) or (ii) respectively, who meet the following requirements:

- [high school attendance in California for three or more years;](#)
- [graduation from a California high school or attainment of the equivalent thereof;](#)
- [registration or enrollment in a course offered for any term or commencing on or after January 1, 2002; and](#)
- [completion of a questionnaire form prescribed by the State Chancellor's Office verifying eligibility for this nonresident tuition exemption.](#)

A special part-time student, other than a non-immigrant alien under 8. U.S. Code Section 1101(15)(a), participating in a College and Career Access Pathways (CCAP) partnership program and enrolled in no more than 15 units per term.

Non-resident tuition fees will be approved by the Board of Trustees no later than March ~~February~~ 1 of each year.

~~The calculation of non-resident tuition shall reflect the current expense of education calculated according to the Budget and Accounting Manual~~ Education Code Section 76140 specifies seven options for a district to choose in setting its nonresident tuition fee.

Pursuant to Education Code Section 76141, a district may also charge a capital outlay fee to nonresident students, other than those with exemptions pursuant to Assembly Bill 540.

~~The calculation of non-resident tuition will include the expense of education in the preceding fiscal year.~~

~~The calculation shall reflect fees in contiguous Districts.~~

Full refunds of non-resident tuition fees will be granted through 14 calendar days of a full semester and ten percent of the length of the course for short-term classes and summer term classes.

~~A notice listing criteria persons exempt from paying nonresident tuition shall be posted on the District website.~~

The District shall post on its website a notice listing criteria for exemptions from paying nonresident tuition.

Office of Primary Responsibility: ~~College Operations~~ Administrative Services

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Date Approved: September 3, 2009

Date Revised: January 15, 2013

**Date Reviewed/Revised:**

Student Services

CCLC Update #34 (3/19) – NEW PROCEDURE – Mici 8/6/2020

To Sadika Sulaiman Hara and Klaus Christiansen 8/6/2020

**AP 5203          LACTATION ACCOMMODATION**

**References:**

Education Code Section 66271.9

The District shall provide reasonable accommodations at the Kentfield and Indian Valley College of Marin campuses for a lactating student to express breast milk, breast-feed an infant child, or address other needs related to breast-feeding whenever a student is required to be present on campus. Reasonable accommodations include, but are not limited to, all of the following:

1. Access to a private and secure room, other than a restroom, to express breast milk or breast-feed an infant child. The room shall have a comfortable place to sit and have a table or shelf to place equipment described in paragraph (3).
2. Permission to bring onto a college or university campus a breast pump and any other equipment used to express breast milk.
3. Access to a power source for a breast pump or any other equipment used to express breast milk.

Lactating students shall be provided a reasonable amount of time to accommodate their need to express breast milk or breast-feed an infant child.

Students shall not incur an academic penalty as a result of their use of the reasonable accommodations, and shall be provided the opportunity to make up any work missed due to such use.

Offices of Primary Responsibility: Student Services and Facilities, Planning, Maintenance and Operations

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**Date Adopted:**

**Student Services**

Edits from Fiscal Services 10/19/2017

To Jon Horinek, Fiscal approved 11/03/2020

CCLC Update 34, 36 – Legally Required and updated to reflect that the student representation fee is now a required fee for those districts that have a student body association. This procedure was also updated to modify the list of prohibited fees to include students who have been exonerated of crimes through a writ of habeas corpus or pardon. This procedure was updated to replace the term “credit by examination” with “credit for prior learning.” Mici 9/29/20

**AP 5030 FEES****References:**

Education Code Sections 70902(b) (9), 76300, 76300.5, 66025.3, and ~~6812068130.5~~;  
Title 5 Sections 51012, 58520, 58629  
California Community College~~s~~ Chancellor’s Office (CCCCO) Student Fee Handbook;  
ACCJC Accreditation Standard I.C.6

The payment of certain fees may be deferred upon selection of a payment plan.

**Required fees include:**

- **Enrollment Fees** (Education Code Section 76300 and 76300.5; Title 5 Sections 58500 and 58509)
- **Baccalaureate degree pilot program fees** (Title 5 Section 58520)
- **Non-resident Tuition** with these permissive exemptions (Education Code Sections 76140 and 76140.5):
  - All non-resident students enrolling in six or fewer units; or
  - A student who is a citizen and resident of a foreign country who demonstrates financial need and this required exemption (Education Code Section 68130.5);
  - All students, other than nonimmigrant aliens under 8 U.S. Code Section 1101(a)(15), who meet the following requirements:
    - high school attendance in California for three or more years;
    - graduation from a California high school or attainment of the equivalent thereof;
    - registration or enrollment in a course offered for any term commencing on or after January 1, 2002;
    - completion of a questionnaire form prescribed by the State Chancellor’s Office verifying eligibility for this nonresident tuition exemption; and
    - in the case of a student without lawful immigration status, the filing of an affidavit that the student has filed an application to legalize his/her immigration status, or will file an application as soon as he/she is eligible to do so.
- **Student representation** (Education Code Section 76060.5; Title 5 Sections 54801 and 54805)

**Fees authorized by law include:**

- Non-District physical education facilities (Education Code Section 76395)
- Non-credit courses (Education Code Section 76385)
- Community service courses (Education Code Section 78300)
- Auditing of courses (Education Code Section 76370)
- Instructional materials (Education Code Sections 73365, 81457, and 81458; Title 5 Sections 59400-59408)
- Athletic insurance (Education Code Section 70902(b)(9))
- Cross-Enrollment with CSU or UC (Education Code Section 66753)
- Health (Education Code Section 76355)
- Parking (Education Code Section 76360)
- Transportation (Education Code Sections 76361 and 82305.6)
- ~~Student representation (Education Code Section 76060.5; Title 5 Sections 54801 and 54805)~~
- Student Center (Education Code Section 76375; Title 5 Section 58510)
- Copies of student records (Education Code Section 76223)
- Child care (Education Code Sections 79121 et seq. and 66060)
- Non-resident capital outlay (Education Code Section 76141)
- Non-resident application processing (Education Code Section 76142)
- Credit by Examination for Prior Learning (Education Code Section 76300; Title 5 Section 55753)
- Use of facilities financed by revenue bonds (Education Code Section 81901(b)(3))
- Refund processing (Title 5 Section 58508)
- Telephone registration (Education Code Section 70902(a))
- Physical fitness test (Education Code Section 70902(b)(9))
- Instructional Tape Lease/Deposit (Education Code Section 70902(b)(9))
- Credit Card Use (Education Code Section 70902(b)(9))
- International Student Medical Insurance (Education Code Section 70902(b)(9))

Fees authorized by the California Community College Chancellor's Office (CCCCO) Student Fee Handbook:

- Optional student activities fee (CCCCO Student Fee Handbook)
- Technology Fee (CCCCO Student Fee Handbook)

**Prohibited fees include:**

- Late application (CCCCO Student Fee Handbook)
- Add/drop (CCCCO Student Fee Handbook)
- Mandatory student activities (CCCCO Student Fee Handbook)
- Student Identification Cards (CCCCO Student Fee Handbook)
- Student Body Organization (CCCCO Student Fee Handbook)
- Non-resident application (CCCCO Student Fee Handbook)
- Field trip (Title 5 Sections 55450 and 55451)
- For dependents of certain veterans (Education Code Section 66025.3)
- For dependents of certain victims of the September 11, 2001 terrorist attacks. (CCCCO Student Fee Handbook)
- For certain recipients of the Medal of Honor and certain children of the recipients of the Medal of Honor (Education Code Section 66025.3)
- For surviving spouses and children of a firefighter employed by the federal government whose duty assignment involved the performance of firefighting services in California (Education Code Section 68120)

- For students who have been exonerated of a crime through writ of habeas corpus or pardon that meet certain conditions (Education Code Section 69000)
- Required or funded services (CCCCO Student Fee Handbook)
- Refundable deposits (CCCCO Student Fee Handbook)
- Distance education (other than the statutorily authorized enrollment fee) (CCCCO Student Fee Handbook)
- Mandatory mailings (CCCCO Student Fee Handbook)
- Rental of practice rooms (CCCCO Student Fee Handbook)
- Apprenticeship courses (Education Code Section 76350)
- Late payment fee (Title 5 Sections 58502 and 59410)
- Nursing/healing arts student liability insurance (Title 5 Section 55234)
- Cleaning (CCCCO Student Fee Handbook)
- Breakage (CCCCO Student Fee Handbook)
- Test proctoring (CCCCO Student Fee Handbook)

### **Collection of Fees (Credit Classes)**

Marin Community College District requires students to pay all fees at the time of enrollment; students will be dropped from classes for non-payment of fees. If students are unable to pay their fees, they should apply for federal financial aid, apply for the Board of Governors Fee Waiver, or enroll in an inexpensive payment plan offered through the District in order to prevent being dropped from classes. Designated groups of students may be exempted from a drop for non-payment, such as Foster Youth, certified Veterans and others through the College petition process.

Students will be dropped for non-payment on identified common drop dates as determined each term and published in the schedule of classes, on-line and in the catalog.

Optional fees (e.g. student activities fee) shall be assessed at the time of registration. Students may decline payment of optional fees by completing the Optional Fee Waiver Form (available on the District website and at the Cashier's Office) and submitting the form to the Cashier's Office within two weeks of the start of instruction.

### **Fees Collected in Error**

Fees collected in error will be credited/refunded to the student or the student's account will be credited with the amount collected in error.

### **Refunds**

The District shall automatically credit the following fees to the student's account:

- **Enrollment Fees: (Title 5 Section 50508)**  
Enrollment fees paid by a student for program changes made during the first two weeks of instruction for a primary term-length course or by the ten percent point of the length of a course for short-term a course.

The District is prohibited by law to authorize a refund of any enrollment fee paid by a student for program changes made after the first two weeks of instruction for a primary term-length course or after the ten percent point for the length of the course for a short-term course, unless the program change is a result of action by the District to cancel or reschedule a class or to drop a student pursuant to Title 5 Section 55202(g) where the student fails to meet a prerequisite.

In addition, enrollment fees shall be credited to the student's account ~~refunded~~ for program changes as a result of action taken by the District to cancel or reschedule a class or to drop a student pursuant to Title 5 Section 55202(g) where a student fails to meet a prerequisite.

- **Instructional Materials Fees Refund:**

Materials fees paid by the student provided that no materials have been used for program changes made during the first two weeks of instruction for a primary term-length course or by the ten percent point of the length of a course for a short-term course and for action taken by the District to cancel or reschedule classes.

- **Non-resident and International Student Tuition:**

Non-resident or international student tuition paid by a student for program changes made during the first two weeks of instruction for a primary term-length course or by the ten percent point for the length of course for short-term courses shall be refunded.

- **District Cancelled Classes**

For district cancelled classes, the student will automatically receive a check for any resulting credit balance after the third week of instruction.

- **Fees refundable because of changes in law or regulation authorizing and establishing enrollment fees**

The District shall refund the following fees upon the student filing a Refund Request Form within the fiscal year (July 1 – June 30):

- **Community Services Fees:**

Community services fees paid by a student for classes dropped at least three business days prior to the class start date.

- **Health Fees:**

Health fees paid by the student only if the District took action to cancel or reschedule a class(es) for which the student was enrolled and the student has no other enrollment for the term.

- **Parking Fees:**

Parking fees paid by the student may be refunded under the following conditions:

- The District has taken action to cancel a course for the student was enrolled and the student has no other enrollment for the term in credit, non-credit, community education, or emeritus college courses.
- The student has dropped all courses on or before the last day to qualify for an enrollment/tuition fee refund.
- The student has dropped all courses by the ten percent point of the length of a course for a short-term course.

**NOTE:** The parking permit sticker must be returned to the Cashier's Office when making the request for a refund.



- **Student Technology, Representation and Activities Fee:**  
The student representation fee paid by the student shall be refunded only if the District took action to cancel or reschedule a class(es) for which the student was enrolled and the student has no other enrollment in the term.
- **Refund Processing Fee (Title 5 Section 58508):**  
A \$10 per semester refund processing fee and any outstanding balance due the District will be deducted from all refunds. No refund processing fee will be charged for action taken by the District to cancel or reschedule a class for which the student was enrolled. The refund processing fee applies to students who drop classes within the published deadline dates and who have not paid their fees.

### **Waiver of Fees**

The District may waive enrollment fees which were not collected in a previous term where the enrollment fees were not collected as a result of the District's error in awarding a Board of Governors Fee Waiver to an ineligible student and not through the fault of the student, and to collect the enrollment fee would cause the student undue hardship.

### **Exemption of Fees for CCAP agreements students (AB288)**

The District may exempt students from the payment of enrollment and enrollment-related fees when the student is enrolled in a class or classes, at their respective high school as part of an official CCAP agreement MOU with College of Marin.

Also see BP/AP 4040 titled Library and Other Instructional Support Services

Office<sup>s</sup> of Primary Responsibility: Office of Enrollment Services – Fees, Fiscal Services – Payments and Refunds

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Date Approved: October 19, 2010

*(Replaces College of Marin Procedures 6.0011 DP.1 and 3.0045 DP.1)*

Date Revised: March 19, 2013

Date Reviewed/Revised: November 15, 2016

**Date Reviewed/Revised:**

## Human Resources

CCLC #35 is legally required and updated to include language to address fingerprinting requirements for individuals providing services in a childcare center. In addition, language was revised related to the reporting requirements regarding the designated records custodian who handles criminal records.

To Nikki/Jeff 10/15/2020

Jeff Marozick approved 10/15/2020

Nikki Harris edits 10/16/2020

## AP 7337 FINGERPRINTING

## References:

Education Code Sections 87013 and 88024;

Health and Safety Code Section 1596.871:

Penal Code Sections 11077.1 and 11102.2

The District shall not employ or retain in employment, including employees, volunteers, and student workers, any person who has been convicted of: 1) a sex offense as defined by Education Code § 87010 or a controlled substance offense as defined by Education Code § 87011; or 2) a crime, where such conviction is determined to be job-related and consistent with business necessity. For purposes of this procedure, employment includes all employees and volunteers.

The Chief Human Resources Officer will designate one or more employees to receive, store, disseminate and destroy criminal records furnished by the California Department of Justice and to serve as the contract for the California Department of Justice for related issues. Any such employee must be confirmed by the California Department of Justice as required by law and pursuant to California Department of Justice procedures.

The Chief Human Resources Officer will notify the California Department of Justice ~~by March 1 of each year of the individuals designated~~ when a designated employee no longer serves in that capacity.

Upon receipt of the report of convictions from the Department of Justice, the College Police Department shall forward any information regarding convictions included on the Department of Justice conviction(s) report to ~~the~~ the District Human Resource Department for any record regarding an employee or volunteer. All conviction reports are confidential and shall be maintained to the extent required by law and in accordance with applicable recordkeeping requirements.

~~The Chief Human Resources Officer will ensure that criminal history record information is destroyed once the District's business need for the information is fulfilled.~~

The District Chief Human Resources Officer, in consultation with the appropriate executive administrator, for example Superintendent/President or Assistant Superintendent/Vice President, shall review the conviction information and make a determination as to whether there exists sufficient information to: 1) preclude the hiring or retention of the employee or volunteer on the basis of sex offense or controlled substance offense as defined by Education Code 87010 and 87011; or 2) prohibit hiring or retention of the employee or volunteer on the basis of the prohibition being job-related and consistent with business

necessity.

The Chief Human Resources Officer will ensure that criminal history record information is destroyed once the District's business need for the information is fulfilled.

### **Classified Employees**

The District, within ten (10) working days of date of employment, shall require each person to be employed, or employed in, a nonacademic position to be fingerprinted with a personal description of the applicant or employee, as the case may be, prepared by an approved law enforcement agency. The law enforcement agency transmits the fingerprints to the Department of Justice and the Federal Bureau of Investigation.

The District assumes the cost for the service for probationary/permanent classified applicants/employees.

If the applicant/employee incurs a fingerprinting administrative fee, the fee will be reimbursed once the applicant submits fingerprints in accordance with these procedures and is subsequently hired by the District within 30 days of the application.

Substitute and temporary classified employees employed for less than an academic year are exempted from these procedures.

The local law enforcement agency, upon receipt of information from the Department of Justice and/or the Federal Bureau of Investigation, excerpts from the history all information regarding any convictions of the employee and shall forward that information to the District.

### **Academic Employees**

The District, within ten (10) working days of the person's date of employment, requires the individual to be fingerprinted, **have provided duplicate personal identification cards**, and a personal description of the employee prepared by an approved law enforcement agency. The law enforcement agency transmits the fingerprints to the Department of Justice and the Federal Bureau of Investigation.

The District assumes the cost for the service for probationary/permanent academic applicants/employees.

Substitute, adjunct, and/or temporary academic employees employed for less than an academic year do not receive reimbursement for the cost of the fingerprinting process.

The local law enforcement agency, upon receipt of information from the Department of Justice and/or the Federal Bureau of Investigation, excerpts from the history all information regarding any convictions of the employee and shall forward that information to the District.

### **Child Development Center**

**The following individuals providing services in a childcare center shall provide fingerprint identification in order for the District to obtain either a criminal record clearance or a criminal record exemption from the State Department of Social Services before the individual's initial presence in a child day care facility:**

- **Adults responsible for administration or direct supervision of staff.**

- Any person, other than a child, residing in the facility.
- Any person who provides care and supervision to the children.
- Any staff person, volunteer, or employee who has contact with the children.

Employees of the District who have completed a criminal record clearance as a condition of employment are not subject to this requirement.

The following individuals are exempt from the fingerprint identification requirement under the following conditions:

- A volunteer providing time-limited specialized services if this person is directly supervised by the licensee or a facility employee with a criminal record clearance or exemption, the volunteer spends no more than 16 hours per week at the facility, and the volunteer is not left alone with children in care.
- A student enrolled or participating at an accredited educational institution if the student is directly supervised by the licensee or a facility employee with a criminal record clearance or exemption, the facility has an agreement with the educational institution concerning the placement of the student, the student spends no more than 16 hours per week at the facility, and the student is not left alone with children in care.
- A volunteer who is a relative, legal guardian, or foster parent of a client in the facility.
- A contracted repair person retained by the facility, if not left alone with children in care.

#### **Others Employed by the District**

Other employees or individuals providing services to the District (such as Children's Center Workers, Student Ambassadors, and Interim Employees) may be required to be fingerprinted at the discretion of the District. In addition, student workers, if identified as required and in accordance with District campus procedures as a condition of employment, shall also be fingerprinted in accordance with these procedures.

Any employee or individual with a break in service of two (2) years or more may be required to be fingerprinted at the District's discretion. ~~The fingerprinting guidelines are maintained in the Human Resources Department.~~

Office of Primary Responsibility: Human Resources

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Date Approved: July 19, 2011

**Date Reviewed/Revised:**

## Human Resources

CCLC #35 update is legally advised to state that employees on military leave for longer than 30 days may elect to continue health coverage for up to 24 months. Mici 10/15/2020

Nikki Harris approved without changes 10/16/2020

**AP 7346      EMPLOYEES CALLED TO MILITARY DUTY****References:**

Education Code Sections 87018, 87700, 87832, and 88116;  
38 U.S. Code Sections 4301 et seq.;  
Military and Veteran's Code Sections 389 et seq.

The following applies to any District employee, academic or classified, who enters the active military service of the United States of America or of the State of California, including active service in any uniformed auxiliary of any branch of the military service, during any period of national emergency declared by the President of the United States or during any war in which the United States of America is engaged.

**Leave**

Upon presentation of a copy of orders for active duty in the Armed Forces, the National Guard, or the Naval Militia, the District shall grant a military leave of absence for the period of active duty specified in the orders, but not to exceed five years for a permanent, probationary, or exempt employee, or for the remainder of a limited-term employee's appointment or a temporary employee's appointment.

**Salary**

Any District employee called to active duty who has been in the service of the District for at least one year will continue to receive his/~~or~~ her salary for the first thirty (30) calendar days of ordered military service. Employees who are members of the National Guard will continue to receive salary for the first thirty (30) calendar days of active service regardless of length of service with the District.

In addition, the District may provide for not more than 180 calendar days as part of the employee's compensation all of the following:

- The difference between the amount of his or her military pay and allowances and the amount the employee would have received as an employee, including any merit raises that would otherwise have been granted during the time the individual was on active military duty.
- All benefits that he or she would have received had he or she not been called to active military duty unless the benefits are prohibited or limited by vendor contracts.
- Employees returning from military leave shall have their salary adjusted to reflect salary increases that are not based on merit.

**Health Benefits**

An employee on military leave for less than **thirty-one (31)** days shall continue to receive health insurance benefits.

Employees on leave for longer than thirty (30) days may elect to continue health care coverage for themselves and their eligible dependents for a maximum period of ~~eighteen (18)~~ twenty-four (24) months.

Returning veteran employees whose coverage was terminated because of military leave will not be subject to any exclusion or waiting period prior to reinstatement of health coverage.

#### **Vacation and Sick Leave**

Employees on military leave accrue any benefits the District provides to other employees, e.g. if employees on other approved leaves are permitted to accrue vacation or sick leave, employees on military leave will do so as well.

Employees on military leave shall accrue any benefits afforded by any collective bargaining agreement negotiated during their absence.

Any employee on temporary military leave for training who has worked for the District for at least one year shall continue to accrue vacation, sick leave, and holiday privileges up to a maximum period of 180 days.

#### **Reinstatement**

An employee on active duty military leave shall be entitled to return to the position held by him or her at the time of his ~~or~~/her entrance into the service within six months after the employee honorably leaves the service or is placed on inactive duty.

In the case of a contract academic employee, absence on military leave shall not count as part of the service required for the acquisition of tenure, but the absence shall not be construed as a break in the continuity of service. If the employee was employed by the District for more than one year, but had not yet become a regular academic employee of the District, he or she is entitled to return to the position for the period of time his or her contract of employment had to run at the time he ~~or~~/she entered military service.

In the case of an academic employee, absence on military leave shall not be construed as a break in the continuity of service.

In the case of a classified employee, absence on military leave shall not be construed as a break in the continuity of service.

Also refer to appropriate collective bargaining agreements.

*Office of Primary Responsibility: Human Resources.*

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Date Approved: November 18, 2011

**Date Reviewed/Revised:**

## Human Resources

CCLC Update 29 (October 2016) This procedure was added to assist districts in meeting various accommodation obligations under state and federal law.

CCLC Update 34 and 36 – **This procedure is legally required.** Highlighted notes will not be included in final version. Mici 9/30/2020

Nikki Harris edits 11/04/2020

**AP 7348      ACCOMODATIONS - NEW****References:**

29 U.S. Code Section 207(r);  
42 U.S. Code Section 12101 et seq.;  
42 U.S. Code Sections 2000e et seq.;  
29 Code of Federal Regulations Parts 1605.1 et seq.  
Government Code Sections 12926, 12940, and 12945;  
Labor Code Sections 230 and 1030 et seq.  
Title 2 Sections 11040 et seq., 11050, et seq., and 11060 et seq.

To ensure equal employment opportunities to qualified employees and applicants with a disability, Marin Community College District will make reasonable accommodations for the known disability of an otherwise qualified individual, unless undue hardship on the business's operation would result. Such accommodations are made in an effort to comply with the intent of the American's With Disabilities Act (ADA) and related laws. The making of an accommodation for a particular employee does not obligate the District to make reasonable accommodations in the future for the same or similarly situated employee.

Absent undue hardship or direct threats to the health and safety of employee(s), the District provides employment-related reasonable accommodations to:

- qualified individuals with disabilities, both applicants and employees, to enable them to perform essential job functions;
- employees with conditions related to pregnancy, childbirth, or a related medical condition, if she so requests, and with the advice of her health care provider;
- employee victims of domestic violence, sexual assault, or stalking to promote the safety of the employee victim while at work; and
- employees who request reasonable accommodation to address a conflict between religious belief or observance and any employment requirement.

**Reasonable Accommodation Process**

Any qualified employee or applicant who may require reasonable accommodation should contact the Human Resources Department to begin the interactive process. An employee requesting reasonable accommodation must submit with his/her request, documentation from their physician confirming their disability. Upon receiving the required paperwork from the employee, the Human Resources Department, in collaboration with the employee's current supervisor will make the determination as to whether the employee qualifies for reasonable accommodation.

If the employee qualifies for reasonable accommodation, Human Resources Department, in consultation with the appropriate supervisor, and other appropriate management personnel, shall arrange a meeting between the employee and Human Resources Department and any other relevant parties to convene the interactive process under the ADA.

See collective bargaining agreements for reasonable accommodations if applicable.

### **Lactation Accommodation**

Marin Community College District recognizes that breastmilk is the optimal food for growth and development of infants and is committed to providing support of breastfeeding mothers by accommodating the employees who wishes to express breast milk during their work schedule when separated from her newborn child. Employees may request lactation accommodations through the Human Resources Department.

An employee is entitled to a reasonable amount of break time to express breast milk for the employee's infant.

~~Employees have the right to request lactation accommodation, and should make the request to the Human Resources Officer [designate position]. [ Designate position ] The Human Resource Officer will respond to the request.~~

An overtime-eligible employee who wishes to express breast milk for her infant child during her scheduled work hours will receive additional unpaid time beyond the 15-minute compensated rest period. Breaks may be reasonably delayed if they would seriously disrupt operations. Once a lactation break has been approved, the break should not be interrupted except for emergency or exigent circumstances.

~~An overtime-eligible employee who wishes to express breast milk for her infant child during her scheduled work hours will receive additional unpaid time beyond the 15-minute compensated rest period. Employees desiring to take a lactation break must notify a supervisor prior to taking such a break. Breaks may be reasonably delayed if they would seriously disrupt operations. Once a lactation break has been approved, the break should not be interrupted except for emergency or exigent circumstances.~~

The District will make reasonable efforts to accommodate employees by providing an appropriate location to express milk in private. The District will attempt to find a location in close proximity to the employee's work area, and the location will be other than a bathroom. The location shall contain a surface to place a breast pump and personal items, a place to sit, and have access to electricity or alternative devices, including, but not limited to, extension cords or charging stations, needed to operate an electric or battery-powered breast pump. Access to a sink with running water and a refrigerator or other suitable cooling device suitable for storing milk in close proximity to the employee's workspace will also be provided.

Employees occupying such private areas shall either secure the door or otherwise make it clear to others through signage that the area is occupied and should not be disturbed. All other employees should avoid interrupting an employee during an authorized break under this section, except to announce an emergency or other urgent circumstance.



Employees may file a complaint with the Labor Commissioner for any alleged violation of Labor Code Sections 1030, et seq., which governs lactations accommodations.

### **Employee Responsibilities**

Employees who wish to express milk during their work schedule must inform their supervisor so that appropriate accommodations can be made to satisfy the needs of both the employee and operational needs.

Employees are responsible for keeping lactation areas clean. This responsibility extends to both designated lactation areas, as well as other areas where lactation will occur.

Employees should label all milk expressed with their name and date collected so it is not inadvertently confused with another employee's milk. Each employee is responsible for proper storage of her milk using the District's provided refrigerator/personal storage coolers. ~~Any employee storing expressed milk in any authorized refrigerated area within the work area shall clearly label it as such. No expressed milk shall be stored at the work area beyond the employee's workday.~~

When more than one breastfeeding employee needs to use the designated lactation room, employees can use the sign-in log provided in the room to designate milk expression times that are most convenient or best meet their needs.

**See Also: AP 5203 Lactation Accommodation**

**Office of Primary Responsibility: Human Resources**

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**Date Adopted:**