

College Council: Policy and Procedure Review

9-14-2023

BP 2340 Agendas - CCLC 42 updated this policy to reflect recent reorganization and renumbering of the California Public Records Act.

BP 2365 Recording - CCLC 42 updated this policy to add a citation to and to reflect recent reorganization and renumbering of the California Public Records Act.

BP 3300 Public Records - CCLC 42 updated this policy to reflect recent reorganization and renumbering of the California Public Records Act.

BP 3410 Nondiscrimination - CCLC 42 updated this legally required policy to add antidiscrimination provisions related to a person's use of cannabis off the job and away from the workplace pursuant to changes in the Government Code. ACCJC required policy.

BP 3540 Sexual and Other Assaults on Campus - For CCLC 42, the Service updated this policy to apply to victims of domestic violence and to any location, expanding the application beyond a district's grounds pursuant to changes in the Education Code. The Service updated the title to align to current law.

BP 3550 Drug and Alcohol-Free Environment Drug Alcohol Abuse Program - CCLC 42 updated this legally required policy to add requirements related to providing information on opioid overdose reversal medication in campus orientations and the ability of campus health centers to distribute opioid overdose reversal medication pursuant to changes in the Education Code.

BP 3820 Gifts - Reviewed as part of the regular cycle of review. Compared to CCLC model policy. No changes.

BP 4070 Auditing - Reviewed as part of the regular review process. Compared to CCLC model policy update in 2015. The District is not required to permit auditing of courses; but if it does, the following policy language applies. Minor formatting updates. This is a 10 +1.

BP 4103 Work Experience - There is no CCLC Template for this policy for comparison. This policy is due for review as part of the regular review cycle. This is a 10+1.

BP 4300 Field Trips and Excursions - This policy is legally required and due for review as part of the regular review cycle. Compared to CCLC model policy. Legal reference updated. This is a 10 +1.

BP 5500 Standards of Conduct - CCLC 42 updated this policy to add a legal citation only. This is a 10+1 and ACCJC linked. The Academic Senate has agreed to approve at their August 24 meeting but will be looking into AI issues may bring this policy back for revision.

BP 7230 Classified Employees - CCLC 42 updated this policy to align with updated Title 5 regulations.

BP 7240 Confidential Employees - CCLC 42 updated this legally required policy to align with updated Title 5 regulations.

BP 7250 Educational Administrators - CCLC 42 updated this legally required policy to align with updated Title 5 regulations.

BP 7260 Classified Supervisors and Managers - CCLC 42 updated this legally required policy and it is also due for review as part of the regular review cycle.

BP 7340 Leaves - CCLC 42 updated this legally required policy to align with updated Title 5 regulations.

AP 2325 Teleconferenced Meetings (NEW) - CCLC 42 created this new procedure to allow for easier reference to the Ralph M. Brown Act's requirements for public meetings by teleconference.

AP 3420 Equal Employment Opportunity - CCLC 42 updated this legally required procedure to align with updated Title 5 regulations. Local practice may be inserted here that conforms to the 2022 revisions of Title 5 Sections 53000 et seq. or reference the current District Equal Employment Opportunity (EEO) Plan. Due to the dynamic and untested nature of this area of law, this procedure identifies points in the hiring process where consultation with legal counsel may be prudent. Formatting fixed.

AP 3433 Prohibition of Sexual Harassment Under Title IX - CCLC 42 updated this legally required procedure to remove a historically offensive term found in federal law.

AP 3435 Discrimination and Harassment Investigations – CCLC 42 updated this procedure to reflect the new name of the California Civil Rights Department and to align with updated Title 5 regulations.

AP 3540 Sexual and Other Assaults on Campus - CCLC 42 updated this legally required procedure to set out options for victims including information about sexual assault and domestic violence counselors pursuant to changes in the Education Code. The Service updated the title of this procedure to align to current law.

AP 3820 Gifts - Due for review as part of the regular review process. Compared to the CCLC model procedure as suggested good practice. Local practice typically covers 1) Responsible personnel or office, 2) Criteria for accepting donations or gifts, 3) forms, if any, and 4) how gifts are reported or submitted to board for acceptance.

AP 4070 Auditing – Reviewed as part of the regular review process. Compared to CCLC model policy update in 2015. The District is not required to permit auditing of courses; but if it does, the following policy language applies. Criteria that is legally advised: Who may audit, application process, required approvals, priority to be given to student desiring to take the course for credit towards a degree or certificate, refunds, and limits on auditing. Please note that payment of fees not to exceed \$15.00 per unit, unless student is enrolled in classes to receive credit for 10 or more semester units, and is auditing three or fewer semester units. There is no model language for comparison but recommended edits for clarity. Formatting updated. This is a 10 +1.

AP 4103 Work Experience - This procedure is legally required if the District allows work experience and is due for review as part of the regular cycle of review. Compared to CCLC model procedure. Edits include clean-up of language. There was an update in 2018. I have attached the CCLC model for comparison and guidance. This could benefit from reformatting because the bullet layout is messy. Career Education Programs or is this separate? This is a 10+1.

AP 4105 Distance Education – The 2022 CCLC 39 Update included legally required language this procedure to add “Correspondence” Education to the title to reflect new provisions added to Title 5

regarding correspondence education. The Service also added legally required language regarding correspondence education, including the definition from Title 5 regarding “correspondence education” and provisions addressing delivery of correspondence education instruction, addendums to course outlines, and eligibility of full-time status for students who participate in correspondence education. Finally, the Service added legal citations to Education Code Sections 66700 and 70901 et seq. and Title 5 Sections 55260 et seq. This year the CCLC 42 updated this legally required procedure to align with additional updated Title 5 regulations.

AP 4300 Field Trips and Excursions - This procedure is legally advised and due for review as part of the regular review cycle. Compared to CCLC model policy. Legal reference updated. Formatting updated.

AP 5020 Non-Resident Tuition - CCLC 42 updated this legally required procedure to provide an exemption to a nonresident student who enrolls in a credit English as a Second Language course if they met certain requirements pursuant to changes in the Education Code. This is a 10+1.

AP 5300 Student Equity - CCLC 42 updated this legally required procedure to correct a reference to foundational skills. The California Community Colleges Chancellor’s Office is working on streamlining the reporting requirements for student equity plans along with other programs. One change has been to submit information related to student equity plans to the California Community Colleges Chancellor’s Office as part of an “Integrated Plan.” However, because Title 5 Regulations addressing student equity plans have not been repealed, districts are still required to maintain student equity plans. This is a 10+1.

AP 6400 Audits – CCLC 42 updated this legally required procedure to align with updated Title 5 regulations. Formatting updated. This procedure is accreditation linked. This procedure should be reviewed with its policy counterpart which is due for review as part of the regular review cycle.

AP 7145 Personnel Files – CCLC 42 updated this legally advised procedure to provide a process for staff and faculty to declare an affirmed name, gender, or both pursuant to changes in the Education Code.

AP 7210 Academic Employees - This optional procedure is due for review as part of the regular review cycle. There were no legal updates. The academic employees of the District have been addressed by BP 7210 Academic Employees, and additional procedures are not legally mandated. However, local practice, if any, may be inserted. The contents of any such procedure will be subject to consultation with the Academic Senate. This is a 10+1.

AP 7235 Probationary Period Confidential Supervisory and Classified Employees - CCLC 42 Service updated this procedure to implement requirements in non-merit system districts regarding employees who do not successfully complete their probationary period pursuant to changes in the Education Code.

AP 7365 Discipline and Dismissal Classified Employees – CCLC 42 updated this legally required procedure to implement requirements related to employee status during discipline proceedings pursuant to changes in the Education Code. See page 5 of this procedure for recommended update.

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

Status Update – Policies and Procedures Currently Under Review

Administrative – Under Review

BP 2330 Quorum and Voting
AP 2712 Conflict of Interest Code
AP 3410 Nondiscrimination
BP 3420 Equal Employment Opportunity
AP 3434 Responding to Harassment Based on Sex under Title IX
AP 3500 Campus Safety
AP 3550 Drug and Alcohol-Free Environment
BP/AP 3715 Intellectual Property
AP 3725 Information Communications Technology Accessibility Acceptable Use
AP 4100 Graduation Requirements for Degrees and Certificates
AP 4225 Course Repetition Non-Repeatable Courses
AP 4250 Probation
AP 5011 Admission of High School and Other Young Students
BP/AP 5015 Residence Determination
BP 5020 Non-Resident Tuition
AP 5030 Fees
BP 5035 Withholding of Student Records
BP/AP 5040 Student Records and Directory Information
AP 5075 Credit Course Adds and Drops
BP/AP 5130 Financial Aid
BP 5410 Associated Students Elections
BP 6250 Budget Management Review
AP 7212 Temporary Faculty
BP/AP 7600 District Police

Academic Senate – Under Review

AP 4020 Program Curriculum and Course Development
BP/AP 4040 Library and Other Instructional Support Services (NEW)
AP 4100 Graduation Requirements for Degrees and Certificates
AP 4222 Remedial Coursework
AP 4230 Grading and Academic Record Symbols
AP 4232 Pass - No Pass
AP 4255 Dismissal
AP 5020 Non-Resident Tuition
AP 5055 Enrollment Priorities
AP 7217 Instructional Rotation

Board of Trustees

CCLC 42 The Service updated this policy to reflect recent reorganization and renumbering of the California Public Records Act. Mici 5-25-2023

Approved. Mia/General Counsel 8-18-2023

Approved. President/Superintendent 8-21-2023

Board Policy Review Committee Recommendation to align with practices. 8-30-2023

BP 2340 AGENDAS**References:**

Education Code Sections 72121 and 72121.5;

Government Code Sections ~~6250-7920.000~~ et seq. and 54954 et seq.

An agenda shall be posted adjacent to the place of meeting as well as on the District's Internet website at least seventy-two (72) hours prior to the meeting time for regular meetings. The agenda shall include a brief description of each item of business to be transacted or discussed at the meeting. If requested, the agenda shall be provided in appropriate alternative formats so as to be accessible to persons with a disability.

No business may be acted on or discussed which is not on the agenda, except when one or more of the following apply:

- a majority decides there is an "emergency situation" as defined for emergency meetings;
- two-thirds of the members (or all members if less than two-thirds are present) determine there is a need for immediate action and the need to take action came to the attention of the Board of Trustees subsequent to the agenda being posted;
- an item appeared on the agenda of an adjourned meeting and was continued from a meeting held not more than five (5) days earlier.

The order of business may be changed by consent of the Board of Trustees.

The agenda for each regular and special meeting shall be prepared by the Superintendent/President and its contents approved by the Board Officers.

Any Board member may have an item placed upon the agenda for the next Board meeting by so informing the Board President and the Superintendent/President in writing at least fifteen (15) days prior thereto.

The agenda, together with all completed reports, shall be provided each Board member at least seventy-two (72) hours ~~three (3) working days~~ before each meeting.

The Superintendent/President shall establish administrative procedures that provide for public access to agenda information.

Members of the public may place matters directly related to the business of the District on an agenda for a Board meeting by submitting a written summary of the item to the Superintendent/President. The

written summary must be signed by the initiator. The Board of Trustees reserves the right to consider and take action in closed session on items submitted by members of the public as permitted or required by law.

Agenda items submitted by members of the public must be received by the office of the Superintendent/President fifteen (15) working days prior to the regularly scheduled Board meeting.

Items initiated by members of the public shall follow items of business on the Board's agenda after those initiated by the Board of Trustees and by staff. Any agenda item submitted by a member of the public and heard at a public meeting cannot be resubmitted before the expiration of a ninety (90) day period following the initial submission.

Date Adopted: July 21, 2009 (*Replaces~~ed~~ current College of Marin Policies 1.5030, 1.5070, and 1.5320*)

Date Reviewed/Revised: June 20, 2017

Date Reviewed/Revised:

Board of Trustees

CCLC 42 updated this policy to add a citation to and to reflect recent reorganization and renumbering of the California Public Records Act. Mici 5-25-2023
No changes. Mia/General Counsel 8-18-2023

BP 2365 RECORDING

References:

Education Code Section 72121(a);
Government Code Sections 7920.000 et. seq., 54953.5 and 54953.6

Any audio or video recording of an open and public Board meeting made by or at the direction of the Board, shall be subject to inspection by members of the public in accordance with the California Public Records Act, Government Code Sections ~~6250-7920.000~~ et seq. The Superintendent/ President shall ensure that any such recordings are maintained for at least sixty (60) days following the taping or recording.

Persons attending an open and public meeting of the Board of Trustees may, at their own expense, record the proceedings with an audio or video tape recording or a still or motion picture camera or may broadcast the proceedings. However, if the Board of Trustees finds by a majority vote that the recording or broadcast cannot continue without noise, illumination, or obstruction of view that constitutes or would constitute a persistent disruption of the proceedings, any such person shall be directed by the President of the Board to stop.

Date Adopted: January 19, 2010 (*Replaced~~s~~ College of Marin Policy 1.5330*)

Date Revised: March 19, 2013; November 13, 2018

Date Reviewed:

General Institution

CCLC 42 updated this policy to reflect recent reorganization and renumbering of the California Public Records Act. Mici 5-25-23

BP 3300 PUBLIC RECORDS

References:

Government Code Sections 7920.000 ~~6250~~ et seq.

The Superintendent/President shall establish procedures for records management, including access by the public, which comply with the requirements of the California Public Records Act.

Also see BP/AP 5040 ~~titled~~ Students Records and Directory Information.

Date Adopted: December 14, 2010

Date Reviewed/Revised: April 16, 2019

Date Revised:

General Institution

CCLC 42 updated this legally required policy to add antidiscrimination provisions related to a person's use of cannabis off the job and away from the workplace pursuant to changes in the Government Code.

ACCJC required policy. Mici 5-25-2023

Approved without changes. Nikki/Human Resources 6-28-2023

No edits. Ryan B. 7-6-2023

No edits. Sadika/SAS 7-12-2023

Approved without changes. Jon H./Enrollment 8-18-2023

BP 3410 NONDISCRIMINATION**References:**

Education Code Sections 66250 et seq., 72010 et seq., and 87100 et seq.;
Title 5 Sections 53000 et seq. and 59300 et seq.;
Penal Code Sections 422.55 et seq;
Government Code Sections 12926, 12926.1, and 12940 et seq.;
Title 2 Sections 10500 et seq.;
ACCJC Accreditation Eligibility Requirement 20 and ACCJC Accreditation Standard Catalog Requirements (formerly Accreditation Standard II.B.2.c)

The District is committed to equal opportunity in educational programs, employment, and all access to institutional programs and activities.

The District, and each individual who represents the District, shall provide access to its services, classes, and programs without regard to national origin, immigration status, religion, age, family and medical care leave, gender, gender identity, gender expression, race or ethnicity, color, medical condition, genetic information, ancestry, sexual orientation, marital status, physical or mental disability, sex (which includes pregnancy, childbirth, breastfeeding and medical conditions related to pregnancy, childbirth), military and veteran status or because he/she/they is perceived to have one or more of the foregoing characteristics, or based on association with a person or group with one or more of these actual or perceived characteristics.

The District shall not discriminate against a person in hiring, termination, or any term or condition of employment or otherwise penalize a person based upon the person's use of cannabis off the job and away from the workplace unless permitted by California law.

The Superintendent/President shall establish administrative procedures that ensure all members of the college community can present complaints regarding alleged violations of this policy and have their complaints heard in accordance with the Title 5 regulations and those of other agencies that administer state and federal laws regarding nondiscrimination.

No District funds shall ever be used for membership, or for any participation involving financial payment or contribution on behalf of the District or any individual employed by or associated with it, to any private organization whose membership practices are discriminatory on the basis of national origin, immigration status, religion, age, family and medical care leave, gender, gender identity, gender expression, race or ethnicity, color, medical condition, genetic information, ancestry, sexual orientation,

marital status, physical or mental disability, sex (which includes pregnancy, childbirth, breastfeeding and medical conditions related to pregnancy, childbirth), military and veteran status or because he/she/they is perceived to have one or more of the foregoing characteristics, or based on association with a person or group with one or more of these actual or perceived characteristics.

Also see AP 3410 Nondiscrimination

Date Adopted: July 27, 2010

Dates Reviewed/Revised: February 26, 2013; October 20, 2015; December 11, 2018; June 8, 2021

Date Revised:

General Institution

For CCLC 42, the Service updated this policy to apply to victims of domestic violence and to any location, expanding the application beyond a district's grounds pursuant to changes in the Education Code. The Service updated the title to align to current law. Mici 5-25-2023
Approved without changes. Nikki/Human Resources 6-28-2023
Approved without changes. Sadika/SAS 8-2-2023
Edits to include District vehicles and vans. John Adams/Campus Police 8-8-2023

BP 3540 SEXUAL AND OTHER ASSAULTS ON CAMPUS AND IN CAMPUS PROGRAMS**References:**

Education Code Sections 67382, 67385, 67385.7, and 67386;
20 US. Code Section 1092(f) (Jeanne Clery Act);
34 Code of Federal Regulations Section 668.46(b) (11) (Institutional Security Policies and Crime Statistics)

Any sexual assault or physical abuse or domestic violence, including, but not limited to, rape, as defined by California law, whether committed by an employee, student or member of the public, that occurs on District property, including off-campus grounds or facilities maintained by the District, or upon grounds or facilities maintained by affiliated student organizations, or during use of District vehicles or vans, is a violation of District policies and procedures, and is subject to all applicable punishment, including criminal procedures, employee discipline as provided in applicable Board policy and collective bargaining agreements, or student discipline procedures consistent with state and federal law. Students, faculty, and staff who may be victims of sexual and other assaults and domestic violence shall be treated with dignity and provided comprehensive assistance.

The Superintendent/President shall establish administrative procedures that ensure that students, faculty, and staff who are victims of sexual and other assaults and domestic violence receive appropriate information and treatment, and that educational information about preventing sexual violence is provided and publicized as required by law.

The procedures shall meet the criteria contained in Education Code Sections 67385, 67385.7, and 67386, and 34 Code of Federal Regulations Section 668.46.

Also see AP 3540 Sexual and Other Assaults on Campus

Date Adopted: May 17, 2011 (*Replaced College of Marin Policy 7.0054*)

Date Reviewed/Revised: October 20, 2015; June 8, 2021; November 15, 2022

Date Revised:

General Institution

CCLC 42 updated this legally required policy to add requirements related to providing information on opioid overdose reversal medication in campus orientations and the ability of campus health centers to distribute opioid overdose reversal medication pursuant to changes in the Education Code.

Mici 5-25-2023

Approved without changes. Nikki/ Human Resources 6-29-2023

Approved without changes. Sadika/SAS 7-12-2023

Approved without changes. John Adams/Campus Police 8-8-2023

Approved without changes. Administrative Services/Eresa 8-21-2023

**BP 3550 DRUG AND ALCOHOL-FREE ENVIRONMENT AND DRUG AND ALCOHOL ABUSE
PREVENTION PROGRAM (DAAPP)**

References:

Education Code Section 67384;

20 U.S. Code Section 1011i (Drug Free Schools and Communities Act);

41 U.S. Code Section 8103 (Drug Free Workplace Act of 1988);

34 Code of Federal Regulations Sections 86.1 et seq.

The District shall be free from the unlawful possession, use, or distribution of illicit drugs, prescription drugs, and alcohol by students and employees.

The unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in all facilities under the control and use of the District.

Any student or employee who violates this policy will be subject to disciplinary action consistent with local, state, or federal law, which may include referral to an appropriate rehabilitation program, suspension, demotion, expulsion, or dismissal.

Alcohol is a central nervous system depressant. Aside from the health risks of alcohol, drugs (legal or illegal) carry their own risks.

- Since everyone's brain and body chemistry is different and tolerance for drugs is different, it cannot be predicted how any individual may be affected, especially if it is a first time use and even if it is a small amount or dose.
- Using drugs or alcohol can lead to abuse, addiction, serious health problems, and even death.
- Drugs that are legal - prescription and over-the counter (OTC Medications) can be just as dangerous as illegal drugs.

More information on the health risks associated with alcohol, drugs, and/or the mixing of alcohol and drugs may be found on the College's website by searching Drug and Alcohol Prevention Program (DAAPP).

On November 8, 2016 California voters passed Proposition 64 legalizing the use of recreational marijuana by people over the age of 21. The change in law does not permit any person to possess or use recreational or medical marijuana on a community college campus. Using and possessing marijuana is still illegal under federal law. The federal Drug Free Schools and Communities Act and the Drug Free Workplace Act require

that the District, which receives federal funding, have policies and procedures that prohibit marijuana use, possession and distribution on campus and in the workplace.

The District prohibits the use, possession and sale of marijuana, in any form, on all college property, including college owned and leased buildings, and parking lots. Marijuana is also not permitted at District sponsored events or while conducting college business.

The Superintendent/President shall ensure that the District distributes annually to each student and employee the information required by the Drug-Free Schools and Communities Act Amendments of 1989 and complies with other requirements of the Act.

The District shall provide educational and preventive information about opioid overdose and the use and location of opioid overdose reversal medication to students at all campuses. The Superintendent/President shall establish administrative procedures to assure that each campus health center applies to distribute dosages of a federally approved opioid overdose reversal medication and participates in the Naloxone Distribution Project through the State Department of Health Care Services.

See BP/AP 3560 Alcohol on Campus

Date Adopted: December 14, 2010 *(Replaced College of Marin Policy 5.0035)*

Reviewed/Revised: April 18, 2017; June 21, 2022

Revised:

General Institution

Reviewed as part of the regular cycle of review. Compared to CCLC model policy. Mici 11-30-2022

Approved without changes. Eresa/Administrative Services 4-17-2023

Approved without changes. Keith 4-17-2023

BP 3820 GIFTS**References:**

Education Code Section 72205

The Board of Trustees shall consider all gifts, donations, and bequests made to the District. The Board reserves the right to refuse to accept any gift which does not contribute toward the goals of the District, or the ownership of which would have the potential to deplete the resources of the District.

The District shall assume no responsibility for appraising the value of gifts made to the District.

Acceptance of a gift shall not be considered endorsement by the District of a product, enterprise or entity.

In no event shall the District accept a donation from any donor who engages in practices or policies which discriminate against any person on the basis of nationality, religion, age, gender, gender identity, gender expression, race or ethnicity, medical condition, genetic information, ancestry, sexual orientation, marital status, military or veteran status, or physical or mental disability; or when the stated purposes of the donation are to facilitate such discrimination in providing educational opportunity. (*See* BP/AP 3410 ~~titled~~ Nondiscrimination)

Also see AP 3820 Gifts, BP/AP 2800 ~~titled~~ Naming of Facilities and BP/AP 2710 ~~titled~~ Conflict of Interest

Date Adopted: September 18, 2012; (*Replaced College of Marin Policy 7.0038*)

Date Reviewed/Revised: May 16, 2017

Date Reviewed/Revised:

Academic Affairs

Reviewed as part of the regular review process. Compared to CCLC model policy update in 2015. The District is not required to permit auditing of courses; but if it does, the following policy language applies.

Minor formatting. This is a 10 +1. Mici 3-10-2023

No edits recommended. Jonathan/SLS and Jon H/Enrollment 3-16-2023

Approved. Academic Senate 4-27-2023

BP 4070 AUDITING

Reference:

Education Code Section 76370

To attend credit classes on a continuous or regular basis in the Marin Community College District, individuals must either enroll as a regular student or register as an auditor.

Students may audit courses.

The fee for auditing courses shall be [**no more than \$15.00 per unit**]. Students enrolled in classes to receive credit for ten or more semester credit units shall not be charged a fee to audit three or fewer semester units per semester.

No student auditing a course shall be permitted to change his/her/their enrollment to receive credit for the course.

Priority in class enrollment shall be given to students enrolled in the course for credit toward a degree or certificate.

Date Adopted: October 19, 2010

Revised: April 15, 2014

Reviewed/Revised:

Academic Affairs

There is no CCLC Template for this policy for comparison. This policy is due for review as part of the regular review cycle. Is this referring to the Career Education Programs or is this separate? This is a 10+1.

Mici 3-7-2023

To Jonathan/Alina 3-9-2023

AJ and CT reviewed 4-6-2023

Non-substantive updates to Academic Senate as information item for review. 4-13-2023

BP 4103 WORK EXPERIENCE

References:

~~Education Code Section 78249;~~

Title 5 Sections 55250 et seq.

The Work Experience Education Program provides students with employment experiences that will enable them to develop marketable skills, abilities, understandings, attitudes and work habits sufficient to enable them to **secure and maintain employment**.

See ~~AP 4103 titled~~ Work Experience

Date Approved: May 17, 2011 (*Replaced College of Marin Policy 2.0002*)

Date Reviewed/Revised:

Academic Affairs

This policy is legally required and due for review as part of the regular review cycle. Compared to CCLC model policy. Legal reference updated. This is a 10 +1. Mici 2-16-2023

No changes. Jonathan E/Carol Hernandez 3-27-2023

Copy to Keith R./Advancement 3-28-2023

Approved. Academic Senate 4-27-2023

Board Policy Review Committee Recommendation for clarity and disambiguation. 8-30-2023

BP 4300 FIELD TRIPS AND EXCURSIONS**References:**

Title 5 Sections 55220; ~~and 58166~~

Government Code Section 11139.8

The Superintendent/President shall establish procedures that regulate the use of District funds for student travel and attendance at conferences and other activities that are performed as a class assignment or co-curricular activity.

The District may pay for expenses of students participating in a field trip or excursion with auxiliary, grant, or categorical program funds if the funds are used consistently with the funding source. The expenses of instructors, chaperones, and other personnel traveling with students may also be paid from District funds.

Students and ~~staff~~ employees shall at all times adhere to the standards of conduct applicable to conduct on campus.

Date Adopted: June 22, 2010 (*Replaced College of Marin Policy 2.0008*)

Date Reviewed/Revised:

Student Services

CCLC 42 updated this policy to add a legal citation only. This is a 10+1 and ACCJC linked. Mici 5-25-2023

To Sadika/Student Activities 6-28-2023

Copy to Jonathan/SLS

No changes. Mia/General Counsel 8-18-2023.

Academic Senate will approve but will be looking into AI issues and bringing this back for revision.

Maria/Academic Senate 8-14-2023

BP 5500 STANDARDS OF STUDENT CONDUCT**References:**

Education Code Sections 66300, ~~and~~ 66301, and 76120;

ACCJC Accreditation Standards I.C.8 and 10

The Superintendent/President shall establish procedures for the imposition of discipline on students in accordance with the requirements for due process of the federal and state law and regulations. (See AP 5520 Student Discipline and Due Process).

This procedure defines the conduct that is subject to discipline, and identifies potential disciplinary actions, including but not limited to the removal, suspension, or expulsion of a student.

The Board of Trustees shall consider any recommendation from the Superintendent/President for expulsion. The Board shall consider an expulsion recommendation in closed session unless the student requests that the matter be considered in a public meeting. Final action by the Board on the expulsion shall be taken at a public meeting.

The procedures shall be made widely available to students through the college catalog, the college website, and other means.

When a student is suspended or expelled for disrupting the orderly operations of a District campus or facility, or both, the student may be denied access to the campus or facility, or both, for a period of one year or the term of the suspension. Sanctions imposed as a result of violations of the standards of student conduct are intended to maintain order within the District. If the sanction includes removal, suspension, or expulsion, the Senior Assistant Superintendent/Vice President of Student Learning and Success Student Services or designee who authorized the sanctions shall give written notice to the student's instructor(s) of the sanctions within 15 days of imposing the sanctions.

The following conduct shall constitute good cause for discipline, including but not limited to removal, suspension, or expulsion of a student, except for conduct that constitutes sexual harassment under Title IX, which shall be addressed under BP 3433 Prohibition of Sexual Harassment under Title IX:

1. Causing, attempting to cause assault, battery, or attempted assault or battery, or any threat of force or violence upon a student or District personnel.

2. Possession, sale or otherwise furnishing any firearm, dirk, dagger, ice pick, knife, explosive or other dangerous object, including but not limited to any facsimile of the foregoing objects, unless, in the case of possession of any object of this type, the student has obtained written permission to possess the item from the Chief of Police who has the concurrence of the Superintendent/President. Possession of a knife does not violate this provision if possession is at the direction of an academic employee for use in a District-sponsored activity or class, for a lawful purpose within the scope of the student's employment with the District, or for lawful use in food preparation or consumption. (See BP/AP 3530 Weapons on Campus)
3. Unlawful possession, use, sale, offering to sell, or furnishing, or being under the influence of, any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind; or any poison defined in Business and Professions Code Section 4240, or unlawful possession of, or offering, arranging or negotiating the sale of any drug paraphernalia, as defined in Health and Safety Code Section 11014.5.
4. Committing, attempting, or being an accomplice to robbery or extortion.
5. Causing or attempting to cause damage to District property or to private property on campus.
6. Stealing or attempting to steal District property or private property on campus, or knowingly receiving stolen District property, or knowingly receiving stolen private property on campus.
7. Willful or persistent smoking in any area where smoking has been prohibited by law or regulation of the District.
8. Sexual assault or sexual exploitation regardless of the victim's affiliation with the District.
9. Committing sexual harassment as defined by law or by District policies and procedures.
10. Engaging in harassing or discriminatory behavior based on ethnic group identification, national origin, religion, age, gender, gender identity, gender expression, race, color, medical condition, ancestry, sexual orientation, marital status, physical or mental disability, genetic information, or on the basis of one or more of these perceived characteristics, or based on association with a person or group with one or more of these actual or perceived characteristics.
11. Engaging in intimidating conduct or bullying against another student or District personnel through words or actions, including direct physical contact; verbal assaults, such as teasing or name-calling; social isolation or manipulation; and cyberbullying.
12. Willful misconduct which results or has the potential to result in injury or death to a student or to District personnel or which results in cutting, defacing, or other damage to any real or personal property owned by the District or on campus. The District may require students who cause damage to replace property or pay the cost of damages.
13. Continued disruptive behavior, continued willful disobedience, habitual profanity or vulgarity, or the open and persistent defiance of the authority of, or persistent interruption or abuse of, [a student or](#) District personnel.

14. Cheating, plagiarism (including plagiarism in a student publication), or knowingly engaging in other forms of academic dishonesty, including, but not limited to:
- a. Copying, in part or whole, from someone else's quiz, examination, or work. For purpose of this item, "examination" includes quizzes, tests, and other graded or evaluated exercise.
 - b. Submitting work presented previously in another course, if contrary to the rules of either course.
 - c. Altering or interfering with grading.
 - d. Using or consulting any sources or materials, including electronic devices, not authorized by the professor during an examination.
 - e. Committing other acts which defraud or misrepresent one's own academic work.
 - f. Incorporating sentences, paragraphs, or parts of another person's writing, without giving appropriate credit, and representing the product as one's own work.
 - g. Representing another's artistic/scholarly works (such as musical compositions, computer programs, photographs, paintings, drawings, or sculptures) as one's own.
 - h. Submitting an academic assignment purchased from a research/term paper service, or written by another individual; or work obtained electronically (e.g. via the internet) and representing it as one's own work.
 - i. Purposefully allowing another student to copy from your paper during an examination.
 - j. Giving your homework, term paper, or other academic work to another student to plagiarize.
 - k. Having another person fraudulently submit any work in your name.
 - l. Lying to an instructor or District official to improve your grade.
 - m. Allowing other persons to misrepresent themselves as the student for any purpose, including interacting with any District employees, submission of work, attendance, or taking examinations.
 - n. Misrepresenting circumstances in an effort to improve a grade.
 - o. Altering graded work after it has been returned and then submitting the work for re-grading without the instructor's permission.
 - p. Removing tests or examinations from the classroom or other area without the approval of the instructor.
 - q. Stealing or being an accomplice to stealing tests or examinations.
 - r. Forging signatures on drop/add slips or altering other District documents.
15. Dishonesty; forgery; alteration or misuse of District documents, records or identification; or knowingly furnishing false information to the District.
16. Unauthorized possession, duplication, or use of keys to any District premises or unauthorized entry upon or use of District facilities.
17. Lewd, indecent, or obscene conduct on District-owned or controlled property or at District-sponsored or supervised functions.
18. Engaging in expression which is libelous or slanderous; or which so incites others as to create a clear and present danger of the commission of unlawful acts on District premises or at District-sponsored or supervised functions, or the violation of lawful District administrative procedures, or the substantial disruption of the orderly operation of the District.

19. Persistent, serious misconduct where other means of correction have failed to bring about proper conduct.
20. Unauthorized preparation, giving, selling, transferring, distributing, or publishing for any commercial purpose, of any contemporaneous recording of an academic presentation in a classroom or equivalent site of instruction, including but not limited to handwritten or typewritten class notes, except as permitted by any District Policy or Administrative Procedure.
21. The use by a student of any electronic listening or recording device in any classroom without the prior consent of the instructor, except as necessary to provide reasonable auxiliary aids and academic adjustments or accommodations to a student with a disability.
22. Violation of BP/AP 3720 Information Technology Use or any conduct that constitutes a computer-related crime pursuant to Penal Code Section 502.
23. The offering of any inducement or item of value to influence the awarding of any grade or to alter any official District record.
24. Solicitation or acceptance of money or other item of value as an inducement, encouragement, or reward for intercollegiate participation in violation of Education Code Section 67361 or false declarations regarding eligibility for participation in intercollegiate athletics under Education Code Section 67362.
25. Accessing and/or disclosing confidential District information, including student records, without authorization. *Also see* BP/AP 3300 Public Records, BP/AP 4231 Grade Changes, and BP/AP 5040 Student Records.
26. Failure to obey federal, state, and local laws in connection with District attendance or activity.
27. Tampering with the election of any student organization recognized by the District.
28. Hazing defined as a “method of initiation or pre-initiation into a pupil organization or body, whether or not the organization or body is officially recognized by an educational institution, which is likely to cause serious bodily injury or personal degradation or disgrace resulting in physical or mental harm to a former, current, or prospective pupil. For purposes of this subdivision, ‘hazing’ does not include athletic events or school-sanctioned events.” (Education Code Section 48900(q))
29. Abuse of the Student Conduct System, including but not limited to:
 - a. Failure to obey the summons of the Student Conduct Hearing Committee or District official.
 - b. Falsification, distortion, or misrepresentation of information.
 - c. Disruption or interference with the orderly conduct of a judicial proceeding or Student Conduct Hearing Committee.

- d. Attempting to discourage an individual's proper participation in, or use of, the District judicial system.
 - e. Attempting to influence the impartiality of a member of a judicial body prior to, and/or during the course of, the judicial proceeding or Student Conduct Hearing Committee.
 - f. Failure to comply with the sanctions imposed under the Standards of Conduct and/or Education Code.
 - g. Influencing or attempting to influence another person to commit an abuse of the judicial system.
30. Operating bicycles or motorized bicycles, skateboards, roller skates, roller blades, scooters, and other similar devices on any property owned, maintained, or controlled by the District in violation of AP 6850 Bicycles, Skateboards, Roller Skates, Roller Blades, Scooters and Other Similar Devices on Campus.
31. Stalking another student or District personnel, including engaging in a course of conduct or repeated conduct (in person, [via phone or text](#), or virtual) directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or to suffer substantial emotional distress.
32. Non-compliance with the direction of District personnel or designated persons acting in the performance of their duties to maintain the order of the District.

Students who engage in any of the above conduct are subject to the procedures outlined in AP 5520 Student Discipline and Due Process.

Also see AP 5520 Student Discipline and Due Process, BP/AP 3540 Sexual and Other Assaults on Campus, BP/AP 3530 Weapons on Campus, BP/AP 3720 Information Technology Use, BP/AP 6850 Bicycles, Skateboards, Roller Skates, Roller Blades, Scooters and Other Similar Devices on Campus, AP 6520 Security for District Property, BP/AP 3410 Nondiscrimination, BP/AP 3300 Public Records, BP/AP 4231 Grade Changes, BP/AP 5040 Student Records and Directory Information, and BP/AP 3900 Speech: Time, Place, and Manner

Date Adopted: May 17, 2011 (*Replaced College of Marin Policies 4.0020, 4.0022, and 4.0025*)

Date Reviewed/Revised: June 18, 2013, April 18, 2017; November 9, 2021

Date Revised:

Human Resources

CCLC 42 updated this policy to align with updated Title 5 regulations. Mici 5-25-23
Approved without changes. Nikki/Human Resources; copy Mia/General Counsel 7-28-2023

BP 7230 CLASSIFIED EMPLOYEES**References:**

Education Code Sections 88003, 88004, 88009, 88013, and 88120;
Title 5 Section 53602

Classified employees are those who are employed in positions that are not academic positions. The employees and positions shall be known as the classified service.

The classified service does not include:

- Substitute and short-term employees who are employed and paid for less than 75 percent of the fiscal year.
- Part-time apprentices and professional experts employed on a temporary basis for a specific project, regardless of length of employment.
- Full-time students employed part time, and part-time students employed part-time in any college work-study program or in a work experience education program conducted by the District.

The Board of Trustees shall fix and prescribe the duties of the members of the classified service. (See BP 7110 Delegation of Authority)

Before a short-term employee is employed, the Board of Trustees, at a regularly scheduled meeting, shall specify the service required to be performed and certify the ending date of the service. The Board of Trustees may later act to shorten or extend the ending date, but shall not extend it beyond 75 percent of an academic year.

The Superintendent/President shall establish procedures to ensure that the requirements of state law and regulations regarding the classified service are met.

The probationary period for classified employees shall be six months or 130 days of paid service whichever is longer or as defined in the applicable collective bargaining agreement. A permanent employee who accepts a promotion and fails to complete the probationary period for that promotional classification shall be employed in the position from which the employee was promoted.

The evaluation of classified employees must include consideration of the employee's demonstrated, or progress toward, proficiency in diversity, equity, inclusion, and accessibility competencies that enable work with diverse communities.

Date Adopted: February 19, 2011

Date Reviewed/Revised: November 15, 2022

Date Revised:

Human Resources

CCLC 42 updated this legally required policy to align with updated Title 5 regulations. Mici 5-25-2023
Approved without changes. Nikki/Human Resources; copy Mia/General Counsel 7-28-2023

BP 7240 CONFIDENTIAL EMPLOYEES

Reference:

Government Code Section 3540.1(c);
[Title 5 Section 53602](#)

Confidential employees are those who are required to develop or present management positions with respect to employer-employee relations or whose duties normally require access to confidential information that is used to contribute significantly to the development of management positions. The fact that an employee has access to confidential or sensitive information shall not in and of itself make the employee a confidential employee.

A determination whether a position is a confidential one shall be made by the Board of Trustees in accordance with applicable law and with the regulations of the California Public Employment Relations Board.

Confidential employees are not eligible for inclusion in a bargaining unit represented by an exclusive representative and the terms and conditions of their employment are not controlled by any collective bargaining agreement.

The terms and conditions of employment for confidential employees shall be provided for by procedures developed by the Superintendent/President. Such terms and conditions of employment shall include, but not be limited to, procedures for evaluation and rules regarding leaves, transfers, and reassignments. [The evaluation of confidential employees must include consideration of the employee's demonstrated, or progress toward, proficiency in diversity, equity, inclusion, and accessibility competencies that enable work with diverse communities.](#)

Date Adopted: August 25, 2009

Date Reviewed: November 13, 2018

Date Revised:

Human Resources

CCLC 42 updated this legally required policy to align with updated Title 5 regulations. This is a 10+1.

Mici 5-25-23

Approved without changes. Nikki/Human Resources; copy Mia/General Counsel 7-28-2023

BP 7250 EDUCATIONAL ADMINISTRATORS**References:**

Education Code Sections 72411 et seq., 87002 subdivision (b), and 87457-87460;

Government Code Sections 3540.1 subdivisions (g) and (m);

[Title 5 Section 53602](#)

An administrator is a person employed by the Board in a supervisory or management position as defined in Government Code Sections 3540 et seq.

Educational administrators are those who exercise direct responsibility for supervising the operation of or formulating policy regarding the instructional or student services programs of the District.

Retreat Rights

An educational administrator employed pursuant to Education Code Sections 72411 or 72411.5 who has not previously acquired tenure as a faculty member in the District shall have the right to become a first-year probationary faculty member in a faculty service area in which he/she/they meets minimum qualifications or equivalencies upon expiration or termination of his/her/their administrative assignment, if the following criteria are met:

- The educational administrator's first date of paid service in the District as a faculty member or an administrator is on or after July 1, 1990.
- The requirements of Education Code Sections 87458(c) and (d), or any successor statute, are met with respect to minimum years of prior satisfactory service and termination for reasons other than cause. For purposes of this policy, the term "year" shall mean service of at least 75 percent of the number of days the regular schools of the District are maintained.
- Upon expiration or termination of the administrative assignment there is a vacant position in the educational administrator's faculty service area(s) and no other individual has a preferred right to the position under applicable laws and regulations. For purposes of this policy, the term "vacant position" means a position in which the employee is qualified to serve and which is not filled by a regular or contract employee. It does not include a position which would be filled by a regular or contract employee except for the fact that such employee is on leave.
- The District has a vacancy for which the administrator meets minimum qualifications. A vacancy means that a position is available within the District and the District has appropriately allocated, budgeted, and prioritized in accordance with District practice.

Unless otherwise specifically provided by written agreement, educational administrators shall be deemed employed pursuant to Education Code Section 72411.5 and shall serve at the pleasure of the Board of Trustees.

Educational administrators employed under contract with public or private agencies or other categorically funded projects of indeterminate duration shall serve at the pleasure of the Board of Trustees and shall not be entitled to retreat rights except as specifically otherwise provided by written agreement or applicable law.

Educational administrators shall be compensated in the manner provided for by the appointment or contract of employment. Compensation shall be set by the Board of Trustees upon recommendation by the Superintendent/President. Educational Administrators shall further be entitled to health and welfare benefits made available by action of the Board upon recommendation by the Superintendent/President.

Educational administrators shall be entitled to vacation leave, sick leave, and other leaves as provided by law, these policies, and administrative procedures adopted by the Superintendent/President.

The evaluation of educational administrators must include consideration of the employee's demonstrated, or progress toward, proficiency in diversity, equity, inclusion, and accessibility competencies that enable work with diverse communities.

Appointment to Interim Position(s)

Service in an interim capacity shall not give the employee any special rights to the position when it is filled on a permanent basis. All interim appointments shall require Board approval.

Also see BP 7251 Educational Administrator Retreat Rights, BP 7260 Classified Supervisors and Managers, and AP 7211 Faculty Service Areas, Minimum Qualifications, and Equivalencies.

Date Adopted: August 21, 2012 *(Replaced College of Marin Policy 5.0010)*

Reviewed/Revised: June 21, 2022

Revised:

Human Resources

CCLC 42 updated this legally required policy and it is also due for review as part of the regular review cycle. Mici 5-25-2023

Approved without changes. Nikki/Human Resources; copy Mia/General Counsel 7-28-2023

BP 7260 CLASSIFIED SUPERVISORS AND MANAGERS

References:

Education Code Section 72411;

Government Code Sections 3540.1(g) and (m);

Title 5 Section 53602

Classified administrators are administrators who are not employed as educational administrators.

Classified supervisors are those classified administrators, regardless of job description, having authority to hire, transfer, suspend, recall, promote, discharge, assign, reward, or discipline other employees or having the responsibility to assign work to and direct them, adjust their grievances, or effectively recommend such action.

Classified managers are those classified administrators, regardless of job description, having significant responsibilities for formulating Board Policies or administering District programs other than the educational programs of the District.

Classified administrators may be employed in the same manner as the other members of the classified service. If a classified administrator is employed as a regular member of the classified service, employment shall be consistent with other provisions of these policies regarding employment of classified employees.

The evaluation of classified administrators and managers must include consideration of the employee's demonstrated, or progress toward, proficiency in diversity, equity, inclusion, and accessibility competencies that enable work with diverse communities.

Date Adopted: February 19, 2011

Date Revised:

Human Resources

CCLC 42 updated this legally required policy to align with updated Title 5 regulations. Mici 5-25-2023
Approved without changes. Nikki/Human Resources; copy Mia/General Counsel 7-28-2023

BP 7340 LEAVES**References:**

Education Code Sections 87763 et seq. and 88190 et seq. and cites below;
Labor Code Sections 245 et seq.

The Superintendent/President shall establish procedures for employee leaves as authorized by law and by any collective bargaining agreements entered into by the District. Such leaves shall include, but are not limited to:

- illness or injury leaves for all classes of permanent employees (Education Code Sections 87781 and 88192~~1~~);
- paid sick leave (Labor Code Section 246);
- vacation leave for members of the classified service, administrators, supervisors, and managers ([Education Code Section 88197](#));
- leave for service as an elected official or steward of a community college district public employee organization or of any statewide or national employee organization with which the local organization is affiliated or leave for a reasonable number of unelected classified employees for the purpose of enabling an employee to attend important organizational activities authorized by the public employee organization (Education Code Sections 87768.5 and 88210; Government Code Section 3558.8);
- leave of absence [for permanent employees](#) to serve as an elected member of the [State](#) legislature (Education Code Section 87701);
- pregnancy leave (Education Code Sections 87766 and 88193; Government Code Section 12945);
- leave to bond with a new child (Education Code Sections 87784.5 and 88207.5);
- family care and medical leave (Government Code Sections 12945.1 and 12945.2)
- use of illness leave for personal necessity (Education Code Sections 87784 and 88207);
- industrial accident and illness leave (Education Code Sections 87787 and 88192);
- bereavement leave ([Government Code Section 12945.7 and](#) Education Code Sections 87788 and 88192);
- jury service or appearance as a witness in court (Education Code Sections 87036 and 87037);
- military service (Education Code Section 87700);
- sabbatical leaves, if applicable; and
- release time for participation in special assignments (i.e. accreditation related business, statewide taskforce, etc.).

Vacation leave for members of the classified service, educational administrators and classified supervisors and managers shall not accumulate beyond 240 hours of paid leave. Employees shall be permitted to take vacation in a timely manner to avoid accumulation of excess vacation.

In addition to this policy and collective bargaining agreements, the Board of Trustees retains the right to grant leaves with or without pay for other purposes or for other periods.

See AP 7340 Leaves

Date Adopted: January 17, 2012

Dates Reviewed/Revised: January 19, 2016; November 17, 2018; November 9, 2021; November 15, 2022

Date Revised:

Human Resources

CCLC 42 created this **new** procedure to allow for easier reference to the Ralph M. Brown Act's requirements for public meetings by teleconference. Mici 5-25-2023

Changes as noted. Mia/General Counsel 8-18-2023

Approved without changes. Superintendent/President Coon 8-30-2023

AP 2325 Teleconferenced Meetings (NEW)**References:**

Education Code Section 72000 subdivision (d);

Government Code Sections 54952.2, 54953 et seq., and 54961

The Board may use teleconferencing for the benefit of the public and the Board in connection with any meeting. If the Board elects to use teleconferencing, the Board must comply with all of the following (except as permitted for Trustees participating remotely, described below, and except as provided by law):

- At least a quorum of Board members must participate from locations within the District boundaries, except as provided by law;
- The Board will identify all teleconference sites on the agenda;
- The Board will post the agenda at all teleconference sites;
- The agenda must provide an opportunity for members of the public to address the Board directly at each teleconference site;
- The Board members must vote by rollcall; and
- The Board must conduct the teleconferenced meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the Board.

Meetings during States of Emergency

The Board may use teleconferencing without complying with the requirements above in any of the following circumstances:

- The Board holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing;
- The Board holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees; or

- The Board holds a meeting during a proclaimed state of emergency and has determined, by majority vote that as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without complying with the location requirement described above, the Board must, not later than 30 days after teleconferencing for the first time pursuant to the above circumstances, and every 30 days thereafter, make the following findings by majority vote:

- The Board has reconsidered the circumstances of the state of emergency; and either
- The state of emergency continues to directly impact the ability of the members to meet safely in person; or
- State or local officials continue to impose or recommend measures to promote social distancing.

Requirements for Individual Board Members Participating Remotely

The Board can use teleconferencing without posting agendas at all teleconference locations provided at least a quorum of the Board members participates in person at a single physical location within the boundaries of the District, and that physical location is identified on the agenda. Additionally, the Board must provide a two-way audiovisual platform or a two-way telephonic service and a live webcasting of the meeting as a means by which the public may remotely hear and visually observe the meeting and remotely address the Board.

A member of the Board must only participate in a meeting remotely if either:

- The member notifies the Board of the member's need to participate remotely for just cause. "Just cause" means a childcare or caregiving need, a contagious illness, a need related to a physical or mental disability, or travel on District business or for another state or local agency. The member may not participate remotely for just cause for more than two meetings per calendar year; or
- The member requests the Board allow the member to participate in the meeting remotely due to emergency circumstances and the Board takes action to approve the request. "Emergency circumstances" means a physical or family medical emergency that prevents a member from attending in person.

The member must participate through both audio and visual technology.

A member cannot participate in meetings of the Board solely by teleconference from a remote location remotely due to "just cause" or "emergency circumstances" for a period of more than three consecutive months or 20 percent of the regular meetings for the Board within a calendar year or more than two meetings if the Board regularly meets fewer than ten times per calendar year.

Public Access Requirements When Board Is Teleconferencing Under Amended Teleconference Rules

In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the Board must also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda must identify and include an opportunity for all persons to attend and address the Board through a call-in option, through an internet-based service option, and at the in-person location of the meeting.

In the event of a disruption that prevents the Board from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the District's control that prevents members of the public from offering public comments using the call-in option or internet-based service option, the Board must take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored.

The Board must not require the public to submit comments in advance of the meeting and must provide an opportunity for the public to address the Board and offer comment in real time.

Office of Primary Responsibility: Superintendent/President

Date Adopted:

General Institution

CCLC 42 updated this legally required procedure to align with updated Title 5 regulations. Local practice may be inserted here that conforms to the 2022 revisions of Title 5 Sections 53000 et seq. or reference the current District Equal Employment Opportunity (EEO) Plan. Due to the dynamic and untested nature of this area of law, this procedure identifies points in the hiring process where consultation with legal counsel may be prudent. Formatting fixed. Mici 5-26-2023

Approved. Nikki/Human Resources 6-28-2023

No changes. Mia/General Counsel 7-6-2023.

AP 3420 EQUAL EMPLOYMENT OPPORTUNITY**References:**

Education Code Sections 87100 et seq.;
Title 5 Sections 53000 et seq., and 59300 et seq.;
Government Code Sections 7400 et seq. and 12940 et seq.;
ACCJC Accreditation Standard III.A.12

The District has an Equal Employment Opportunity (EEO) Plan which is a District-wide, written plan that implements the District's EEO Program, including the definitions contained in Title 5, Section 53001, and addressing the following must:

- Be developed in collaboration with the District's Equal Employment Opportunity Advisory Committee;
- Be reviewed and adopted at a regular meeting of the governing board where it is agendized as a separate action item and not part of the consent agenda;
- Cover a period of three years, after which a new or revised plan shall be adopted; and
- Be submitted to the California Community Colleges Chancellor's Office at least 90 days prior to its adoption. Comments received from the California Community Colleges Chancellor's Office on the proposed plan must be presented to the governing board prior to adoption.

The EEO plan must include all of the following:

- Specific pre-hiring, hiring, and post-hiring EEO strategies the District intends to implement each year over the life of the plan;
- A schedule identifying the timetables for implementation of the identified EEO strategies;
- Identification of the district EEO officer with delegated responsibility and authority for implementing the EEO Plan and assuring compliance with Title 5 regulations;
- Submission of plans and revisions to the State Chancellor's Office for review and approval as required;
- The designation of the District employee or employees who have been delegated responsibility and authority for implementing the plan and assuring compliance with the requirements of this procedure;
- The procedure for filing complaints and the person with whom such complaints are to be filed;
- A process for notifying all District employees of the provisions of the plan and the policy statement required;

- A process for ensuring that ~~District employees individuals directly who are to~~ participating ~~on in the~~ screening or selection ~~process committees~~ shall receive appropriate training on the requirements of the applicable Title 5 regulations and of state and federal nondiscrimination laws;
- A process for providing annual written notice to appropriate community-based and professional organizations concerning the District's plan and the need for assistance from such organizations in identifying qualified, diverse pools of applicants for openings within the District;
- The steps the District will take to promote diversity in its work force;
- Methods for addressing any discrimination that is detected in the District's hiring practices;
- A process for gathering information and periodic, longitudinal analysis of the District's employees and applicants, broken down by number of persons from "monitored groups", as defined by Title 5 Section 53001 ~~subdivision (i)~~, in each job category to determine whether additional diversification measures are required and to implement and evaluate the effectiveness of those measures. who are employed in the District's work force and those who have applied for employment in each of the job categories listed below. The District shall conduct a data review as part of its plan renewal, and may conduct periodic data reviews more frequently; and;
- A process for utilizing data available from reliable public and private sources to determine whether monitored groups are underrepresented within district job categories and strategies for addressing any underrepresentation.
- ~~To the extent data regarding potential job applicants is provided by the Chancellor of the California Community Colleges, an analysis of the degree to which monitored groups are underrepresented in comparison to their representation in the field or job category in numbers of persons from such groups whom the California Community Colleges Chancellor's Office determines to be available and qualified to perform the work required for each such job category and whether or not the underrepresentation is significant;~~
- The steps the District will take to promote diversity in its work force;
- Methods for addressing any discrimination that is detected in the District's hiring practices; and
- The Plan shall be a public record.

The District will post a copy of the EEO plan on the District's website.

The District shall make a continuous good faith effort to comply with the requirements of the Plan.

Annual Evaluation

- The District shall collect and continually monitor its employee and applicant demographic data to evaluate the implementation of the EEO plan and to conduct the analyses required by Title 5. The District shall report its employment-related data to the California Community Colleges Chancellor's Office annually in a manner prescribed by the Chancellor. To facilitate analysis, all applicants and employees must be assigned a job category. The District annually shall collect the demographic data of its employees and applicants for employment in order to evaluate progress in implementing the EEO Plan and to provide data needed for required analyses.
 - ~~The District annually shall report this demographic data to the State Chancellor's Office. The report shall identify each employee as belonging to one of the following seven job categories:~~
 - ~~executive/administrative/managerial~~

- ~~faculty and other instructional staff~~
- ~~professional non-faculty~~
- ~~secretarial/clerical~~
- ~~technical and paraprofessional~~
- ~~skilled crafts~~
- ~~service and maintenance~~
- ~~The District data collection will allow applicants and The opportunity for each employee to identify his/her/their gender (including non-binary options), ethnic group identification ity and, if applicable, disability in a manner prescribed by the California Community Colleges Chancellor's Office consistent with state and federal law. This opportunity must allow for a person to designate multiple ethnic groups with which he/she/they identifies. However, the person may only be counted in one group for reporting purposes.~~
- ~~The District shall review the annually collected demographic data to determine if significant underrepresentation of a monitored group may be the result of non-job related factors in the employment process. For the purposes of this subdivision, the phases of the employment process include but are not limited to recruitment, hiring, retention, and promotion. The information to be reviewed shall include, but need not be limited to: longitudinal analysis of data regarding job applicants to identify whether over multiple job searches, a monitored group is disproportionately failing to move from the initial applicant pool, to the qualified applicant pool; and analysis of data regarding potential job applicants, to the extent provided by the Chancellor of the California Community Colleges, which may indicate significant underrepresentation of a monitored group.~~

EEO Advisory Committee

The District has established an EEO Advisory Committee, which shall include a diverse membership and include members from District stakeholder groups, including but not limited to, students, faculty, and classified staff whenever possible. Members of tThe Advisory Committee as well as members of the District governing board shall receive training in all of the following: applicable Title 5 regulations and of state and federal nondiscrimination laws; the educational benefits of workforce diversity, the identification and elimination of bias in hiring decisions; and the role of the advisory committee in drafting and implementing ~~carrying out of~~ the District's EEO Plan.

The responsibilities of the EEO Advisory Committee shall include but not be limited to the following:

- Review and advise on recruitment efforts, job announcements, interview protocols, retention efforts, and other aspects of the hiring, retention, and promotion processes that impact the District's ability to attract and retain a diverse faculty and staff;
- Advise on implementing the District's obligation to hire faculty and administrators with a demonstrated sensitivity to, and understanding of, the diverse academic, socioeconomic, cultural, disability, and ethnic backgrounds of community college students;
- Promote communication with community groups and organizations for people with disabilities;
- Promote hiring of faculty who have, themselves, graduated from a community college;
- Develop communications among departments to foster understandings of the plan;

- To advise the Superintendent/President regarding special training or staff development needs;
- Review the plan and monitor its progress;
- Recommend changes needed in the plan; and
- Review and approve the annual written report to the Superintendent/President, the Governing Board, and the state Chancellor's Office.

Employment Procedures

An equitable and inclusive employment process is essential to improve diversity, reduce barriers to employment, and allow potential applicants the opportunity to demonstrate that they meet or exceed the minimum qualifications for employment. The District's employment procedures are driven by diversity, equity, and inclusion.

Job Analysis and Validation: The Chief Human Resources Officer shall assure that a proper job analysis is performed for every job filled by the District to determine and validate the knowledge, skills, abilities, and characteristics an employee must possess to perform the job satisfactorily.

A statement of bona fide essential functions and minimum qualifications shall be developed for all positions.

Job Description: Every job description shall provide a general statement of job duties and responsibilities.

Job specifications shall include functions and tasks, knowledge, skills, ability, and job-related personal characteristics, including but not limited to sensitivity to and understanding of the diverse academic, socioeconomic, cultural, linguistic, disability, and ethnic backgrounds of community college students.

Recruitment: Recruitment must be conducted actively within and outside of the District's work force.

Open recruitment is mandated for all new full-time and part-time positions, except under limited circumstances involving interim hires.

Recruitment must utilize outreach strategies designed to ensure that qualified individuals are provided the opportunity to seek employment with the District.

Recruitment for administrative and faculty positions (full and part-time) may include advertisement in appropriate professional journals, job registries and newspapers of general circulation; distribution of job announcements to the EEO Registry, K-12 districts, two and four year colleges, and graduate schools where appropriate candidates might be enrolled; recruitment at conferences, fairs, and professional meetings; notices to institutions and professional organizations that serve diverse and underrepresented populations.

Recruitment for classified positions include notices to District personnel, notice to Employment Development Department, and advertising in websites of general and broad circulation.

Applicant Pools -- The application for employment shall afford each applicant an opportunity to identify himself/herself/themselves voluntarily as to gender, ethnicity and, if applicable, his/her/their disability. This information shall be maintained in confidence and shall be used only for research, validation, monitoring, evaluation of the effectiveness of the plan, or as authorized by law.

After the application deadline has passed, the initial applicant pool shall be recorded and reviewed by the Chief Human Resources Officer or designee. All initial applications shall be screened to determine which candidates satisfy job specifications set forth in the job announcement. The group of candidates who meet the job specifications shall constitute the "qualified applicant pool."

Once the qualified applicant pool is formed, the pool shall again be analyzed. If the Chief Human Resources Officer or designee finds that the composition of the qualified applicant pool may have been influenced by factors which are not job related, the District may, before the selection process continues, consult with legal counsel to determine what, if any, corrective action is required by law.

Screening and Selection -- Screening, selecting and interviewing candidates for all positions shall include thorough and fair procedures that are sensitive to issues of diversity. The procedures provide that:

- Hiring procedures will be provided to the State Chancellor's Office on request.
- All tests conform to generally applicable legal standards for uniformity.
- A reasonable number of candidates are identified for interview.
- Screening and selection committees are developed that are representative of the District community and campus; include administrators, faculty and classified staff; include a diverse membership when possible; do not include applicants or persons who have written letters of recommendation.
- Every screening and selection committee includes an individual trained to monitor conformance with EEO requirements. The Chief Human Resource Officer assures that the screening and selection process conforms to accepted principles and practices, including preparation of job-related questions in advance; maintains records of screening checklists and rating scales, which shall be signed and kept on file; and maintains notes for all interviews and record relevant factual reasons stating why a candidate was not hired or was not invited to interview.
- Selection shall be based solely on the stated job criteria.

If the District determines that a particular monitored group is significantly underrepresented with respect to one or more job categories, the District shall take the following additional steps:

- Review its recruitment procedures;
- Consult with counsel to determine whether there are other, additional measures that may be undertaken that are required or permitted by law;
- Consider various other means of reducing the underrepresentation which do not involve taking monitored group status into account and implement any such techniques that are feasible; and
- If significant underrepresentation persists:
 - review each locally-established job qualification to determine if it is job related and consistent with business necessity;

- discontinue the use of any non-job-related local qualification;
- continue using job-related local qualifications only if no alternative standard is reasonably available; and
- consider the implementation of additional measures designed to promote diversity.

Delegation of Authority

The District designates the Chief Human Resources Officer as the “EEO Officer” charged with overseeing the day-to-day implementation of the EEO Plan and programs.

When the EEO Officer is named in a complaint or implicated by the allegations in a complaint, the complaint shall be overseen by the Superintendent/President or the Superintendent/President’s designee other than the EEO Officer.

Complaint Procedure

Any person may file a complaint alleging the District violated this policy and procedures. An individual should file a written complaint with the Chief Human Resources Officer. ~~The District shall immediately forward a copy of the complaint to the California Community Colleges Chancellor’s Office, which may require that the District provide a written investigative report within ninety (90) days.~~ The District shall ~~also~~ process complaints that allege unlawful discrimination according to procedures set forth in AP 3430 Prohibition of Harassment and AP 3435 Discrimination and Harassment Complaints and Investigations.

Job Announcements

All job announcements shall contain a statement in substantially the following form: The District is an equal opportunity employer. The policy of the District is to encourage applications from persons who are economically disadvantaged and individuals belonging to significantly underrepresented groups within the District’s workforce, including ethnic and racial minorities, women, and persons with disabilities. No person shall be denied employment because of ethnicity or race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender expression, age, marital status, sexual orientation, veteran or military status, or political or organizational affiliation.

Dissemination and Revision of the Plan

All managers and supervisors shall be given copies of the plan as revised from time to time and any guidelines for implementing the plan. Copies of the plan shall be provided to the Academic Senate and the exclusive representatives of any units of employees.

Statements of nondiscrimination shall be posted at locations where applications for employment are distributed.

Such plans shall be reviewed at least every three years and, if necessary, revised and submitted to the state Chancellor’s Office within 90 days of the effective date of the revision or amendment(s). If the Chancellor determines that the District’s policies do not comply with Section 59300 et al., the Chancellor may require the District to modify its policies.

Accountability and Corrective Action

The District shall certify annually to the Chancellor of the California Community Colleges that they have timely:

- Recorded, reviewed and reported the data required regarding qualified applicant pools;
- Reviewed and updated, as needed, the Strategies Component of the District's EEO Plan; and
- Investigated and appropriately responded to formal harassment or discrimination complaints filed pursuant to subchapter 5 (commencing with Section 59300) of chapter 10 of this division.

Also see BP/AP 7120 Employment Recruitment, BP/AP 3410 Nondiscrimination, BP/AP 3430 Prohibition of Harassment BP/AP 7120 Employment Recruitment, and BP/AP 7310 Nepotism

Office of Primary Responsibility: Human Resources

Date Approved: March 19, 2013

Date Revised: May 11, 2021; February 14, 2023

Date Reviewed/Revised:

General Institution

CCLC 42 updated this legally required procedure to remove a historically offensive term found in federal law. Mici 5-26-2023

Approved without changes. Nikki/Human Resources 6-28-2023

Minor edit. Sadika/SAS 8-2-2023

AP 3433 PROHIBITION OF SEXUAL HARASSMENT UNDER TITLE IX**References:**

Title IX, Education Amendments of 1972; Title 5 Sections 59320 et seq.;
Title VII of the Civil Rights Act of 1964, 42 U.S. Code Annotated Section 2000e

The District is committed to providing an academic and work environment free of unlawful sex harassment under Title IX. This procedure defines sexual harassment on campus.

This procedure and related policy protects students and employees in connection with all the academic, educational, extracurricular, athletic, and other programs of the District, whether those programs take place in the District's facilities, a District bus, or at a class or training, and/or any program sponsored by the District at another location.

Definitions

Sexual Harassment under Title IX: Conduct that satisfies one or more of the following:

- A District employee conditions the provision of an aid, benefit, or service of the District on an individual's participation in unwelcome sexual conduct (*quid pro quo* harassment);
- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the District's education program or activity;
- Sexual assault, including the following:
 - **Sex Offenses.** Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.
 - **Rape** (except Statutory Rape). The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of ~~his/her/their age or because of~~ his/her/their temporary or permanent mental or physical incapacity. There is carnal knowledge if there is the slightest penetration of the genital or anal opening of the body of another person.
 - ~~**Sodomy.** Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity.~~
 - **Sexual Assault with an Object.** To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent

because of his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity. An "object" or "instrument" is anything the offender uses other than the offender's genitalia, e.g., a finger, bottle, handgun, stick.

- **Fondling.** The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity.
- **Sex Offenses, Non-Forcible Unlawful, Non-Forcible Sexual Intercourse.**
 - **Incest.** Non-Forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 - **Statutory Rape – Non-Forcible.** Sexual intercourse with a person who is under the statutory age of consent. There is no force or coercion used in Statutory Rape; the act is not an attack.
- **Dating Violence.** Violence against a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of a relationship will be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- **Domestic Violence.** Violence committed:
 - By a current or former spouse or intimate partner of the victim;
 - By a person with whom the victim shares a child in common;
 - By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
 - By a person similarly situated to a spouse of the victim under the domestic or family violence laws of California; or
 - By any other person against an adult or youth victim protected from that person's acts under the domestic or family violence laws of California.
- **Stalking.** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his/her/their safety or the safety of others or suffer substantial emotional distress.

Offices of Primary Responsibility: Human Resources; Student Services – Activities and Advocacy

Date Adopted: December 14, 2021

Date Revised:

General Institution

CCLC 42 updated this procedure to reflect the new name of the California Civil Rights Department and to align with updated Title 5 regulations. Mici 5-31-2023

Approved. Nikki/Human Resources 6-28-2023

No changes. Mia/General Counsel 8-18-2023.

AP 3435 DISCRIMINATION AND HARASSMENT COMPLAINT PROCEDURES**References:**

Education Code Sections 212.5, 231.5, 66281.5, and 67386;
Government Code Section 12950.1;
Title 5 Sections 59320, 59324, 59326, 59328, and 59300 et seq.;
Title 2 Sections 11023 and 11024

For sexual harassment under Title IX, Complainants must proceed under *BP 3433 Prohibition of Sexual Harassment under Title IX*, *AP 3433 Prohibition of Sexual Harassment under Title IX*, and *AP 3434 Responding to Harassment Based on Sex under Title IX*. For other forms of sexual harassment or gender-based harassment, Complainants should use this procedure.

Reporting and Filing Complaints

The law prohibits coworkers, supervisors, managers, and third parties with whom an employee comes into contact from engaging in harassment, discrimination, or retaliation. Any person who has suffered harassment, discrimination, or retaliation or who has learned of harassment, discrimination, or retaliation may report harassment, discrimination, or retaliation. Complainants may have the option of filing a Complaint.

Complaints

A Complaint is a written and signed statement filed with the District or the California Community Colleges Chancellor's Office that alleges harassment, discrimination, or retaliation in violation of the District's Board Policies, Administrative Procedures, or in violation of state or federal law. An informal complaint is any of the following: (1) An unwritten allegation of harassment, discrimination, or retaliation; (2) a written allegation of harassment, discrimination, or retaliation that falls outside the timelines for a formal complaint; or (3) a written complaint alleging harassment, discrimination, or retaliation filed by an individual who expressly indicates that he/she/they does not want to file a formal complaint.

Formal Complaints

Formal Complaints must be filed with the Chancellor of the California Community Colleges or the Executive Director of Human Resources unless the Party submitting the Formal Complaint alleges discrimination, harassment, or retaliation against the responsible district officer, in which case it should be submitted directly to the Superintendent/President or the Chancellor of the California Community Colleges.

Formal Complaints should be submitted on the form prescribed by the Chancellor of the California Community Colleges. A copy of the form will be available at the District Human Resources Department or Student Services – Activities and Advocacy.

If any Party submits a written allegation of harassment, discrimination, or retaliation not on the form described above, the District will seek to have the individual complete and submit the form. However, if the individual chooses not to do so, the District will attach the written allegation(s) to the form and treat it as a Formal Complaint. In no instance will the District reject a written allegation of harassment, discrimination, or retaliation on the basis that it was not submitted on the proper form.

A Formal Complaint must meet each of the following criteria:

- It must allege facts with enough specificity to show that the allegations, if true, would constitute a violation of District policies or procedures prohibiting discrimination, harassment, or retaliation;
- The Complainant must sign and date the Formal Complaint;
- The Complainant must file any Formal Complaint not involving employment within one year of the date of the alleged discriminatory, harassing, or retaliatory conduct or within one year of the date on which the Complainant knew or should have known of the facts underlying the allegation(s) of discrimination, harassment, or retaliation.
- The Complainant must file any Formal Complaint alleging discrimination, harassment, or retaliation in employment within 180 days of the date of the alleged discriminatory, harassing, or retaliatory conduct, except that this period shall be extended by no more than 90 days following the expiration of the 180 days if the Complainant first obtained knowledge of the facts of the alleged violation after the expiration of the 180 days.

If the Formal Complaint does not meet the requirements set forth above, the Executive Director of Human Resources will promptly return it to notify the Complainant and specify the defect within 14 days that the complaint does not contain allegations of unlawful discrimination that are sufficient under this procedure to trigger an investigation. The Executive Director of Human Resources will specify why the complaint is defective. If the sole defect is that the Formal Complaint was filed outside the applicable proscribed timeline, the Executive Director of Human Resources will handle the matter as an informal complaint.

If the defect is based on the Complainant's failure to state sufficient facts to support a claim of unlawful discrimination, the Executive Director of Human Resources shall offer the Complainant an opportunity to proffer additional facts to support his/her/their claims through an intake interview, which shall be scheduled as soon as reasonably convenient for the Complainant and Executive Director of Human Resources or designee.

If, after the intake interview, the Executive Director of Human Resources determines that the Complainant has still not stated sufficient facts to support a claim of unlawful discrimination, the Executive Director of Human Resources shall provide the Complainant with a written determination explaining the basis for dismissing the complaint within 14 days of the intake interview. The Executive Director of Human Resources must also notify the Complainant of his/her/their right to appeal this determination directly to the Chancellor of the California Community Colleges within 30 days from the date of the notice of

dismissal.

Oversight of Complaint Procedure: The Executive Director of Human Resources is the "responsible District officer" charged with receiving complaints of discrimination or harassment, and coordinating their investigation.

The ~~actual~~ investigation of complaints ~~may~~ must be assigned by the Executive Director of Human Resources to a neutral investigator ~~other staff or to outside persons or organizations under contract with the District. This shall occur whenever the Executive Director of Human Resources is named in the complaint or implicated by the allegations in the complaint. A neutral investigator means an outside investigator or an internal investigator who is not in the chain of command of the respondent, not substantially implicated by the allegations in the complaint, and who is otherwise impartial. Neutral investigators must be properly trained to conduct such investigations.~~

Who May File a Complaint: Any student, employee, or third party who believes he/she/they has been discriminated against or harassed by a student, employee, or third party in violation of this procedure and the related policy.

Where to File a Complaint: A student, employee, or third party who believes he/she/they has been discriminated against or harassed in violation of these policy and procedures may make a complaint orally or in writing.

If a Complainant decides to file a formal written unlawful discrimination or harassment complaint against the District, he/she/they must file the complaint on a form prescribed by the California Community Colleges Chancellor's Office. These approved forms are available from the Executive Director of Human Resources and at the California Community Colleges Chancellor's Office website.

The completed form must be filed with any of the following:

- the Executive Director of Human Resources;
- Director of Student Services – Activities & Advocacy; or
- the California Community Colleges Chancellor's Office.

Employment-Related Complaints

Complainants filing employment-related complaints shall be notified that they may file employment discrimination complaints with the U.S. Equal Employment Opportunity Commission (EEOC) or the California Civil Rights Department ~~of Fair Employment and Housing (CCRDFEH).~~

Complaints filed with the EEOC or the CCRD ~~DFEH~~ should be forwarded to the California Community Colleges Chancellor's Office.

Any District employee who receives a harassment or discrimination complaint shall notify the Executive Director of Human Resources immediately.

Filing a Timely Complaint: Since failure to report harassment and discrimination impedes the District's ability to stop the behavior, the District strongly encourages anyone who believes they are being harassed or discriminated against, to file a complaint. The District also strongly encourages the filing of such complaints within 30 days of the alleged incident. While all complaints are taken seriously and will be investigated promptly, delay in filing impedes the District's ability to investigate and remediate.

All supervisors and managers have a mandatory duty to report incidents of harassment and discrimination; the existence of a hostile, offensive or intimidating work environment, and acts of retaliation.

The District will investigate complaints involving acts that occur off campus if they are related to an academic or work activity or if the harassing conduct interferes with or limits a student's or employee's ability to participate in or benefit from the school's programs or activities.

Communicating that the Conduct is Unwelcome: The District further encourages students and staff to let the offending person know immediately and firmly that the conduct or behavior is unwelcome, offensive, in poor taste or inappropriate.

Intake and Processing of the Complaint: Upon receiving notification of a harassment or discrimination complaint, the Executive Director of Human Resources or designee Director of Student Services – Activities & Advocacy or designee shall:

- Undertake efforts to informally resolve the charges, including but not limited to mediation, rearrangement of work/academic schedules; obtaining apologies; providing informal counseling, training, etc.
- Advise all Parties that he/she/they need not participate in an informal resolution of the complaint, as described above, and they have the right to end the informal resolution process at any time.
- Advise a student Complainant that he/she/they may file a complaint with the Office for Civil Rights of the U.S. Department of Education and employee Complainants may file a complaint with the [California Civil Rights](#) Department ~~of Fair Employment and Housing~~. All Complainants should be advised that they have a right to file a complaint with local law enforcement, if the act complained of is also a criminal act. The District must investigate even if the Complainant files a complaint with local law enforcement. In addition, the District should ensure that Complainants are aware of any available resources, such as counseling, health, and mental health services. The Executive Director of Human Resources or designee Director of Student Services – Activities & Advocacy or designee shall also notify the California Community Colleges Chancellor's Office of the complaint.
- Take interim steps to protect a Complainant from coming into contact with an accused individual, especially if the Complainant is a victim of sexual violence. The Executive Director of Human Resources or designee Director of Student Services – Activities & Advocacy or designee should notify the Complainant of his/her/their options to avoid contact with the accused individual and allow students to change academic situations as appropriate. For instance, the District may prohibit the accused individual from having any contact with the Complainant pending the results of the investigation. When taking steps to separate the Complainant and accused individual, the District shall minimize the burden on the Complainant. For example, it is not appropriate to remove Complainants from classes or housing while allowing accused individuals to remain.

Investigation

The Executive Director of Human Resources or designee shall:

- Authorize the investigation of the complaint, and supervise or conduct a thorough, prompt, and impartial investigation of the complaint, as set forth below. Where the Parties opt for informal resolution, the designated officer will determine whether further investigation is necessary to ensure resolution of the matter and utilize the investigation process outlined below as appropriate. In the case of a formal complaint, the investigation will include interviews with the Complainant, the accused, and any other persons who may have relevant knowledge concerning the complaint. This may include victims of similar conduct.
- Review the factual information gathered through the investigation to determine whether the alleged conduct constitutes harassment, or other unlawful discriminatory conduct, giving consideration to all factual information and the totality of the circumstances, including the nature of the verbal, physical, visual or sexual conduct, and the context in which the alleged incidents occurred.

Investigation of the Complaint: The District shall promptly investigate every complaint and claim of harassment or discrimination. No claim of workplace or academic harassment or discrimination shall remain unexamined. This includes complaints involving activities that occur off campus and in connection with all the academic, educational, extracurricular, athletic, and other programs of the District, whether those programs take place in the District's facilities, on a District bus, or at a class or training program sponsored by the District at another location. The District shall promptly investigate complaints of harassment or discrimination that occur off campus if the alleged conduct creates a hostile environment on campus.

As set forth above, where the Parties opt for an informal resolution, the Executive Director of Human Resources may limit the scope of the investigation, as appropriate. The District will keep the investigation confidential to the extent possible but cannot guarantee absolute confidentiality because release of some information on a "need-to-know-basis" is essential to a thorough investigation. When determining whether to maintain confidentiality, the District may weigh the request for confidentiality against the following factors: the seriousness of the alleged harassment; the Complainant's age; whether there have been other harassment complaints about the same individual; and the accused individual's rights to receive information about the allegations if the information is maintained by the District as an "education record" under the Family Educational Rights and Privacy Act (FERPA), 20 U.S. Code Section 1232g; 34 Code Federal Regulations Part 99.15. The District will inform the Complainant if it cannot maintain confidentiality.

Investigation Steps: The District will fairly and objectively investigate harassment and discrimination complaints. Employees designated to serve as investigators under this policy shall have adequate training on what constitutes sexual harassment, including sexual violence, and that they understand how the District's grievance procedures operate. The investigator may not have any real or perceived conflicts of interest and must be able to investigate the allegations impartially.

Investigators will use the following steps: interviewing the Complainant(s); interviewing the accused individual(s); identifying and interviewing witnesses and evidence identified by each Party; identifying and

interviewing any other witnesses, if needed; reminding all individuals interviewed of the District's no-retaliation policy; considering whether any involved person should be removed from the campus pending completion of the investigation; reviewing personnel/academic files of all involved Parties; reach a conclusion as to the allegations and any appropriate disciplinary and remedial action; and see that all recommended action is carried out in a timely fashion. When the District evaluates the complaint, it shall do so using a preponderance of the evidence standard. Thus, after considering all the evidence it has gathered, the District will decide whether it is more likely than not that discrimination or harassment has occurred.

Timeline for Completion: The District will undertake its investigation promptly and swiftly as possible. To that end, the investigator shall complete the above steps, and prepare a written report within 90 days of the District receiving the complaint. The District will toll the timeline while the Parties are engaged in good faith efforts at informal resolution.

Cooperation Encouraged: All employees are expected to cooperate with a District investigation into allegations of harassment or discrimination. Lack of cooperation impedes the ability of the District to investigate thoroughly and respond effectively. However, lack of cooperation by a Complainant or witnesses does not relieve the District of its obligation to investigate. The District will conduct an investigation if it is discovered that harassment is, or may be occurring, with or without the cooperation of the alleged victim(s) and regardless of whether a complaint is filed. No employee will be retaliated against as a result of lodging a complaint or participating in any workplace investigation.

Written Report

The results of the investigation of a complaint shall be set forth in a written report that will include at least all of the following information:

- A description of the circumstances giving rise to the Formal Complaint;
- A description of the procedural steps taken during the investigation, including all individuals contacted and interviewed;
- A summary of the testimony provided by each witness with information relevant to the allegations the investigator interviewed;
- An explanation of why an identified potential witness was not interviewed;
- An analysis of relevant evidence collected during the course of the investigation, including a list of relevant documents;
- A specific finding as to whether there is probable cause to believe that discrimination, harassment, or retaliation occurred with respect to each allegation in the complaint;
- A table of contents if the report exceeds ten pages; and
- Any other information deemed appropriate by the District.

Confidentiality of the Process

Investigations are best conducted within a confidential climate. Therefore, the District does not reveal information about ongoing investigations except as necessary to fulfill its legal obligations. The District will keep the investigation confidential to the extent possible, but it cannot guarantee absolute confidentiality because release of some information on a "need-to-know-basis" is essential to a thorough investigation and to protect the rights of Accused students and employees during the investigation process and any ensuing discipline.

Evidence of Past Sexual History

An investigator or hearing officer, if required by this procedure, shall not consider the past sexual history of the Complainant or Respondent except in the limited circumstances described below:

- The investigator or hearing officer shall not consider prior or subsequent sexual history between the Complainant and anyone other than the Respondent for any reason unless directly relevant to prove that physical injuries alleged to have been inflicted by the Respondent were inflicted by another individual;
- The investigator or hearing officer shall not consider the existence of a dating relationship or prior or subsequent consensual sexual relations between the Complainant and the Respondent unless the evidence is relevant to how the Parties communicated consent in prior or subsequent consensual sexual relations;
 - Where the investigator or hearing officer allows consideration of evidence about a dating relationship or prior or subsequent consensual sexual relations between the Complainant and the Respondent pursuant to this circumstance, the mere fact that the Complainant and Respondent engaged in other consensual sexual relations with one another is never sufficient, by itself, to establish that the conduct in question was consensual.

Before allowing the consideration of any evidence proffered pursuant to this section, the investigator or hearing officer shall provide a written explanation to the Parties as to why consideration of the evidence is consistent with this procedure.

Administrative Determination

In any case not involving employment discrimination, within 90 days of receiving a formal complaint, the district shall complete its investigation and forward a copy of the investigative report to the Chancellor of the California Community Colleges, a copy or summary of the report to both Parties, and written notice setting forth all of the following to both the Complainant and the Chancellor:

- The determination of the Superintendent/President or designee as to whether there is probable cause to believe discrimination occurred with respect to each allegation in the complaint;
- A description of actions taken, if any, to prevent similar problems from occurring in the future;
- The proposed resolution of the complaint; and
- The Complainant's right to appeal to the District governing board and the Chancellor California Community Colleges.
- In matters involving student sexual misconduct, the Respondent's right to appeal to the District's Board of Trustees any disciplinary sanction imposed upon the Respondent.

In any case involving employment discrimination, within 90 days of receiving a formal complaint, the district shall complete its investigation and forward a copy or summary of the report to the Complainant, and written notice setting forth all the following to the Complainant:

- The determination of the Superintendent/President or designee as to whether there is probable cause to believe discrimination occurred with respect to each allegation in the complaint;
- A description of actions taken, if any, to prevent similar problems from occurring in the future;
- The proposed resolution of the complaint; and

- The Complainant's right to appeal to the district governing board and to file a complaint with California Civil Rights Department ~~of Fair Employment and Housing~~ or the U.S Equal Employment Opportunity Commission.

The District shall also provide the Respondent the following:

- The Superintendent/President or his/her/their designee's determination as to whether unlawful discrimination occurred with respect to each allegation in the Complaint based on the preponderance of the evidence standard and the basis for that determination including factual findings;
- The proposed resolution of the Complaint, including any disciplinary action against the Respondent; and
- In matters involving student sexual misconduct not subject to Title IX, the Respondent's right to appeal to the District's Board of Trustees any disciplinary sanction imposed upon the Respondent.

The District will toll the timelines described above while the Parties are engaged in good faith efforts at informal resolution.

In matters involving an academic employee placed on involuntary paid administrative leave, the District shall complete its investigation within 90 working days of the administrative leave commencing, unless the period of paid administrative leave is extended by agreement of the employee and District for a period not exceeding 30 additional calendar days.

Discipline for Student Sexual Misconduct Not Subject to Title IX

In a Complaint involving student sexual misconduct not subject to Title IX, if a student Respondent is subject to severe disciplinary sanctions, and the credibility of witnesses was central to the investigative findings, the District will provide an opportunity for the student Respondent to cross-examine witnesses indirectly at a live hearing, either in person or by videoconference, conducted by a neutral decision-maker other than the investigator.

In other Complaints involving sexual harassment against a student, the District shall decide whether a hearing is necessary to determine whether any sexual violence more likely than not occurred. In making this decision, the District may consider whether the Parties elected to participate in the investigation and whether each Party had the opportunity to suggest questions to be asked of the other Party and witnesses during the investigation.

The District shall appoint a neutral third party to attend the hearing solely for the purpose of asking any questions to the witnesses. The neutral third party shall not be the student Respondent, the student Respondent's representative, or any individual charged with making a final determination regarding discipline. The student Respondent may submit written questions before and during the cross-examination, including any follow-up questions. Either Party or any witness may request to answer the questions by videoconference from a remote location.

At the hearing, the other Party shall have an opportunity to note an objection to the questions posed. The District may limit such objections to written form, and neither the hearing officer nor the District are obligated to respond, other than to include any objection in the record. The hearing officer shall have the authority and obligation to discard or rephrase any question that the hearing officer deems to be repetitive, irrelevant, or harassing. In making these determinations, the hearing officer is not bound by, but may take guidance from, the formal rules of evidence.

Generally, the Parties may not introduce evidence, including witness testimony, at the hearing that the Party did not identify during the investigation and that was available at the time of the investigation. However, the hearing officer has discretion to accept for good cause, or exclude, such new evidence offered at the hearing.

The hearing officer shall provide an explanation of the meaning of the preponderance of the evidence standard, and affirm that it shall apply to adjudications under this procedure. The preponderance of the evidence standard is met if the District determines that it is more likely than not that the alleged misconduct occurred, based on the facts available at the time of the decision.

Discipline and Corrective Action

If harassment, discrimination, or retaliation occurred in violation of the policy or procedure, the District shall take disciplinary action against the accused and any other remedial action it determines to be appropriate consistent with state and federal law. The action will be prompt, effective, and commensurate with the severity of the offense. Remedies for the Complainant might include, but are not limited to:

- providing an escort to ensure that the Complainant can move safely between classes and activities;
- ensuring that the Complainant and alleged perpetrator do not attend the same classes or work in the same work area;
- preventing offending third parties from entering campus;
- providing counseling services or a referral to counseling services;
- providing medical services or a referral to medical services;
- providing academic support services, such as tutoring;
- arranging for a student-Complainant to re-take a course or withdraw from a class without penalty, including ensuring that any changes do not adversely affect the Complainant's academic record; and
- reviewing any disciplinary actions taken against the Complainant to see if there is a causal connection between the harassment and the misconduct that may have resulted in the Complainant being disciplined.

If the District imposes discipline, the nature of the discipline will not be communicated to the Complainant. However, the District may disclose information about the sanction imposed on an individual who was found to have engaged in harassment when the sanction directly relates to the Complainant; for example, the District may inform the Complainant that the harasser must stay away from the Complainant.

Disciplinary actions against faculty, staff, and students will conform to all relevant statutes, regulations, personnel policies and procedures, including the provisions of any applicable collective bargaining agreement.

The District shall also take reasonable steps to protect the Complainant from further harassment, or discrimination, and to protect the Complainant and witnesses from retaliation as a result of communicating the complaint or assisting in the investigation.

The District will ensure that Complainants and witnesses know how to report any subsequent problems and should follow-up with Complainants to determine whether any retaliation or new incidents of harassment have occurred. The District shall take reasonable steps to ensure the confidentiality of the investigation and to protect the privacy of all Parties to the extent possible without impeding the District's ability to investigate and respond effectively to the complaint.

If the District cannot take disciplinary action against the accused individual because the Complainant refuses to participate in the investigation, it should pursue other steps to limit the effects of the alleged harassment and prevent its recurrence.

Appeals

If the District imposes discipline against a student or employee as a result of the findings in its investigation, the student or employee may appeal the decision using the procedure for appealing a disciplinary decision.

If the Complainant is not satisfied with the results of the administrative determination, he/she/they may, within 15 days, submit a written appeal to the Board of Trustees. The Board shall review the original complaint, the investigative report, the administrative decision, and the appeal. The Board shall issue a final District decision in the matter within 45 days after receiving the appeal. A copy of the decision rendered by the Board shall be forwarded to the Complainant and to the California Community Colleges Chancellor's Office. The Complainant shall also be notified of his/her/their right to appeal this decision.

If the Board does not act within 45 days, the administrative determination shall be deemed approved and shall become the final decision of the District in the matter.

In any case not involving workplace discrimination, harassment, or retaliation, the Complainant shall have the right to file a written appeal with the California Community Colleges Chancellor's Office within 30 days after the Board issued the final District decision or permitted the administrative decision to become final. Such appeals shall be processed pursuant to the provision of Title 5 Section 59350.

In any case involving employment discrimination, including workplace harassment, the Complainant may, at any time before or after the issuance of the final decision of the District, file a complaint with the [California Civil Rights](#) Department ~~of Fair Employment and Housing~~.

In any complaint dismissed pursuant to Title 5 Section 59332, a complainant may file a written appeal with the California Community Colleges Chancellor's Office within 30 days from the date of the notice of dismissal.

Extension of Time

Within 150 days of receiving a formal complaint that does not involve employment discrimination, the District shall forward to the California Community Colleges Chancellor's Office the original complaint, the investigative report, a copy of the written notice to the Complainant setting forth the results of the investigation, a copy of the final administrative decision rendered by the Board or indicating the date upon which the decision became final, and a copy of the notification to the Complainant of his/her/their appeal rights. If, due to circumstances beyond its control, the District is unable to comply with the 150-day deadline for submission of materials, it may file a written request for an extension of time no later than ten days prior to the expiration of the deadline.

The extension of time provisions described above do not apply to investigations involving an academic employee placed on involuntary paid administrative leave.

File Retention

The District will retain on file for a period of at least three years after closing the case copies of:

- the original complaint;
- the investigatory report;
- the summary of the report if one is prepared;
- the notice provided to the Parties, of the District's administrative determination and the right to appeal;
- any appeal; and
- the District's final decision.

The District will make such documents available to the Chancellor of the California Community Colleges upon request.

Dissemination of Policy and Procedures

District Policy and Procedures related to harassment will include information that specifically addresses sexual violence. District policy and procedures will be provided to all students, faculty members, members of the administrative staff and members of the support staff and will be posted on campus and on the District's website.

When hired, employees are required to sign that they have received the policy and procedures, and the signed acknowledgment of receipt is placed in each employee's personnel file. In addition, these policies and procedures are incorporated into the District's course catalogs and orientation materials for new students.

Training

By January 1, 2021, the District shall provide at least two hours of classroom or other effective interactive training and education regarding sexual harassment to all supervisory employees and at least one hour of classroom or other effective interactive training and education regarding sexual harassment to all nonsupervisory employees. All new employees must be provided with the training and education within six months of their assumption of his/her/their position. After January 1, 2021, the District shall provide sexual harassment training and education to each employee once every two years. An employee who received this training and education in 2019 is not required to have refresher training until after two years thereafter.

The training and education required by this procedure shall include information and practical guidance regarding the federal and state statutory provisions concerning the prohibition against and the prevention and correction of sexual harassment and the remedies available to victims of sexual harassment in employment, a review of “abusive conduct,” and harassment based on gender identity, gender expression, and sexual orientation. The training and education shall also include practical examples aimed at instructing supervisors in the prevention of harassment, discrimination, and retaliation, and shall be presented by trainers or educators with knowledge and expertise in the prevention of harassment, discrimination, and retaliation. Supervisor’s harassment training must also address potential exposure and liability for employers and individuals, supervisor’s obligation to report sexual harassment, discrimination, and retaliation when they become aware of it, appropriate remedial measures to correct harassing behavior.

The District will maintain appropriate records of the training provided, including the names of the supervisory employees trained, the date of training, sign in sheets, copies of all certificates of attendance or completion issued, the type of training provided, a copy of all written or recorded training materials, and the name of the training provider. If the training is provided by webinar, the District will maintain a copy of the webinar, all written materials used by the training and all written questions submitted during the webinar, and document all written response or guidance the trainer provided during the webinar. The District will retain these records for at least two years.

The District should provide copies of the sexual harassment policies and training to all District law enforcement unit employees regarding the grievance procedures and any other procedures used for investigating reports of sexual violence.

In years in which a substantive policy or procedural change has occurred, all District employees will attend a training update or receive a copy of the revised policies and procedures.

Participants in training programs will be required to sign a statement that they have either understood the policies and procedures, their responsibilities, and their own and the District’s potential liability, or that they did not understand the policy and desire further training.

Education and Prevention for Students

In order to take proactive measures to prevent sexual harassment and violence toward students, the District will provide preventive education programs and make victim resources, including comprehensive victim services, available. The District will include information in their orientation programs for new students, and in training for student athletes and coaches. These programs will include discussion of what constitutes sexual harassment and sexual violence, the District’s policies and disciplinary procedures, and the consequences of violating these policies. A training program or informational services will be made available to all students at least once annually.

The education programs will also include information aimed at encouraging students to report incidents of sexual violence to the appropriate District and law enforcement authorities. Since victims or third parties may be deterred from reporting incidents if alcohol, drugs, or other violations of District or campus rules were involved, the District will inform students that the primary concern is for student safety and that use of alcohol or drugs never makes the victim at fault for sexual violence. If other rules are violated, the District will address such violations separately from an allegation of sexual violence.

Office of Primary Responsibility: Human Resources, Student Learning and Success, Student Services – Activities and Advocacy

Date Approved: November 6, 2008

Date Reviewed/Revised: January 15, 2013, September 15, 2015; April 19, 2022

Date Revised:

General Institution

CCLC 42 updated this legally required procedure to set out options for victims including information about sexual assault and domestic violence counselors pursuant to changes in the Education Code. The Service updated the title of this procedure to align to current law. Mici 5-31-2023
Approved with edits as noted. Nikki/Human Resources 6-28-2023
No changes. Mia/General Counsel 8-18-2023.

AP 3540 SEXUAL AND OTHER ASSAULTS ON CAMPUS AND IN CAMPUS PROGRAMS**References:**

Education Code Sections 67385, 67385.7, and 67386;
20 U.S. Code Section 1092 subdivision (f) (Jeanne Clery Act);
34 Code of Federal Regulations Section 668.46 subdivision (b) (11) (Institutional Security Policies and Crime Statistics)

Any sexual assault or physical abuse, including, but not limited to, rape, domestic violence, dating violence, sexual assault, or stalking as defined by California law, whether committed by an employee, student, or member of the public, occurring on District property in connection with all the academic, educational, extracurricular, athletic, and other programs of the District, whether those programs take place in the District facilities or at another location, or on an off-campus site or facility maintained by the District or on grounds or facilities maintained by a student organization, is a violation of Board policies and administrative procedures and is subject to all applicable punishment, including criminal procedures and employee or student discipline procedures. (Also see [AP 3433 Prohibition of Sexual Harassment under Title IX](#), [AP 3434 Responding to Harassment Based on Sex under Title IX](#), and AP 5520 Student Discipline and Due Process)

“Sexual assault,” “dating violence,” “domestic violence” and “stalking” are defined in Administrative Procedure 3434 – Responding to Harassment Based on Sex under Title IX.

It is the responsibility of each person involved in sexual activity to ensure that he/she/they has the affirmative consent of the other or others to engage in the sexual activity. Lack of protest or resistance does not mean consent, nor does silence mean consent. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of consent. Consent must be given without coercion, provocation, force, threats or intimidation. Consent cannot be given when a person is incapacitated or when his or her understanding is affected by a mental or physical impairment.

“Affirmative consent” means affirmative, conscious, and voluntary agreement to engage in sexual activity. If affirmative consent is withdrawn, the sexual activity must immediately stop.

These written procedures and protocols are designed to ensure that victims of domestic violence, dating violence, sexual assault, or stalking receive treatment and information. (For physical assaults/violence, also see AP 3500 Campus Safety, AP 3510 Workplace Violence Plan, and AP 3515 Reporting of Crimes).

All students, faculty members, or staff members who allege they are the victims of domestic violence, dating violence, sexual assault, or stalking on District property shall be provided with information regarding options and assistance available to them. Information shall be available from the Executive Director of Human Resources [or designee](#), who shall maintain the identity and other information about alleged sexual assault victims as confidential unless and until the Executive Director of Human Resources [or designee](#) is authorized to release such information. Situations that fall under the auspices of mandated reporting shall be addressed according to appropriate laws and regulations. In instances involving District employees, District Police shall work with Human Resources as appropriate.

The Executive Director of Human Resources [or designee](#) shall provide all alleged victims of domestic violence, dating violence, sexual assault, or stalking with the following:

- A copy of the Board Policy (BP) and Administrative Procedure (AP) regarding domestic violence, dating violence, sexual assault, or stalking.
- A list of personnel on campus who should be notified and procedures for such notification, if the alleged victim consents. (Executive Director of Human Resources [or designee](#))
- Information about the importance of preserving evidence and the identification and location of witnesses.
- Available services, and the persons on campus available to provide those services if requested. Services and those responsible for providing or arranging them include:
 - transportation to a hospital if necessary via emergency services - 911 or college police;
 - counseling provided by the College's mental health counselors in the Counseling department;
 - referral to *Community Violence Solutions* (for sexual assault) and *Center for Domestic Peace* (domestic violence issues) for off campus resources;
 - a list of other appropriate campus and off-campus resources and referrals into the community (available via publication and website).
- The victim's option to:
 - notify proper law enforcement authorities, including on-campus and local police;
 - be assisted by campus authorities in notifying law enforcement authorities if the victim so chooses; and
 - decline to notify such authorities.
- The rights of the victims and the institution's responsibilities regarding orders of protection, no contact orders, or similar lawful orders issued by a court.
- Information about how the District will protect the confidentiality of victims.
- Written notification of victims about options for, and available assistance in, changing academic, living, transportation, and working situations. If requested and if such accommodations are reasonably available, regardless of whether the victim chooses to report the crime to campus police or local law enforcement.
- A description of each of the following ~~procedures~~ [options](#):
 - [counselors and support services for victims](#);
 - criminal prosecution;
 - civil prosecution (i.e., lawsuit);
 - District disciplinary procedures, both student and employee;
 - modification of class schedules;
 - tutoring, if necessary-;
 - [alternative dispute resolution or other accountability processes](#);
 - [alternative housing assignments](#); and

- academic assistance alternatives.

The Executive Director of Human Resources or designee should be available to provide assistance to the District's law enforcement unit employees regarding how to respond appropriately to reports of sexual violence.

The District will investigate all complaints alleging sexual assault under the procedures for sexual harassment investigations described in AP 3434 Responding to Harassment Based on Sex under Title IX, regardless of whether a complaint is filed with local law enforcement.

All alleged victims of domestic violence, dating violence, sexual assault, or stalking on District property shall be kept informed, through the Executive Director of Human Resources or designee of any ongoing investigation. Information shall include the status of any student or employee disciplinary proceedings or appeal; alleged victims of domestic violence, dating violence, sexual assault, or stalking are required to maintain any such information in confidence, unless the alleged assailant has waived rights to confidentiality consistent with state and federal law.

A Complainant or witness who participates in an investigation of sexual assault, domestic violence, dating violence, or stalking will not be subject to disciplinary sanctions for a violation of the District's student conduct policy at or near the time of the incident, unless the District determines that the violation was egregious, including but not limited to, an action that places the health or safety of any other person at risk or involves plagiarism, cheating, or academic honesty.

In the evaluation of complaints in any disciplinary process, it shall not be a valid excuse to alleged lack of affirmative consent that the accused believed that the Complainant consented to the sexual activity under either of the following circumstances.

- The accused's belief in affirmative consent arose from the intoxication or recklessness of the accused.
- The accused did not take reasonable steps, in the circumstances known to the accused at the time, to ascertain whether the Complainant affirmatively consented

In the evaluation of complaints in the disciplinary process, it shall not be a valid excuse that the accused believed that the Complainant affirmatively consented to the sexual activity if the accused knew or reasonably should have known that the Complainant was unable to consent to the sexual activity under any of the following circumstances:

- The Complainant was asleep or unconscious.
- The Complainant was incapacitated due to the influence of drugs, alcohol, or medication, so that the Complainant could not understand the fact, nature, or extent of the sexual activity.
- The Complainant was unable to communicate due to a mental or physical condition.

The District shall maintain the identity of any alleged victim witness, or third-party reporter of domestic violence, dating violence, sexual assault, or stalking on District property, as defined above, in confidence consistent with state and federal law, unless the alleged victim witness, or third-party reporter specifically waives that right to confidentiality. All inquiries from reporters or other media representatives about alleged domestic violence, dating violence, sexual assaults, or stalking on District property shall be referred to the Superintendent/President's office, which shall work with the Executive Director of Human

Resources [or designee](#) and District Police to assure that all confidentiality rights are maintained consistent with state and federal law.

Additionally, the Annual Security Report will include a statement regarding the District's programs to prevent sexual assault, domestic violence, dating violence, and stalking and procedures that should be followed after an incident of domestic violence, dating violence, sexual assault, or stalking has been reported, including a statement of the standard of evidence that will be used during any District proceeding arising from such a report. The statement must include the following:

- A description of educational programs to promote the awareness of rape, acquaintance rape, other forcible and non-forcible sex offenses, domestic violence, dating violence, or stalking;
- Procedures to follow if a domestic violence, dating violence, sex offense, or stalking occurs, including who should be contacted, the importance of preserving evidence to prove a criminal offense, and to whom the alleged offense should be reported;
- Information on a student's right to notify appropriate law enforcement authorities, including on-campus and local police, and a statement that campus personnel will assist the student in notifying these authorities, if the student so requests, and the right to decline to notify these authorities;
- Information about how the District will protect the confidentiality of victims;
- Information for students about existing on- and off-campus counseling, mental health, victim advocacy, legal assistance or other student services for victims;
- Written notification to victims about options for, and available assistance in changing academic, living, transportation, and working situations, if requested, and if such accommodations are reasonably available, regardless of whether the victim chooses to report the crime to campus policy or local law enforcement.
- Procedures for campus disciplinary action in cases of an alleged domestic violence, dating violence, sexual assault, or stalking including a clear statement that:
 - Such proceedings shall provide a prompt, fair, and impartial resolution;
 - Such proceedings shall be conducted by officials who receive annual training on the issues related to domestic violence, dating violence, sexual assault, and stalking and how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability.
 - The accuser and the accused are entitled to the same opportunities to have others present during a disciplinary proceeding; and
 - Both the accuser and the accused must be informed of the outcome of any institutional disciplinary proceeding resulting from an alleged domestic violence, dating violence, sexual assault, or stalking, the procedures for the accused and victim to appeal the results of the disciplinary proceeding, of any changes to the results that occur prior to the time that such results become final, and when such results become final. Compliance with this paragraph does not violate the Family Educational Rights and Privacy Act. For the purposes of this paragraph, the outcome of a disciplinary proceeding means the final determination with respect to the domestic violence, dating violence, sex offense, sexual assault, or stalking and any sanction that is imposed against the accused.
- A description of the sanctions the campus may impose following a final determination by a campus disciplinary proceeding regarding rape, acquaintance rape, other forcible or non-forcible sex offenses, domestic violence, dating violence, or stalking.

Sexual Assault and Domestic Violence Counselors

Sexual assault and domestic violence counselors shall be independent from the Title IX office, and shall, at a minimum, meet the qualifications defined in Sections 1035.2 and 1037.1 of the Evidence Code, respectively.

Services provided by sexual assault and domestic violence counselors, including, but not limited to, securing alternative housing assignments and academic assistance alternatives, shall not be contingent on a victim's decision to report to the Title IX office or law enforcement.

A sexual assault or domestic violence counselor shall obtain specific permission from the victim before disclosing the identity of the victim, or any information that could reasonably be expected to reveal the identity of the victim, to the university or any other authority, including law enforcement, unless otherwise required to do so by applicable state or federal law.

Education and Prevention Information

The Director of Student Services – Student Activities and Advocacy or designee in collaboration with the Dean of Enrollment Services or designee shall:

- Provide as part of the Kentfield and Indian Valley campuses' established on-campus orientation program, education, prevention, and outreach information about domestic violence, dating violence, sexual assault and stalking. The information shall be developed in collaboration with campus-based and community-based victim advocacy organizations, and shall include the District's sexual assault policy and prevention strategies including education and information programs on victim prevention, primary prevention, bystander intervention, risk reduction and awareness raising campaigns.

The outreach programming included as part of an incoming student's orientation must include, at a minimum, all of the following:

- The warning signs of intimate partner and dating violence.
 - Campus policies and resources relating to intimate partner and dating violence.
 - Off-campus resources and centers relating to intimate partner and dating violence.
 - A focus on prevention and bystander intervention training as it relates to intimate partner and dating violence.
- Post sexual violence prevention and education information on the campus internet website and student orientation (Education Code Section 67385.7) regarding domestic violence, dating violence, sexual assault and stalking.

Offices designated for providing information: Human Resources (overall charge and staff education), Administrative Services (Campus Police – Clery Act), Student Learning and Success (Student Services – Student Activities and Advocacy).

Also see BP and AP 3430 Prohibition of Harassment, AP 3500 Campus Safety, AP 3510 Workplace Violence Plan, and AP 3515 Reporting of Crimes

Offices of Primary Responsibility: Administrative Services, Human Resources, and Student Learning and Success

Date Approved: April 19, 2011

Date Reviewed/Revised: March 3, 2012; September 15, 2015; May 11, 2021

Date Revised:

General Institution

Due for review as part of the regular review process. Compared to the CCLC model procedure as suggested good practice. Local practice typically covers 1) Responsible personnel or office, 2) Criteria for accepting donations or gifts, 3) forms, if any, and 4) how gifts are reported or submitted to board for acceptance. Mici 4-13-2023

Approved without changes. Eresa/Administrative Services 4-17-2023

Approved without changes. Keith/Advancement 4-17-2023

AP 3820 GIFTS**Reference:**

Education Code Section 72122

The Advancement Office is responsible for the receipt and coordination of gifts and pledges including cash, securities, trusts, insurance policies, real estate and in-kind donations. In accordance with **BP 3820 Gifts**, the Board of Trustees shall consider all gifts, donations and bequests made to the District. The Advancement Office is responsible for presenting all gifts, donations and bequests to the Board of Trustees for consideration.

Restricted Gifts

Acceptance of restricted gifts imposes a legal obligation to comply with the terms established by the donor. The Advancement Office will review the terms of each restricted gift to ensure that the nature and extent of this obligation be clearly understood and that the gift retains its original usefulness and beneficial qualities. If a gift is deemed unacceptable because of the restrictions the donor has placed on its use, the donor will be counseled by the Advancement Office to remove or modify the restrictions.

Gifts-in-Kind

The Advancement Office will ensure that gifts-in-kind (e.g., property, equipment, securities, real estate, artworks) are reviewed to ensure that the gift will be of benefit to the District and that acceptance of the gift will not involve financial commitments or other obligations to the District that are disproportionate to the gift. Employees interested in soliciting equipment or other gifts-in-kind shall check with the Advancement Office prior to approaching the contributor to ensure District policy is followed. Gifts-in-kind to the District must be approved as designated on the **Memo of Intent to Accept Non-Cash Gift** form and only after a determination has been made that there is a need or desire for the item or items and that the item(s) will not involve financial commitments or other obligations to the District that are disproportionate to the gift.

It will be the responsibility of the donor to assign a monetary value to the item(s) donated. Gifts-in-Kind (non-cash) with a value of \$5,000 or more require an appraisal form from the donor as well as an itemized list of item(s) donated, and the name and address of the donor sent to the Advancement Office.

It shall be the responsibility of the Advancement Office to record and acknowledge receipt of gifts made to the District, including cash, pledges, securities, real estate and gifts-in-kind.

1. All donations and pledges shall be received, processed and acknowledged first by the Advancement Office. The COM Contribution Form is on the Advancement Office webpage.

Deposits of private funds of any kind and for any purpose in a private bank account in the name of the department program, faculty or staff is prohibited.

2. All private funds contributed to any department or program of the District must be forwarded to the Advancement Office with copies of all documentation for review and approval no later than ten (10) days after receipt of monies or at the conclusion of the event or activity.
3. The Advancement Office will then forward all contributed funds and documentation to Fiscal Services for processing.

Refused or Returned Gifts

Gifts will be refused or returned by the Advancement Office or staff if solicited by staff, under the following circumstances:

- The purpose of the gift is inappropriate or not conducive to the best interests of the District.
- The gift obligates the District to undertake responsibilities, financial or otherwise, which it may not be capable of meeting for the period required by the terms of the gift.

See also: BP 3820 Gifts, BP/AP 3280 Grants, and the Advancement Office Fundraising Guidelines and Procedures

Office of Primary Responsibility: Advancement

Date Approved: April 18, 2017

Date Reviewed/Revised:

Academic Affairs

Reviewed as part of the regular review process. Compared to CCLC model policy update in 2015.

The District is not required to permit auditing of courses; but if it does, the following policy language applies. *Criteria that is legally advised:* Who may audit, application process, required approvals, priority to be given to student desiring to take the course for credit towards a degree or certificate, refunds, and limits on auditing. **Please note that payment of fees not to exceed \$15.00 per unit, unless student is enrolled in classes to receive credit for 10 or more semester units, and is auditing three or fewer semester units.** There is no model language for comparison but recommended edits for clarity. Formatting updated. This is a 10 +1. Mici 3-10-2023

No edits recommended. Jonathan/SLS and Jon H./Enrollment 3-16-2023

Approved. Academic Senate 4-27-2023

AP 4070 COURSE AUDITING AND AUDITING FEES**Reference:**

California Education Code Sections 76370

Auditing of selected courses at College of Marin is allowed with the following provisions. ~~California Education Code provisions include:~~

- The fee shall not exceed \$15.00. ~~the amount mandated by the state (Ed Code Section 76370).~~
- Students enrolled in classes to receive credit for 10 or more semester credit units shall not be charged a fee to audit three or fewer units per semester.
- No student auditing a course shall be permitted to change his or her enrollment in that course to receive credit for the course.
- Priority in class enrollment shall be given to students desiring to take the course for credit towards a degree or certificate.
- Classroom attendance of students auditing a course shall not be included in computing the apportionment due a community college district.

Additional College of Marin limitations are as follows:

- Auditor Status will be allowed only if a student has exhausted all repeat possibilities as a regular student in selected classes. (~~See~~ AP 4225 Course Repetition – Nonrepeatable Course, 4227 Repeatable Courses, and 4228 Course Repetition – Significant Lapse of Time).
- Auditors must meet the course prerequisites.
- Auditors must be eligible for admission to the College as regularly enrolled students.
- No grades can be earned or transcripts maintained.
- Auditors will pay any additional course costs as required by the course in addition to the fees.

Additional operational restrictions:

- Auditors ~~would be allowed to~~ may register and attend a course only after the first census date for a course in order to give priority to students registering for credit.

- Exceptions may be approved by the instructor on a case-by-case basis to enroll a student as an auditor prior to the first census date as long as it does not displace a credit student.
- Auditors ~~would~~ must then submit an audit card that has been signed by the instructor to ~~Enrollment Services the Office of Admissions and Records Office~~ and pay regular enrollment fees for the course.
- Once these fees are paid, they will not be refunded.
- Students registered as auditors only will not be entitled to the regular student health services (other than for emergencies).
- Disciplines will decide which courses are auditable. Faculty ~~will have~~ has the right to decide how many auditors ~~to allow to~~ may take the course and/or refuse to take any auditors in their classes.
- The instructor and student auditor will agree upon the auditor's level of participation in the class.
- Auditors will be held to the same standards of conduct and attendance as regularly enrolled students.
- The **Office of Instructional Management** will maintain a list of auditable courses. Courses in which auditing is allowed will be posted each semester in the Schedule of Classes.

Also see APs 4225 Course Repetition – Non-Repeatable Courses, 4227 Repeatable Courses, and 4228 Course Repetition – Significant Lapse of Time-

Office of Primary Responsibility: ~~Office of~~ Student Learning and Success

Date Approved: March 11, 2014

Date Reviewed/Revised:

Academic Affairs

This procedure is legally required if the District allows work experience and is due for review as part of the regular cycle of review. Compared to CCLC model procedure. Edits include clean-up of language. There was an update in 2018. I have attached the CCLC model for comparison and guidance. This could benefit from reformatting because the bullet layout is messy. Career Education Programs or is this separate? This is a 10+1. Mici 3-7-2023

Reviewed by AJ and CT on 4.6.2023; To Jonathan/Alina 3-9-2023

Approved with edits as noted. Academic Senate 5-4-2023

AP 4103 WORK EXPERIENCE

References:

Education Code Section 78249;

Title 5 Sections 55250 et seq.

The Cooperative Work Experience Education Plan includes:

- Cooperative Work Experience Education Program ~~will offer~~s the students the opportunity to earn college credit for ~~planned learning activities~~ skills and training related to employment.
- ~~The systematic design a program whereby Students gain realistic learning experiences through work;~~
- ~~A specific description of the respective responsibilities of the~~ District, ~~the student, the~~ employer, and other cooperating agencies:
 - ~~Work Experience Education will~~ Offer ~~working~~ students in paid or unpaid positions, ~~in cooperation with the instructor and job site supervisor,~~ assistance in setting goals to be accomplished during the school term.
 - ~~These Ggoals will be set~~ in cooperation with the Work Experience Education instructor and job site supervisor.
- ~~Guidance services;~~
 - Work Experience Education Instructor ~~will offer~~s the students guidance services for which ~~apply to~~ success in college and at on the job site.
- ~~A sufficient number of qualified academic personnel to direct the program;~~
 - Work Experience Education ~~will be~~ is coordinated by the Work Experience Course Instructor of Record.
- Processes that assure students' on-the-job learning experiences are documented with written measurable learning objectives, students are required to meet certain criteria and are evaluated, and the basis for awarding grades and credit is described;
 - Work Experience Education ~~will~~ provides the students with skills-based learning opportunities, including, but not limited to, participating on projects, attending group and/or individual meetings with the coordinator, and experiencing career workshops ~~and new job skills~~.
 - Work Experience Education students are ~~will be~~ provided with a rubric, which serves as the basis for awarding grades.
- Adequate clerical and instructional services are provided; and

- Work Experience Education ~~will be~~ is supported by [Counseling](#), Workforce Development and [Career Education](#).
- Maintenance of records that include the type and units of work experience in which a student is enrolled, where employed, job held, basis for determining student qualifications, statement of student hours worked, evaluation of performance, and that a work permit was issued.
 - The Work Experience Education ~~coordinator~~ [Instructor](#) is responsible for maintaining all records for enrolled students, which is the basis for final grades.
 - The Work Experience Education ~~coordinator~~ [Instructor](#) is responsible for maintaining contact with the job site supervisor.

[Supervising faculty](#) [Work Experience Education Instructor](#) must maintain records that show consultation with the employer and the student, evaluation of the student's achievement, and the final grade.

There are limits to the total number of units a student may earn while attending California community colleges. General Work Experience Education is limited to 6 semester units. Occupational Work Experience Education is limited to 16 semester units. A combination of General and Occupational Work Experience is limited to 16 semester units.

[Office of Primary Responsibility: Student Learning and Success](#)

Date Approved: April 19, 2011 (*Replaced College of Marin Policy 2.0002*)

Date Reviewed/Revised:

Academic Affairs

CCLC 39 Update includes legally required language this procedure to add “Correspondence” Education to the title to reflect new provisions added to Title 5 regarding correspondence education. The Service also added legally required language regarding correspondence education, including the definition from Title 5 regarding “correspondence education” and provisions addressing delivery of correspondence education instruction, addendums to course outlines, and eligibility of full-time status for students who participate in correspondence education. Finally, the Service added legal citations to Education Code Sections 66700 and 70901 et seq. and Title 5 Sections 55260 et seq. Mici 5-10-2022

CCLC 42 updated this legally required procedure to align with updated Title 5 regulations. Mici 5-31-2023

No Changes. Jonathan/SLS 6-28-2023

Revision as noted. Cari/Instruction 8-23-2023

Approved. Academic Senate 8-31-2023

AP 4105 DISTANCE AND CORRESPONDENCE EDUCATION**References:**

Education Code Sections 66700 and 70901 et seq;

Title 5 Sections 55200 et seq.;

Title 5 Sections 55260 et seq;

34 CFR Section 602.17 (U.S. Department of Education regulations on the Integrity of Federal Student Financial Aid Programs under Title IV of the Higher Education Act of 1965, as amended);

ACCJC Accreditation Standard II.A.1.

Per Title 5 Section 55200, distance education ~~means instruction in which the instructor and student are separated by time or distance and interact through the assistance of technology~~ education that uses one or more of the technologies listed below to deliver instruction to students who are separated from the instructor(s) and to support regular and substantive interaction between the students and instructor(s) either synchronously or asynchronously. Technologies that may be used to offer distance education include: (1) the internet, (2) one-way and two-way transmissions through open broadcast, closed circuit, cable, microwave, broadband lines, fiber optics, satellite, or wireless communications devices, (3) audio conference, (4) other media used in a course in conjunction with any of the technologies listed in this definition. Distance education does not include correspondence courses.

All distance education is subject to the general requirements under Title 5 as well as the specific requirements of articles 55200 and 55204. In addition, instruction provided as distance education is subject to the requirements that may be imposed by the American with Disabilities Act (42 U.S.C. Section 12100 et seq.) and section 508 of the Rehabilitation Act of 1973, as amended (29 U.S.C. Section 794d).

The U.S. Department of Education defines distance education as education that uses one or more technologies [listed in paragraph (1) through (2)(iv) of the definition] to deliver instruction to students who are separated from the instructor and to support regular and substantive interaction between the students and the instructor, either synchronously or asynchronously. (Title 34 Subtitle B, Chapter IV Part 600 Subpart A section 600.2).

College of Marin offers Distance Education courses via two delivery modes: online asynchronous and hybrid:

- 1) **Online Asynchronous:** a course in which 100% of instruction takes place online. No mandatory in-person or online synchronous meetings occur.
- 2) **Hybrid:** a course in which instruction occurs both online and in-person with a minimum of one mandatory on-campus meeting during the semester. The required on-campus and/or synchronous online meetings dates and times must be published in the College of Marin Class Schedule. A hybrid class cannot have some students attending in-person and others in Zoom simultaneously.

Course Approval Process

Step 1: Department Approval

- Online course proposals must be discussed and vetted by the academic department to determine that the course objectives and learning outcomes can be met in an online modality before going to curriculum. Some additional considerations:
- 50% threshold for accreditation (does the program then require a substantive change approval?);
- Articulation (is the course still transferable if offered in an online modality?); and/or
- Balance of in-person and online/hybrid offerings in the schedule.

Step 2: Course Outline of Record ~~and or~~ DE Addendum

~~Each new proposed or existing course offered in a distance education modality shall be reviewed and approved separately. Separate approval is mandatory if any portion of the instruction in a course or a course section is designed to be provided through distance education.~~

The course outline of record or an addendum to the official course outline of record for any new or existing course provided through distance or correspondence education must address the following:

- How course outcomes will be achieved in a distance or correspondence education mode;
- For distance education, how the portion of instruction delivered via distance education meets the requirement for regular and substantive interaction;
- For correspondence education, how the portion of instruction delivered via correspondence education documents and facilitates learning progression through a cycle of assignment submissions and feedback; and,
- The course design and all course materials must be accessible to every student, including students with disabilities.

The review and approval of new and existing distance education courses shall follow the curriculum approval procedures outlined in AP 4020 ~~titled~~ Program and Curriculum Development. Distance education courses shall be approved under the same conditions and criteria as all other courses.

Each new or existing distance education course shall be reviewed and approved separately by the District Education Committee (DEC). Separate course outlines are required for each online asynchronous or hybrid version of a course. Each course outline must include the Distance Education addendum of the Course Outline of Record (COR) template.

When approving distance education courses, the Distance Education Committee (DEC) will certify the following:

- **Course Quality Standards:** The same standards of course quality are applied to the distance education courses as are applied to in-person classes.

- **Course Quality Determinations:** Determinations and judgments about the quality of the distance education course were made with the full involvement of the Distance Education Committee and Curriculum Committee's approval procedures.

Regular interaction: Interaction between a student and instructor(s) is ensured by, prior to the student's completion of a course or competency: (1) providing the opportunity for substantive interactions with the student on a predictable and scheduled basis commensurate with the length of time and the amount of content in the course or competency; and (2) monitoring the student's academic engagement and success and ensuring that an instructor is responsible for promptly and proactively engaging in substantive interaction with the student when needed on the basis of such monitoring, or upon request by the student.

Substantive interaction: Engaging students in teaching, learning, and assessment, consistent with the content under discussion, and also includes at least two of the following: (1) providing direct instruction, (2) assessing or providing feedback on a student's coursework, (3) providing information or responding to questions about the content of a course or competency, (4) facilitating a group discussion regarding the content of a course or competency, or (5) other instructional activities approved by the district's or program's accrediting agency.

In addition to addressing how course learning outcomes will be achieved in a distance education mode, the addendum shall, at a minimum, specify how the portion of instruction delivered via distance education meets:

- 1) Regular and substantive interaction (RSI) between instructors and students and among students as referenced in Title 5, section 55204(a), and
- 2) Requirements of the Americans with Disabilities Act (42 U.S.C. § 12100 et seq.) and section 508 of the Rehabilitation Act of 1973, as amended, (29 U.S.C. § 749d)

The addendum shall be separately approved according to the district's adopted curriculum approval procedures. (5 CCR Section 55206).

Duration of Approval: All distance education courses approved under this procedure will continue to be in effect unless there are substantive changes to the course outline.

Step 3: Course Content

Course content must be fully developed and reviewed prior to scheduling. The deadlines are as follows: for spring courses, instructors must successfully complete the POCR process no later than September 1st. For summer and fall courses, instructors must successfully complete the POCR process no later than December 31st. The course will be submitted to the Distance Education Committee (DEC) for formal review using the Peer Online Course Review (POCR) process applying the CVC-OEI Course Design Rubric (Refer to Faculty Certification Process).

Faculty Certification Process

Once the department has determined that a faculty member may be assigned to teach a distance education course, the faculty member must complete the following steps:

Faculty Training:

Per Title 5 Section 55208 *Instructors of distance education shall be prepared to teach in a distance education delivery method consistent with local district education policies and negotiated agreements.*

Faculty Selection and Workload

Instructors of course sections delivered through distance or correspondence education are individuals responsible for delivering course content who meet the qualifications for instruction established by the District's accrediting agency. Instructors will be selected using the District or college's same procedures for determining other instructional assignments.

Before a distance education course is assigned, faculty must complete training in online standards and best practices and the OEI rubric either through course work provided by the CCC @One Online Network of Educators, [COM's POCR professional development course](#), or equivalent professional development [provided at a California Community College](#).

The cost of the registration/training will be paid from the Distance Education budget and all requests for training must be routed through the Distance Education Coordinator prior to registration.

Whether teaching hybrid and/or online courses, faculty must demonstrate proficiency in the technical and pedagogical aspects of such courses using the approved District Learning Management System (LMS) before being assigned to teach such a course. Prior to the launch of the course, faculty are required to meet at intervals with the Distance Education Coordinator and Instructional Technologist to review their curricular plan, receive appropriate training on course design, and review their final course product.

The instructor must create a fully-developed (semester-length) course and then proceed through the Peer Online Course Review (POCR) process. Refer to Step 3 of Course Approval Process above.

Waivers and Evidence of Equivalency

Faculty who have completed equivalent professional learning in online pedagogy and teaching best practices at an accredited institution within the past three years may be exempt from the required professional learning. Evidence of prior professional learning must be submitted to the Distance Education Coordinator and Instructional Designer.

All courses are required to go through the POCR process regardless of the faculty member's professional learning equivalency.

Instructor Contact

Each section of the course that is delivered through distance education will include regular and substantive interaction (RSI) between instructor and students, as well as among students, as described in the course outline of record, either synchronously or asynchronously, through group or individual meetings, orientation and review sessions, supplemental seminar or study sessions, field trips, library workshops, telephone contact, voice mail, e-mail, or other activities.

Title 5 sections 55204 and 53200 require "regular and substantive interaction" in all distance education courses. Each course or portion of a course delivered through distance education ensures regular and substantive interaction between the instructor(s) and students, (and among students where applicable) either synchronously or asynchronously as defined in §55204 (a) through (e).

For purposes of this definition, substantive interaction is engaging students in teaching, learning, and assessment, consistent with the content under discussion, and also includes at least two of the following

- a) Providing direct instruction;

- b) Assessing or providing feedback on a student's coursework;
- c) Providing information or responding to questions about the content of a course or competency;
- d) Facilitating a group discussion regarding the content of a course or competency; or
- e) Other instructional activities approved by the institution's or program's accrediting agency.

An institution ensures regular interaction between a student and an instructor or instructors by, prior to the student's completion of a course or competency—

- a) Providing the opportunity for substantive interactions with the student on a predictable and regular basis commensurate with the length of time and the amount of content in the course or competency; and
- b) Monitoring the student's academic engagement and success and ensuring that an instructor is responsible for promptly and proactively engaging in substantive interaction with the student when needed on the basis of such monitoring, or upon request by the student.

Accessibility Compliance

All distance education is subject to the requirements of Title 5 as well as the requirements of the Americans with Disabilities Act (42 U.S. Code Sections 12100 et seq.) and Section 508 of the Rehabilitation Act of 1973, as amended (29 U.S. Code Section 794d). Distance Education courses will be reviewed by Student Accessibility Services (SAS) to determine ADA compliance. The College's Assistive Technology Specialist and Instructional Designer will assist faculty in meeting ADA compliance obligations when needed. Faculty must engage in relevant training from the College to ensure that they understand accessibility as it relates to instruction and curriculum. Likewise, any material or technology in support of any instructional activity must be vetted for accessibility compliance by a designated campus authority.

The term "accessible" means that a person with a disability is given the opportunity to acquire the same information, engage in the same interactions, and enjoy the same services as a person without a disability in an equally effective and integrated manner, with equivalent ease of use (Office of Civil Rights (OCR), 2011).

Distance education courses must closely mirror current compliance requirements or as ADA has been interpreted by ongoing litigation and/or OCR Letters-of-Instruction. That is, distance education courses must be developed with an interface, design, and content that facilitates equitable access to all material or experiences either through industry standard assistive computer technology or any other accommodation. Additionally, instructional materials should closely align with emerging Universal Design for Learning best practices.

All course content delivered via distance education must be accessible to all persons including those with disabilities.

All activities and instructional media shall be accessible, including:

- Accurately captioned videos
- Transcribed audio files
- All objects (including images, formulas, tables and charts) have meaningful alternative text
- Readable course materials and html pages using effective font, color contrast, and spacing
- Meaningful hyperlinked text
- Documents that are accessible and reflect best practice standards (e.g. including the use of headers, alt text, a readable font, document tags, etc.)
- Provision of an ADA statement and contact information for Student Accessibility Services in the course syllabus.

Accessibility also applies to websites, software, and other required course materials not contained within the District Learning Management System (LMS). Educational technology applications must be vetted for VPAT and FERPA compliance by IT and DEC using the EEAAP form prior to adoption.

FERPA Compliance and LMS Course Merging

Faculty may combine their courses in the District Learning Management System (LMS) to save time distributing the same course content to students across multiple course sections. However, due to the Family Educational Rights and Privacy Act (FERPA) regulations, students can only have access to other students' information in the course in which they are enrolled. This means students may not interact in the LMS with students from another course section.

To comply with FERPA when distributing course content in merged courses, Faculty must restrict students' ability to view and interact with other students in another course section. Recommendations for meeting FERPA guidelines in the LMS and a Merged Course Request Form are available on the Online Learning website.

Enrollment, Attendance, and Participation in Distance Learning Courses

Students will register and enroll in distance learning courses in the same manner as traditional courses. All distance education courses follow College of Marin's attendance and drop policies (AP 5070 and AP 5075). Pursuant to Title 5 Section 58004, instructors shall clear their rosters of inactive students not later than the end of the last business day before the census day for all students. Students who are dropped by instructors after 30% of the term will receive a "W."

The U.S. Department of Education views attendance in an online class as active engagement, such as writing in discussion forums, submitting assignments, taking quizzes and/or exams, or other interactive class activities. Due to the potential for financial aid fraud in online programs, the U.S Department of Education has determined that there should be "regular and substantive interaction between students and faculty" in online courses. Hence, the "Last Day of Attendance" counted in the online classroom is the last day of class participation by the student.

Based on the aforementioned guidelines, the instructor should determine the last day of participation for students via the following methods:

- 1) Prior to the first census date, the instructor will initiate activities that require student participation.
- 2) The instructor will include various robust assessments and assignments on a frequent basis throughout the semester.

Participation and drop policies must be clarified in the online syllabus and align with the College's policies.

Scheduling Distance Education Courses

Area deans (in collaboration with department chairs) determine and approve faculty assignments for all courses, including distance education sections. Faculty will be assigned to teach distance education courses after completing the aforementioned certification process and meeting state and federal requirements.

Faculty Office Hours

For office hour obligations, faculty must refer to the UPM contract.

Student Authentication

Consistent with federal regulations pertaining to federal financial aid eligibility, the District must authenticate

or verify that the student who registers in a distance education or correspondence education course is the same student who participates in and completes the course or program and receives the academic credit. The District will provide to each student at the time of registration, a statement of the process in place to protect student privacy and estimated additional student charges associated with verification of student identity, if any.

The Chief Instructional Officer shall utilize one or more of these methods to authenticate or verify the student's identity:

- Secure credentialing/login and password;
- Proctored examination; or
- new or other technologies and practices that are effective in verifying student identification

The District utilizes a Learning Management System (LMS) whereby students must authenticate their identity. In order to access the LMS, students must log into the MyCOM Portal with their College of Marin- issued student username and password.

The Chief Instructional Officer shall provide a statement of the process in place to protect student privacy and estimated additional student charges associated with verification of student identity, if any, to each student at the time of registration.

Test Proctoring

Some distance education courses may require that exams be taken in a proctored setting or through an online proctoring service (e.g., Proctorio). Faculty will clearly communicate in their syllabus if there are any proctoring requirements for the course. Prior to using online proctoring software, faculty are expected to engage in professional learning on best practices.

Distance Education Support Services

The District provides online assistance in the following areas:

- Learning Management System (LMS) technical support through an on-line help center
- Online writing assistance through the Online Writing Center (OWC)
- Research assistance through the Library's "Ask a Librarian" service
- Tutoring appointments through the Teaching and Learning Center
- Counseling services through "Ask a Counselor"

The Assessment and Testing Center provides proctored exams with an instructor's approval. Specific instructions about taking an exam in the Assessment and Testing Center can be found on the Assessment and Testing Center's Webpage.

Office of Primary Responsibility: Student Learning and Success

Date Approved: June 28, 2011

Revised: June 19, 2012; May 1, 2014; September 20, 2016; March 13, 2018; May 11, 2021; May 17, 2022

Reviewed/Revised:

Academic Affairs

This procedure is legally advised and due for review as part of the regular review cycle. Compared to CCLC model policy. Legal reference updated. Formatting updated. This is a 10 +1. Mici 2-16-2023

Approved without changes. Jonathan E/Carol Hernandez 3-27-2023

Approved. Academic Senate 4-27-2023

AP 4300 FIELD TRIPS AND EXCURSIONS**Reference:**

Title 5 Section 55220;

Government Code Section 11139.8

The District may conduct field trips and excursions in connection with courses of instruction or District-related social, educational, cultural, athletic, or musical activities to and from places in California, or any other state, the District of Columbia, or a foreign country for students.

The District shall engage instructors, supervisors, and other personnel as may be necessary for such excursions or field trips who desire to contribute their services over and above the normal period for which they are employed by the District.

The District shall, at the discretion of the Vice President of Student Learning, transport students, instructors, supervisors, or other personnel by use of District equipment, contract to provide transportation, or arrange transportation by the use of other equipment.

When District equipment is used, the District shall obtain liability insurance, and if travel is to and from a foreign country, the liability insurance shall be secured from a carrier licensed to transact insurance business in the foreign country.

The District may pay expenses of instructors, chaperones, and other personnel participating in a field trip or excursion. Payment shall be by way of itemized reimbursement in a form prescribed by the Vice President of Student Learning. The District may pay for expenses of students participating in a field trip or excursion with auxiliary, grant, or categorical program funds if the funds are used consistently with the funding source.

No student shall be prevented from making a field trip or excursion which is integral to the completion of the course because of lack of sufficient funds. The District shall coordinate efforts of community services groups to provide funds for students in need of them.

All persons making a field trip or excursion shall be deemed to have waived all claims against the District for injury, accident, illness, or death occurring during or by reason of the field trip or excursion. All adults taking such trips and all parents or guardians of minor students shall sign a statement waiving such claims.

Office of Primary Responsibility: ~~Office of~~ Student Learning and Success

Date Approved: May 18, 2010

Reviewed/Revised:

Student Services

CCLC 42 updated this legally required procedure to correct a reference to foundational skills. The California Community Colleges Chancellor's Office is working on streamlining the reporting requirements for student equity plans along with other programs. One change has been to submit information related to student equity plans to the California Community Colleges Chancellor's Office as part of an "Integrated Plan." However, because Title 5 Regulations addressing student equity plans have not been repealed, districts are still required to maintain student equity plans. This is a 10+1. Mici 6-13-2023

Revisions as noted. Jonathan E/SLS and Tonya H. & Sadika/Student Equity 6-28-2023

Approved. Mia/General Counsel 7-17-2023

Approved. Academic Senate 8-24-2023

AP 5300 STUDENT EQUITY**References:**

Education Code Sections 66030, 66250 et seq. and 72010 et seq.;
Title 5 Section 54220

The District has a Student Equity Plan. The Plan is filed as required to the California Community Colleges Chancellor's Office, following approval by the Board of Trustees.

The plan addresses:

- active involvement of the groups on campus through governance committees, relevant programs and activities including learning communities, instructional and student development departments, and through the program review process
- involvement by appropriate people from the community who can articulate and support the perspective and concerns of historically underrepresented groups
- centering student equity in campus-based research ~~as to the extent of student equity~~
- institutional barriers to equity
- goals for access, retention, degree and certificate completion, English as a Second Language (ESL) and ~~basic~~ foundational skills completion, and transfer for each historically underrepresented group
- activities most likely to be effective to attain the goals, including coordination of existing student equity related programs and initiatives
- sources of funds for the activities in the plan
- a schedule and process for evaluation of progress toward the goals
- an executive summary that describes the groups for whom goals have been set, the goals, the initiatives that the District will undertake to achieve the goals, the resources budgeted for that purpose, and the District officer or employee who can be contacted for further information

The Student Equity Plan shall be developed, maintained, and updated under the supervision of the Dean of Educational Success Programs.

Office of Primary Responsibility: ~~Student Services and~~ Student Learning and Success

Approved: April 19, 2009

Reviewed/Revised: February 12, 2019

Revised:

Business and Fiscal Affairs

CCLC 42 updated this legally required procedure to align with updated Title 5 regulations. Formatting updated. This procedure is accreditation linked. This procedure should be reviewed with its policy counterpart which is due for review as part of the regular review cycle. Mici 6-13-2023

Approved without changes. Eresa/Administrative Services 7-19-2023

AP 6400 FINANCIAL AUDITS**References:**

Education Code Sections 84040(b), 84040.5 and 81644;
Title 5 Section 59102;
ACCJC Accreditation Standard III.D.7.

On or before April 1 of the fiscal year, the Board of Trustees shall approve the selection of an auditor who shall be a certified public accountant licensed by the California State Board of Accountancy.

An auditing firm's contract shall be for no longer than five years. The audit shall include all funds under the control or jurisdiction of the District. The audit shall identify all expenditures by source of funds and shall contain:

- A statement that the audit was conducted pursuant to standards and procedures developed in accordance with Education Code Section 84040.5 and
- a summary of audit exceptions and management recommendations.

The District shall file an ~~a~~Audit reports for the preceding fiscal year must be presented to the Board of Trustees and submitted to with the California Community Colleges Chancellor's Office, and with other agencies specified in the Chancellor's Contracted District Audit Manual, for the preceding fiscal year no later than ~~by~~ December 31, unless this date is extended by the California Community Colleges Chancellor's Office.

The audit shall cover the general financial operations of the District, Associated Student Body Fund operations and the Federal Aid Program operation.

Also see BP/AP 6740 ~~titled~~ Citizens' Bond Oversight Committee

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

Date Approved: May 23, 2008 ~~Replaces sections of Board Policy 6.0004 titled Annual Audit.~~

Date Reviewed/Revised: June 20, 2017; February 12, 2019

Date Revised:

Human Resources

CCLC 42 updated this legally advised procedure to provide a process for staff and faculty to declare an affirmed name, gender, or both pursuant to changes in the Education Code. Mici 6-13-2023
Approved without changes. Nikki/Human Resources; copy Mia/General Counsel 7-28-2023

AP 7145 PERSONNEL FILES

References:

Education Code Section 87031;
Labor Code Section 1198.5

Personnel records are private, accurate, complete, and permanent.

Every employee has the right to inspect personnel records pursuant to the Labor Code.

Information of a derogatory nature shall not be entered into an employee's personnel records unless and until the employee is given notice and an opportunity to review and comment on that information. The employee shall have the right to enter, and have his/her/their own comments attached to any derogatory statement. The review shall take place during normal business hours and the employee shall be released from duty for this purpose without salary reduction.

The employee shall not have the right to inspect personnel records at a time when the employee is actually required to render services to the District.

Nothing in this procedure shall entitle an employee to review ratings, reports, or records that (a) were obtained prior to the employment of the person involved, (b) were prepared by identifiable examination committee members, or (c) were obtained in connection with a promotional examination or interview.

The Superintendent/President shall implement a system by which staff and faculty can declare an affirmed name, gender, or both name and gender identification to be used in their records where legal names are not required by law. Upon the request of a staff or faculty member, the District shall update any records for the individual to include the affirmed name, gender, or both name and gender identification. The records that shall be updated include but are not limited to District-issued email addresses, employee identification cards, class rosters, transcripts, diplomas, certificates of completion of courses, or similar records.

Documents shall be kept in the Human Resources Department, as appropriate, with the exception of some payroll, leave records, and statistical and financial accounting data, including academic employee assignments which may be stored in the District's computer system.

Refer to the current collective bargaining agreement for the applicable employee group.

Office of Primary Responsibility: Human Resources

Approved: February 12, 2009 ~~(College Council)~~ *(Replaces current College of Marin Policy 5.0012)*

Reviewed/Revised: April 16, 2019
Revised:

Human Resources

This optional procedure is due for review as part of the regular review cycle. There were no legal updates. The academic employees of the District have been addressed by BP 7210 Academic Employees, and additional procedures are not legally mandated. However, local practice, if any, may be inserted. The contents of any such procedure will be subject to consultation with the Academic Senate.

This is a 10+1. Mici 2-16-2023

Edits as noted. Nikki/Human Resources 2-16-2023

Approved without changes. Academic Senate 8-31-2023

AP 7210 ACADEMIC EMPLOYEES**References:**

Education Code Sections 87400 et seq., 87419.1, 87600 et seq., and 87482.8;
Title 5 Section 51025

Academic employees are all persons employed by the District in academic positions. Academic positions include every type of service, other than paraprofessional service, for which minimum qualifications have been established by the Board of Governors for the California Community Colleges, including qualifications required for specific disciplines by the California Code of Regulations, Commissions and State Law.

Faculty members are those employees who are employed by the District in academic positions that are not designated as supervisory or management. Faculty employees include, but are not limited to, instructors, librarians, counselors, and professionals in health services, DSPS, and EOPS.

Decisions regarding tenure of faculty shall be made in accordance with the evaluation procedures established for the evaluation of probationary faculty and in accordance with the requirements of the Education Code. The Board of Trustees reserves the right to determine whether a faculty member shall be granted tenure.

The District may employ temporary faculty as required by the interests of the District. Temporary faculty may be employed full-time or part-time. The Board of Trustees delegates authority to the Superintendent/President to determine the extent of the District's needs for temporary faculty.

Notwithstanding this policy, the District shall comply with its goals under the Education Code regarding the ratio of full-time to part-time faculty to be employed by it and for making progress toward the standard of 75% of total faculty work load hours taught by full-time faculty.

The Board upon recommendation of the Superintendent/ President, shall employ academic personnel for categorically funded projects under written contracts which contain restrictive clauses. Categorically funded projects shall be defined as programs and services of indeterminate duration, funded by grants, contracts, and other agreements with external agencies.

Academic personnel not having previously established rights, and employed for a categorically-funded

project do not possess the due process rights which are possessed by probationary, permanent, or tenured employees.

The Superintendent/President shall ensure that personnel for categorically-funded projects are employed and terminated in accordance with the Education Code.

[Also see BP 7210 Academic Employees](#)

Office of Primary Responsibility: Human Resources

Date Approved: May 18, 2010

Date Reviewed/Revised:

Human Resources

CCLC 42 Service updated this **optional** procedure to implement requirements in non-merit system districts regarding employees who do not successfully complete their probationary period pursuant to changes in the Education Code. Mici 6-13-2023

Revisions as noted. Nikki/Human Resources; copy Mia/General Counsel 7-28-2023

AP 7235 PROBATIONARY PERIOD – CONFIDENTIAL AND SUPERVISORY EMPLOYEES

Reference:

Education Code Section 88013

As permitted by statute, the probationary period is six months, or 130 days of paid service, whichever is longer, for confidential and supervisory employees.

Additionally, the districts ~~must~~ will retain a permanent employee who accepts a promotion and fails to complete the probationary period for that promotional classification in the position from which the employee was promoted. This requirement would not apply if the District has a conflicting provision in collective bargaining agreement entered into before January 1, 2023, until the expiration or renewal of that collective bargaining agreement.

This Administrative Procedure also shall apply to classified managers whose employment is not held by an employment agreement under Education Code section 72411 or pursuant to Title 5 as an interim employee.

Office of Primary Responsibility: Human Resources

Date Approved: January 18, 2011

Date Reviewed/Revised: November 13, 2018; February 15, 2022

Date Reviewed/Revised:

Human Resources

CCLC 42 updated this legally required procedure to implement requirements related to employee status during discipline proceedings pursuant to changes in the Education Code. *See page 5 of this procedure for recommended update.* Mici 6-14-2023

Minor edit adding "collective bargaining agreement." Nikki/Human Resources; copy Mia/General Counsel 7-28-2023

AP 7365 DISCIPLINE AND DISMISSAL – CLASSIFIED EMPLOYEES**References:**

Education Code Section 88013;
Government Coded Sections 3300 et seq.

The following three sections apply to all classified employees:

1. Grounds for Discipline

The grounds for discipline of permanent classified employees are outlined in BP 7365 Discipline and Dismissal – Classified Employees.

2. Background Checks

Background checks may be conducted as part of disciplinary or harassment investigations. (Civil Code Sections 1786 et seq.; Investigative Consumer Reporting Agencies Act; 15 U.S. Code Sections 1681 et seq. (Fair Credit Reporting Act).)

Advanced notice of discipline/harassment investigations shall be provided to those under investigation. If the investigation results in action that adversely affects the employee, the employee shall receive oral, written, or electronic notice of:

- the adverse action;
- the name, address, and telephone number of the third party agency that furnished the report;
- the employee's right to obtain a free copy of the report; and
- the employee's right to dispute the accuracy or completeness of any of the information in the report.

3. Disciplinary Actions

Disciplinary action taken by the District against a permanent member of the classified service may include, but not be limited to oral reprimand, written reprimand, and the following:

- **Reduction in pay or demotion** -- The District may reduce the pay or demote an employee whose performance of the required duties falls below standard, or for misconduct.
- **Suspension** -- An employee may be suspended for disciplinary purposes without pay.
- **Discharge** -- A permanent member of the classified service may be discharged for just cause at any time. Formal written notice of discharge may be made after considered action during a period of suspension.

Procedure for Disciplinary Action and Appeal

The following procedures apply to unrepresented classified employees, except those whose employment with the District is held pursuant to an employment agreement that contains provisions for termination of the agreement. For unrepresented classified employees whose employment with the District is held pursuant to such an employment agreement, see the employment agreement. For CSEA and SEIU employees, see the applicable collective bargaining agreement.

The District may, for disciplinary purposes, suspend, demote, or terminate any permanent employee holding a position in the classified service. Demotion shall include reduction in pay from a step within the class to one or more lower steps.

For unrepresented permanent classified employees suspended, demoted, or discharged, the District shall follow a pre-disciplinary procedure.

Notice of Intent -- Whenever the District intends to suspend, demote, or dismiss a permanent classified employee, the employee shall be given a written notice of discipline which sets forth the following:

- The disciplinary action intended;
- The specific charges upon which the action is based;
- A factual summary of the grounds upon which the charges are based;
- A copy of all written materials, reports, or documents upon which the discipline is based;
- Notice of the employee's right to respond to the charges either orally or in writing to the appropriate manager;
- The date, time and person before whom the employee may respond in no less than five working days;
- Notice that failure to respond at the time specified shall constitute a waiver of the right to respond prior to final discipline being imposed.

Response by Employee -- The employee shall have the right to respond to the appropriate manager orally or in writing. The employee shall have a right to be represented at any meeting set to hear the employee's response. In cases of suspensions, demotions, or dismissal, the employee's response will be considered before final action is taken.

Final Notice -- After the response or the expiration of the employee's time to respond to the notice of intent, the appropriate authority shall: 1) dismiss the notice of intent and take no disciplinary action against the employee; or 2) modify the intended disciplinary action; or 3) prepare and serve upon the employee a final notice of disciplinary action. The final notice of disciplinary action shall include the following:

- The disciplinary action taken;
- The effective date of the disciplinary action taken;
- Specific charges upon which the action is based;
- A factual summary of the facts upon which the charges are based;
- The written materials reports and documents upon which the disciplinary action is based;
- The employee's right to appeal.

Appeal and Request for Hearing -- If an unrepresented classified employee, having been issued the final notice of disciplinary action, wants to appeal the action, he/she/they shall within ten calendar days from the date of receipt of the notice, appeal to the Board of Trustees by filing a written answer to the charges and a request for hearing with the Chief Human Resources Officer.

Alternative/Informal Hearing

As an alternative to the type of hearing described below, the employee may request that the hearing be conducted informally by so stating in his/her/their demand for hearing. In the event the employee requests an informal hearing, the Superintendent/President or designee shall arrange with the employee for the type of informal hearing to be conducted. The parties may agree in writing upon what person shall hear the matter and how the hearing shall be conducted. In the event the parties fail to agree in writing within five working days after filing of the notice of Demand for Hearing upon who shall hear the matter and how it shall be conducted, the hearing shall be conducted as provided below. The findings of the alternative/informal hearing shall be submitted to the Board of Trustees and in all cases, the Board's decision shall be final.

Time for Hearing -- The Board of Trustees shall, within a reasonable time from the filing of the appeal, commence the hearing. The Board of Trustees may conduct the hearing itself, or it may secure the services of an experienced hearing officer or Administrative Law Judge, to conduct a hearing and render a proposed decision for consideration by the Board. However, in every case, the decision of the Board of Trustees itself shall be final. The Board of Trustees may affirm, modify, or revoke the discipline. Any employee, having filed an appeal with the Board of Trustees and having been notified of the time and place of the hearing, who fails to make an appearance before the Board, may be deemed to have abandoned his/her/their appeal. In this event, the Board may dismiss the appeal.

Record of Proceedings and Costs -- All disciplinary appeal hearings may, at the discretion of either party or the Board of Trustees, be recorded by a court reporter. Any hearing which does not utilize a court reporter shall be recorded by audio tapes. If a court reporter is requested by either party, that party shall pay the cost of the court reporter.

Conduct of the Hearing:

- The hearing need not be conducted in accordance with technical rules relating to evidence and witnesses but hearings shall be conducted in a manner most conducive to determination of the truth.
- Any relevant evidence may be admitted if it is the type of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rules which might make improper the admission of such evidence over objection in civil actions.
- Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence that shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.
- The rules dealing with privileges shall be effective to the same extent that they are now or hereafter may be recognized in civil actions.
- Irrelevant and unduly repetitious evidence may be excluded.
- The Board of Trustees shall determine relevancy, weight, and credibility of testimony and evidence. Decisions made by the Board of Trustees shall not be invalidated by any informality in the proceedings.

- During examination of a witness, all other witnesses, except the parties, shall be excluded from the hearing upon motion of either party.

Burden of Proof -- In a disciplinary appeal the District has the burden of proof by preponderance of the evidence.

Proceed with Hearing or Request for Continuance -- Each side should be asked if it is ready to proceed. If either side is not ready and wishes a continuance, good cause must be stated.

Testimony under Oath -- All witnesses shall be sworn in for the record prior to offering testimony at the hearing. The chairperson will request the witnesses to raise their right hand and respond to the following:

“Do you swear that the testimony you are about to give at this hearing is the truth, the whole truth and nothing but the truth?”

Presentation of the Case -- The hearing shall proceed in the following order unless the Board of Trustees, for special reason, directs otherwise:

- The party imposing discipline (District) shall be permitted to make an opening statement.
- The appealing party (employee) shall be permitted to make an opening statement.
- The District shall produce its evidence.
- The party appealing from such disciplinary action (employee) may then offer their evidence.
- The District followed by the appealing party (employee) may offer rebutting evidence.
- Closing arguments shall be permitted at the discretion of the Board of Trustees. The party with the burden of proof shall have the right to go first and to close the hearing by making the last argument. The Board of Trustees may place a time limit on closing arguments. The Board of Trustees or the parties may request the submission of written briefs. After the request for submittal of written briefs, the Board of Trustees will determine whether to allow the parties to submit written briefs and determine the number of pages of briefs.

Procedure for the Parties -- The District representative and the employee representative will address their remarks, including objections, to the President of the Board of Trustees. Objections may be ruled upon summarily or argument may be permitted. The Board of Trustees reserves the right to terminate argument at any time and issue a ruling regarding an objection or any other matter, and thereafter the representative shall continue with the presentation of their case.

Right to Control Proceedings -- While the parties are generally free to present their case in the order that they prefer, the Board of Trustees reserves the right to control the proceedings, including, but not limited to, altering the order of witnesses, limiting redundant or irrelevant testimony, or by the direct questioning of witnesses.

Hearing Demeanor and Behavior -- All parties and their attorneys or representatives shall not, by written submission or oral presentation, disparage the intelligence, ethics, morals, integrity, or personal behavior of their adversaries or members of the Board of Trustees.

Deliberation Upon the Case -- The Board of Trustees should consider all oral and documentary evidence, the credibility of witnesses, and other appropriate factors in reaching their decision. The

Board of Trustees may deliberate at the close of the hearing or at a later fixed date and time. In those cases where the Board of Trustees has received a proposed decision from a hearing officer or Administrative Law Judge, the proposed decision, the record of the hearing, and all documentary evidence shall be available for review by the Board when it deliberates.

Written Findings, Conclusion, and Decision -- The Board of Trustees shall render its findings, conclusions, and decision as soon after the conclusion of the hearing as possible. A finding must be made by the Board of Trustees on each material issue. The Board of Trustees may sustain or reject any or all of the charges filed against the employee. The Board may sustain, reject, or modify the disciplinary action invoked against the employee. In those cases where the Board of Trustees has received a proposed decision from a hearing officer or Administrative Law Judge, the Board may adopt the proposed decision, modify the proposed decision, or render a new decision. If the Board of Trustees recommends reinstatement of the terminated employee, the employee is only entitled to back pay minus the sum the employee has earned during the period of absence.

Decision of the Board of Trustees to be Final -- The decision of the Board of Trustees in all cases shall be final.

Emergency Suspension -- If an employee's conduct presents an immediate threat to the health and safety of the employee or others, the employee may be suspended without compliance with the provisions this procedure. However, as soon as possible after suspension, the employee shall be given notice as set forth herein.

Record Filed -- When final action is taken, the documents shall be placed in the employee's personnel file.

Pay During Proceedings -- Except as specified below, the District shall not suspend without pay, suspend with a reduction in pay, demote with a reduction in pay, or dismiss an employee who timely requests a hearing on the charges before a decision is rendered after the hearing unless the governing board, or an impartial third-party hearing officer finds that at the time the District imposed the discipline, the District demonstrated by a preponderance of the evidence that the employee engaged in criminal misconduct, misconduct that presents a risk of harm to students, staff, or property, or committed habitual violations of the District's board policies, administrative procedures or collective bargaining agreement.

If an impartial third-party hearing officer or the governing board conducts a hearing on the charges, the District may stop paying the employee before a decision is rendered after 30 calendar days from the date the employee timely requests a hearing.

To the extent that this provision conflicts with a provision of a collective bargaining agreement entered into before January 1, 2023, this provision shall not apply to the District until the expiration or renewal of that collective bargaining agreement.

Probationary Classified Employees

During the probationary period, any employee in the classified service shall be subject to disciplinary action including termination or release from employment at any time, without a statement of cause, and shall not have the right to a hearing or appeal with respect thereto.

Nothing in this Administrative Procedure shall be interpreted to interfere with the District's right to release an employee from probation, with or without cause, at any time, as allowed by law.

Office of Primary Responsibility: Human Resources

Approved: December 13, 2011; March 12, 2019

Reviewed/Revised: November 15, 2022

Revised: