



Policy & Procedure Subscriber Service

Community College League of California
Liebert Cassidy Whitmore

Legal Update #40

OVERVIEW

As part of the ongoing updates, the Service biannually updates the templates for diversity, equity, and inclusion-related issues. That process is continuing, and the League is redoubling that effort and commits to integrating diversity, equity, inclusion, and accessibility issues into these reviews of the policy/procedure templates.

Revisions to the Board Policy Templates

BP 2310 Regular Meetings of the Board – The service updated this policy to align to the recent changes in the Brown Act regarding teleconferenced meetings.

BP 2340 Agendas – The Service updated this policy to reflect amended Brown Act provisions on public requests for agenda materials.

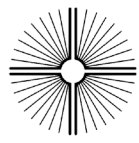
BP 2410 Board Policies and Administrative Procedures – The Service updated this policy to clarify that in unusual circumstances the governing board may adopt changes at the same meeting at which they are introduced.

BP 3430 Prohibition of Harassment – The Service updated this policy to add reference to Education Code Section 66262.5 and optional language regarding the prevalence of sexual harassment and sexual violence.

BP 3433 Prohibition of Sexual Harassment under Title IX – The Service updated this policy to add optional language regarding the prevalence of sexual harassment and sexual violence.

BP 5040 Student Records, Directory Information, and Privacy – The Service updated this policy to add legal citations and language concerning a student's ability to request name and gender changes in the student's records.

BP 7130 Compensation – The update was optional regarding "pay equity compensation studies. This is being forwarded so that it can be designated as reviewed.



POLICY & PROCEDURE SERVICE

BP 7380 7161 Ethics, Civility and Mutual Respect

This is a Peralta Board Policy. **Renumbered**

BP 7230 Classified Employees – The Service updated this policy to reflect new legislation that shortened the probationary period and new requirements for layoff and hearing rights for classified employees.

BP 7340 Leaves – The Service updated this policy to include references to Government Code Sections 12945.2 and 12945.21.

BOARD POLICY ~~7380~~ 7161
ETHICS, CIVILITY AND MUTUAL RESPECT

It is the policy of the Peralta Community College District to foster an environment which maximizes student learning and employee performance, and a climate of civility and mutual respect among faculty, staff, students, and members of the Board of Trustees of the District.

As members of the Peralta Community College District community, we are expected to treat each other with civility and respect, recognizing that disagreement and informed debate are valued in an academic community. Behaviors that unduly interfere with the ability to learn or work in the college environment depart from the standard for ethics, civility and respect and are unacceptable.

Individuals covered by this policy include faculty, staff, managers, supervisors, students, and members of the Board of Trustees. The Chancellor shall issue an administrative procedure detailing this policy.

Reference:

Education Code Section 70902

Approved by the Board of Trustees: February 12, 2013

Updated and approved by the Board of Trustees:

BOARD POLICY 2310 REGULAR MEETINGS OF THE BOARD

Regular meetings of the Board shall normally be held on the second and fourth Tuesday of each month excepting holiday periods. Regular meetings of the Board will normally be held at the District Board Room, 333 East Eighth Street, Oakland, California. At least one regular meeting annually will be scheduled at each of the colleges.

A notice identifying the location, date, and time of each regular meeting of the Board shall be posted at least ten (10) days prior to the meeting and shall remain posted until the day and time of the meeting. All regular meetings of the Board shall be held within the boundaries of the District except in cases where the Board is meeting with another local agency or is meeting with its attorney to discuss pending litigation if the attorney's office is outside the District.

All regular and special meetings of the Board shall be open to the public, be accessible to persons with disabilities, and otherwise comply with Brown Act provisions, except as required or permitted by law.

In order for the Board to meet virtually during a proclaimed state of emergency under the relaxed teleconference rules in the Brown Act, the Board will make findings by majority vote, as required by way of a Board resolution.

If the Board elects to meet virtually during a proclaimed state of emergency, the District will comply with relevant provisions of the Brown Act regarding the posting of agendas, public access to meetings through call-in or internet-based service options, public participation, and limits on Board action in the event of a meeting disruption due to interruption of teleconferencing services.

During proclaimed states of emergency, the Board is not required to provide a physical location from which members of the public may attend or provide public comment.

Reference:

Education Code Sections 72000(d);
Government Code Sections 54952.2, 54953 et seq., and 54961;
Administrative Procedure 2310.

Approved by the Board of Trustees: September 27, 2011

Updated and approved by the Board of Trustees:

BOARD POLICY 2340 AGENDAS

An agenda shall be posted adjacent to the place of meeting, as well as on the District's internet website, at least 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 in Board Policy BP 2320 Special and Emergency Meetings;
- two-thirds of all members (five affirmative votes) determine there is a need for immediate action and the need to take action came to the attention of the Board subsequent to the agenda being posted;
- an item appeared on the agenda of and was continued from a meeting held not more than five days earlier.

Agendas shall be developed by the Chancellor in consultation with the Board President and/or Vice-President.

Individual Board members may submit agenda items utilizing the Chancellor's Administrative Procedure 2340 Agenda Development. Alternatively, Board members may notice an agenda item at a board meeting for consideration by the Board at a subsequent meeting. The order of business may be changed by consent of the Board.

Members of the public may request to 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 Chancellor. The Board 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.

If requested by a member of the public, a copy of the agenda, or documents constituting the agenda packet, shall be provided by mail or email.

The Chancellor shall establish administrative procedures that provide for public access to agenda development and information. Reasonable fees may be charged for documents.

Reference:

Education Code Section 72121 and 72121.5;
Government Code Section 54954 et seq. and 6250 et seq;
Administrative Procedure 2340.

Approved by the Board of Trustees: September 27, 2011
Revised and approved by the Board of Trustees: July 11, 2017
Revised and approved by the Board of Trustees:

BOARD POLICY 2410 BOARD POLICY AND ADMINISTRATIVE PROCEDURE

Board Policies are statements or intent/guidelines which are adopted by the Board of Trustees to be used by the administration in the development and implementation of regulations and procedures for operating the District.

The Board is the ultimate decision maker in those areas assigned to it by state and federal laws and regulations. In executing that responsibility the Board is committed to ensure that appropriate members of the District participate in developing recommended policies for Board action and administrative regulations for Chancellor action under which the District is governed and administered. The provisions of Board policies and administrative procedures shall be updated in a timely manner to reflect all Board changes or modifications. Except for unforeseeable emergency situations, the Board shall not take any action on matters subject to this policy until the appropriate constituent group or groups have been provided the opportunity to participate in consultation. No Board policy or administrative procedure shall be construed to interfere with the formation or administration of employee organizations, or compromise the exercise of rights guaranteed under the Educational Employment Relations Act, Government Code Sections 3540, et seq. No Board Policy or Administrative Procedure shall weaken or invalidate the provisions of existing District collective bargaining agreements.

The policies have been written to be consistent with provisions of law, but do not necessarily encompass all laws relating to district activities. All district employees are expected to be aware of and observe all provisions of the law pertinent to their job responsibilities.

Policies of the Board may be adopted, revised, added to or amended at any regular board meeting by a majority vote of all members of the Board. Proposed changes or additions shall be introduced through the consultative process described in AP 2410 Policy Development Process prior to the meeting at which action is recommended. The Board shall regularly assess its policies for effectiveness in fulfilling the District's mission. In unusual circumstances, the Board may change, amend, or add to Board Policies at the same meeting at which they are introduced.

Administrative Procedures are to be issued by the Chancellor as statements of regulations, rules and practices to be used in implementing Board Policy. Such Administrative Procedures shall be consistent with the intent of Board Policy. Administrative Procedures may be revised as deemed necessary by the Chancellor.

As they become available, Administrative Procedures shall be officially distributed to the Governing Board, after which time they shall be considered incorporated into the Board Policy manual. The Board reserves the right to propose to the Chancellor revisions to Administrative Procedures should they, in the Board's judgment, be inconsistent with the Board's own policies.

The Chancellor shall issue an administrative procedure to detail the implementation of this policy.

Reference:

Education Code Section 70902;
ACCJC Accreditation Standards IV.C.7; IV.D.4; I.B.7; and I.C.5 (formerly IV.B.1.b & e)
Administrative Procedure 2410 Policy Development Process

Approved by the Board of Trustees: December 6, 2011

Revised by the Board of Trustees: February 26, 2013

Revised by the Board of Trustees: April 14, 2015

Reviewed and approved by the Board of Trustees: September 28, 2021

Revised and approved by the Board of Trustees:

BOARD POLICY 3430 PROHIBITION OF HARASSMENT

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The District seeks to foster an environment in which all employees, students, unpaid interns, and volunteers feel free to report incidents of harassment without fear of retaliation or reprisal. Therefore, the District also strictly prohibits retaliation against any individual for filing a complaint of harassment or for participating in a harassment investigation. Such conduct is illegal and constitutes a violation of this policy. The District will investigate all allegations of retaliation swiftly and thoroughly. If the District determines that someone has retaliated, it will take all reasonable steps within its power to stop such conduct. Individuals who engage in retaliatory conduct are subject to disciplinary action, up to and including termination or expulsion.

The District recognized that sex discrimination, including sexual harassment and violence, harms all students, undermines students' physical safety, impedes students' ability to learn, and can reinforce social inequality throughout a student's lifetime. The District has a responsibility to make reasonable efforts to respond effectively when sexual harassment is reported to, or observed by, District employees.

Any student, employee, unpaid intern, or volunteer who believes that he/she/they has been harassed or retaliated against in violation of this policy should immediately report such incidents by following the procedures described in AP 3435 Discrimination and Harassment Complaints and Investigations. The District requires supervisors to report all incidents of harassment and retaliation that come to their attention.

This policy applies to all aspects of the academic environment, including but not limited to classroom conditions, grades, academic standing, employment opportunities, scholarships, recommendations, disciplinary actions, and participation in any community college activity. In addition, this policy applies to all terms and conditions of employment, including but not limited to hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, training opportunities and compensation.

To this end the Chancellor shall ensure that the institution undertakes education and training activities to counter harassment and to prevent, minimize, or eliminate any hostile environment that impairs access to equal education opportunity or impacts the terms and conditions of employment.

The Chancellor shall establish procedures that define harassment on campus. The Chancellor shall further establish procedures for employees, students, unpaid interns, volunteers, and other members of the campus community that provide for the investigation and resolution of complaints regarding harassment and discrimination, and procedures to resolve complaints of harassment and discrimination. State and federal law and this policy prohibit retaliatory acts by the District, its employees, students, and agents.

The District will publish and publicize this policy and related written procedures (including the procedure for making complaints) to administrators, faculty, staff, students, unpaid interns, and volunteers particularly when they are new to the institution. The District will make this policy and related written procedures (including the procedure for making complaints) available in all administrative offices and will post them on the District's website.

Employees who violate the policy and procedures may be subject to disciplinary action up to and including termination. Students who violate this policy and related procedures may be subject to disciplinary measures up to and including expulsion. Unpaid interns who violate this policy and related procedures may be subject to disciplinary measure up to and including termination from the internship or other unpaid work experience program.

References:

Education Code Sections 212.5, 44100, 66252, 66281.5, and 66232.5
Government Code Sections 12923, 12940 and 12950.1;
Civil Code Section 51.9;
Title 2 Sections `0500 et seq.;
Title VII of the Civil Rights Act of 1964, 42 U.S. Code Annotated Section 2000e
Age Discrimination in Employment Act of 1967 (ADEA);
Americans with Disability Act of 1990 (ADA)
Administrative Procedure 3430

Approved by the Board of Trustees: September 11, 2012
Revised and approved by the Board of Trustees: June 24, 2014
Revised and approved by the Board of Trustees: December 8, 2015
Revised and approved by the Board of Trustees: March 14, 2017
Revised and approved by the Board of Trustees: July 11, 2017
Revised and approved by the Board of Trustees: June 25, 2019
Updated per Title IX Regulation changes and approved by the Board of Trustees: October 27, 2020
Updated and approved by the Board of Trustees: April 27, 2021
Revised and approved by the Board of Trustees:

BOARD POLICY 3433 PROHIBITION OF SEXUAL HARASSMENT UNDER TITLE IX

The District recognized that sex discrimination, including sexual harassment and violence, harms all students, undermines students' physical safety, impedes students' ability to learn, and can reinforce social inequality throughout a student's lifetime. The District has a responsibility to make reasonable efforts to respond effectively when sexual harassment is reported to, or observed by, District employees.

All forms of sexual harassment are contrary to basic standards of conduct between individuals. State and federal law and this policy prohibit sexual harassment and the District will not tolerate sexual harassment. The District is committed to providing an academic and work environment that respects the dignity of individuals and groups. The District shall be free of sexual harassment and all forms of sexual intimidation and exploitation including acts of sexual violence.

The District seeks to foster an environment in which all employees, students, applicants for employment, and applicants for admission feel free to report incidents of sexual harassment in violation of this policy and Title IX, without fear of retaliation or reprisal. Therefore, the District also strictly prohibits retaliation against any individual for filing a complaint of sexual harassment in violation of this policy and Title IX or for participating, or refusing to participate, in a sexual harassment investigation. The District will investigate all allegations of Title IX retaliation swiftly and thoroughly. If the District determines that someone has retaliated, it will take reasonable steps within its power to stop such conduct. Individuals who engage in Title IX retaliatory conduct are subject to disciplinary action, up to and including termination or expulsion.

Any employee, student, applicant for employment, or applicant for admission who believes he/she/they has been harassed or retaliated against in violation of this policy should immediately report such incidents by following the procedures described in AP 3434 Responding to Harassment Based on Sex under Title IX. The District requires supervisors to report all incidents of harassment and retaliation that come to their attention.

This policy applies to all aspects of the academic environment, including but not limited to classroom conditions, grades, academic standing, employment opportunities, scholarships, recommendations, disciplinary actions, and participation in any community college activity. In addition, this policy applies to all terms and conditions of employment, including but not limited to hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, training opportunities, and compensation.

To this end, the Chancellor shall ensure that the institution undertakes education and training Activities to counter sexual harassment and to prevent, minimize, or eliminate any hostile environment that impairs access to equal education opportunity or impacts the terms and conditions of employment.

The Chancellor shall establish procedures that define sexual harassment on campus. The Chancellor shall further establish procedures for employees, students, and other members of the campus community that provide for the investigation and resolution of complaints regarding sexual harassment in violation of this policy, and procedures to resolve complaints of sexual harassment in violation of this policy. State and federal law and this policy prohibit retaliatory acts against all participants by the District, its employees, students, and agents.

The District will publish and publicize this policy and related written procedures (including the procedure for making complaints) to administrators, faculty, staff, students, applicants for employment, and applicants for admission, particularly when they are new to the institution. The District will make this policy and related written procedures (including the procedures for making complaints) available in all administrative offices and will post them on the District's website.

Employees who violate the policy and procedures may be subject to disciplinary action up to and including termination. Students who violate this policy and related procedures may be subject to disciplinary measures up to and including expulsion. Volunteers or unpaid interns who violate this policy and related procedures may be subject to disciplinary measure up to and including termination from the volunteer assignment, internship, or other unpaid work experience program.

References:

Title IX of the Education Amendments Act of 1972;
34 Code of Federal Regulations Part 106

Approved the Board of Trustees: October 27, 2020

Revised and approved by the Board of Trustees:

BOARD POLICY 5040 STUDENT RECORDS, DIRECTORY INFORMATION, AND PRIVACY

The Chancellor shall assure that student records are maintained in compliance with applicable federal and state laws relating to the privacy of student records.

The Chancellor shall direct the implementation of appropriate safeguards to assure that student records cannot be accessed or modified by any person not authorized to do so.

Any currently enrolled or former student of the District has a right of access to any and all student records relating to him or her maintained by the District. Upon request by a former student of the District, the District will update and reissue student records to include and updated legal name or gender. These documents include but are not limited to transcripts or a diploma.

Commencing with the 2023-24 graduating class, a graduating student may request the District confer the diploma in the student's chosen name. The District cannot require a graduating student to provide legal documentation to demonstrate a legal name or gender change in order to have the student's chosen name listed on the student's diploma.

No District representative shall release the contents of a student record to any member of the public without the prior written consent of the student, other than directory information as defined in this policy and information sought pursuant to a court order or lawfully issued subpoena, or as otherwise authorized by applicable federal and state laws.

Students shall be notified of their rights with respect to student records, including the definition of directory information contained here, and that they may limit the information.

Directory information shall include:

- Student participation in officially recognized activities and sports including weight, height and high school of graduation of athletic team members.
- Degrees and awards received by students, including honors, scholarship awards, athletic awards and other types of recognition.

References:

Education Code Sections 66271.4 and 76200 et seq.;

Title 5 Sections 54600 et seq.

20 U.S. Code Section 123g(j)

ACCJC Accreditation Standard II.C.8

Approved by the Board of Trustees: June 26, 2012

Revised and approved by the Board of Trustees: July 28, 2015

Revised and approved by the Board of Trustees;

BOARD POLICY 7130 COMPENSATION

Salary schedules, compensation and benefits, including health and welfare benefits, for all classes of employees and each administrator employed pursuant to a contract under Education Code section 72411 shall be established by the Board.

The District shall not provide employees any commission, bonus, or other incentive payment based, directly or indirectly, on the success in securing enrollments of financial aid, to any person or entity engaged in any student recruiting or admission activities or in making decisions regarding the award of student financial assistance.

Reference:

Education Code Sections 70902(b)(4), 87801, and 88160;

Government Code Section 53200;

34 Code of Federal Regulations 668 (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)

Approved by the Board of Trustees: November 13, 2012

Revised and approved by the Board of Trustees: December 8, 2015

Reviewed by the Board of Trustees:

BOARD POLICY 7230 CLASSIFIED EMPLOYEES

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 temporary 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 shall fix and prescribe the duties for each classification of the classified service.

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

The Chancellor shall establish procedures to assure that the requirements of state law and regulations regarding the classified service are met.

The probationary period for classified employees is normally six months **or 130 days of paid service whichever is longer**, but the district may extend the probationary period for an additional six months in accordance with the applicable collective bargaining agreement.

Reference:

Education Code Sections 88003, 88004, 88009, 88013; **and 88120**
Administrative Procedure 7230

Approved by the Board of Trustees: October 9, 2012

Revised and approved by the Board of Trustees:

BOARD POLICY 7340 LEAVES

The Chancellor 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);
- paid sick leave (Labor Code Section 246);
- vacation leave for members of the classified service, administrators, supervisors and managers;
- 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 to serve as an elected member of the 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 87780.1, 87784.5, 88196.1, 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; 88207);
- industrial accident and illness leave (Education Code Sections 87787 and 88192);
- bereavement leave (Education Code Sections 87788 and 88194);
- jury service or appearance as a witness in court; Education Code Sections 87035 and 87036;
- military service; Education Code Section 87700;
- voting (up to two hours); Education Code Section 14000;
- sabbatical leaves for permanent faculty; academic employees, administrators and managers;
- vacation leave for members of the classified service, educational administrators and classified supervisors and managers; employees shall be permitted to take vacation in a timely manner to avoid accumulation of excess vacation;
- unpaid leaves in accordance with collective bargaining agreements or administrative procedures for unrepresented employees; and
- Family and Medical Leave; 29 U.S.C. 2601

In addition to these policies and provisions in collective bargaining agreements, the Board retains the power to grant leaves with or without pay for other purposes or for other periods of time.

References:

Education Code Sections 87763 et seq. and 88190 set seq. and citations above;
29 U.S.C. 2601; 29 CFR Part 825;
Labor Code Sections 245 et seq.;
Administrative Procedures 7340, 7341, 7342, 7343, 7344, 7345, 7346, 7347, 7349

Approved by the Board of Trustees: February 12, 2013
Updated and approved by the Board of Trustees: March 11, 2014
Revised and approved by the Board of Trustees: December 8, 2015
Revised and approved by the Board of Trustees: November 15, 2016
Revised and approved by the Board of Trustees: July 11, 2017
Revised and approved by the Board of Trustees: June 25, 2019
Revised and approved by the Board of Trustees: