



District Assembly Meeting

October 1, 2019

3:00 – 4:00 p.m.

SBCCD Boardroom

114 S. Del Rosa Dr., San Bernardino, CA 92408

AGENDA

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1. **CALL TO ORDER** Jeremiah Gilbert, DA President

 2. **CHANCELLOR'S REPORT** Bruce Baron

 3. **APPROVAL OF MINUTES**
 - A. September 3, 2019 minutes (p3)

 4. **OLD BUSINESS**
 - A. District Assembly Constitution for 2nd Reading & Approval (p6)
 - B. Approval of APs & BPs for 2nd Reading & Approval
 - a. AP/BP 3430 Prohibition of Harassment (p17, p29)
 - b. AP 3435 Discrimination and Harassment Complaints and Investigations (p31)
 - c. AP/BP 3440 Service Animals (p42, p44)
 - d. AP/BP 6750 Parking (p45, p48)
 - e. AP/BP 6751 Parking Citation Payment Plan (p49, p51)
 - f. AP/BP 7450 Mileage Reimbursement (p52, p54)

 5. **NEW BUSINESS**
 - A. PRT Draft Plan for 1st Reading (handout)
 - B. Approval of APs & BPs for 1st Reading & Approval
 - a. AP 3415 Immigration Enforcement Activities (p55)
 - b. AP 6345 Bids and Contracts – UPCCAA (p58)
 - c. AP 6350 Contracts – Construction (p62)
 - d. AP 6365 Contracts – Accessibility of Information Technology (p65)
 - e. AP/BP 7110 Delegation of Authority, Human Resources (p66, p68)
 - f. AP/BP 7236 Substitute and Short Term Employees (p69, p71)

 6. **UPDATES & REPORTS**
 - A. College Educational Master Plan Spring Updates (handout)
 - B. Police Department Update (p72)
 - C. Bond Update (oral report)

7. **PUBLIC COMMENTS**

Any member of the public who wishes to address the Committee on any matter is limited to five minutes. The total time for members of the public to speak on the same or a similar issue shall be limited to 20 minutes. Anyone who requires a disability-related modification or accommodation in order to participate in the public meeting should contact the Chancellor's Office at (909) 382-4091 as far in advance of the meeting as possible.

8. **ADJOURN**

Next Meeting: November 5, 2019



District Assembly Meeting

September 3, 2019

3:00 – 4:00 p.m.

SBCCD Boardroom

114 S. Del Rosa Dr., San Bernardino, CA 92408

MINUTES

1. **CALL TO ORDER** Jeremiah Gilbert, DA President
 - A. Welcome & Introductions
 - B. Meeting Norms & Expectations (p5)

Jeremiah Gilbert called the meeting to order at 3:04pm and led the self-introductions. He reviewed the meeting norms and expectations.

2. **CHANCELLOR'S REPORT** Bruce Baron

Chancellor Baron reported on the Promise Program and its success. FCC auction proceeds was used to purchase three buildings. We anticipate a five percent return from the building rentals, which is dedicated to support the Promise Program. The District Offices and TESS are scheduled to move to the Hospitality Building in mid-October. The classification study is underway. The District had 80 speakers present at conferences and through speaking engagements.

3. **APPROVAL OF MINUTES**
 - A. May 7, 2019 minutes (p6)

Mark McConnell moved approval of the May 7, 2019 minutes. Laurie Green seconded the motion. Unanimous approval.

4. **OLD BUSINESS**
 - A. None

5. **NEW BUSINESS**
 - A. Districtwide Institutional Effectiveness Committee Charge & Membership (p14)

Keith Wurtz moved approval of the Districtwide Institutional Effectiveness Committee Charge & Membership. T.L. Brink seconded the motion. Unanimous approval.

B. District Assembly Constitution for 1st Reading (p15)
Members of the Assembly were asked to review. 2nd reading and vote will take place at the October meeting.

C. Approval of 2019-2020 AP & BP Review Schedule (p26)
Stephanie Lewis moved approval of the 2019-2020 AP & BP Review Schedule. Kevin Horan seconded the motion. Unanimous approval.

D. Approval of APs & BPs for 1st Reading

- a. AP/BP 3430 Prohibition of Harassment (p28,40)
- b. AP 3435 Discrimination and Harassment Complaints and Investigations (p42)
- c. AP/BP 3440 Service Animals (p53,55)

- e. AP/BP 6751 Parking Citation Payment Plan (p60,62)
- f. AP/BP 7540 Mileage Reimbursement (p63,65)

Members of the Assembly were asked to review APs & BPs for first reading and take them back to their constituency groups for feedback. 2nd reading and vote will take place at the October meeting.

- E. Legal Update #33 – Informational Item
 - a. AP 3550 Drug Free Environment and Drug Prevention – *two legal citation amendments (No change to BP)(p66,69)*
AP 3550 had no significant changes and no change to the BP and was submitted to the Assembly for information. **AP & BP 3550 will move forward for Board approval.**

6. UPDATES & REPORTS

- A. PRT Visit Update (p70)
- B. TESS Newsletter (handout)
- C. Webadvisor/SIS Update
- D. Budget Update

Jose Torres distributed a Call to Action whitepaper, which addresses student centered funding formula concerns. Send electronic copy to all members.

7. PUBLIC COMMENTS

Stephanie Lewis requested outstanding balances for SBVC to be reflected in the minutes as CHC balance was referenced in the May minutes:

Spring 2019, 12798 Students, 1709 with Balance Due \$289,375.77
Fall 2018, 12825 Students, 1405 with Balance Due \$313,606.46
Summer 2018, 6347 Students, 452 with Balance Due \$57,843.50
Spring 2018, 12782 Students, 1313 with Balance Due \$195,825.00

From the 5/7/19 minutes: J. Torres reported the policy is students owing less than \$200, but can continue to sign up for classes as long as they are on a payment plan. Students with amounts greater than \$200 must pay in full before subsequent enrollment. L. Green shared possible concerns with students in certificated classes. Outstanding balances from CHC as of April 22, 2019 are as follows: 2019SP \$315,050.75; 2018FA \$189,066.38; 2018SM \$23,163.00; and 2018SP \$81,288.89 for a total of \$608,569.02. SBVC figures were not provided.

Luke Bixler reported Colleague created payment plans. System is not set up to establish payment plans for SBVC. Luke will take the lead with the campuses to establish payment plans.

8. ADJOURN

Next Meeting: October 1, 2019. Meeting adjourned at 4:02pm.

2019-2020 DA Committee
Meeting Attendance Roster

First Name	Last Name	Term Ends (May)	Sept	Oct	Nov	Dec	Feb	Mar	Apr	May
Jeremiah	Gilbert (President)	2020	x							
Mark	McConnell (VP)	2020	x							
Stacey	Nikac (Recorder)	2020	x							
Bruce	Baron	2020	x							
T.L.	Brink	2020	x							
Keynasia	Buffong	2020								
Jeff	Cervantez	2020	x							
Ginny	Evans-Perry	2020	x							
Laurie	Green	2022	x							
Kevin	Horan	2020	x							
Celia	Huston	2020								
Rhiannon	Lares	2020	x							
Stephanie	Lewis	2020	x							
Craig	Luke	2022	x							
Brandi	Mello	2020								
Gabby	Padilla	2020								
Kevin	Palkki	2020	x							
Adrian	Rios	2020								
Stacey	Esparza	2020								
Diana	Rodriguez	2020								
Judy	Rodriguez	2020	x							
Tyrone	Ross	2020								
Jessica	Lopez	2020								
Cyndie	St. Jean	2020	x							
Bethany	Tasaka	2020	x							
Cassandra	Thomas	2022								
Jose	Torres	2020	x							
Keith	Wurtz	2022	x							
Ruby	Zuniga	2020	x							



District Assembly Constitution

ARTICLE 1: NAME

This organization shall be known as the District Assembly of the San Bernardino Community College District and shall be referred to as the Assembly in these Articles.

ARTICLE 2: PURPOSE

District Assembly is the primary district-wide body ensuring that each appropriate constituent group participates in the decision-making process. Members of the Assembly advise and make recommendations to the Chancellor regarding district-wide governance, institutional planning, budgeting, and policies and procedures that promote the educational mission and goals of the San Bernardino Community College District. The Assembly shall be subject to the Ralph M. Brown Act, Sections 54950 et. seq. of the Government Code.

ARTICLE 3: MEMBERSHIP

There will be 3 types of Members in the Assembly:

SECTION 1: GENERAL MEMBERSHIP

The General Membership shall be elected from the recognized constituent groups as defined below:

- a. The Faculty of Crafton Hills College will elect 2 members of the Assembly.
- b. The Faculty of San Bernardino Valley College will elect 3 members of the Assembly.
- c. The Classified Staff¹ of the District (as defined by the Board of Governors of the California Community Colleges Minimum Standards for Staff Participation in Governance, dated January 10, 1991) will elect 3 members of the Assembly¹. Representation of the Classified Staff from the 3 District areas will be as follows:
 - i. From the Central Services Staff: 1 member
 - ii. From Crafton Hills College Staff: 1 member
 - iii. From San Bernardino Valley College Staff: 1 member

¹ To satisfy Education Code section 70901.2, ~~one-two~~ Classified representatives from the General Membership (as defined in Article 3, Section 3 c) are to be appointed by CSEA.

- d. The Management Staff of the District (as defined by the Board of Governors of the California Community Colleges Minimum Standards for Staff Participation in Governance, dated January 10, 1991) will elect 3 members of the Assembly. Representation of the Management Staff from the 3 District areas will be as follows:



District Assembly Constitution

- i. From District Staff: 1 member
 - ii. From Crafton Hills College Staff: 1 member
 - iii. From San Bernardino Valley College Staff: 1 member
- e. The ~~ASB from San Bernardino Valley College Student Senate at each college and Crafton Hills College~~ will each elect one primary member of the Assembly and one alternate member, who will serve when the primary member is unable to attend. ~~The AS-CHC Student Senate President will appoint an individual and an alternate to serve on the Assembly and it will be ratified by the Student Senate. Then both, -The~~ names will be forwarded to the Assembly ~~designee~~recorder.

SECTION 2: STANDING MEMBERSHIP

The Ex-Officio Membership is made up of those individuals whose position in the collegiate structure of the District makes their presence in the Assembly essential to the successful completion of its goals. The Standing Membership will consist of:

- a. The Chancellor of the District
- b. The President of Crafton Hills College
- c. The President of San Bernardino Valley College
- d. The President of the CHC Academic Senate
- e. The President of the SBVC Academic Senate
- f. The President of the CHC Classified Senate
- g. The President of the SBVC Classified Senate
- h. The President of the CHC Student Body Assoc.
- i. The President of the SBVC Student Body Assoc.
- i-j. The Executive Director of Research, Planning, and Institutional Effectiveness

SECTION 3: VESTED MEMBERSHIP

- a. Collective Bargaining Agencies
The President/Designee of each recognized Collective Bargaining Agency (CSEA and CTA) will be a Vested Member of the Assembly and will represent its members in the Assembly.
- b. Advocacy Groups
Identified Advocacy Groups shall consist of recognized memberships that share common goals and ideals. Moreover, their membership must make up a part of the employee pool in the District. Each identified Advocacy Group shall be represented by one Vested



District Assembly Constitution

Member elected from a slate of candidates nominated from the membership of that Advocacy Group.

Any Advocacy Group made up of employees of the District may apply to be recognized.

~~The responsibility of determining which Advocacy Groups, as defined above, are recognized and how the representatives are elected rests with the Assembly.~~ At the end of each academic year, the Assembly President will notify the District Advocacy Groups of the opportunity to be recognized for the subsequent year.

As long as the Advocacy Group remains active in the District, it may retain its position on the Assembly by annually re-electing its representative. The Vested Membership will consist of:

- i. Black Faculty & Staff Association
- ii. Latino Faculty & Staff Association
- iii. CTA President
- iv. CSEA President
- v. Confidential Group

SECTION 4: QUALIFICATIONS OF MEMBERSHIP

The Assembly shall be the sole judge of the qualifications of its members.

SECTION 5: FILLING VACANCIES

In the event of a vacancy in the General Membership (as defined in Article 3, Section 1), a replacement Member will be selected by a caucus of the remaining members of the recognized constituent group. The replacement members will serve until the next regular election.

In the event of a vacancy in one of the represented Advocacy Groups in the Vested Membership (as defined in Article 3, Section 3 b) a replacement member will be selected by a special election conducted by that Advocacy Group. The replacement will serve until the next regular election.

ARTICLE 4: ELECTIONS

SECTION 1: ELECTIONS COMMITTEE



District Assembly Constitution

Elections for membership in the Assembly will be conducted by the Elections Committee chaired by the Vice President of the Assembly. ~~Elections will be conducted according to the principles of the Brown Act.~~

SECTION 2: GENERAL MEMBERSHIP

The General Membership is made up of elected and appointed representatives from the constituent groups that are identified and defined under Article 3, Section 1: General Membership.

The Classified Staff and the Management Staff are further defined as being primarily employed at the Central Services site, Crafton Hills College, or San Bernardino Valley College. If a Staff member divides his/her time between two or more of the identified areas, the Staff member must select one area for the purpose of representation in the election for the General Membership of the Assembly.

SECTION 3: VESTED MEMBERSHIP

The Vested Membership filled by election is made up of representatives from the identified Advocacy Groups that have petitioned the Assembly for representation. Each recognized Advocacy Group will elect a single representative from a slate of candidates nominated from that Advocacy Group.

SECTION 4: NOMINATIONS

- a. Any full-time (50% or more) employee of the District can be nominated for General Membership by the written application of three peers.
- b. Each nominated candidate must agree to serve before being placed on the ballot for election.
- c. Notice of Election and Nomination form will be emailed to all constituent and advocacy groups no later than March 10.
- b.d. Nominations must be received by the Chair of the Election Committee no later than March 31.

SECTION 5: TERM OF OFFICE

The term of office for the elected members shall be two (2) years. For the sake of continuity in the membership of the Assembly, terms will be staggered, with half of the members elected each year.



District Assembly Constitution

SECTION 6: DATE OF ELECTION

Elections will be held ~~in the Spring~~April of each year. Service in the Assembly will commence ~~with the first official faculty meeting following elections on the first Tuesday in September.~~

SECTION 7: ELECTIONS COMMITTEE – RULES AND PROCEDURES

The following rules and procedures will be in effect:

- a. The Vice President of the Assembly will email the Notice of Election and Nomination form to all constituent and advocacy groups no later than March 10.
- ~~a.b.~~ Upon close of nominations (no later than March 31), a Doodle poll will be emailed to each member of the constituent and/or advocacy group to break any ties. ~~ballot will be mailed via District mail to each member of the Constituent Advocacy Group.~~
- ~~b.c.~~ All contract members (50% or more) of the Constituent or Advocacy Group are eligible to vote only for their respective group at their respective site.
- ~~c.~~ Ballots shall be returned to designated areas, on each campus and the District Office, as determined by the Elections Committee.
- ~~d.~~ Ballot envelopes must be signed by the voter. Ballots in unsigned envelopes will not be counted.
- ~~e.~~ Voters must place their ballot in the designated receptacle and sign a voter registration list at the voting area.
- ~~f.~~ Ballots will be opened, signatures validated, and counted by the Elections
- ~~g.~~ Committee.
- ~~h.d.~~ Results of the election will be posted at each ~~voting area~~site and an email announcement will be sent district-wide no later than April 15. An invitation to attend the May Assembly meeting shall be sent to all elected members who will serve as members of the Assembly for the upcoming academic year.-

ARTICLE 5: OFFICERS ~~(REVISED 11/4/97)~~

SECTION 1: DUTIES

Officers of the Assembly shall be President, Vice President, and Recorder. The President and Vice President shall be elected from the Membership. The Recorder's position shall be filled by the Administrative Officer~~Executive Administrative Assistant~~ to the Chancellor. All members, with the exception of the Chancellor and the College Presidents, are eligible to hold office. Duties of the elected officers shall be:



District Assembly Constitution

a. President of the Assembly

The President will preside at all meetings and will, in consultation with the ~~Executive Council~~Executive Committee, set the agenda for the meetings. The President will represent the Assembly whenever it becomes necessary for the views of the Assembly to be presented orally to the Board of Trustees or any other body. The following responsibilities are representative of the Assembly needs and may be amended by the Assembly as needed:

- i. Work with the Chancellor, respective senates, College Councils, and other District representative bodies to identify key issues to be dealt with by the Assembly.
- ii. Participate as an active member of the District Budget Committee.
- ~~iii. Report important Assembly activities to the Academic Senate at the school the President represents.~~
- ~~iv.~~iii. Work with the Assembly ad hoc committees to ensure assigned tasks are completed in a timely manner.
- ~~v. Report important Assembly activities to the District Board.~~
- ~~vi.~~iv. Participate in shared governance activities at each campus as invited.
- ~~vii.~~v. Participate in governance activities at the District, including but not limited to participating on management evaluation committees.
- vi. Co-chair the Calendar Committee (or designate a co-chair from the Assembly).
- ~~viii.~~vii. At the end of each academic year, the Assembly President will notify the District Advocacy Groups of the opportunity to be recognized for the subsequent year.

b. Vice President of the Assembly

The Vice President will serve in the capacity of President in the absence of the President and will chair the Elections Committee. The following additional responsibilities are representative of the Assembly needs and may be amended by the Assembly as needed:

- i. Meet with the Assembly Executive Committee to assist in setting the agenda.
- ~~ii. Report important Assembly activities to the Academic Senate at the school the Vice President represents.~~
- ~~iii.~~ii. Participate as an active member of the District Training Committee.
- ~~iv.~~iii. Work with the Assembly ad hoc committees to ensure assigned tasks are completed in a timely manner.
- ~~v.~~iv. Participate in shared governance activities at each campus as invited.



District Assembly Constitution

- ~~vi.v.~~ vi.v. Participate on campus committees that require input from the Assembly.
- ~~vii.vi.~~ vii.vi. Participate in governance activities at the district, including but not limited to participating on management evaluation committees.

c. Recorder

The recorder shall be responsible for records and minutes of the meetings and for the distribution of the minutes to the membership in a timely manner. The minutes shall record all formal action taken by the Assembly and shall reflect the essence of the discussion concerning issues brought before the Assembly.

SECTION 2: ELECTION OF OFFICERS

Officers will be elected from the Membership ~~at the first meeting following the election of Members in the spring in May.~~ Elected Officers will assume the duties of office ~~at the beginning of the academic year on the first Tuesday in September.~~ Voting membership will consist of those members who will serve as members of the Assembly for the upcoming academic year.

SECTION 3: TERM OF OFFICE

Officers will serve a term of one (1) year. Officers may succeed themselves in office.

SECTION 4: VACANCIES IN OFFICE

In the event that the Office of President becomes vacant, the Vice President shall assume the duties of President for the remainder of the term and a new Vice President will be elected. In the event of a vacancy in the Office of Vice President the vacant office will be filled by an election at the first regular meeting following the notice of vacancy. A vacancy in the Recorder's position will be filled by the Chancellor, or designee.

SECTION 5: REMOVAL FROM OFFICE

Any motion to suspend the term of any Officer of the Assembly shall become the first item of business at the next regularly scheduled meeting. A special quorum of two-thirds of the membership is required before the motion may be brought to a vote. A two-thirds majority of those members present and voting and constituting at least 51% of the total membership is required for passage of the motion to suspend the term of office.

ARTICLE 6: ~~EXECUTIVE COUNCIL~~ EXECUTIVE COMMITTEE

SECTION 1: MEMBERSHIP



District Assembly Constitution

The ~~Executive Council~~Executive Committee of the Assembly shall consist of the Chancellor, the two College Presidents, the two Academic Senate Presidents, the two Classified Senate Presidents, one student representative and the Officers of the Assembly. Meetings of the ~~Executive Council~~Executive Committee will be chaired by the President of the Assembly.

SECTION 2: MEETINGS

The ~~Executive Council~~Executive Committee shall meet as often as necessary but at least once before each regular Assembly meeting and shall set the agenda for the regular meetings. More frequent meetings may be scheduled by the President of the Assembly if deemed necessary.

SECTION 3: AGENDA

Agenda items may be submitted to the ~~Executive Council~~Executive Committee by any member of the Assembly or any employee of the SBCCD. Agenda items must be submitted in writing. Those items that require Assembly action must include a written summary and supporting documents.

ARTICLE 7: MEETINGS

SECTION 1: REGULAR AGENDA MEETINGS

Meetings will be held on the first Tuesday of each month, except in January, June, July, and August during the regular academic year which are dark. Regular Assembly meetings will be held at the District Office. Unless otherwise specified, meetings will commence at 3:00 pm. If an issue to be addressed by the Assembly is of particular importance to either campus, the meeting will be held on that campus or on each campus in two consecutive months. Announcements of Assembly meetings on the campus will be made at least two weeks prior to the meeting, if possible.

SECTION 2: SPECIAL AGENDA MEETINGS

“Special meetings” may be called by the President of the Assembly. Members of the Assembly must be notified of “special meetings” in a timely manner. The meeting notice must identify the reasons for the “special meeting” and only the specific issue identified may be discussed and/or acted on at this meeting. No other business will be conducted.

SECTION 3: QUORUM

- a. At Regular Agenda Meetings a Quorum shall consist of the members present 10 minutes following the time the regular meeting is scheduled to start.



District Assembly Constitution

- b. At Special Agenda Meetings a Quorum shall consist of at least two (2) members from each recognized constituent group (as defined in Article 3, section 1).
- c. Once a Quorum has been established, the meeting shall be terminated only by a successful motion to adjourn the meeting.

SECTION 4: OPEN MEETINGS

All meetings of the Assembly are open. An opportunity for public comment will be a consistent item on the agenda.

SECTION 5: CONDUCT OF BUSINESS

All business shall be conducted in a manner consistent with the spirit of Shared Governance. Decisions will be reached by consensus whenever possible. When consensus cannot be reached, issues of a general concern will be decided by a simple majority vote. Voting shall be by voice or show of hands when appropriate. ~~A secret ballot shall be available on demand.~~ Each member shall have one vote.

SECTION 6: DISPOSITION OF ISSUES

In the spirit of Shared Governance, the Chancellor will normally accept the recommendations of the Assembly in matters of District policy and procedures; and, when appropriate, forward these recommendations to the Board of Trustees. If the Chancellor does not agree with the Assembly recommendations, both views will be forwarded to the Board of Trustees in writing, and copies of the written recommendations will be presented to the members of the Assembly.

SECTION 7: REGULAR ATTENDANCE

Regular attendance by the Membership of the Assembly is essential to the success ~~of the aims and goals~~ of the Assembly. ~~—~~The Assembly may establish rules and procedures to encourage prompt and regular attendance.

SECTION 8: PARLIAMENTARY PROCEDURE

Roberts Rules of Order (revised) shall govern the parliamentary proceedings at all meetings unless otherwise provided for herein.

ARTICLE 8: COMMITTEES



District Assembly Constitution

The Assembly shall have the right to establish committees in order to conduct the business of the Assembly. Committee membership will be appointed by the ~~Executive Council~~Executive Committee of the Assembly and will be ratified by the Assembly as a whole.

ARTICLE 9: DISTRICT RESPONSIBILITIES

SECTION 1: FACULTY AND STAFF PARTICIPATION ~~(Revised 11/7/00)~~

The success of the mission of the Assembly depends on the effective participation of all of the constituent groups. To provide the time necessary for the Assembly to do its work, the District allocates to the Assembly reassigned time equivalent to .9 FTE, to be used as follows:

- a. President of the Assembly 0.4 FTE
- b. Vice President of the Assembly 0.1 FTE*
*The remaining 0.4 reassigned time is to be used at the discretion of the Executive Committee and can be granted to members who take on special tasks.
- c. Classified staff who are elected to these offices and for whom reassigned time is impractical will be compensated with an appropriate stipend, to be determined by the Executive Committee ~~and reviewed by that committee annually~~. Faculty who are elected to these offices can elect either the stipend described above or the reassigned time.

SECTION 2: SUPPORT PERSONNEL

The success of the mission of the Assembly depends on the effective communication of the Assembly with the various constituencies represented by Assembly membership. In order to accomplish this goal of effective communication, the District will provide clerical assistance ~~for 20 hours per week~~ and appropriate office space as necessary.

ARTICLE 10: AMENDMENTS

Any Assembly member may propose an amendment. Amendments to the Constitution must be submitted in writing to the ~~Executive Council~~Executive Committee for review prior to its presentation to the whole Assembly. The first presentation to the full Assembly shall constitute the First Reading where the proposed amendment can be debated. No vote may be taken on a proposed amendment until the next regular meeting following the First Reading. The provision for First Reading may be waived by the unanimous approval of the whole Assembly. Amendments to the Constitution of the District Assembly will require a two-thirds majority vote of the members present and voting for approval. The approving vote must constitute at least 51% of the total membership of the Assembly.



As of 8/21/19~~4/23/19~~

District Assembly Constitution

Revised: Spring 2005, 4/4/17, 10/2/18, 4/24/19



Origination:	N/A
Last Approved:	N/A
Last Revised:	N/A
Next Review:	N/A
Owner:	<i>Chancellor's Cabinet</i> <i>Chancellor's Cabinet:</i>
Policy Area:	<i>Chapter 3 General Institution</i>
References:	

AP 3430 Prohibition of Harassment

Procedures for handling complaints of unlawful discrimination under title 5 sections 59300 ET SEQ.

(Replaces current SBCCD ~~BPAP~~ 3430)

Introduction and Scope

The District is committed to providing an academic and work environment free of unlawful discrimination and harassment. This procedure defines discrimination and other forms of harassment on campus, and sets forth a procedure for the investigation and resolution of complaints of discrimination by or against any staff or faculty member within the District.

This procedure and the 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 program sponsored by the District at another location.

These are procedures for filing and processing complaints of unlawful discrimination at San Bernardino Community College District. These procedures incorporate the legal principles contained in nondiscrimination provisions of the California Code of Regulations, title 5, sections 59300 et seq. as well as other state and federal substantive and procedural requirements.

A copy of relevant procedures on unlawful discrimination will be displayed in a prominent location in the Office of Human Resources, San Bernardino Valley College President's Office, Crafton Hills College President's Office and other areas where notices regarding the institution's rules, regulations, procedures, and standards of conduct are posted.

Authority: 20 U.S.C. § 1681 et seq.; Ed. Code, §§ 66270, 66271.1, 66281.5; Gov. Code, §§ 11135-11139.5; Cal. Code Regs., tit. 5, § 59326. Reference: Cal. Code Regs., tit. 5, §§ 59300 et seq.; 34 C.F.R. § 106.8(b).

The San Bernardino Community College District hereby implements the provisions of California Government Code sections 11135 through 11139.5, the Sex Equity in Education Act (Ed. Code, § 66250 et seq.), title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d), Board Approved February 2010

U.S.C. § 794), section 508 of the Rehabilitation Act of 1973 (29 U.S.C. § 794d), the Americans with Disabilities Act of 1990 (42 U.S.C. §§ 12100 et seq.) and the Age Discrimination Act (42 U.S.C. § 6101).

Authority: Cal. Code Regs., tit. 5, § 59300; Ed. Code §§ 66250 et seq., 66271.1, 66700, and 70901; Gov. Code § 11138. Reference: Ed. Code §§ 66250 et seq. and 72011; Gov. Code, §§ 11135-11139.5; Penal Code §§ 422.6 and 422.55; 20 U.S.C. § 1681; 29 U.S.C. §§ 794 and 794d; 42 U.S.C. §§ 6101, 12100 et seq. and

2000d; 36 C.F.R. § 1194.

Responsible District Officer

The San Bernardino Community College District has identified the Vice Chancellor of Human Resources & Employee Relations to the State Chancellor's Office and to the public as the single District officer responsible for receiving unlawful discrimination complaints filed pursuant to title 5, section 59328, and for coordinating their investigation and resolution. Informal charges of unlawful discrimination should be brought to the attention of the Vice Chancellor of Human Resources & Employee Relations, who shall oversee the informal resolution process pursuant to section 59327. The actual investigation of complaints may be assigned to other staff or to outside persons or organizations under contract with the District. Such delegation procedures will be used whenever the Vice Chancellor is named in the complaint or is implicated by the allegations in the complaint.

Administrators, faculty members, other District employees, and students shall direct all complaints of unlawful discrimination to the Vice Chancellor of Human Resources & Employee Relations.

Authority: Cal. Code Regs., tit. 5, § 59324; 34 C.F.R. § 106.8.

Informal/Formal Complaint Procedure

(see Complaint Procedure Checklist at the end of the procedure)

When a person brings charges of unlawful discrimination to the attention of the Vice Chancellor of Human Resources & Employee Relations, he/she will:

- Undertake efforts to informally resolve the charges;
- Advise the complainant that he or she need not participate in informal resolution;
- Notify the person bringing the charges of his or her right to file a formal complaint and explain the procedure for doing so;
- Assure the complainant that he or she will not be required to confront, or work out problems with, the person accused of unlawful discrimination;
- Advise the complainant that he or she may file a nonemployment-based complaint with the Office for Civil Rights of the U.S. Department of Education (OCR) where such a complaint is within that agency's jurisdiction.
- If the complaint is employment-related, the complainant should also be advised that he or she may file a complaint with the U.S. Equal Employment Opportunity Commission (EEOC) and/or the California Department of Fair Employment and Housing (DFEH) where such a complaint is within that agency's jurisdiction.

Efforts at informal resolution need not include any investigation unless the responsible District officer determines that an investigation is warranted by the seriousness of the charges. Selecting an informal resolution does not extend the time limitations for filing a formal complaint. Efforts at informal resolution may continue after the filing of a formal written complaint, but after a complaint is filed an investigation is required to be conducted pursuant to title 5, section 59334, and will be completed unless the matter is informally resolved and the complainant dismisses the complaint. Even if the complainant does dismiss the complaint, the responsible district officer may require the investigation to continue if he or she determines that the allegations are serious enough to warrant an investigation. Any efforts at informal resolution after the filing of a written complaint will not exceed the 90-day period for rendering the administrative determination pursuant to title 5, section 59336.

In employment-related cases, if the complainant also files with the Department of Fair Employment and

Housing or with the U.S. Equal Employment Opportunity Commission, a copy of that filing will be sent to the State Chancellor's Office requesting a determination of whether a further investigation under title 5 is required. Unless the State Chancellor's Office determines that a separate investigation is required, the District will discontinue its investigation under title 5 and the matter will be resolved through the Department of Fair Employment and Housing or the U.S. Equal Employment Opportunity Commission.

The District will allow for representation where required by law and may allow for representation for the accused and complainant in other circumstances on a case by case basis.

Authority: Cal. Code Regs., tit. 5, §§ 59327, 59328, 59334, 59336, and 59339; NLRB v. Weingarten, Inc. (1975) 420 U.S. 251.

Filing of Formal Written Complaint

If a complainant decides to file a formal written unlawful discrimination complaint against the District, he or she must file the complaint on a form prescribed by the State Chancellor. These approved forms are available from the District and also at the State Chancellor's website, as follows:

<http://www.cccco.edu/SystemOffice/Divisions/Legal/Discrimination/tabid/294/Default.aspx>

The completed form must be filed with the District representative or mailed directly to the State Chancellor's Office of the California Community Colleges. Complainants may contact the Vice Chancellor of Human Resources & Employee Relations for assistance in filling out the form, if necessary.

Once a complaint is filed, the individual(s) accused of engaging in prohibited discriminatory conduct shall be advised of that filing and the general nature of the complaint. This should occur as soon as possible and in a manner that is appropriate under the circumstances. The District will also advise the accused that an assessment of the accuracy of the allegations has not yet been made, that the complaint will be investigated, that the accused will be provided an opportunity to present his/her side of the matter, and that any conduct that could be viewed as retaliatory against the complainant or any witnesses must be avoided.

Authority: Cal. Code Regs., tit. 5, §§ 59311 and 59328.

Threshold Requirements Prior to Investigation of a Formal Written Complaint

When a formal written complaint is filed it will be reviewed to determine if the complaint meets the following requirements:

- The complaint must be filed on a form prescribed by the State Chancellor's Office.
- The complaint must allege unlawful discrimination prohibited under title 5, section 59300.
- The complaint must be filed by one who alleges that he or she has personally suffered unlawful discrimination or by one who has learned of such unlawful discrimination in his or her official capacity as a faculty member or administrator.
- In any complaint alleging discrimination in employment, the complaint shall be filed within 180 days of the date the alleged unlawful discrimination occurred, except that this period will be extended by no more than 90 days following the expiration of that 180 days if the complainant first obtained knowledge of the facts of the alleged violation after the expiration of 180 days.

Authority: Cal. Code Regs., tit. 5, § 59328.

Defective Complaint

If a complaint is found to be defective it will be immediately returned to the complainant with a complete explanation of why an investigation will not be initiated under California Code of Regulations, title 5, section 59300 et seq. The notice will inform the complainant that the complaint does not meet the requirements of section 59328, and shall specify in what requirement the complaint is defective. A copy of the notice to the complainant will also be sent to the State Chancellor's Office.

Authority: Cal. Code Regs., tit. 5, §§ 59328, 59332.

Notice to State Chancellor or District

A copy of all formal complaints filed in accordance with the title 5 regulations will be forwarded to the State Chancellor's Office immediately upon receipt, regardless of whether the complaint is brought by a student or by an employee. Similarly, when the State Chancellor's Office receives a complaint a copy will be forwarded to the District.

Authority: Cal. Code Regs., tit. 5, § 59330.

Administrative Determination

In any case not involving employment discrimination, within 90 days of receiving an unlawful discrimination complaint filed under title 5, sections 59300 et seq., the responsible District officer will complete the investigation and forward a copy of the investigative report to the State Chancellor, a copy or summary of the report to the complainant, and written notice setting forth all the following to both the complainant and the State Chancellor:

- the determination of the chief executive officer or his/her 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 the Department of Fair Employment and Housing.

The District will keep these documents on file for a period of at least three years after closing the case, and make them available to the State Chancellor upon request.

The San Bernardino Community College District recognizes the importance of and is therefore committed to completing investigations and resolving complaints as quickly as possible, consistent with the requirements for a thorough investigation.

Authority: Cal. Code Regs., tit. 5, § 59336.

Complainant's Appeal Rights

Complainants have appeal rights that they may exercise if they are not satisfied with the results of the District's administrative determination. At the time the administrative determination and summary is mailed to the complainant, the responsible District officer or his/her designee shall notify the complainant of his or her appeal rights as follows:

- First level of appeal: The complainant has the right to file an appeal to the District's governing board within 15 days from the date of the administrative determination. The District's governing board will review

the original complaint, the investigative report, the administrative determination, and the appeal.

- The District's governing board will issue a final District decision in the matter within 45 days after receiving the appeal. Alternatively, the District's governing board may elect to take no action within 45 days, in which case the original decision in the administrative determination will be deemed to be affirmed and shall become the final District decision in the matter. A copy of the final decision rendered by the District's governing board will be forwarded to the complainant and to the State Chancellor's Office.

Complainants must submit all appeals in writing.

Authority: Cal. Code Regs., tit. 5, §§ 59338 and 59339.

Extensions

If for reasons beyond its control, the District is unable to comply with the 90-day or 150-day deadlines specified above for submission of materials to the complainant and the State Chancellor's Office, the Vice Chancellor of Human Resources & Employee Relations will file a written request that the State Chancellor grant an extension of the deadline. Where an extension is deemed necessary by the District, it must be requested from the State Chancellor regardless of whether the case involves employment discrimination. The request will be submitted no later than 10 days prior to the expiration of the deadlines established by title 5 in sections 59336 and/or 59340 and will set forth the reasons for the request and the date by which the District expects to be able to submit the required materials.

A copy of the request for an extension will be sent to the complainant, who will be advised that he or she may file written objections with the State Chancellor within 5 days of receipt. The State Chancellor may grant the request unless delay would be prejudicial to the investigation. If an extension of the 90-day deadline is granted by the State Chancellor the 150-day deadline is automatically extended by an equal amount.

Authority: Cal. Code Regs., tit. 5, § 59342.

Definitions

Definitions applicable to nondiscrimination policies are as follows:

Appeal means a request by a complainant made in writing to the San Bernardino Community College District governing board pursuant to title 5, section 59338, and/or to the State Chancellor's Office pursuant to title 5, section 59339, to review the administrative determination of the District regarding a complaint of discrimination.

Association with a person or group with these actual or perceived characteristics includes advocacy for or identification with people who have one or more characteristics of a protected category listed under "Unlawful Discrimination Policy" and title 5, section 59300, participation in a group associated with persons having such characteristics, or use of a facility associated with use by such persons.

Complaint means a written and signed statement meeting the requirements of title 5, section 59328 that alleges unlawful discrimination in violation of the nondiscrimination regulations adopted by the Board of Governors of the California Community Colleges, as set forth at title 5, sections 59300 et seq.

Days means calendar days.

District means the San Bernardino Community College District or any District program or activity that is funded directly by the state or receives financial assistance from the state. This includes the District Personnel Commission and any other organization associated with the District or its college(s) that receives state funding or financial assistance through the District.

Gender means sex, and includes a person's gender identity and gender related appearance and behavior whether or not stereotypically associated with the person's assigned sex at birth.

General Harassment is based on race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation of any person, military and veteran status, or the perception that a person has one or more of these characteristics is illegal and violates District policy. Harassment is found where, ~~in the aggregate, incidents are sufficiently pervasive, persistent, or severe~~ a reasonable person with the same characteristics as the victim of the harassing conduct would be adversely affected to a degree that a reasonable person ~~interferes with the same characteristics as the victim of the harassing conduct would be adversely affected to a degree that interferes with~~ his or her ability to participate in or to realize the intended benefits of an institutional activity, employment, or resource.

Sexually harassing conduct can occur between people of the same or different genders. The standard for determining whether conduct constitutes sexual harassment is whether a reasonable person of the same gender as the victim would perceive the conduct as harassment based on sex.

Gender-based harassment does not necessarily involve conduct that is sexual. Any hostile or offensive conduct based on gender can constitute prohibited harassment if it meets the definition above. For example, repeated derisive comments about a person's competency to do the job, when based on that person's gender, could constitute gender-based harassment. Harassment comes in many forms, including but not limited to the following conduct that could, depending on the circumstances, meet the definition above, or could contribute to a set of circumstances that meets the definition:

Verbal: Inappropriate or offensive remarks, slurs, jokes or innuendoes based on a person's race, gender, sexual orientation, or other protected status. This may include, but is not limited to, inappropriate comments regarding an individual's body, physical appearance, attire, sexual prowess, marital status, or sexual orientation; unwelcome flirting or propositions, demands for sexual favors, verbal abuse, threats or intimidation; or sexist, patronizing or ridiculing statements that convey derogatory attitudes based on gender, race, nationality, sexual orientation or other protected status.

Physical: Inappropriate or offensive touching, assault, or physical interference with free movement. This may include, but is not limited to kissing, patting, lingering or intimate touches, grabbing, pinching, leering, staring, unnecessarily brushing against or blocking another person, whistling or sexual gestures. It also includes any physical assault or intimidation directed at an individual due to that person's gender, race, national origin, sexual orientation or other protected status. Physical sexual harassment includes acts of sexual violence, such as rape, sexual assault, sexual battery, and sexual coercion. Sexual violence refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol. An individual also may be unable to give consent due to an intellectual or other disability.

Visual or Written: The display or circulation of visual or written material that degrades an individual or group based on gender, race, nationality, sexual orientation, or other protected status. This may include, but is not limited to, posters, cartoons, drawings, graffiti, reading materials, computer graphics, or electronic media transmissions.

Environmental: A hostile academic or work environment may exist where it is permeated by sexual innuendo; insults or abusive comments directed at an individual or group based on gender, race, nationality, sexual orientation, or other protected status; or gratuitous comments regarding gender, race, sexual orientation, or other protected status that are not relevant to the subject matter of the class or activities on the job. A hostile environment can arise from an unwarranted focus on sexual topics or sexually suggestive statements in the

classroom or work environment. It can also be created by an unwarranted focus on, or stereotyping of, particular racial or ethnic groups, sexual orientations, genders or other protected statuses. An environment may also be hostile toward anyone who merely witnesses unlawful harassment in his/her immediate surroundings, although the conduct is directed at other(s). The determination of whether an environment is hostile is based on the totality of the circumstances, including such factors as the frequency of the conduct, the severity of the conduct, whether the conduct is humiliating or physically threatening, and whether the conduct unreasonably interferes with an individual's learning or work.

Mental disability includes, but is not limited to, all of the following:

- Having any mental or psychological disorder or condition, such as mental retardation, organic brain syndrome, emotional or mental illness, or specific learning disabilities, that limits a major life activity. For purposes of this section:
 - Limits" shall be determined without regard to mitigating measures, such as medications, assistive devices, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.
 - A mental or psychological disorder or condition limits a major life activity if it makes the achievement of the major life activity difficult.
 - Major life activities shall be broadly construed and shall include physical, mental, and social activities and working.
- Any other mental or psychological disorder or condition not described in paragraph (1) that requires specialized supportive services.
- Having a record or history of a mental or psychological disorder or condition described in paragraph (1) or (2), which is known to the District.
- Being regarded or treated by the District as having, or having had, any mental condition that makes achievement of a major life activity difficult.
- Being regarded or treated by the District as having, or having had, a mental or psychological disorder or condition that has no present disabling effect, but that may become a mental disability as described in paragraph 1 or 2.

Mental disability does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.

Physical disability includes, but is not limited to, all of the following:

- Having any physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss that does both of the following:
 - Affects one or more of the following body systems: neurological, immunological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine.
 - Limits a major life activity. For purposes of this section:
 - Limits" shall be determined without regard to mitigating measures such as medications, assistive devices, prosthetics, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.
 - A physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss limits a major life activity if it makes the achievement of the major life activity difficult.
 - Major life activities shall be broadly construed and include physical, mental, and social activities and working.

- Any other health impairment not described in paragraph (1) that requires specialized supportive services.
- Having a record or history of a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment described in paragraph (1) or (2), which is known to the District.
- Being regarded or treated by the District as having, or having had, any physical condition that makes achievement of a major life activity difficult.
- Being regarded or treated by the District as having, or having had, a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment that has no present disabling effect but may become a physical disability as described in paragraph 1 or 2.

Physical disability does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.

Quid Pro Quo sexual harassment occurs when a person in a position of authority makes educational or employment benefits conditional upon an individual's willingness to engage in or tolerate unwanted sexual conduct.

Responsible District Officer means the officer identified by the District to the State Chancellor's Office as the person responsible for receiving complaints filed pursuant to title 5, section 59328, and coordinating their investigation. The Responsible District Officer for San Bernardino Community College District is the Vice Chancellor of Human Resources and Employee Relations.

Sex includes, but is not limited to, pregnancy, childbirth, or medical conditions related to pregnancy or childbirth. 'Sex' also includes, but is not limited to, a person's gender, as defined in section 422.56 of the Penal Code. Discrimination on the basis of sex or gender also includes sexual harassment.

Sexual harassment is unlawful discrimination in the form of unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone from or in the workplace or in the educational setting, and includes but is not limited to:

- Making unsolicited written, verbal, physical, and/or visual contacts with sexual overtones. (Examples of possible sexual harassment that appear in a written form include, but are not limited to: suggestive or obscene letters, notes, and/or invitations. Examples of possible visual sexual harassment include, but are not limited to: leering, gestures, display of sexually aggressive objects or pictures, cartoons, or posters.)
- Continuing to express sexual interest after being informed that the interest is unwelcome.
- Making reprisals, threats of reprisal, or implied threats of reprisal following a rebuff of harassing behavior. The following are examples of conduct in an academic environment that might be found to be sexual harassment: threatening to withhold, or actually withholding, grades earned or deserved; suggesting a poor performance evaluation will be prepared; or suggesting a scholarship recommendation or college application will be denied.
- Engaging in explicit or implicit coercive sexual behavior within the work environment which is used to control, influence, or affect the employee's career, salary, and/or work environment.
- Engaging in explicit or implicit coercive sexual behavior within the educational environment that is used to control, influence, or affect the educational opportunities, grades, and/or learning environment of a student.
- Offering favors or educational or employment benefits, such as grades or promotions, favorable performance evaluations, favorable assignments, favorable duties or shifts, recommendations, reclassification, etc., in exchange for sexual favors.
- Awarding educational or employment benefits, such as grades or duties or shifts, recommendations, reclassification, etc., to any student or employee with whom the decision maker has a sexual relationship

and denying such benefits to other students or employees.

- Unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature made by someone from, or in, the work or educational setting when:
 - Submission to the conduct is explicitly or implicitly made a term or condition of an individual's employment, academic status, or progress.
 - Submission to, or rejection of, the conduct by the individual is used as a basis of employment or academic decision affecting the individual.
 - The conduct has the purpose or effect of having a negative impact upon the individual's work or educational environment.
 - Submission to, or rejection of, the conduct by the individual is used as the basis for any decisions affecting the individual regarding benefits and services, honors, programs, or activities available at or through the community college.

Sexual orientation means heterosexuality, homosexuality, or bisexuality.

Unlawful discrimination means discrimination based on a category protected under Title 5, section 59300, including retaliation and sexual harassment.

Authority: Gov. Code, § 12926; Cal. Code Regs., tit. 5, §§ 59300, 59311; Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, Title IX, Office for Civil Rights, January 19, 2001.

Consensual Relationships

Romantic or sexual relationships between supervisors and employees, or between administrators, faculty, or staff members and students are discouraged. There is an inherent imbalance of power and potential for exploitation in such relationships. A conflict of interest may arise if the administrator, faculty or staff member must evaluate the student's or employee's work or make decisions affecting the employee or student. The relationship may create an appearance of impropriety and lead to charges of favoritism by other students or employees. A consensual sexual relationship may change, with the result that sexual conduct that was once welcome becomes unwelcome and harassing. In the event that such relationships do occur, the District has the authority to transfer any involved employee to eliminate or attenuate the supervisory authority of one over the other, or of a teacher over a student. Such action by the District is a proactive and preventive measure to avoid possible charges of harassment and does not constitute discipline against any affected employee.

Confidentiality of the Process

Investigative processes can best be conducted within a confidential climate. Therefore, the District does not reveal information about such matters except as necessary to fulfill its legal obligations.

Potential complainants are sometimes reluctant to pursue a complaint if their names will be revealed. The inability to reveal the name of a complainant or facts that are likely to reveal the identity of the complainant can severely limit the ability of the District to respond. Complainants must also recognize that persons who are accused of wrongdoing have a right to present their side of the matter, and this right may be jeopardized if the District is prohibited from revealing the name of the complainant or facts that are likely to disclose the identity of the complainant.

If a complainant insists that his or her name not be revealed, the responsible officer should take all reasonable steps to investigate and respond to the complaint consistent with the complainant's request as long as doing so does not jeopardize the rights of other students or employees.

It is also important that complainants and witnesses understand the possibility that they may be charged with allegations of defamation if they circulate the charges outside of the District's process. In general, persons who are participating in a District investigative or disciplinary process that is related to a charge of discrimination are protected from tort claims such as defamation. However, persons who make allegations outside of these processes or who discuss their claims with persons outside of the process may expose themselves to tort charges. Complainants, witnesses, and those accused of discrimination will all be asked to sign a confidentiality acknowledgement statement.

Where an investigation reveals the need for disciplinary action, the complainant may wish to have information about what disciplinary actions the District took. However, the privacy rights of the persons involved often prevent the District from providing such information. In student disciplinary actions for sexual assault/physical abuse charges, Education Code section 76234 provides that the victim shall be informed of the disciplinary action, but that the victim must keep the information confidential. Disciplinary actions taken against employees are generally considered confidential.

Authority: Cal. Const. Art. I, § 1; Civil Code § 47; Ed. Code, §§ 76234 and 87740; *Silberg v. Anderson* (1990) 50 Cal.3d. 205; Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, Title IX, Office for Civil Rights, January 19, 2001.

Notice, Training, and Education for Students and Employees

The San Bernardino Community College District's Vice Chancellor of Human Resources and Employee Relations shall make arrangements for or provide training to employees and students on the District's unlawful discrimination policy and procedures. Faculty members, members of the administrative staff, and members of the support staff will be provided with notice of online access to the District's written procedure on unlawful discrimination at the beginning of the first semester of the college year each time the procedure is revised.

All District employees will receive this training and a copy of the unlawful discrimination policies and procedures during the first year of their employment. Because of their special responsibilities under the law, supervisors will undergo mandatory training within six months of assuming a supervisory position and annually thereafter. In years in which a substantive policy or procedural change has occurred all District employees will attend a training update and/or receive a copy of the revised policies and procedures.

Authority: Ed. Code, § 66281.5; Cal. Code Regs., tit. 5, §§ 59324 and 59326. Reference: Cal. Code Regs., tit. 5, §§ 59300 et seq.; 34 C.F.R. § 106.8(b).

Academic Freedom

The San Bernardino Community College District Governing Board reaffirms its commitment to academic freedom, but recognizes that academic freedom does not allow any form of unlawful discrimination. It is recognized that an essential function of education is a probing of opinions and an exploration of ideas that may cause some students discomfort. It is further recognized that academic freedom ensures the faculty's right to teach and the student's right to learn. Finally, nothing in these policies and procedures shall be interpreted to prohibit bona fide academic requirements for a specific community college program, course or activity.

When investigating unlawful discrimination complaints containing issues of academic freedom San Bernardino Community College District will consult with a faculty member appointed by the Academic Senate with respect to contemporary practices and standards for course content and delivery.

No provision of this Administrative Procedure shall be interpreted to prohibit conduct that is legitimately related to the course content, teaching methods, scholarship, or public commentary of an individual faculty member or the educational, political, artistic, or literary expression of students in classrooms and public forums. Freedom of speech and academic freedom are, however, not limitless and this procedure will not protect speech or expressive conduct that violates federal or California anti-discrimination laws.

Reference: Cohen v. San Bernardino Valley College (1995) 883 F.Supp. 1407, 1412-1414, affd. in part and revd. in part on other grounds, (1996) 92 F.3d 968; Cal. Code Regs., tit. 5, § 59302.

Record Retention

Unlawful discrimination records that are part of an employee's employment records may be classified as Class-1 Permanent records and retained indefinitely or microfilmed in accordance with title 5, California Code of Regulations, section 59022. Unlawful discrimination records of a student that are deemed worthy of preservation but not classified as Class-1 Permanent may be classified as Class-2 Optional records or as Class-3 Disposable records. Class-2 Optional records shall be retained until reclassified as Class-3 Disposable Records. Class-3 Disposable Records shall be retained for a period of three years after being classified as Class-3 Disposable records.

Records related to a student discrimination complaint will be deemed worthy of preservation if, at the end of three years after the case is closed, a complaint on similar grounds has been filed against the same employee. In such cases, the records shall continue to be classified as Class 2 records and shall not be reclassified as Class-3 Disposable Records until complaints against that particular employee have been resolved.

Retaliation

It is unlawful for anyone to retaliate against someone who files an unlawful discrimination complaint, who refers a matter for investigation or complaint, who participates in an investigation of a complaint, who represents or serves as an advocate for an alleged victim or alleged offender, or who otherwise furthers the principles of this unlawful discrimination procedure.

Authority: 20 U.S.C. Sections 1681 et seq.; 34 C.F.R. Section 106; Cal. Code Regs., titl 5, Sections 59300 et Seq.;

Complaint Procedure Checklist

- Complaint received by Vice Chancellor of Human Resources and Employee Relations
 - Acting in role of Equal Opportunity Officer
 - Within 180 days of occurrence
 - Extension of 90 days if knowledge attained after 180 days
- Acknowledgement of receipt in writing to complainant and State Chancellor's Office (SCO)
 - Within 10 days of complaint receipt
 - Designate resolution/investigation coordinator
 - Advise of formal complaint filing with Equal Employment Opportunity Commission (EEOC) or the California Department of Fair Employment and Housing (DFEH).
- Advise individual accused
 - General nature of complaint
 - Assessment of accuracy has not yet been made
 - An investigation will be conducted
 - Accused will be provided an opportunity to present his/her side of the matter

- Retaliation of complainant or witnesses must be avoided
- District schedules informal resolution efforts or impartial investigation
 - Complete within 90 days of complaint receipt (extensions may be requested from SCO)
 - Extension requests must
 - Be filed at least 10 days prior to the original 90-day deadline
 - State reason why extension is necessary
 - The date by which District expects a determination
 - Corresponding copy sent to complainant
 - Notice to complainant of right to send objection to SCO within 5 days
 - Factual description of the matter
 - Summary of testimony provided by each witness
 - Analysis of data or evidence collected
 - Probable cause determination for each allegation in the complaint
 - Other appropriate information
- If a formal complaint is filed with EEOC or DFEH, send complaint copy to SCO and request whether to continue with District formal investigation
- Investigative report and administrative determination letter forwarded to complainant and SCO
 - Within 90 days of complaint receipt
 - Pertinent information in letter
 - Ultimate determination on probable cause
 - Description of actions taken to prevent similar future allegations
 - Proposed resolution
 - Complainant's appeal DFEH rights
- Complainant may file appeal to governing board
 - Within 15 days from date of administrative determination
 - Board issues final district decision within 45 days of receiving appeal
 - Forwarded to complainant with DFEH appeal rights
- Governing board determination is final
 - No appeal rights to SCO

References:

Education Code Sections 212.5; 44100; 66281.5;

[Government Code Sections 12940 and 12923;](#)

[Civil Code Section 51.9;](#)

[Title 2 Sections 10500 et seq.;](#)

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

Attachments:

[AP 3430 Prohibition of Harassment -
Comments](#)

[AP 3430 Prohibition of Harassment - Legal
Citations](#)

[AP3430-OLD.pdf](#)



Origination:	N/A
Last Approved:	N/A
Last Revised:	N/A
Next Review:	N/A
Owner:	Chancellor's Cabinet Chancellor's Cabinet:
Policy Area:	Chapter 3 General Institution
References:	

BP 3430 Prohibition of Harassment

Prohibition of Harassment (Replaces current SBCCD BP 3430)

This policy prohibits District employees, students, and student organizations from engaging in unlawful discrimination and harassment including sexual misconduct. Allegations that an employee, student or student organization has violated the Discrimination and Harassment Policy will be resolved consistent with AP 3430: Prohibition of Harassment

All forms of harassment are contrary to basic standards of conduct between individuals and are prohibited by state and federal law, as well as this policy, and will not be tolerated. 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. It shall also be free of other unlawful discrimination and harassment, including that which is based on any of the following statuses: race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, pregnancy, gender, gender identity, gender expression, age, sexual orientation, military and veteran status, or because an individual is perceived to have one or more of the foregoing characteristics. Sexual violence (e.g.: non-consensual sexual intercourse and non-consensual sexual contact) and interpersonal/relationship violence are always violations of the sex and gender-based discrimination and harassment policies and stalking often can be as well.

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 discrimination or harassment or for participating in a related investigation. Such conduct is illegal and constitutes a violation of this policy. All allegations of retaliation will be swiftly and thoroughly investigated. If the District determines that retaliation has occurred, 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. Retaliation is defined below.

Any individual who believes that they have been harassed, discriminated against, or retaliated against in violation of this policy may report such incidents by following the procedures described below. Supervisors are mandated to report all incidents of discrimination, harassment and retaliation that come to their attention.

This policy applies to all aspects of the academic environment, including but not limited to admission, 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.

This policy applies to behaviors that take place on campus and at school-sponsored events and may also apply off-campus and to actions online when the Title IX Coordinator/Institutional Equity Officer determines that the off-campus conduct affects a substantial school interest or impacts the educational mission of the District.

A substantial school interest includes:

- a) Any action that constitutes criminal offense as defined by federal or state law. This includes, but is not limited to, single or repeat violations of any local, state or federal law committed in the municipality where the school is located;
- b) Any situation where it appears that the responding party may present a danger or threat to the health or safety of self or others;
- c) Any situation that significantly impinges upon the rights, property or achievements of self or others or significantly breaches the peace and/or causes social disorder; and/or
- d) Any situation that is detrimental to the educational interests of the school.

Any online postings or other electronic communication by students, including cyber-bullying, cyber-stalking, cyber-harassment, etc. occurring completely outside of the District's control will only be subject to this policy when those online behaviors can be shown to cause a substantial on campus disruption. Off-campus discriminatory or harassing speech by employees may be regulated by the District only when such speech is made in an employee's official or work-related capacity. The District's policy is not meant to inhibit or prohibit educational content or discussions inside or outside of the classroom that include germane, but controversial or sensitive subject matters protected by academic freedom.

The District reserves the right to address offensive conduct and/or harassment that does not rise to the level of discrimination, or that is of a generic nature not on the basis of a protected status. Addressing such issues may not result in the imposition of discipline under District policy, but will be addressed through civil confrontation, remedial actions, education and/or effective conflict resolution mechanisms.

Questions about this policy should be directed to the Title IX Coordinator/Institutional Equity Officer.

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

This policy and related written procedures shall be widely published and publicized to administrators, faculty, staff, students, unpaid interns, and volunteers particularly when they are new to the institution. They shall be available for students, employees, unpaid interns, and volunteers in all administrative offices.

References:

Education Code Sections 212.5, 44100, 66252, and 66281.5;

Government Code Sections [12923](#), 12940 and 12950.1;

[Civil Code Section 51.9](#);

Title 2 Sections 10500 et seq.;

Title VII of the Civil Rights Act of 1964, 42 U.S. Code Annotated Section 2000e

Attachments:

[BP 3430 Prohibition of Harassment - Comments](#)



Current Status: Pending

PolicyStat ID: 6803437



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Owner:	Chancellor's Cabinet
	Chancellor's Cabinet:
Policy Area:	Chapter 3 General Institution
References:	Legally Required

AP 3435 Discrimination and Harassment Resolution Procedures

AP 3435 Discrimination and Harassment Complaints and Investigations

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; 20 U.S. Code Sections 1681 et seq.; 34 Code of Federal Regulations Part 106.8(b)

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 may file a formal or informal complaint of harassment, discrimination, or retaliation, or who has learned of harassment, discrimination, or retaliation.

A formal 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 does not want to file a formal complaint.

Informal Complaints

Any person may submit an informal complaint to the **Executive Director, Human Resources** or any other District or college administrator. Administrators receiving an informal complaint shall immediately notify the **Executive Director, Human Resources** in writing of all pertinent information and facts alleged in the informal complaint.

Upon receipt of an informal complaint, the **Executive Director, Human Resources** will notify the person bringing the informal complaint of his/her right to file a formal complaint, if the incident falls within the timeline for a formal complaint, and explain the procedure for doing so. The complainant may later decide to file a formal complaint, if within the timelines to do so. If the individual chooses not to file a formal complaint, or if the alleged conduct falls outside the timeline to file a formal complaint, the **Executive Director, Human Resources** shall consider the allegations contained in the informal complaint and determine the appropriate

course of action. This may include efforts to informally resolve the matter, or a fact-finding investigation.

Investigation of an informal complaint will be appropriate if the Investigation of an informal complaint will be appropriate if the **Executive Director, Human Resources** determines that the allegation(s), if proven true, would constitute a violation of the District policy prohibiting harassment, discrimination, or retaliation. The **Executive Director, Human Resources or designee** will explain to any individual bringing an informal complaint that **Executive Director, Human Resources** may decide to initiate an investigation, even if the individual does not wish the **Executive Director, Human Resources** to do so. The **Executive Director, Human Resources** shall not disregard any allegations of harassment, discrimination, or retaliation solely on the basis that the alleged conduct falls outside the deadline to file a formal complaint.

Formal Complaints

Formal Complaints must be filed with the Chancellor of the California Community Colleges or the **Executive Director, 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 **Chancellor** 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 **each college student services office, the District human resources department and on college's/district's website.**

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, Human Resources** will promptly return it to the complainant and specify the defect. If the sole defect is that the Formal Complaint was filed outside the applicable proscribed timeline, the **Executive Director, Human Resources** will handle the matter as an informal complaint.

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

The actual investigation of complaints may be assigned **by the Executive Director, Human Resources** to other staff or to outside persons or organizations under contract with the District. This shall occur whenever the **Executive Director** is named in the complaint or implicated by the allegations in the complaint.

Who May File a Complaint: Any student, employee, or third party who believes he/she 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 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 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** and at the California Community Colleges Chancellor's Office website.

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

- **Executive Director, Human Resources**
- **The Chief of Police**
- **Executive Vice Chancellor, Human Resources**
 - **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 Department of Fair Employment and Housing (DFEH).

Complaints filed with the EEOC or the 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, 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, Human Resources 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 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. Mediation can be instituted upon mutual agreement of both parties.
- Advise a student complainant that he/she 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 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, Human Resources** 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, Human Resources or designee** should notify the complainant of his/her 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, Human Resources** 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, 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.

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 summary of the testimony provided by each witness interviewed by the investigator;
- An analysis of relevant evidence collected during the course of the investigation;
- 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; 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.

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 Chancellor or his/her 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.

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. 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 may, within fifteen 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 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 thirty 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 Department of Fair Employment and Housing.

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 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.

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.

Where the complaint allegation consists of Sexual Misconduct, as defined by Title IX, the following applies:

Sexual Misconduct:

Sexual misconduct includes sexual harassment and sexual violence.

- Sexual harassment may include unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone from or in the work or education setting.
- Sexual violence refers to physical sexual acts perpetrated against a person's will or when a person is incapable of giving consent due to the victim's use of drugs or alcohol or due to an intellectual or other disability. Sexual violence includes rape, sexual assault, sexual battery, and sexual coercion.
- Affirmative consent means an affirmative, conscious, and voluntary agreement to engage in sexual activity.

Sexual misconduct creates a hostile environment if the conduct is sufficiently serious that it interferes with or limits a student's ability to participate in or benefit from the District's program. A single or isolated incident may create a hostile environment if the incident is sufficiently severe.

Complaint Procedure:

Where the complaint involves a minor, the District will comply with California mandated reporting requirements.

All responsible employees are required to report all actual or suspected sexual misconduct to the Title IX Coordinator immediately. A responsible employee is any employee who has the authority to take action to redress sexual misconduct, who has been given the duty of reporting incidents of sexual misconduct to the Title IX Coordinator or **Executive Director, Human Resources**, or whom a student or employee could reasonably believe has this authority or duty. The District is on notice if a responsible employee knew, or in the exercise of reasonable care should have known, about the sexual misconduct.

Any person may make a complaint by contacting the Title IX Coordinator directly. The District's Title IX Coordinator is the **Human Resources Manager, located at the Human Resources Department at the District Office**. The Title IX Coordinator will receive all relevant details about the alleged sexual misconduct reported to the District responsible employee in order to determine what occurred and how to resolve the situation. This includes the names of alleged victim and alleged perpetrator (if known), and the date, time, and location of the alleged sexual misconduct.

Privileged or Confidential Reporting:

A District employee or responsible employee should, whenever possible, before a student or employee reveals information that he/she may wish to keep confidential, ensure that the person making the report understands the employees obligations to report to the Title IX Coordinator, the victims option to request confidentiality, which the District will take into consideration, and the victims ability to share the information confidentially with designated District employees.

Professional, licensed, mental health counselors and pastoral counselors, who provide mental-health counseling to members of the District community, or interns, graduate students, and others supervised by professional licensed counselors, are not required to report any information to the Title IX Coordinator.

Non-professional counselors who work or volunteer in the health center including front desk personnel and student employees in the course of their duties, may maintain confidentiality. They are not required to report actual or suspected sexual misconduct to the Title IX Coordinator in a way that identifies the student without the victim's consent.

Authority over Parties:

The District has authority over students, employees, and third parties for alleged violations of this policy that occur on District property. The District has authority over District employees and students for alleged violations of this policy that occur at District activities or events. The District may exercise authority over events that occur off- campus to determine if the conduct occurred in the context of an education program or activity or had continuing effects on campus or in an off-campus education program or activity.

Standard of Proof:

The District will use a "preponderance of the evidence" standard of proof in determining whether there has been a violation of this policy. This standard of proof is also known as "more likely than not" standard.

Upon Receiving the Complaint – Health and Safety:

The Title IX Coordinator will make an immediate assessment concerning the health and safety of the victim and campus community as a whole. The District will provide the reporting party and responding party with immediate, interim measures necessary to protect his/her health and safety. These immediate, interim measures may include providing an escort to ensure that the victim can move safely between classes, ensuring that the victim and perpetrator do not attend the same classes or work in the same area, preventing offending third parties from entering campus, providing counseling services or a referral to counseling services, providing academic support services, such as tutoring, arranging for a victim to retake a course or withdraw from a course without penalty, including ensuring that any changes do not adversely affect the victims' academic record, and reviewing any disciplinary actions taken against the victim to see *if there is a causal connection between the harassment, discrimination, or retaliation*.

Where the District determines that there is a substantial threat to the campus community, it will issue a timely warning. The District will issue the warning according to District Administrative Procedures. The District will not disclose the victim's name or other identifying information when issuing the warning.

Communicating that the Conduct is Unwelcome:

The employee or student may, but is not required to let the offending person know immediately and firmly that the conduct or behavior is unwelcome, offensive, in poor taste, or inappropriate. This is not required.

Intake and Processing of the Complaint:

If the District determines that a sexual misconduct complaint is appropriate for informal resolution, it may permit an informal resolution, including mediation. All parties, including the complainant and respondent, must receive full disclosure of the allegations and information about options for formal resolution before voluntarily agreeing to participate in an informal resolution. If all parties agree to an informal resolution, the District does not have to complete a full investigation and adjudication of a report of sexual misconduct.

Confidentiality:

Where the victim requests confidentiality regarding a reportable incident , the District will take all reasonable steps to comply with the victim's request or inform the victim when it cannot ensure confidentiality . The District will not disclose the name of the victim unless the victim provides written consent after being informed of his/ her right to have the information withheld. Where the victim insists that the District not disclose his/her name or other identifiable information to the alleged perpetrator, the District will inform the victim that its ability to respond will be limited. The District will evaluate this request in the context of its responsibility to provide a safe and nondiscriminatory environment for all employees and students. When weighing a request for confidentiality against the seriousness of the alleged harassment, the Title IX Coordinator will take the factors

listed above into consideration.

Fact-Finding Investigation:

Where the victim has filed a criminal complaint with local law enforcement, the District will consider what information the District is able to share, pursuant to state and federal law, to ensure that victims are not unnecessarily required to give multiple statements about a traumatic event. The District will continue to conduct its own thorough, reliable, prompt, and impartial investigation. The District will normally complete its sexual misconduct investigation within 90 days of receiving the complaint, unless extended by the Title IX Coordinator for good cause. The Title IX Coordinator will notify the victim and accused in writing of the reason for the extension and the projected new timeline.

The victim and accused will have equal opportunity to present relevant witnesses and other evidence to the District investigator. The District will provide the same opportunities to the victim and accused,

The results of the fact-finding investigation will be set out in a formal investigative report, which will include the requirements listed above and a credibility determination of the victim, accused, and witnesses.

Reporting to California Community Colleges Chancellor's Office:

The District considers all sexual misconduct complaints to be formal complaints. The **Title IX Coordinator or designee** must notify the State Chancellor's Office of any sexual misconduct complaints. Upon completing the investigation, the District shall forward to the California Community Colleges Chancellor's Office a copy of the investigative report and administrative determination and to the parties a copy or summary of the investigative report and administrative determination.

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, 2020, 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 position. After January 1, 2020, the District shall provide sexual harassment training and education to each employee once every two years.

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 will also provide training to students who lead student organizations. 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 such programs 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.

Revised 7/02, 2/03, 2/05, 2/06, 3/12, 6/13, 10/15, 4/16, 10/16, 10/17, 10/18, 3/19

Attachments:

[AP 3435 Discrimination and Harassment Investigation - Comments](#)
[AP 3435 Discrimination and Harassment Investigation - Legal Citations](#)
[AP3435-OLD.pdf](#)
[SBCCD - Overview for Legal Update 31 Final Version.docx](#)
[SBCCD - Overview for Legal Update 31 Final](#)



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Last Approved:	11/2016
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Next Review:	09/2019
Owner:	<i>Kristina Hannon</i>
Policy Area:	<i>Chapter 3 General Institution</i>
References:	<i>Brand New - required</i>

AP 3440 Service Animals

The District will allow an individual with a disability to use a service animal in District facilities and on District campuses in compliance with state and federal law.

The District will allow an individual with a disability to use a miniature horse as a service animal in District facilities and on District campuses if the miniature horse has been individually trained to do work or perform tasks for the benefit of the individual with a disability and the District has determined, based on the assessment factors provided in this procedure, that a reasonable accommodation can be made.

The District will allow an individual with a disability to be accompanied by his/her service animal in all areas of the District's facilities where members of the public, invitees, clients, customers, patrons, or participants in services, programs or activities, as relevant, are allowed to go.

These procedures shall also be applicable to an individual who is training a service animal.

Service Animal Defined

A "service animal" for purposes of this procedure means any dog (or miniature horse, as provided herein) that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.

Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition.

The work or tasks performed by a service animal must be directly related to the handler's disability. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition.

Exceptions

The District may ask an individual with a disability to remove a service animal from the premises if:

- The animal is out of control and the animal's handler does not take effective action to control it; or
- The animal is not housebroken.

If a service animal is excluded under one of these exceptions, the District will give the individual with a disability the opportunity to obtain goods, services, and accommodations or to participate in the service, program, or activity without having the service animal on the premises.

Assessment Factors for Miniature Horses

The District shall consider the following factors:

- The type, size, and weight of the miniature horse and whether the facility can accommodate these features;
- Whether the handler has sufficient control of the miniature horse;
- Whether the miniature horse is housebroken; and
- Whether the miniature horse's presence in a specific facility compromises legitimate safety requirements that are necessary for safe operation.

Control

The service animal must have a harness, leash, or other tether, unless either the handler is unable because of a disability to use a harness, leash, or other tether, or the use of a harness, leash, or other tether would interfere with the service animal's safe, effective performance of work or tasks, in which case the service animal must be otherwise under the handler's control (e.g., voice control, signals, or other effective means).

Care or Supervision

The District is not responsible for the care or supervision of the animal.

Inquiries by the District

The District may make two inquiries to determine whether an animal qualifies as a service animal:

- Whether the animal is required because of a disability; and
- What work or task the animal has been trained to perform.

The District will not make either of these inquiries when it is readily apparent that an animal is trained to do work or perform tasks for an individual with a disability (e.g., the dog is observed guiding an individual who is blind or has low vision, pulling a person's wheelchair, or providing assistance with stability or balance to an individual with an observable mobility disability).

An individual may choose to produce a county service dog license or identification tag as proof that the animal is a service animal. Licensure or certification is not required in order to meet the definition of service animal under this procedure. There are no licensing or certification requirements for miniature horses.

No Surcharge

The District will not ask or require an individual with a disability to pay a surcharge, even if people accompanied by pets are required to pay fees, or to comply with other requirements generally not applicable to people without pets. If the District normally charges individuals for damage caused by pets, an individual with a disability may be charged for damage caused by his/her service animal.

References:

Civil Code Sections 54 et seq.;

Penal Code Section 365.5;

42 United States Code Sections 12101 et seq. (The Americans with Disabilities Act of 1990);

28 Code of Federal Regulations Part 35;



Current Status: *Pending*

PolicyStat ID: 6786335



Origination:	11/2016
Last Approved:	N/A
Last Revised:	11/2016
Next Review:	<i>6 years after approval</i>
Owner:	<i>Kristina Hannon</i>
Policy Area:	<i>Chapter 3 General Institution</i>
References:	<i>Brand New - required</i>

BP 3440 Service Animals

In order to prevent discrimination on the basis of disability, the District will allow an individual with a disability to use a service animal or miniature horse in District facilities and on District campuses in compliance with state and federal law.

References:

The Americans with Disabilities Act of 1990 -- 42 United States Code Sections 12101 et seq.;

28 Code of Federal Regulations Part 35;

28 Code of Federal Regulations Part 36;

34 Code of Federal Regulations Part 104.44(b)

Attachments:

[AP 3440 Service Animals.docx](#)



Current Status: Pending

PolicyStat ID: 4391912



Origination: 10/2012
Last Approved: N/A
Last Revised: 08/2019
Next Review: 6 years after approval
Owner: Business & Fiscal Services
 Business & Fiscal Services
Policy Area: Chapter 6 General Institution
References: Brand New - required

AP 6750 Parking

(Replaces current SBCCD AP 6750)

These procedures are intended to promote safe and orderly movement of traffic within District property for the safe and orderly parking of vehicles and bicycles.

All applicable provisions of the California Vehicle Code are expressly applicable both on and off paved roadways.

Parking of motor vehicles and bicycles is limited to specially designated areas. Fee permits are required. Vehicles or bicycles parked in violation of the provisions of this code are subject to fines, towing, or impoundment.

All persons who enter on the college(s) are charged with knowledge of the provisions of this procedure and are subject to the penalties for violations of such provisions.

In accordance with California Vehicle Code Section 21113a, it shall be a misdemeanor or infraction for any person to do any act forbidden or fail to perform any act required in these procedures.

A. Authorization

Any person who operates or parks a motor vehicle on District property is subject to District Parking and Traffic Regulations and the provisions of the California Motor Vehicle Code.

B. Parking Permit

District parking permits are required for all vehicles parked on District property from 7:00 AM Monday through 4:30 PM Friday unless otherwise noted herein. Parking permits and daily parking permits are valid at all District locations.

1. Special Events Parking

"Special Events" parking permits may be made available free of charge for non-students who participate in such things as theater productions; and "no cite" periods may be provided for such events as dances, college night and career day.

2. Guest Parking

One-day guest permits are available through the District Office and through the office of Administrative Services at each campus. It is the responsibility of the individual inviting an

off-campus guest to secure a one-day parking permit a minimum of 3 days prior to the event.

C. Violations/Citations

Any person who violates the Parking and Traffic Regulations or the California Motor Vehicle Code may receive a District citation and/or be subject to District disciplinary action. Disciplinary action only applies to intentional acts that constitute dishonesty, falsification of information, willful or persistent violation of the rules made applicable to the District by the Governing Board. Disciplinary action includes suspension, demotion or, in severe cases, dismissal. When disciplinary action is sought, employees are entitled to due process protection as per applicable District policy and collective bargaining agreements.

Student/Public Parking Areas: Parking citations in student parking areas shall not be issued during the first week of each semester.

Staff Parking Areas: Staff permits are required to park in staff parking areas during all operational hours.

D. Liability

Parking of motor vehicles or bicycles on District property is done at the owner's risk. The District assumes no liability for damage or theft except as provided for unit members covered by Article 20 of the SBCCD/SBCCDTA contract.

E. Traffic Regulations

1. Driver must obey all posted speed limits. The speed limit on all campus roads is posted.
2. The speed limit in all parking lots is a maximum of 5 miles per hour.
3. Pedestrians have the right-of-way at all times.
4. The use of skateboards, roller skates or bicycles is prohibited on the interior of District property.
5. No vehicles are permitted on inner campus walks and roadways except for emergency vehicles, authorized construction/maintenance vehicles, authorized special event support vehicles and vehicles belonging to the District performing assigned duties. Non-District vehicles require a separate guide to ensure pedestrian safety while operating on District property.
6. Roadblocks, barriers, or stanchions may be placed by District employees at any point deemed necessary for safety or convenience. Removal of these roadblocks, barriers, or stanchions is prohibited.
7. Motorcycles and other two-wheeled powered vehicles are limited to designated motorcycle parking areas. Motorcycle parking in these designated spaces does not require a permit. Mopeds may be parked in bicycle racks on campus, but shall be walked when on campus walkways. Use of private powered vehicles is prohibited where pedestrian traffic is present.

F. Parking Controls

1. All vehicles parked on District/college parking lots or District/college roadways are required to display a current parking permit or a daily parking permit. Permits must be displayed on

windshield or rear-view mirror while on campus. Daily parking permits shall be posted face up on the dashboard so as to be readable. Failure to post permits properly shall be grounds for citation.

2. Students/employees may purchase parking permits on-line.

3. Parking permit refunds for students are subject to the provisions of the Fee Refund Policy. In order to obtain a refund, a student must take all or a portion of the decal bearing the permit number to the Campus Business Office within the time-lines specified in the Fee Refund Policy.

4. Certain parking lots and parking areas are restricted for employee "staff" parking only. Students, dependents and relatives of employees, who are not employees themselves, are prohibited from using employee lots and parking areas.

5. Parking stalls marked "visitors" are solely for visitors and may be governed by time limits. Students and employees are prohibited from parking in visitor areas.

6. Vehicles are to be parked in properly marked stalls only. Taking up more than one parking stall is prohibited.

7. Parking is prohibited in loading zones, posted areas, along red curbing, or red lined areas.

8. Vehicles parked in prohibited areas which block the flow of traffic, emergency vehicles/equipment, driveways, roadways, or in posted "NO PARKING" zones may be towed away at the owner's expense at no responsibility to the District pursuant to current California Vehicle Code authority.

9. Vehicles parked illegally in reserved parking stalls will be cited for illegal parking.

10. Vehicles abandoned on college property for over 72 hours without college authorization will be removed at owner's expense pursuant to current California Vehicle Code authority.

11. Energy Efficient Vehicles will be defined as Zero Emission Vehicles (ZEV) by the California Air Resources Board, or fuel-efficient vehicles that have achieved a minimum green score of 40 on the American Council for an Energy Efficient Economy (ACEEE) annual vehicle rating guide.

References:

Education Code Section 76360;

Vehicle Code Section 21113

Attachments:

[AP 6750 Parking - Comments](#)

[AP 6750 Parking - Legal Citations](#)



Current Status: Pending

PolicyStat ID: 4391930



Origination: 02/2016
Last Approved: N/A
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Next Review: 6 years after approval
Owner: Business & Fiscal Services
 Business & Fiscal Services
Policy Area: Chapter 6 General Institution
References:

BP 6750 Parking

(Replaces current SBCCD BP 6750)

The Chancellor shall establish such administrative procedures regarding vehicles and parking on campus as are necessary for the orderly operation of the instructional program. No person shall drive any vehicle or leave any vehicle unattended on the campus except in accordance with such procedures.

Parking fees may be established in accordance with these board policies. (See BP 5030 titled Fees.)

References:

Education Code Section 76360; Vehicle Code Sections 21113 and 22651.5

Attachments:

- [BP 6750 Parking - Comments](#)
- [BP 6750 Parking - Legal Citations](#)



Current Status: Active

PolicyStat ID: 5223310



Origination:	08/2018
Last Approved:	01/2019
Last Revised:	01/2019
Next Review:	09/2019
Owner:	<i>Business & Fiscal Services</i> <i>Business & Fiscal Services</i>
Policy Area:	<i>Chapter 6 General Institution</i>
References:	<i>Brand New - required</i>

AP 6751 Parking Citation Payment Plan

A registered owner (CVC 460, 505) or person responsible for vehicle citations received on San Bernardino Community College District property shall be eligible to enroll in a payment plan when they have multiple unpaid parking citations.

- A. Once this threshold is met, any citations associated with this vehicle, registered owner, or person responsible may be added to the payment plan, at the time of enrollment.
- B. If additional citations are accrued during the payment plan period, the plan may not be modified to include these citations, nor will a concurrent payment plan be offered.
- C. Citations in a payment plan will not count towards immobilization/tow/impound eligibility pursuant to CVC 22651(i)(l).
- D. Once a vehicle is towed/impounded due to other violations, all citations, including those on a payment plan, are immediately due pursuant to CVC 22551(i)(l)(C).

The fee to enroll in a payment plan is \$25.

Applied late fees, as well as any late fees not yet applied, will be placed in abeyance while the payment plan is in place. If the individual adheres to the plan terms, these late fees will be waived once the payment plan is complete.

- A. If an individual defaults on the payment plan, a subsequent payment plan will not be offered for those citations and any late fees placed in abeyance will be immediately reinstated. The total amount due, including all late fees, will be submitted to the appropriate Department of Motor Vehicles for a Registration hold on the vehicle. An Academic Hold will be placed on the Students records until the total fees are paid in full.
- B. The request for a payment plan must be made before the citation is transferred to DMV for collection. (21 days after issue of the citation}.

Once the payment plan is in place and the individual is adhering to its terms, an itemization of unpaid parking penalties and service fees will not be filed with the DMV (also known as a "DMV Registration Hold") and any DMV Registration Hold in place will be temporarily removed pending satisfactorily completing the payment plan.

At plan enrollment, an initial payment of \$25 or 10% of the amount owed (whichever amount is greater), plus the \$25 enrollment fee, is required.

Payments must be made each calendar month.

- A. There is no grace period for late payments.
- B. For mailed payments, a postmark is acceptable to meet this requirement.

Payment plan duration

1st months payment will be \$25 or 10% of unpaid fines (whichever amount is greater) plus the \$25 enrollment plan fee. Subsequent month payments will be determined by dividing the remaining balance by 4.

Definitions

Late: The citation is past 21 days from issuance and 14 days from mailing of the reminder notice and additional fees may be applied.

Delinquent: The citation is unpaid. Late fees may or may not have been applied. Person responsible: The individual who has opted to enter into the payment plan with the campus.

Reference:

California Assembly Bill No. 503 (Chapter 741)

Attachments:

No Attachments

Approval Signatures

Step Description	Approver	Date
	Stacey Nikac: Administrator	08/2018
	Stacey Nikac: Administrator	08/2018
	Stacey Nikac: Administrator	08/2018
	Stacey Nikac: Administrator	08/2018
	Stacey Nikac: Administrator	08/2018
	Stacey Nikac: Administrator	08/2018



Current Status: Active

PolicyStat ID: 5223298



Origination: 08/2018
Last Approved: 01/2019
Last Revised: 01/2019
Next Review: 09/2019
Owner: [Policy Stat](#)
Policy Area: [Chapter 6 General Institution](#)
References:

BP 6751 Parking Citation Payment Plan

The Board shall establish an Administrative Procedure where a registered owner (CVC 460, 505) or person responsible for vehicle citations received on San Bernardino Community College District property shall be eligible to enroll in a payment plan when they have multiple unpaid parking citations.

Reference:

California Assembly Bill No. 503 (Chapter 741)

Attachments:

No Attachments

Approval Signatures

Step Description	Approver	Date
	Stacey Nikac: Administrator	08/2018
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	Stacey Nikac: Administrator	08/2018
	Stacey Nikac: Administrator	08/2018
	Stacey Nikac: Administrator	08/2018
	Stacey Nikac: Administrator	08/2018



Origination: N/A
 Last Approved: N/A
 Last Revised: N/A
 Next Review: N/A
 Owner: *Human Resources Human Resources*
 Policy Area: *Chapter 7 Human Resources*
 References:

AP 7450 Mileage Reimbursement

(Replaces current SBCCD AP 7450)

~~NOTE: AP 7450 is unique to SBCCD.~~

- ~~From current SBCCD AP 7450 titled Mileage Reimbursement~~

Reimbursement Eligibility

A. **Reimbursement Eligibility**

1. Mileage reimbursement is granted only when employees are required to use their personal vehicles in connection with their assignments and in performance of their duties.
2. Full-time employees who report to a second worksite in one day other than their primary site for performance of duties may claim reimbursement travel subject to the calculation method described below. Full-time employees who teach at a second site as an overload, and hourly employees shall be responsible for their own transportation costs.
3. To be eligible for mileage reimbursement, employee must be on the approved drivers' list maintained by Human Resources.

B. **Reimbursement Rate**

Mileage reimbursement shall be made at the Internal Revenue Service standard mileage rate.

C. **Reimbursement Claims**

1. Mileage reimbursement is granted only after a Mileage Reimbursement Claim is submitted and there is a purchase order with sufficient balance to process against it. Reimbursement claims should be submitted monthly, but no less than once per semester. Second semester mileage must be submitted by July 1.
2. Employees authorized to use their personal automobiles for District daily business should maintain daily records with supporting documentation of the trips authorized during the month. Documentation shall include a daily mileage trip log and parking fee receipts.

D. **Mileage Calculation**

1. ~~Reimbursable mileage shall be calculated from the primary worksite of the employee to the various destinations and return to the primary worksite. In the event an employee does not visit the regular place of work prior to the first stop on college business in any one day, mileage shall be calculated using the distance from home or primary work site to the first business stop, whichever is~~

~~less.~~ Mileage is reimbursed only for miles incurred beyond employees' normal commute to their regular worksite.

2. In the event an employee proceeds from this last destination on college business in any one day to home, mileage shall be calculated using the distance from home or primary work site to the first business stop, whichever is less.

E. Verification

Signatures required are: Employee, Responsibility Center Manager, if claimant is the Responsibility Manager, signature of claimant's supervisor is required.

~~Also see BP/AP 4300 titled Field Trips and Excursions, AP 6530 titled District Vehicles, and BP/AP 7400 titled Travel~~ Also see BP/AP 4300 titled Field Trips and Excursions, AP 6530 titled District Vehicles, and BP/AP 7400 titled Travel

~~References:~~

References:

~~No references~~ No references

Attachments:

AP 7450 Mileage Reimbursement - Comments
AP 7450 Mileage Reimbursement - Legal
Citations
AP7450 -OLD.pdf



Current Status: *Draft*

PolicyStat ID: 6978821



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Last Revised:	N/A
Next Review:	N/A
Owner:	Human Resources Human Resources
Policy Area:	Chapter 7 Human Resources
References:	Legally Required

BP 7450 Mileage Reimbursement

(Replaces current SBCCD BP 7450)

Employees may receive reimbursement for authorized business mileage only under the terms and conditions recommended by the Chancellor.

Also see BP/AP 4300 titled **Field Trips and Excursions**, AP 6530 titled **District Vehicles**, and BP/AP 7400 titled **Travel**

Reference:

No specific reference

Attachments:

- [BP 7450 Mileage Reimbursement- Comments](#)
- [BP 7450 Mileage Reimbursement- Legal Citations](#)
- [BP7450 -OLD.pdf](#)



Origination:	N/A
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Policy Area:	<i>Chapter 3 General Institution</i>
References:	<i>Legally Required</i>

AP 3415 Immigration Enforcement Activities

Responding to Requests for Access for Immigration Enforcement Activities

District personnel shall provide guidance and offer to campus employees training addressing law enforcement access to campus buildings and student residences. This guide shall include the following required topics:

- Instructions that law enforcement officers cannot enter living quarters to make arrests without a judicial warrant, valid consent, or exigent circumstances.
- Instructions that District personnel, including campus police, cannot consent to the entry into a residence or dormitory for the purpose of a search or arrest, but a judicial warrant or exigent circumstances may authorize officer entry without consent.
- Campus police contact information to report concerns about the presence of officers engaged in immigration enforcement on any campus property.
- Samples of warrant and subpoena documents that could be used for access onto campus property, or to seize or arrest students or other individuals on campus.
- Sample responses for building personnel to use in response to officers seeking access for immigration enforcement purposes that avoids classroom interruptions, and that preserves the peaceful conduct of the school's activities.

District personnel shall advise all students, faculty, and staff to immediately notify the office of the Chancellor or President, or his/her designee, if he/she is advised that an officer engaged in immigration enforcement is expected to enter, will enter, or has entered the campus for immigration enforcement purposes. Campus police should also be notified as soon as possible.

No personnel may consent to entry of District facilities or portions thereof.

District personnel shall advise all students, faculty, and staff responding to or having contact with an officer engaged in immigration enforcement executing an immigration order, to refer the entity or individual to the office of the Chancellor or President, or his/her designee, for purposes of verifying the legality of any warrant, court order, or subpoena.

If the officer declares that exigent circumstances exist and demands immediate access to the campus, District personnel should not refuse the officer's orders and immediately contact the SBCCD Police Department.

The office or designee of the Chancellor's or President's Office shall determine what type of authorization is being provided to support the officer's request for access:

- A U.S. Immigrations and Customs Enforcement (ICE) "warrant." Immediate compliance is not required. District personnel shall inform the officer that he/she cannot consent to any request without first consulting

with the SBCCD Police Department. Provide copy of the warrant to the designated administrator (where possible, in consultation with legal counsel) as soon as possible.

- A federal judicial warrant (search-and-seizure warrant or arrest warrant): Prompt compliance with such a warrant is usually legally required, but where feasible, consult with the designated campus official before responding.
- A subpoena for production of documents or other evidence: Immediate compliance is not required. Inform the officer that the District cannot respond to the subpoena until after it has been reviewed by a designated administrator. Provide a copy of the subpoena to a designated administrator or legal counsel as soon as possible.
- A notice to appear: This document is not directed at the District. District personnel are under no obligation to deliver or facilitate service of this document to the person named in the document. If a copy of the document is received, it must be given to a designated administrator as soon as possible.

District personnel should not attempt to physically interfere with an officer, even if the officer appears to be acting without consent or exceeding the authorization given under a warrant or other document. If an officer enters the premises without consent, District personnel shall make a record of the contact and forward the information to the Office of the President or Chancellor.

In making record of the contact with an immigration enforcement officer, District personnel shall provide the following information:

- Name of the officer, and, if available, the officer's credentials and contact information;
- Identity of all school personnel who communicated with the officer;
- Details of the officer's request;
- Whether the officer presented a warrant, subpoena, or court order to accompany his/her request, what was requested in the warrant/subpoena/court order, and whether the warrant/subpoena/court order was signed by a judge;
- District personnel's response to the officer's request;
- Any further action taken by the immigration officer; and
- Photo or copy of any documents presented by the agent.

District personnel shall provide a copy of those notes, and associated documents collected from the officer, to the SBCCD Police Department.

In turn, the SBCCD Police Department shall submit a timely report to the District's governing board and the campus public safety office regarding the officer's requests and actions and the District's response(s).

Responding to Immigration Acts Against Students or Family Members

If there is reason to suspect that a student, faculty member, or staff person has been taken into custody as the result of an immigration action, District personnel shall notify the person's emergency contact that the person may have been taken into custody.

District personnel shall designate a staff person as a point of contact for any student, faculty member, or staff person who may or could be subject to an immigration order or inquiry.

District personnel shall not discuss the personal information, including immigration status information, of any student, faculty member, or staff person with anyone, or reveal the personal information to anyone, unless disclosing this information is permitted by federal and state law.

District personnel shall maintain a contact list of legal service providers who provide legal immigration representation and provide this list free of charge to any student who requests it. At minimum, the list shall

include the legal service provider's name and contact number, e-mail address, and office address.

If a student is detained or deported, or is unable to attend to his/her academic requirements because of an immigration order, District shall make all reasonable efforts to assist the student in retaining any eligibility for financial aid, fellowship stipends, exemption from nonresident tuition fees, funding for research or other educational projects, housing stipends or services, or other benefits the student has been awarded or received subject to and in compliance with its policy.

District personnel shall permit a student who is subject to an immigration order to re-enroll if and when the student is able to return to the District, subject to and in compliance with its policy and will make reasonable and good-faith efforts to provide for a seamless transition in the student's re-enrollment and reacquisition of campus services and support.

District personnel shall be available to assist any student, faculty, and staff who may be subject to an immigration order or inquiry, or who may face similar issues, and whose education or employment is at risk because of immigration enforcement actions.

References:

Education Code Sections 66093 and 66093.3

Attachments:



Origination:	N/A
Last Approved:	N/A
Last Revised:	N/A
Next Review:	N/A
Owner:	Business & Fiscal Services Business & Fiscal Services
Policy Area:	Chapter 6 General Institution
References:	Legally Required

AP 6345 Bids and Contracts - UPCCAA

Informal and Formal Bidding Procedures under the Uniform Public Construction Cost Accounting Act (UPCCAA)

~~**NOTE:** Procedures on bids and contracting are legally required. Local practice may be inserted. Districts which, by proper resolution and notification to the Controller, have elected to adopt the Uniform Public Construction Cost Accounting Act, are subject to the procedures described in detail in Public Contract Code Sections 22000 et seq. The following template is only for use by districts that have adopted such a resolution.~~ In September 2007, SBCCD adopted a resolution that elected the use of Uniform Public Construction Cost Accounting Act and became subject to the procedures described in detail in Public Contract Code Sections 22000 et seq.

~~Informal and Formal Bidding Procedures under the Uniform Public Construction Cost Accounting Act, adopted by resolution by the Board of Trustees~~

~~Public Projects are defined in Public Contract Code (PCC) Section 22002(c) as construction, reconstruction, erection, alteration, renovation, improvement, demolition, repair work, or painting or repainting of or involving any publicly owned, leased or operated facility. Public projects estimated to cost up to \$175,000¹ shall be let to contract by procedures described below.~~

~~It is unlawful to split or separate into smaller work orders or projects any project for the purpose of evading the provisions of the this Procedure requiring work to be done by contract after competitive bidding.~~

~~All bid notices for work to be done shall contain an affirmative statement requiring compliance with Labor Code Sections 1775 and 1776 governing payment of prevailing wages and Labor Code Section 1777.5 governing employment of apprentices. All bid submissions must contain all documents necessary to assure compliance with these Labor Code sections. Failure to provide such documentation shall cause any such bid to be deemed incomplete.~~

~~Public Projects funded by the Kindergarten-University Public Education Bond Acts of 2002 and 2004 and any future State Bond funds require that the District initiate and enforce a labor compliance program pursuant to~~

~~Labor Code Section 1771.5.~~

~~Procedures Not Covered by this AP~~

~~When this procedure does not establish a process for bidding Public Projects, the procedures described in AP 6430 titled Bids and Contracts shall govern.~~

~~Contractors List~~

~~Lists of contractors shall be developed and maintained.~~

~~Award to Low Bidder; No Bids~~

~~All contracts must be awarded to the lowest responsible bidders. If two or more bids are the same and lowest, the District may accept the one it chooses. When no bids are received, the District may perform Public Projects with District employees or through a negotiated contract without further complying with this procedure.~~

~~Notice Inviting Informal Bids~~

~~When a Public Project anticipated to cost less than \$175,000 is to be performed, the District shall prepare a notice of the opportunity to bid. The notice must describe the project in general terms, state the time and place for the submission of bids and describe how to obtain more detailed information about the Project. The District shall mail the notice to all contractors for the category of work to be bid, as shown on the Contractors List. The District may also mail the notice to all construction trade journals. Other contractors and/or construction trade journals may also be notified at the discretion of the department soliciting bids. Mailing shall be completed at least ten days before bids are due.~~

~~Award of Informally Bid Contracts~~

~~The Chancellor or designee is authorized to award informal contracts (defined as contracts for less than \$175,000.00), except those contracts described below.~~

~~Bids Exceed Informal Bidding Limit~~

~~If all informal bids received exceed \$175,000, and the District determines that the cost estimate was reasonable, the District may award the contract at up to \$187,500 to the lowest responsible bidder. The contract must be approved by Resolution receiving a four-fifths (4/5) vote of the Board of Trustees.~~

~~Bid Documents for Formal Bids~~

~~The Chancellor or designee, will see that plans, specifications and working details for all Public Projects estimated to cost more than \$175,000 are adopted.~~

~~Notice Inviting Formal Bids~~

~~When a Public Project, which is anticipated to cost in excess of \$175,000 is to be performed, the District shall publish a notice inviting formal bids in a newspaper of general circulation. The notice shall be published at least 14 calendar days before the date of bid opening. The notice shall also be sent electronically, if available, by facsimile or electronic mail and mailed to all construction trade journals. The notice to construction trade journals shall be sent at least 15 calendar days before the date of bid opening. Other contractors and/or~~

~~construction trade journals may also be notified, at the discretion of the department soliciting bids. Mailing shall be completed at least 30 days before the date of bid opening.~~

~~When Contractors List Has Not Been Prepared: Proprietary Product or Service~~

~~Notwithstanding the above:~~

- ~~• If the District has not prepared a list of contractors for the particular category of work to be performed, the notice inviting bids shall be sent to each of the construction trade journals.~~
- ~~• If the product or service is proprietary in nature, such that it can be legally obtained only from a certain contractor(s) pursuant to Public Contract Code Section 3400, the notice inviting informal bids may be sent exclusively to such contractors.~~

~~Contracts for Maintenance Work~~

~~Contracts for Maintenance Work may be bid pursuant to the Informal Bidding Procedures described above. Maintenance Work is routine, recurring work done for the preservation or protection of a public facility; minor repainting; landscape maintenance including mowing, watering, trimming, pruning, planting or replacement of plants, and servicing of irrigation systems; work performed to keep, operate, or maintain publicly owned water, power, or waste disposal systems.~~

~~Rejection of Bids: Re-solicitation; Use of District Employees~~

~~If the District intends to reject all bids, it must mail the apparent low bidder a written notice of the District's intent to reject the bid at least two business days prior to the hearing at which the bids will be considered.~~

~~After rejecting all bids, the District may:~~

- ~~• abandon the project;~~
- ~~• re-advertise the project; or~~
- ~~• perform the work with District employees, after passing a resolution by a four-fifths (4/5) majority of the Board of Trustees declaring that the project can be performed more economically by District employees.~~

~~Emergency Procedures~~

~~When an emergency necessitates repair or replacement, contracts shall be awarded pursuant to the procedures described in AP 6340 titled Bids and Contracts.~~

~~[Refer to AP 6350 Contracts - Construction, under which SBCCD maintains procedures for both Uniform Construction Cost Accounting Procedures \(UCCAP\) contracts and those over the UCCAP limit.](#)~~

References:

Education Code Sections 81641 et seq.;

Labor Code Sections 1770 et seq.;

Public Contract Code Sections 20110 et seq., 20650 et seq., 22000 et seq. (Uniform Public Construction Cost Accounting Act (Act))

¹The California Uniform Construction Cost Accounting Commission (Commission) may recommend that the State Controller amend these amounts. Public Contract Code section 22032 authorizes public projects of \$45,000 or less to be performed by District employees by force account, by negotiated contract, or by purchase order. Public projects up to \$175,000 may be let to contract by informal procedures. Public projects in excess of \$175,000, with limited exceptions, shall be let to contract by formal bidding procedure. PCC 22032.

Attachments:



Origination:	02/2004
Last Approved:	06/2019
Last Revised:	06/2019
Next Review:	06/2025
Owner:	<i>Business & Fiscal Services</i> <i>Business & Fiscal Services</i>
Policy Area:	<i>Chapter 6 General Institution</i>
References:	<i>Legally Advised</i>

AP 6350 Contracts - Construction

The San Bernardino Community College District (SBCCD) follows the California Uniform Public Construction Cost Accounting Act Procedures (UCCAAP) under Public Contract Code (PCC) Section 22000 et seq. for the bidding of public works projects.

Public projects are defined in PCC Section 22002(c) as construction, reconstruction, erection, alteration, renovation, improvement, demolition, repair work, or painting or repainting of or involving any publicly owned, leased or operated facility. Public projects do not include maintenance work as defined in Section 22002(d).

In addition, SBCCD uses a Pre-Qualification Program for the bidding of construction projects pursuant to PCC Section 20101 et seq. The Pre-Qualification Program shall apply district-wide to any construction expenditure that meets the specified threshold, regardless of the funding source and the construction delivery method (e.g., low bid; design-build; lease lease-back; etc.).

I. General Contract Procedures

Refer to AP 6340 titled Bids and Contracts section "General Contract Procedures", parts A through G.

II. Bid Limits for UCCAAP & Pre-Qualification Program

The bid limits set in place by the State of California Uniform Construction Cost Accounting Commission will apply.

- If a contemplated expenditure is less than the UCCAAP limit, please refer to the applicable purchasing procedures in **AP 6330** titled **Purchasing**.
- If a contemplated expenditure falls within the UCCAAP limits, the informal bid process established by in PCC Section 22034 must be utilized.
- If a contemplated expenditure is falls between the upper UCCAAP limit and \$3.0 million, the Pre-Qualification Program process established by the Board of Trustees pursuant to PCC Section 20101 et seq. may be utilized.
- If a contemplated expenditure is more than \$3.0 million, the formal bid process established by UCCAAP in PCC Section 22037 must be utilized.

III. Unlawful to Split Bids

Pursuant to PCC Section 22033, it is unlawful to split or separate into smaller work orders or projects any project for the purpose of evading the provisions of the this procedure requiring work to be done by contract after competitive bidding.

IV. Labor Code Compliance

All bid notices for work to be done shall contain an affirmative statement requiring compliance with Labor Code Sections 1775 and 1776 governing payment of prevailing wages and Labor Code Section 1777.5 governing employment of apprentices. All bid submissions must contain all documents necessary to

assure compliance with these Labor Code sections. Failure to provide such documentation shall cause any such bid to be deemed incomplete.

Public Projects funded by any future State Bond funds require that the District initiate and enforce a labor compliance program pursuant to Labor Code Section 1771.5.

V. Award to Low Bidder; No Bids

All contracts must be awarded to the lowest responsible bidders. If two or more bids are the same and the lowest, SBCCD may accept the one it chooses.

If no bids are received through the formal or informal procedure, the project may be performed by SBCCD employees by force account, or through a negotiated contract without further complying with this procedure.

VI. Informal Bid Procedures for UCCAAP

Pursuant to PCC Section 22034, SBCCD will maintain a list of qualified contractors, identified according to categories of work. All contractors on the list for the category of work being bid will be mailed, faxed, or emailed a notice inviting informal bids unless the product or service is proprietary. All mailing of notices to contractors will be completed not less than 10 calendar days before bids are due.

In addition, or alternatively, SBCCD may mail, fax, or email a notice inviting informal bids to all construction trade journal specified in PCC Section 22036.

The notice inviting informal bids should describe the project in general terms and how to obtain more detailed information about the project, and state the time and place for the submission of bids.

VII. Award of Informally-Bid Contracts

The Chancellor or designee is authorized to award informal contracts (defined as contracts that fall within the UCCAAP limits).

VIII. Bids Exceed Informal Bidding Limit

If all informal bids received exceed UCCAAP limits, and SBCCD determines that the cost estimate was reasonable, SBCCD may award the contract to the lowest responsible bidder, but only up to the limited amount specified by the California Uniform Construction Cost Accounting Commission. Such an award must be approved by a resolution receiving a four-fifths majority vote of the Board of Trustees.

IX. Pre-Qualification Program Process

SBCCD will maintain pre-qualified pools of general contractors and subcontractors based on a Pre-Qualification Questionnaire and a uniform rating system.

General contractors and subcontractors are permitted to pre-qualify in more than one pre-qualified pool/ category, depending upon its/their experience, skill, licensing, and other relevant factors.

As projects arise, the pre-qualified contractors and subcontractors, as applicable, will be issued a Request for Bids and/or Proposals for each specific project.

Pre-qualification status may be revoked at any time if SBCCD learns the contractor or subcontractor does not meet the pre-qualification criteria.

Contractors and subcontractors will be required to renew their pre-qualification status with SBCCD on an annual basis.

Appeals Process

Prospective bidders may appeal their proposed prequalification rating prior to the closing time for receipt of bids. Upon request of the prospective bidder, SBCCD will provide notification to the prospective bidder in writing of the basis for the prospective bidder's disqualification and any supporting evidence that has been received from others or adduced as a result of an investigation by SBCCD. The prospective bidder will be given the opportunity to rebut any evidence used as a basis for disqualification and to present evidence to SBCCD as to why the prospective bidder should be found qualified. If the prospective bidder

chooses not to use this appeals process, the proposed prequalification rating may be assumed without further proceeding.

X. Formal Bid Procedures for UCCAAP (for bids over \$3.0 million)

Pursuant to PCC Section 22037, the notice inviting formal bids will state the time and place for the receiving and opening of sealed bids and distinctly describe the project. The notice will be published at least 14 calendar days before the date of opening the bids in a newspaper of general circulation, printed and published in the jurisdiction of SBCCD; or, if there is no newspaper printed and published within the jurisdiction of SBCCD, publication will be by posting the notice in at least three places within the jurisdiction of SBCCD as have been designated by ordinance or regulation of SBCCD as places for the posting of its notices. The notice inviting bids will also be sent electronically, if available, by either facsimile or electronic mail and mailed to all construction trade journals specified in Section 22036. The notice will be sent at least 15 calendar days before the date of opening the bids. In addition, SBCCD may give notice as it deems appropriate.

XI. Bid Documents for Pre-Qualification & Formal Bids

The Chancellor or designee, shall approve plans, specifications and working details for all public projects estimated to cost more than the UCCAAP limits.

XII. When Contractors List Has Not Been Prepared: Proprietary Product or Service

- If the District has not prepared a list of contractors for the particular category of work to be performed, the notice inviting bids shall be sent to each of the construction trade journals.
- If the product or service is proprietary in nature, such that it can be legally obtained only from a certain contractor(s) pursuant to Public Contract Code Section 3400, the notice inviting informal bids may be sent exclusively to such contractors.

XIII. Contracts for Maintenance

Contracts for maintenance work may be bid pursuant to the Informal Bidding Procedures described above. Maintenance work is routine, recurring work done for the preservation or protection of a public facility; minor repainting; landscape maintenance including mowing, watering, trimming, pruning, planting or replacement of plants, and servicing of irrigation systems; work performed to keep, operate, or maintain publicly owned water, power, or waste disposal systems.

XIV. Rejection of Bids; Re-solicitation; Use of SBCCD Employees

If SBCCD intends to reject all bids, it must mail the apparent low bidder a written notice of SBCCD's intent to reject the bid at least two business days prior to the hearing at which the bids will be considered. After rejecting all bids, SBCCD may:

- Abandon the project;
- Re-advertise the project; or
- Perform the work with District employees, after passing a resolution by a four-fifths (4/5) majority of the Board of Trustees declaring that the project can be performed more economically by District employees.

References:

Education Code Sections 81641 et seq.;

Labor Code Sections 1770 et seq.;

Public Contract Code Sections 20110 et seq., 20650 et seq., 22000 et seq. (Uniform Public Construction Cost Accounting Act (UPCCAA))

Attachments:

[AP 6350 Bids and Contracts - Construction.docx](#)



Origination:	N/A
Last Approved:	N/A
Last Revised:	N/A
Next Review:	N/A
Owner:	<i>Business & Fiscal Services</i> <i>Business & Fiscal Services</i>
Policy Area:	<i>Chapter 6 General Institution</i>
References:	<i>Legally Required</i>

AP 6365 Contracts - Accessibility of Information Technology

Whenever the District enters into a contract for the purchase, development, procurement, maintenance, or use of any electronic or information technology, the vendor shall certify that it complies with the requirements of Section 508 of the Rehabilitation Act of 1973 and its related regulations. This requirement shall apply to software applications, operating systems, web-based intranet and internet information and applications, telecommunications products, video or multimedia products, self-contained closed products such as copiers, and desktop and portable computers.

Each contract or purchase order with such a vendor shall contain the following provision:

"The vendor hereby warrants that the products or services to be provided under this agreement comply with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended, and its implementing regulations. Vendor agrees to respond promptly to and resolve any complaints regarding accessibility of its products or services that are brought to its attention. Vendor further agrees to indemnify and hold harmless the District from and against any claim arising out of its failure to comply with these requirements. Failure to comply with these requirements shall constitute a breach and be grounds for termination of this agreement."

References:

Section 508 of the Rehabilitation Act of 1973 (29 U.S. Code Section 794d);

36 Code of Federal Regulations Sections 1194.1 et seq.;

Government Code Section 11135;

Title 5 Sections 59300 et seq.

Attachments:

[AP 6365 Accessibility of Information Technology.doc](#)



Origination: 06/1999
Last Approved: N/A
Last Revised: 09/2019
Next Review: 08/2017
Owner: [Human Resources Human Resources](#)
Policy Area: [Chapter 7 Human Resources](#)
References:

AP 7110 Delegation of Authority, Human Resources

(Replaces current SBCCD AP 7110)

NOTE: The language in red ink is **legally advised**. Local practice may be inserted. The following language will satisfy requirements.

The Chief Human Resources Officer is delegated responsibility from the Chancellor to [recommend or authorize] employment, develop job responsibilities, and perform other personnel actions provided that all federal and state law and regulations, board policies, and administrative procedures are followed.

- From current SBCCD AP 7110 titled Delegation, Human Resources

A. Authorization to Hire

The authority to contract for employee services is vested in the Board of Trustees. No employment is final until the Board takes official action. In the case of short-term hourly/substitute and student employees, the Board delegates the Chancellor or his/her designee as the authorizing agent for hire.

B. Recommendation for Hire

Recommendations to fill vacant positions or establish new positions may come from the Chancellor, the College Presidents, or the [Executive Vice Chancellor](#) ~~of Human Resources~~. The recommending agent must ensure that funds are available to cover the cost of replacement or new positions. The Human Resources Office is responsible for the filling of authorized positions through the established hiring policies and procedures.

C. Recommendation to Hire Student Employees

The Career Center at SBVC and the Campus Business Office at CHC are responsible for processing of student employees including placement, classification, and interface with the Human Resources and Payroll offices.

D. Employee Categories

Employees are assigned to various categories of employment according to Education Code definitions and provisions.

1. Academic Employees

Probationary and regular academic employees are teaching faculty, non-teaching faculty, and Board designated management, and supervisory employees who are paid a monthly salary.

2. Academic Hourly Employees

Academic hourly employees are teaching faculty, non-teaching faculty and Board designated management and supervisory employees who are employed on a temporary basis at an hourly rate. This category includes overload assignments paid on an hourly basis to regular and probationary academic employees. Limitations on hourly assignments for academic bargaining unit members are stated in the SBCCDTA contract. Each hourly academic employee shall file a statement of Minimum Qualification with the Human Resources Office before any service is performed or any payment for services is made. Full-time classified employees who work in an academic hourly capacity must reduce their classified contract by the same number of hours per week.

3. Academic Substitute Employees

Academic substitutes are employed in short- and long-term assignments. Compensation shall be at the appropriate hourly instructional rate for short-term substitutes or at the appropriate monthly salary for long-term substitutes. Each academic substitute shall file a statement of Minimum Qualification with the Human Resources Office before any service is performed or any payment for services is made. Any substitute must be approved by the Human Resources Office and the Board.

4. Regular and Probationary Classified Employees

The regular and probationary classified service includes those employees who do not serve in academic positions but have a designated title, a regular minimum number of assigned hours per day and a specific statement of required duties. These employees are salaried personnel.

5. Short-Term Hourly Employees (non-student)

These employees are employed in positions where the work is usually of a short duration or intermittent in nature. They are paid on an hourly basis. A Request for Short-Term/Substitute Employee must be approved before any work is begun. Specific provisions for short-term hourly employees are listed in Board Policy.

6. Classified Substitutes

Classified substitutes may be provided when a position becomes vacant or when an employee is sick or on vacation. The Request for Short-Term/Substitute Employee is required before a substitute begins work. Substitutes must be approved by the Vice Chancellor of Human Resources. Classified substitutes start on Step A unless previously employed in the District within the previous 24 months. Substitutes shall be employed on an hourly basis. Substitutes in a vacant position shall be employed for no more than 60 calendar days in the assignment.

7. Student Employees

Student employees perform duties assisting an academic program or other general labor or general office duties. Students may be hired as student hourly or work-study employees. Special eligibility criteria and limited use conditions apply as listed in Board Policy. These employees are treated as classified hourly personnel for payroll purposes.

Reference:

Education Code Section 70902(d) ;
ACCJC Accreditation Standard III.A.11

Attachments:

[AP 7110 Delegation of Authority, Human Resources - Comments](#)
[AP 7110 Delegation of Authority, Human Resources - Legal Citations](#)
[AP7110 -OLD.pdf](#)



Current Status: Pending

PolicyStat ID: 3406639



Origination: 06/2004
 Last Approved: N/A
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 Next Review: 08/2017
 Owner: [Human Resources Human Resources](#)
 Policy Area: [Chapter 7 Human Resources](#)
 References:

BP 7110 Delegation of Authority, Human Resources

(Replaces current SBCCD BP 7110)

~~**NOTE:** Current SBCCD BP 7110 parallels the language recommended by the Policy and Procedure Service.~~

- ~~• From current SBCCD BP 7110 titled Delegation, Human Resources~~

The Board ~~of Trustees~~ [Trustees](#) delegates authority to the Chancellor to authorize employment, fix job responsibilities, and perform other personnel actions provided that all federal and state laws and regulations and board policies and administrative procedures have been followed, subject to confirmation by the Board.

Reference:

Education Code Section 70902(d)

Attachments:

[BP 7110 Delegation of Authority, HR-Comments](#)
[BP 7110 Delegation of Authority, HR- Legal Citations](#)
[BP7110 -OLD.pdf](#)

Approval Signatures

Step Description	Approver	Date
Chapter owners are notified	Kristina Hannon	02/2018



Origination: 06/1999
 Last Approved: N/A
 Last Revised: 09/2019
 Next Review: 10 years after approval
 Owner: Human Resources Human Resources
 Policy Area: Chapter 7 Human Resources
 References:

AP 7236 Substitute and Short Term Employees

~~(Replaces current SBCCD AP 7245)~~

~~**NOTE:** Since statute covers substitute and short term employees, it is optional to have a separate procedure. Local practice, if any, may be inserted. The following reflects the requirements of the statute. This procedure applies only to districts not incorporating the merit system.~~

~~**"Substitute employee" means any person employed to replace any classified employee who is temporarily absent from duty. In addition, one or more substitute employees may be hired for not more than [60 calendar days or the period that is in the collection bargaining agreement] if the District is engaged in a procedure to hire a permanent employee to fill a vacancy in any classified position.**~~

~~**"Short term employee" means any person who is employed to perform a service for the District upon the completion of which the service required or similar services will not be extended or needed on a continuing basis.**~~

- ~~▪ From current SBCCD AP 7245 titled Short-Term Hourly Employees~~

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SHORT-TERM/SUBSTITUTE HOURLY EMPLOYEES

A. Definition

A short term or substitute employee is any person who is employed to perform a service for the District, upon completion of which, the service required or similar service will not be extended or needed on a continuing basis. (Ed Code 88003) Short-term employees include hourly employees hired under grant provisions or with special funds and professional experts.

B. Term

- Short term employees shall be employed on an hourly basis and shall be employed for less than 175 working days in any school year, including holidays, sick leave, vacation and other leaves of absence irrespective of number of hours worked in a day.
- Short-term employees working over 30 days per semester may not work over 60 hours per monthly pay period without written approval of the Chancellor or designee.
- Short-term employees shall be assigned from a pool of candidates maintained in the Office of Human Resources. Supervisors may request a list of eligible short-term employees by category.

4. *Substitute employees shall be employed in a classified position in the absence of the regularly assigned personnel. When the absence is caused by a vacancy, the substitute shall not be employed for more than 60 calendar days.*

C. Authorization

Short-term and substitute employment must be approved by the Chancellor or his/her designee before an employee may be assigned.

D. Benefits

Short-term and substitute employees do not earn District health and welfare benefits.

E. Shift Differential

Short-term and substitute employees will be paid a shift differential on the same basis as members of the classified service.

F. Rates

1. *The Office of Human Resources shall maintain a list of Board approved short-term hourly positions and rates of pay.*
2. *Compensation for substitute employees shall be at the hourly rate for the first step of the appropriate range on the regular classified salary schedule.*
3. *Any former employee of the classified service brought back to the District as a substitute employee in the same job classification he/she left will be paid up to the range and step held upon leaving the District, depending upon the recency of experience and the nature of the assignment.*
4. *No one will be placed higher than the hourly rate for the first step if they have not been a member of the classified service in the District within the last two years.*

G. Assignments

Short-term and substitute employees shall be assigned from a pool of candidates maintained in the Office of Human Resources. Supervisors may request a list of eligible short-term and substitute employees by category.

~~Reference:~~ Reference:

Education Code Section 88003

Attachments:



Current Status: Draft

PolicyStat ID: 6913855



Origination: N/A
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 Last Revised: N/A
 Next Review: N/A
 Owner: *Human Resources Human Resources*
 Policy Area: *Chapter 7 Human Resources*
 References:

BP 7236 Substitute and Short Term Employees

(Replaces current SBCCD BP 7245)

The Chancellor is responsible for authorizing the hiring of short-term employees. A short-term employee is a person employed to perform a service for the District, upon completion of which, the service required or similar service will not be extended or needed on a continuing basis.

Before employing a short-term employee, the Board ~~of Trustees~~of Trustees, at a regularly scheduled ~~Bboard~~Board meeting, shall specify the service required to be performed by the employee and shall certify the ending date of the service. The ending date may be shortened or extended by the Board, but shall not extend beyond seventy-five percent of an ~~school academic~~academic year.

Reference:

Education Code ~~Section~~Section 88003

Attachments:

- [BP 7236 Substitute and Short Term Employees - Comments](#)
- [BP 7236 Substitute and Short Term Employees - Legal Citations](#)
- [BP7236-OLD.pdf](#)

*San Bernardino Community College District
Police Department*

*District Assembly Report
October 1, 2019*



San Bernardino Community College District Police Department
District Assembly Report
October 1, 2019

The San Bernardino Community College District Police Department

The San Bernardino Community College District (SBCCD) maintains a Police Department (PD) 24 hours a day, 7 days a week and 365 days per year toward the goal of servicing the members of the campus community and protecting SBCCD property. The police officers assigned to the SBCCD PD are sworn and fully commissioned police officers of the State of California (CA) as defined in Section 830.32 of the Penal Code and 72330 of the CA Education Code. The SBCCD PD is accredited by the CA Commission on Peace Officer Standards and Training (POST).

Mission, Vision and Goals

The mission, vision and goals of the SBCCD PD are as follows:

Mission – *The SBCCD PD, in concert with the Board of Trustees, is committed to providing a safe and secure learning and working environment for all students and employees...*

Vision - *The vision of the SBCCD PD is to be a leader in the field of campus law enforcement with exceptional public service and professionalism as the core principles.*

SBCCD PD Goals for '2019

1. *Provide exceptional campus safety to students, faculty, and staff throughout the entire campus community.*
2. *Recruit, develop, and retain a professional diverse workforce, as well as enhance the overall working environment at the SBCCD PD.*
3. *Work with California State University, San Bernardino (CSUSB) to enhance the PD's Records Information Management System (RIMS), reduce response times, improve officer safety, and reduce overall incidents of Clery Act, Part I & II crimes.*
4. *Strengthen campus and other law enforcement relationships, increase visibility and further implement community policing*
5. *Establish and enhance effective systems & controls to reduce liability and manage predictable risk to the SBCCD and the PD.*

Staffing Levels at SBCCD PD

Currently, the SBCCD PD has seven (7) College Police Officers (CPO), five (5) College Security Officers (CSOs) and three (3) Police Sergeants (one permanent, one interim and one acting) deployed 24/7 to respond to calls for service and address any public safety concerns within the campus community. In addition, the SBCCD PD is in the process of recruiting and hiring three (3) CPOs and three (3) CSOs, which are FY '19-'20 budgeted vacancies. It is anticipated that these vacancies should be filled by the end of the fiscal year.

**San Bernardino Community College District Police Department
District Assembly Report
October 1, 2019**

Highlights of Effective Strategies and Best Practices

The following are a few of the proactive strategies or best practices being used to assist the SBCCD PD in achieving the stated goals, as well as provide a greater level of service throughout the campus community:

- Established and continue to hold daily roll call briefings and monthly management staff meetings for all PD personnel where the leadership team continues to:
 - Discuss the mission, vision, and goals of the SBCCD PD and SBCCD
 - Clearly outline the expectations for each employee as it relates to the treatment of students, faculty, staff, co-workers as well as everyone throughout the campus community
 - Emphasized the key attributes required to move the Department from “Good” to “Great!” – Jim Collins
- Continue to meet monthly meetings with College Presidents to listen to and address safety concerns on their respective campuses
- Continue to meet monthly with student and faculty groups to listen to and address any issues and/or safety concerns
- Reestablished and continue to coordinate “Coffee with a Cop” events at SBVC, CHC, and the District, as well as other Community Policing events (i.e., safety presentations, social media, safety walks, etc.)
- Revised/updated the PD’s existing webpage & established a social media account (Twitter)
- In the process of reestablishing the Bike patrol program on both campus
- Continue to meet weekly with the District’s Security Focus Team to establish districtwide safety standards and procedures for new Measure CC Bond construction projects
- All police officers are required to attend quarterly Use of Force, EVOG, & perishable skills training with SB Co. Sheriff’s Department thereby reducing predictable risk to the SBCCD
- Continue to provide Armed Intruder/Active Shooter Training to SBCCD managers & faculty members
- Revised the existing FTO Manual and provided FTO’s with 8 hours of POST Mental Health Training to fully comply with Assembly Bill 503
- Established a new Records Information Management System to systematically track all Department criminal cases, evidence, found property, and police equipment
- Finalized the Police Officer Trainee MOU to allow a career path for current CSO’s and other classified District employees

Results of 2019 District Climate Survey - SBCCD PD

<i>Police Department Climate Survey Questions</i>	Total
1. Police/security are available when I am involved in a safety or crime-related incident?	75%
2. Overall, the SBCCD Police Department is helpful?	91%
3. Police/security respond in a timely fashion to safety and police emergencies?	77%
4. The District Police Department is professional during their daily contacts?	93%
5. Overall, I am satisfied with the service provided by the District Police Department?	88%