

Board Policy Review Committee: Policy and Procedure Review

4-4-2022

[BP 1200 Mission](#) – Reviewed as part of annual review requirement. IDEA Committee revisions added.

[AP 3225 Institutional Effectiveness](#) – CCLC 38 Update added *optional* language to highlight diversity, equity, and inclusion issues.

[AP 3434 Responding to Harassment Based on Sex Under Title IX](#) – CCLC 38 updated this procedure to add optional language to highlight diversity, equity, and inclusion issues and to clarify other language and minor edits.

[AP 3435 Discrimination and Harassment Investigations](#) – CCLC Updates 34, 35, Title IX, 38 – Legally Required. This procedure has been created from Scratch on the advice of general counsel. This replaces existing AP 3435 in its entirety.

[AP 3515 Reporting of Crimes](#) – CCLC 36 legally required updates, contact updates, and added links to web references.

[AP 4250 Probation](#) – CCLC 38 updated this procedure to add optional language to highlight diversity, equity, and inclusion issues.

[AP 5011 Admission of High School and Other Young Students](#) – CCLC 36 Update - Legally Required and updated to incorporate changes in the law pertaining to College and Career Access Pathways (CCAP) partnerships between community college districts and school districts. Formatting and revisions.

[AP 5020 Non-Resident Tuition](#) – CCLC 38 updated this procedure to reorganize (inserting a numbering sequence versus bullets in three sections of the template) to clarify that there are multiple factors that must be satisfied to qualify for the corresponding exemption. However, our procedure is well organized and formatted in a way that the District clearly requires multiple factors. The bulleted form has been retained at this time.

[BP 5030 Fees](#) – Reviewed as part of regular review cycle and to align with review and update of AP 5030 Fees (Update 38).

[AP 5030 Fees](#) – CCLC 38 legally required update to remove a citation to Section 54801 of Title 5, which was repealed.

[BP 5035 Withholding of Student Records](#) – CCLC 38 update legally advised. Effective January 1, 2020, the Educational Debt Collection Practices Act prohibits Districts from withholding a transcript on the grounds that the student owes a debt. The Service updated this policy to reflect changes to Title 5 Regulations that prohibit withholding grades or transcripts in an effort to collect a debt.

[AP 5035 Withholding of Student Records](#) – CCLC 38 updated this procedure to reflect changes to Title 5 regulations that prohibit withholding grades or transcripts in an effort to collect a debt.

[BP 3550 Drug and Alcohol-Free Environment and Drug and Alcohol Abuse Program](#) – CCLC Update 38 updated this policy to add clarifying language to specify that the District shall be free from all unlawful drugs.

[BP 6370 Contracts - Personal - Other Services](#) – CCLC 36 Update – this legally required procedure was updated to reflect the “ABC” test for determining independent contractor status that was codified as part of AB 5.

[BP 6800 Industrial Safety](#) – Due for review as part of the regular review cycle. No legal updates from CCLC. Minor formatting updates.

[BP 7236 Substitute and Short-Term Employees](#) – Due for review as part of regular review cycle, in conjunction with AP 7236 legal updates, approved at the February 15, 2022 Board of Trustees meeting.

[BP 7600 District Police](#) – CCLC 38 Update added optional use of force and reporting language to highlight diversity, equity, and inclusion issues.

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

Status Update – Policies and Procedures Currently Under Review

Administrative – Under Review

AP 3420 Equal Employment Opportunity

AP 3725 Information and Communications Technology and Accessibility Acceptable Use

BP 4250 Academic Probation Dismissal and Readmission

AP 5020 Non-Resident Tuition

BP 6340 Bids and Contracts

BP 7100 Commitment to Diversity

BP 7120 Employment Recruitment

BP 7130 Compensation

BP 7160 Professional Development

BP 7250 Educational Administrators

BP 7345 Catastrophic Leave Program

Academic Senate – Under Review

BP/AP 4020 Program Curriculum and Course Development

BP/AP 4106 Nursing Programs

AP 4250 Probation

BP/AP 5050 Student Success and Support Program

AP 5055 Enrollment Priorities

The District

IDEA Committee Revisions. 3-8-2022

Classified Senate reviewed. 3-22-2022

BP 1200 MISSION**Reference:**

ACCJC Accreditation Standard I.A.

The mission of the Marin Community College District:

College of Marin's commitment to educational excellence is rooted in [providing equitable opportunities](#) [equity practices](#) and fostering success for all members of our diverse community by offering:

- preparation for transfer to four-year colleges and universities;
- associate degrees and certificates
- career technical education
- basic skills improvement
- English as a second language
- lifelong learning
- community and cultural enrichment

College of Marin responds to community needs by offering student-centered programs and services in a supportive, innovative learning environment that promotes social, [racial](#), and environmental [responsibility justice](#).

The mission is evaluated and revised on a regular basis. The District believes [a that our](#) commitment [and accountability](#) to diversity, equity, and [inclusion belonging](#) enriches the District's mission and supports students in achieving their educational goals.

Date Adopted: December 9, 2008 (*Replaced College of Marin Policy 1.7020*)

Date Revised: April 20, 2010, April 11, 2015, November 9, 2021

Date Revised:

General Institution

CCLC 38 Update added *optional* language to highlight diversity, equity, and inclusion issues.

Mici 2-1-2022

Approved without revisions. Student Learning and Success. 3-23-2022

AP 3225 INSTITUTIONAL EFFECTIVENESS

References:

Education Code Sections 78210 et seq. and 84754.6;

ACCJC Accreditation Standards I.B.5 - 9

The District shall develop, adopt, and publicly ~~ally~~ post goals that address the following:

- 1) Accreditation Status
- 2) Fiscal Viability
- 3) Student Performance and outcomes; and
- 4) Programmatic compliance with state and federal guidelines.

The goals should be challenging and quantifiable, address achievement gaps for underrepresented populations, and align the educational attainment of California's adult population to the workforce and economic needs of the state.

Institutional effectiveness includes the assessment of goals and objectives with respect to the District's commitment to equity and inclusion.

Offices of Primary Responsibility: Office of the President; Student Learning and Success

Date Adopted: May 14, 2019

Date Reviewed/Revised:

General Institution

CCLC 38 updated this procedure to add optional language to highlight diversity, equity, and inclusion issues and to clarify other language. and minor edits. Mici 2-25-2022
Human Resources has no revisions and approved. Nikki H. 3-3-2022

AP 3434 RESPONDING TO HARASSMENT BASED ON SEX UNDER TITLE IX**References:**

20 U.S. Code Sections 1681 et seq.;
34 Code of Federal Regulations Parts 106.1 et seq.;
Education Code Sections 67380 et seq.;
Office for Civil Rights Letter dated August 24, 2021

Introduction

The District encourages members of the District community to report sexual harassment. This procedure only applies to conduct defined as sexual harassment under Title IX and applicable federal regulations and that meets sTitle IX jurisdictional requirements. The District will respond to sexual harassment and sexual misconduct that falls outside that definition and outside the jurisdiction of the Title IX federal regulations using California law and applicable District policies and procedures. In implementing these procedures discussed below, the District will also provide supportive measures, training, and resources in compliance with California law, unless they are preempted by the Title IX regulations.

Title IX Coordinator

Questions concerning Title IX may be referred to the District Title IX Coordinator whose contact information is below.

The District's Title IX Coordinator is Nekoda Harris, Executive Director of Human Resources, and the Title IX Coordinator's contact information is:

Address:

Indian Valley Campus
Building 11, Second Floor
1800 Ignacio Boulevard
Novato, CA 94949

Phone number: (415) 485-9520

Email: NHarris@marin.edu

The Title IX Coordinator is required to respond to reports of sexual harassment or misconduct. The Title IX Coordinator will handle information received with the utmost discretion and will share information with others on a need-to-know basis. For example, the Title IX Coordinator may need to address public safety concerns on campus, comply with state and federal legal requirements, or share information to implement supportive measures.

A report of sexual harassment to the Title IX Coordinator does not necessarily lead to a full investigation, as discussed more fully below. However, the Title IX Coordinator will make an assessment to determine if there is a safety risk to the campus. If the Title IX Coordinator finds there is a continued risk, the Title IX Coordinator will file the formal complaint without the Complainant's consent or cooperation.

Title IX Harassment Complaints, Investigations, and Hearings

These Title IX sexual harassment procedures and the related policy protect students, employees, applicants for employment, and applicants for admission.

Jurisdictional Requirements – Application of Procedures

These procedures apply if the conduct meets the following three jurisdictional requirements:

- The conduct took place in the United States;
- The conduct took place in a District “education program or activity.” This includes locations, events, or circumstances over which the District exercised substantial control over both the Respondent and the context in which the harassment occurred, including on-campus and off-campus property and buildings the District owns or controls or student organizations officially recognized by the District own or control.
- The conduct meets the definition of Title IX “sexual harassment.”

Definitions

Advisor: Throughout the grievance process, both the Complainant and Respondent have a right to an Advisor of their choice. If a Party does not have an Advisor at the time of the hearing, the District must provide the Party an Advisor of its choice, free of charge. The District may establish restrictions regarding the extent to which the Advisor may participate in the proceedings as long as the restrictions apply equally to both Parties.

Complainant: A Complainant is an individual who alleges he/she/they is the victim of conduct that could constitute sexual harassment.

Consent: Consent means affirmative, conscious, and voluntary agreement to engage in sexual activity. Both Parties must give affirmative consent to sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that he/she/they has the affirmative consent of the other or others to engage in the sexual activity. Lack of protest, lack of resistance, or silence does not indicate consent. Affirmative consent must be ongoing throughout a sexual activity and one can revoke his/her/their consent at any time. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, is not an indicator of consent.

The Respondent’s belief that the Complainant consented will not provide a valid defense unless the belief was actual and reasonable, based on the facts and circumstances the Respondent knew, or reasonably should have known, at the time of the incident. A Respondent’s belief is not a valid defense where:

- The Respondent’s belief arose from the Respondent’s own intoxication or recklessness;
- The Respondent did not take reasonable steps to ascertain whether the Complainant affirmatively consented; or
- The Respondent knew or a reasonable person should have known that the Complainant was unable to consent because the Complainant was incapacitated, in that the Complainant was:
 - asleep or unconscious;

- unable to understand the fact, nature, or extent of the sexual activity due to the influence of drugs, alcohol, or medication; or
- unable to communicate due to a mental or physical condition.

Decision-Maker: The person or persons who will oversee the live hearing and make a determination of responsibility. At its discretion, the District may have one Decision-Maker determine whether the Respondent is responsible, and another Decision-Maker determine the appropriate level of penalty for the conduct. The Decision-Maker cannot be the Title IX Coordinator or the investigator.

Formal Complaint: A written complaint signed by the Complainant or Title IX Coordinator, alleging sexual harassment and requesting an investigation. If the Title IX Coordinator signs the formal complaint, he/she/they will not become a Party to the complaint.

Parties: As used in this procedure, this means the Complainant and Respondent.

Respondent: A Respondent is an individual reported to be the perpetrator of conduct that could constitute sexual harassment.

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

- A District employee conditions the provision of an aid, benefit, or service of the District on an individual's participation in unwelcome sexual conduct (*quid pro quo* harassment);
- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the District's education program or activity;
- Sexual assault, including the following:
 - **Sex Offenses.** Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.
 - **Rape** (except Statutory Rape). The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity. There is carnal knowledge if there is the slightest penetration of the genital or anal opening of the body of another person.
 - **Sodomy.** Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity.
 - **Sexual Assault with an Object.** To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity. An "object" or "instrument" is anything the offender uses other than the offender's genitalia, e.g., a finger, bottle, handgun, stick.
 - **Fondling.** The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity.
 - **Sex Offenses, Non-Forcible Unlawful, Non-Forcible Sexual Intercourse.**
 - **Incest.** Non-Forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

- **Statutory Rape – Non-Forcible.** Sexual intercourse with a person who is under the statutory age of consent. There is no force or coercion used in Statutory Rape; the act is not an attack.
- **Dating Violence.** Violence against a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of a relationship will be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- **Domestic Violence.** Violence committed:
 - By a current or former spouse or intimate partner of the victim;
 - By a person with whom the victim shares a child in common;
 - By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
 - By a person similarly situated to a spouse of the victim under the domestic or family violence laws of California; or
 - By any other person against an adult or youth victim protected from that person’s acts under the domestic or family violence laws of California.
- **Stalking.** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his/her/their safety or the safety of others or suffer substantial emotional distress.

Reporting Options

Any individual may report sexual harassment to the District’s Title IX Coordinator.

The District strongly encourages prompt reporting of sexual harassment. Prompt reporting allows for the collection and preservation of evidence, including physical evidence, digital media, and witness statements. A delay may limit the District’s ability to effectively investigate and respond.

Individuals have the opportunity to decide whether they want to pursue a formal Title IX complaint. Reporting sexual harassment to the Title IX Coordinator does not automatically initiate an investigation under these procedures. A report allows the District to provide a wide variety of support and resources to impacted individuals and to prevent the reoccurrence of the conduct. A Complainant or the Title IX Coordinator filing a formal complaint will initiate an investigation.

If there are parallel criminal and Title IX investigations, the District will cooperate with the external law enforcement agency and will coordinate to ensure that the Title IX process does not hinder legal process or proceedings.

The District will document reports of sexual harassment in compliance with the Clery Act, a federal law requiring data collection of crime within the campus geography. Under the Clery Act, the District does not document personal information; the District reports the type of conduct, and the time, date, and location. (Also see *BP/AP 3540 Sexual and Other Assaults on Campus* and *BP/AP 3515 Reporting of Crimes*)

District Employees and Officials with Authority

District Officials with Authority are not confidential resources and are required to report allegations of sexual harassment to the Title IX Coordinator promptly. All other employees are encouraged to report allegations to the Title IX Coordinator but are not required to do so.

The District has designated the following employees as Officials with Authority: all managers, supervisors, campus police officers, and the student conduct and community standards coordinator.

Officials with Authority are required to report all relevant information they know about sexual harassment including the name of the Respondent, the Complainant, any other witnesses, and the date, time, and location of the alleged incident.

All other employees are strongly encouraged to report all relevant information they know about sexual harassment including the name of the Respondent, the Complainant, any other witnesses, and the date, time, and location of the alleged incident.

Intake and Processing of Report

Receipt of Report

After receiving a report of sexual harassment, the Title IX Officer will contact the Complainant and reporting party to explain rights under this policy and procedure and invite the Complainant to an in-person meeting. The Title IX Officer will discuss supportive measures with the Parties.

Timeframe for Reporting

To promote timely and effective review, the District strongly encourages individuals to report sexual harassment as soon possible because a delay in reporting may affect the ability to collect relevant evidence and may affect remedies the District can offer.

Supportive Measures

Supportive measures are non-disciplinary, non-punitive individualized services offered free of charge to the Complainant or the Respondent regardless of whether a formal complaint has been filed. The District will provide the Complainant and Respondent with written notice of options for, available assistance in, and how to request available supportive measures. The District will provide such measures to Complainant and Respondent as appropriate and as reasonably available to restore or preserve equal access to the District's education program or activities. These measures are designed to protect the safety of all Parties, protect the District's educational environment, or deter sexual harassment. The District will provide supportive measures on a confidential basis and will not disclose that the District is providing supportive measures except to those with a need to know to enable the District to provide the service. Supportive measures may include changes to academic, living, transportation, and working situation or protective measures such as counseling, extensions of deadlines, other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the Parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

Removal of Respondent Pending Final Determination

Upon receiving a report regarding sexual harassment, the Title IX Coordinator will make an immediate assessment concerning the health and safety of the Complainant and campus community as a whole. The District has the right to order emergency removal of a Respondent, or if the Respondent is an employee, place the employee on administrative leave.

Emergency Removal

The District may remove a non-employee Respondent from the District's education program or activity on an emergency basis after it conducts an individualized safety and risk analysis and determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal.

The District may not use emergency removal to address a Respondent's threat of obstructing the sexual harassment investigation or destroying relevant evidence. Emergency removal is only available to address health or safety risks against individuals arising out of sexual harassment allegations, not to address other forms of misconduct that a Respondent might commit pending the processing of a complaint.

The District's Title IX Coordinator or designee, the Chief of Police or designee, or the Superintendent/President will conduct the individualized safety and risk analysis. The Title IX Coordinator is an authorized designee of the President for purposes of Withdrawal of Consent to be on Campus under *AP 5520 Student Discipline and Due Process*.

If the District's Title IX Coordinator or designee, the Chief of Police or designee, or the Superintendent/President determines emergency removal is appropriate, he/she/they or designee will provide the person the District is removing from campus on an emergency basis. Please refer to the procedure for withdrawal of consent to be on campus under AP 5520 Student Discipline and Due Process, or as an interim suspension or other student conduct measure under AP 5520.

The District's Title IX Coordinator or designee, the Chief of Police or designee, or the Superintendent/President will determine whether the emergency removal from campus order is warranted after considering information provided by the Respondent challenging the emergency removal. The Title IX Coordinator is an authorized designee of the President for purposes of Withdrawal of Consent to be on Campus under AP 5520.

Administrative Leave

The District may place an employee Respondent on administrative leave during the pendency of a grievance process described in the formal complaint process below. The District will follow any relevant policies, procedures, collective bargaining agreements, or state law in placing an employee on administrative leave.

Formal Complaint Grievance Process

Notice to Parties

Upon receipt of a formal complaint, the Title IX Coordinator will provide the following notice in writing, to the Parties:

- Notice of the District's Title IX grievance process;
- Notice of the allegations of alleged sexual harassment with sufficient details known at the time and with sufficient time to prepare a response before any initial interview;
- Statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
- Notice that the Parties may have Advisor of their choice, who may be, but is not required to be, an attorney;
- Notice that the Parties may inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including the evidence upon which the District does not intend to rely in reaching a determination regarding responsibility, and inculpatory or exculpatory evidence whether obtained from a Party or other source; and
- Inform the Parties of any provision in the District's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

If, in the course of an investigation, the District decides to investigate allegations about the Complainant or Respondent that are not included in the notice provided above, the Title IX Coordinator will provide notice in writing of the additional allegations to the Parties.

Dismissal of Formal Complaint

The District must investigate the allegations in a formal complaint. However, the District must dismiss the formal complaint and will not process the complaint under these procedures if any of the following three circumstances exist:

- If the conduct alleged in the formal complaint would not constitute Title IX sexual harassment as defined in this procedure;
- If the conduct alleged did not occur in the District's education program or activity;
- If the conduct alleged did not occur against a person in the United States.

The District has discretion to dismiss a formal complaint or any allegation under the following circumstances:

- If at any time during the investigation or hearing: a Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations;
- If the Respondent is no longer enrolled or employed by the District; or
- If there are specific circumstances that prevent the District from gathering evidence sufficient to reach a determination regarding responsibility as to the formal complaint or allegations.

If the District dismisses the formal complaint or any allegations, the Title IX Coordinator shall simultaneously provide the Parties with written notice of the dismissal and reason. The District will also notify the Parties of their right to appeal.

The District may commence proceedings under other policies and procedures after dismissing a formal complaint.

Consolidation of Formal Complaints

The District may, but is not required to, consolidate formal complaints as to allegations of sexual harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one Party against the other Party, where the allegations of sexual harassment arise out of the same facts or circumstances.

Equitable Treatment of the Parties

The District's determination of responsibility is a neutral, fact-finding process. The District will treat Complainants and Respondents equitably. The procedures will apply equally to both Parties. The District will not discipline a Respondent for sexual harassment unless it determines the Respondent was responsible for sexual harassment at the conclusion of the grievance process.

Statement of Presumption of Non-Responsibility

The investigation is a neutral, fact-finding process. The District presumes all reports are in good faith. Further, the District presumes the Respondent is not responsible for the alleged conduct. The District makes its determination regarding responsibility at the conclusion of the grievance process.

Bias or Conflict of Interest

The District's Title IX Coordinator, Decision-Maker, an investigator, or any person designated by the District to facilitate an informal resolution process, will not have potential actual bias or conflict of

interest in the investigatory, hearing, sanctioning, or appeal process or bias for or against Complainants or Respondents generally. Actual bias is an articulated prejudice in favor of or against one Party or position; it is not generalized concern about the personal or professional backgrounds, positions, beliefs, or interests of the Decision-Maker in the process. The District will ensure that the Title IX Coordinator, investigator, Decision-Maker, and facilitator receive training on:

- The definition of sexual harassment in this procedure;
- The scope of the District's education program or activity;
- How to conduct an investigation;
- The grievance process including conducting hearings, appeals, and informal resolution processes; and
- How to serve impartially, including avoiding: prejudgment of the facts at issue; conflicts of interest; and bias.

Timeline for Completion

The District will undertake its grievance process promptly and as swiftly as possible. The District will complete the investigation and its determination regarding responsibility or the informal resolution process within 210 calendar days.

When appropriate, the Title IX Coordinator may determine that good cause exists to extend 210-calendar day period to conduct a fair and complete investigation, to accommodate an investigation by law enforcement, to accommodate the unavailability of witnesses or delays by the Parties, to account for District breaks or vacations, or due to the complexity of the investigation. The District will provide notice of this extension to the Complainant and Respondent in writing and include the reason for the delay and anticipated timing of completion.

A Party may request an extension from the Title IX Coordinator in writing by explaining the reason for the delay and the length of the continuance requested. The Title IX Coordinator will notify the Parties and document the grant or denial of a request for extension or delay as part of the case recordkeeping.

Role of Advisor

The role of the Advisor is to provide support and assistance in understanding and navigating the investigation process.

The Advisor may not testify in or obstruct an interview or disrupt the process. The Title IX Coordinator has the right to determine what constitutes appropriate behavior of an Advisor and take reasonable steps to ensure compliance with this procedure.

A Party does not have a right to self-representation at the hearing; an Advisor must conduct any cross-examination. The District must provide an Advisor of its choice, free of charge to any Party without an Advisor in order to conduct cross-examination. If an Advisor fails to appear at the hearing, the District will provide an Advisor to appear on behalf of the non-appearing Advisor. To limit the number of individuals with confidential information about the issues, each Party may identify one Advisor.

Confidentiality Agreements

To protect the privacy of those involved, the Parties and Advisors are required to sign a confidentiality agreement prior to attending an interview or otherwise participating in the District's grievance process. The confidentiality agreement restricts dissemination of any of the evidence subject to inspection and review or use of this evidence for any purpose unrelated to the Title IX grievance

process. The confidentiality agreement will not restrict the ability of either Party to discuss the allegations under investigation.

Use of Privileged Information

The District's formal complaint procedure does not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally-recognized privilege (e.g., attorney-client privilege, doctor-patient privilege, spousal privilege, etc.), unless the person holding the privilege provides voluntary, written consent to waive the privilege.

Investigations

The Title IX Coordinator is responsible to oversee investigations to ensure timely resolution and compliance with Title IX and this procedure.

Both Parties have the right to have an Advisor present at every meeting with the Party described in this section.

Trained investigators

The District will investigate Title IX formal complaints fairly and objectively. Individuals serving as investigators under this procedure will have adequate training on what constitutes sexual harassment and how the District's grievance procedures operate. The District will also ensure that investigators receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence and complies with this procedure.

Gathering Evidence and Burden of Proof

The District, not the Parties, has the responsibility to gather information and interview witnesses. When the investigator evaluates the evidence, he/she/they will do so using the preponderance of the evidence standard. After considering all the evidence gathered, the investigator will decide whether it is more likely than not that reported conduct occurred.

Notice of Investigative Interview

The District will provide written notice of the date, time, location, participants, and purpose of all investigative interviews to a Party whose participation is invited or expected, with sufficient time for the Party to prepare to participate.

Evidence Review

Both Parties have an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including the evidence upon which the District does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a Party or other source.

Prior to the investigator preparing an investigative report, the District will make available ~~send~~ to each Party and the Party's Advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy. The Parties will have at least ten days to submit a written response. The investigator must consider this written response prior to completing the investigative report.

Investigative Report

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

- A description of the circumstances giving rise to the formal complaint;

- A description of the procedural steps taken during the investigation, including all individuals contacted and interviewed;
- A summary of the testimony of each witness the investigator interviewed;
- An analysis of relevant evidence collected during the investigation, including a list of relevant documents;
- A specific finding as to whether the allegations occurred using a preponderance of the evidence standard; and
- Any other information deemed appropriate by the District.

The investigator will not make a determination regarding responsibility.

The investigator may redact information not directly related to the allegations or privileged information. However, the investigator will keep a log of information he/she/they do not produce to the Parties. The investigator will provide this log only to the Title IX Coordinator. The Title IX Coordinator will not disclose the log to the Parties but will maintain the log in the Title IX Coordinator's file, in the event it later becomes relevant.

At least ten days prior to a hearing or other time of determination regarding responsibility, the District will send the investigative report to each Party and their Advisors, if any, the investigative report in an electronic format or a hard copy, for review and written response. The Parties will have at least ten days to submit a written response.

Hearing

After completing an investigation and prior to completing a determination regarding responsibility, the District will hold a live hearing to provide the Complainant and Respondent an opportunity to respond to the evidence gathered before a Decision-Maker. Neither Party may choose to waive the right to a live hearing, but the Parties can choose whether to participate in the hearing or answer some or all cross-examination questions.

Notice

If the District proceeds to a hearing, the District will provide all Parties written notice of the date, time, location, participants, and purpose of the hearing with sufficient time for the Party to prepare to participate.

Hearing Format

The District may provide a live hearing with all Parties physically present in the same geographic location or, at the District's discretion if either Party requests, the District may provide any or all Parties, witnesses, and other participants the ability to appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other in real time.

The District will make the information reviewed during the Evidence Review available at the hearing for reference and consultation. The District will not restrict the ability of either Party to discuss the allegations under investigation or to gather and present relevant evidence.

The District will create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the Parties for inspection and review.

Decision-Maker

The Decision-Maker will be free from conflict of interest or bias, including bias for or against Complainants or Respondents. If the Complainant or Respondent believes the Decision-Maker has a

conflict of interest, the Party shall inform the Title IX Coordinator in writing as soon as possible and within five business days after being notified of the Decision-Maker. The Title IX Coordinator will evaluate the information and determine whether to proceed with the Decision-Maker or select a different Decision-Maker.

The Decision-Maker may ask the Parties and the witnesses questions during the hearing. The Decision-Maker must objectively evaluate all relevant evidence both inculpatory and exculpatory and must independently reach a determination regarding responsibility without giving deference to the investigative report. The Decision-Maker must receive training on issues of relevance, how to apply the rape-shield protections for Complainants, and any technology to be used at the hearing.

Presenting Witnesses

The District will provide the Complainant and Respondent an equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence. Witnesses, like Parties, are not required to participate in the live hearing process.

Only relevant evidence will be admissible during the hearing. Relevant evidence means evidence, including evidence relevant to the credibility of a Party or witness, having any tendency in reason to prove or disprove any disputed fact material to the allegations under investigation.

Cross-Examination

The District will permit each Party's Advisor to ask the other Party and any witnesses all relevant questions and follow-up questions, including those questions challenging credibility. The Party's Advisor must conduct cross-examination directly, orally, and in real time. A Party may never personally conduct cross-examination.

Advisors may only ask relevant cross-examination and other questions of a Party or witness. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the Decision-Maker must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. The Decision-Maker need not provide a lengthy or complicated explanation in support of a relevance determination. If a Party or witness disagrees with a relevance determination, that individual has the choice of either (1) abiding by the Decision-Maker's determination and answering the question or (2) refusing to answer the question.

The Decision-Maker may consider statements made by Parties or witnesses that are otherwise permitted under the Title IX regulations, even if those Parties or witnesses do not participate in cross-examination at the live hearing, in reaching a determination regarding responsibility in the Title IX grievance process. For example, the Decision-Maker may consider statements made by the Parties and witnesses during the investigation, emails or text exchanges between the Parties leading up to the alleged sexual harassment, and statements about the alleged sexual harassment that satisfy the regulation's relevance rules, regardless of whether the Parties or witnesses submit to cross-examination at the live hearing. The Decision-Maker may also consider police reports, Sexual Assault Nurse Examiner documents, medical reports, and other documents even if those documents contain statements of a party or witness who is not cross-examined at the live hearing.

Determinations of Responsibility

When the Decision-Maker makes a determination of responsibility or non-responsibility, the Decision-Maker will issue a written determination regarding responsibility, no later than 30 business days after the date that the hearing ends.

When making a determination regarding responsibility, a Decision-Maker will objectively evaluate all relevant evidence, including both inculpatory and exculpatory evidence. A Decision-Maker may not make credibility determinations based on an individual's status as a Complainant, Respondent, or witness. In evaluating the evidence, the Decision-Maker will use the 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 sexual harassment occurred.

The written determination will include:

- Identification of the allegations potentially constituting Title IX sexual harassment as defined in these procedures;
- A description of the procedural steps taken from the receipt of the formal complaint through the determination, including who conducted the investigation and gave notifications to the Parties. The determination will also state when, where, and the date the investigator interviewed the Parties and witnesses, conducted site visits, the methods used to gather other evidence. The procedural section should also discuss the dates and how the Parties were provided the opportunity to review and inspect evidence and the date of any hearings held and who attended the hearing;
- Findings of fact supporting the determination. In making these findings, the Decision-Maker will focus on analyzing the findings of fact that support the determination of responsibility or non-responsibility;
- Conclusions regarding the application of the District's code of conduct to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility;
- A statement of, and rationale for, any disciplinary sanctions the District imposes on the Respondent;
- A statement of whether the District will provide the Complainant with remedies designed to restore or preserve equal access to the District's education program or activity;
- The District need not disclose to the Respondent remedies that do not affect him/her/them as part of the written determination. The District can inform the Respondent that it will provide remedies to the Complainant. However, the District will inform the Complainant of the sanctions against the Respondent;
- The District's procedures and permissible bases for the Complainant and Respondent to appeal.

The District will provide the written determination to the Parties simultaneously. The determination regarding responsibility becomes final either on the date that the District provides the Parties with the written determination of the result of the appeal, if the Parties file an appeal, or if the Parties do not file an appeal, the date on which an appeal would no longer be timely.

Disciplinary Sanctions and Remedies

The District must have completed the grievance procedures (investigation, hearing, and any appeal, if applicable) before the imposing disciplinary sanctions or any other actions that are not supportive measures against a Respondent. If the Decision-Maker determines the Respondent was responsible for conduct that constitutes sexual harassment, the District will take disciplinary action against the Respondent 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 Respondent do not attend the same classes or work in the same work area;
- 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 Complainant, if a student, 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's discipline.

Possible disciplinary sanctions for student Respondents include written or verbal reprimand, required training or counseling, non-academic probation, suspension, and expulsion. Possible disciplinary sanctions for employee Respondents include written or verbal reprimand, required training or counseling, reduction in pay, demotion, suspension, or discharge, in accordance with any applicable collective bargaining agreement or Board Policies and Administrative Procedures.

Appeal of Dismissal of a Formal Complaint or of the Determination of Responsibility

A Complainant or Respondent may appeal the District's determination regarding responsibility or the dismissal of a formal complaint or any allegations. A Complainant or Respondent must submit a written appeal within 5 business days from the date of the notice of determination regarding responsibility or from the date of the District's notice of dismissal of a formal complaint or any allegations.

Grounds for Appeal

The District will appoint one or more persons to serve as the Decision-Maker on Appeal. The Decision-Maker on Appeal may not be the original Decision-Maker who made the decision the appellant is challenging, nor the Title IX Coordinator or investigator. In filing an appeal of the District's determination regarding responsibility or the District's dismissal of a formal complaint, the Party must state the grounds for appeal and a statement of facts supporting those grounds. The grounds for appeal are as follows:

- A procedural irregularity affected the outcome;
- New evidence was not reasonably available at the time the District's determination regarding responsibility or dismissal was made, and this new evidence could affect the outcome; or
- The District's Title IX Coordinator, investigator, or Decision-Maker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome.

Appeal Procedure

If the Complainant or Respondent submit an appeal to the District, the District will:

- Notify the other Party in writing within ten (10) business days of receiving a Party's appeal;
- Allow the non-appealing Parties at least ten (10) business days from the date of receipt of the appeal to submit a written statement in support of, or challenging, the outcome;

The appeal Decision-Maker will issue a written decision on whether to grant or deny the appeal, and the rationale for the decision, within 45 days business days after the Decision-Maker on appeal receives the response to the appeal or the last day to provide a response. The District will provide the written decision simultaneously to both Parties.

The Decision-Maker on appeal may extend or otherwise modify the deadlines provided above. Either Party may seek an extension by submitting a written request to the appeal Decision-Maker explaining the need for the extension and the proposed length of the extension. The Decision-Maker will respond to the request within 48 hours in writing and will inform the Parties simultaneously whether the extension is granted.

Informal Resolution

If the District determines that a formal complaint is appropriate for informal resolution, it may provide the Parties with the opportunity to participate in an informal resolution process, including mediation, at any time prior to reaching a determination regarding responsibility.

The District will provide the Complainant and Respondent written disclosure of the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the Parties from resuming a formal complaint arising from the same allegations, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

The District must obtain the Parties' voluntary, written consent to the informal resolution process. If the Parties reach an agreement, the District does not have to complete a full investigation and adjudication of a report of sexual harassment. At any time prior to agreeing to a resolution, any Party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint.

The informal resolution process is not available to resolve allegations that an employee sexually harassed a student.

Retaliation Prohibited

The District prohibits any intimidation, threats, coercion, or discrimination against any individual who made a report or complaint of sexual harassment, testified, assisted, or participated or refused to participate in any manner in a Title IX investigation, proceeding, or hearing. Individuals who experience retaliation may file a complaint using the formal complaint process described above.

Dissemination of Policy and Procedures

The District will provide its policy and procedures related to Title IX on its website and in each handbook or catalog provided to applicants for admission and employment, students, employees, and all unions or professional organizations holding collective bargaining with the District.

When hired, employees are required to sign acknowledging that they have received the policy and procedures. The District will place the signed acknowledgment of receipt in each employee's personnel file.

Training

The District will provide a comprehensive trauma-informed training program to Title IX Coordinators, investigators, Decision-Makers, and any individual who facilitates an informal resolution process, on the definition of sexual harassment, the scope of the District's education program or activities, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including avoiding prejudgment of the facts at issue, conflicts of interest, and bias. Any materials used to train the District's Title IX Coordinator, investigators, Decision-Makers, and any person who facilitates an informal resolution process, will not

rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment.

File Retention

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

- The original report or complaint;
- Any actions taken in response to the complaint, including supportive measures;
- The investigative report including all evidence gathered and any responses from the Parties;
- The District's determination regarding responsibility;
- Audio or audiovisual recording or transcript from a hearing;
- Records of any disciplinary sanctions imposed on the Respondent;
- Records of any remedies provided to the Complainant;
- Any appeal and the result;
- Any informal resolution and the result; and
- All materials used to train Title IX Coordinators, investigators, Decision-Makers, and any person who facilitates an informal resolution process. The District will make these training materials publicly available on its website.

The District will make these documents available to the U.S. Department of Education Office for Civil Rights upon request.

Complaint Reporting

The Superintendent/President shall provide the Board, upon request, a report of complaints filed pursuant to AP 3434. This report must disaggregate the complaints by complaint type (Student Complainant and Student Respondent, Student Complainant and Employee Respondent, Employee Complainant and Student Respondent, Employee Respondent and Employee Respondent, etc.). This report must also disaggregate the complaints by the Complainant's race, age, gender, religion, or any other characteristic identified by the Board.

See AP 5520 Student Discipline and Due Process

Offices of Primary Responsibility: Human Resources, Campus Police, Student Services – Activities and Advocacy

Date Adopted: December 14, 2021

Reviewed/Revised:

General Institution

CCLC Updates 34, 35, Title IX, 38 – Legally Required. 1/12/2021 From Scratch on the advice of general counsel. This replaces existing AP 3435 in its entirety. Mici 2-2-2022

No changes. Nikki 2-25-2022

Revisions re: information provided to students instead of training because high turnover makes training impractical. Sadika 3-1-2022

No changes. Ryan B. 3-2-2022

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

Education Code Sections 212.5, 231.5, 66281.5, and 67386;

Government Code Section 12950.1;

Title 5 Sections 59320, 59324, 59326, 59328, and 59300 et seq.;

Title 2 Sections 11023 and 11024

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

Reporting and Filing Complaints

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

Complaints

A 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/they does not want to file a formal Complaint.

Informal Complaints

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

Upon receipt of an informal complaint, the Executive Director of Human Resources will notify the person bringing the informal complaint of his/her/their 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 of 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 Executive Director of 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 of Human Resources will explain to any individual bringing an informal complaint that the Executive Director of Human Resources may decide to initiate an investigation, even if the individual does not wish the Executive Director of Human Resources to do so. The Executive Director of 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 of Human Resources unless the Party submitting the Formal Complaint alleges discrimination, harassment, or retaliation against the responsible district officer, in which case it should be submitted directly to the Superintendent/President or the Chancellor of the California Community Colleges.

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

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

~~A Formal Complaint must meet each of the following criteria:~~

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

Complainant first obtained knowledge of the facts of the alleged violation after the expiration of the 180 days.

If the Formal Complaint does not meet the requirements set forth above, the Executive Director of Human Resources will promptly return it to 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 of Human Resources will handle the matter as an informal complaint.

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

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

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

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

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

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

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

Employment-Related Complaints

Complainants filing employment-related complaints shall be notified that they may file employment discrimination complaints with the U.S. Equal Employment Opportunity Commission (EEOC) or the 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 of Human Resources immediately.

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

seriously and will be investigated promptly, delay in filing impedes the District's ability to investigate and remediate.

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

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

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

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

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

Investigation

The Executive Director of Human Resources or designee shall:

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

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

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

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

Investigators will use the following steps: interviewing the Complainant(s); interviewing the accused individual(s); identifying and interviewing witnesses and evidence identified by each Party; identifying and interviewing any other witnesses, if needed; reminding all individuals interviewed of the District's

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

Timeline for Completion: The District will undertake its investigation promptly and swiftly as possible. To that end, the investigator shall complete the above steps, and prepare a written report within 90 days of the District receiving the complaint.

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

Written Report

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

- A description of the circumstances giving rise to the Formal Complaint;
- A description of the procedural steps taken during the investigation, including all individuals contacted and interviewed;
- A summary of the testimony provided by each witness the investigator interviewed;
- An analysis of relevant evidence collected during the course of the investigation, including a list of relevant documents;
- A specific finding as to whether there is probable cause to believe that discrimination, harassment, or retaliation occurred with respect to each allegation in the complaint;
- A table of contents if the report exceeds ten pages; and
- Any other information deemed appropriate by the District.

Confidentiality of the Process

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

Administrative Determination

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

- The determination of the Superintendent/President or designee as to whether there is probable cause to believe discrimination occurred with respect to each allegation in the complaint;
 - A description of actions taken, if any, to prevent similar problems from occurring in the future;
 - The proposed resolution of the complaint; and
 - The Complainant's right to appeal to the District governing board and the Chancellor California Community Colleges.
- In any case involving employment discrimination, within 90 days of receiving a formal complaint, the district shall complete its investigation and forward a copy or summary of the report to the Complainant, and written notice setting forth all the following to the Complainant:
 - The determination of the Superintendent/President or designee as to whether there is probable cause to believe discrimination occurred with respect to each allegation in the complaint;
 - A description of actions taken, if any, to prevent similar problems from occurring in the future;
 - The proposed resolution of the complaint; and
 - The Complainant's right to appeal to the district governing board and to file a complaint with Department of Fair Employment and Housing or the U.S Equal Employment Opportunity Commission.

Discipline and Corrective Action

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

- providing an escort to ensure that the Complainant can move safely between classes and activities;
- ensuring that the Complainant and alleged perpetrator do not attend the same classes or work in the same work area;
- preventing offending third parties from entering campus;
- providing counseling services or a referral to counseling services;
- providing medical services or a referral to medical services;
- providing academic support services, such as tutoring;
- arranging for a student-Complainant to re-take a course or withdraw from a class without penalty, including ensuring that any changes do not adversely affect the Complainant's academic record; and

- reviewing any disciplinary actions taken against the Complainant to see if there is a causal connection between the harassment and the misconduct that may have resulted in the Complainant being disciplined.

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

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

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

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

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

Appeals

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

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

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

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

In any case involving employment discrimination, including workplace harassment, the Complainant may, at any time before or after the issuance of the final decision of the District, file a complaint with the 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/their appeal rights. If, due to circumstances beyond its control, the District is unable to comply with the 150-day deadline for submission of materials, it may file a written request for an extension of time no later than ten days prior to the expiration of the deadline.

File Retention

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

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

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

Dissemination of Policy and Procedures

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

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

Training

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

The training and education required by this procedure shall include information and practical guidance regarding the federal and state statutory provisions concerning the prohibition against and

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

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

~~The District 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~~ information in their orientation programs for new students, and in training for student athletes and coaches. These programs will include discussion of what constitutes sexual harassment and sexual violence, the District’s policies and disciplinary procedures, and the consequences of violating these policies. A training program or informational services will be made available to all students at least once annually.

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

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

Date Approved: November 6, 2008

Date Revised: January 15, 2013; September 15, 2015 ~~BOT~~

Date Revised:

General Institution

CCLC 36 Update – Legally Required updates, contact updates, and added links to web references.

Mici 2-9-2021

Human Resources reviewed and no changes. NH 10-14-2021, 3-2-2022

Approved without changes. Chief JF 3-3-2022

Approved without changes. Greg/ Admin Svcs. 3-8-2022

AP 3515 REPORTING OF CRIMES**References:**

Education Code Sections 212, 67380, 67383 and 87014;
Penal Code Sections 245 and 422.55;
Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act of 1998;
20 United States Code Section 1232g;
34 Code of Federal Regulations Part 99.31 subdivisions (a) (13), (14) and 668.46;
Campus Security Act of 1990

Members of the Marin Community College District who are witnesses or victims of a crime should immediately report the crime to District Police.

In the event an employee is assaulted, attacked, or menaced by a student, the employee should notify the District Police and shall notify his/her/their supervisor as soon as practical after the incident. The supervisor of any employee who is attacked, assaulted, or menaced shall assist the employee to promptly report the attack or assault to the District Police if the employee has not done so already. The supervisor himself/herself/themselves shall make the report if the employee is unable or unwilling to do so. Reporting a complaint to local law enforcement will not relieve the District of its obligation to investigate all complaints of harassment.

The District will instruct members of the District Police Department to notify students and employees complaining of sexual violence of their right to file a sex discrimination complaint with the District in addition to filing a criminal complaint, and to report incidents of sexual violence to Chief Human Resources Officer if the complainant consents.

The District shall publish warnings to the campus community about the following crimes:

- Criminal homicide – murder and non-negligent manslaughter;
- Criminal homicide – negligent manslaughter;
- Sex offenses – forcible and non-forcible sex offenses;
- Domestic violence, dating violence and stalking
- Robbery;
- Aggravated assault;
- Burglary;
- Motor vehicle theft;
- Arson;
- Arrests for liquor law violations, drug law violations, and illegal weapons possession;
- Persons who were not arrested for liquor law violations, drug law violations, and illegal weapons possession, but who were referred for campus disciplinary action for same;

- Crimes that manifest evidence that the victim was intentionally selected because of the victim's actual or perceived race, gender, religion, sexual orientation, ethnicity, or disability and involve larceny-theft, simple assault, intimidation, destruction/damage/vandalism of property, or any other crime involving bodily injury;
- Those reported to the District Police; and
- Those that are considered to represent a continuing threat to other students and employees.

In the event that a situation arises, either on or off campus, that, in the judgment of the District Police Chief, constitutes an ongoing or continuing threat, a campus wide "timely warning" will be issued. The warning will be issued through the District notification system(s) to students, faculty, staff and the campus' student newspaper. The information shall be disseminated by District Police in a manner that aids the prevention of similar crimes.

Depending on the particular circumstances of the crime, especially in all situations that could pose an immediate threat to the community and individuals, the District Police Chief may also post a notice on the campus-wide electronic bulletin board on the District's web site at: www1.marin.edu, providing the community with more immediate notification. The electronic bulletin board is immediately accessible via computer by all faculty, staff, and students. Anyone with information warranting a timely warning should report the circumstances to the District Police Department, by phone at 911 or in person at the District Police Department Headquarters at 835 College Avenue, Kentfield, CA.

The District shall not be required to provide a timely warning with respect to crimes reported to a pastoral or professional counselor. The Clergy Act defines pastoral counselor as a person who is associated with a religious order or denomination, is recognized by that religious order or denomination as someone who provides confidential counseling, and is functioning within the scope of that recognition as a pastoral counselor. The definition of a professional counselor is a person whose official responsibilities include providing mental health counseling to members of the institution's community and who is functioning within the scope of his/her/[their](#) license or certification. This definition applies even to professional counselors who are not employees of the institution, but are under contract to provide counseling at the institution. To be exempt from disclosing reported offenses, pastoral or professional counselors must be acting in the role of pastoral or professional counselors. This means that a dean of students who has a professional counselor's license, but is employed by the institution only as a dean and not as a counselor, is not exempt from reporting.

If there is an immediate threat to the health or safety of students or employees occurring on campus, the District shall follow its emergency notification procedures.

The District shall annually collect and distribute statistics concerning crimes on campus. All District staff with significant responsibility for student and campus activities shall report crimes about which they receive information.

The District shall publish an Annual Security Report every year by October 1 that contains statistics regarding crimes committed on campus and at affiliated locations for the previous three years. The Annual Security Report shall also include policies pertaining to campus security, alcohol and drug use, crime prevention, the reporting of crimes, sexual assault, victims' assistance program, student discipline, campus resources, and other matters. The District shall make the report available to all

current students and employees. The District will also provide prospective students and employees with a copy of the Annual Security Report upon request. A copy of the Annual Security Report can be obtained by contacting the District Police Department located at 835 College Avenue, Kentfield, CA 94904 or at the website address published in the College Schedule and College Catalog.

To Report a Crime:

Contact the District Police Department at 415-485-9696 (non-emergencies) and dial 911 (emergencies only). Any suspicious activity or person seen in the parking lots or loitering around vehicles or inside buildings should be reported to the District Police Department. In addition, individuals may report a crime to the following areas:

- Chief Student Services Officer
415-485-9~~395618~~
- Chief Counseling Officer
415-485-943~~21~~
- Chief Student Health Officer
415-485-94~~5862~~
- Chief Human Resources Officer
415-~~485-9504-457-8811~~ Ext. 7520

If the individual is the victim of a crime and does not want to pursue action within the District's System or the criminal justice system, the individual may still want to consider making a confidential report. With the individual's permission, the District Police Department can file a report on the details of the incident without revealing his/her/their identity. The purpose of a confidential report is to comply with the individual's wish to keep the matter confidential, while taking steps to ensure the future safety of himself/herself/themselves and others. With such information, the District can keep an accurate record of the number of incidents involving students, determine where there is a pattern of crime with regard to a particular location, method, or assailant, and alert the campus community to potential danger. Reports filed in this manner are counted and disclosed in the annual crimes statistics for the institution.

The District Police Department encourages anyone who is the victim or witness to any crime to promptly report the incident to the police. Because police reports are public records under state law, the District Police Department cannot hold reports of crime in confidence. Confidential reports for purposes of inclusion in the annual disclosure of crime statistics can generally be made to other campus security authorities as identified below. Confidential reports of crime may also be made to Chief Human Resources Officer at 415-485-9520.

The District may disclose the final results of a student disciplinary proceeding to a victim of an alleged perpetrator of a crime of violence or a non-forcible sex offense, regardless of the outcome. The District may also disclose to anyone, the final results of a student disciplinary proceeding in which it concludes that a student violated District policy with respect to a crime of violence or non-forcible sex offense. The offenses that apply to this permissible disclosure are:

- Arson
- Assault offenses
- Burglary
- Criminal homicide – manslaughter by negligence
- Criminal homicide – murder and non-negligent manslaughter
- Destruction, damage, or vandalism of property
- Kidnapping or abduction
- Robbery
- Forcible sex offenses

Required Reports to Local Law Enforcement Agency

Any report of willful homicide, forcible rape, robbery, aggravated assault, or hate crime, committed on or off campus, that is received by a campus security authority and made by the victim for the purposes of notifying the institution or law enforcement, must be immediately, or as soon as practically possible, disclosed to the local law enforcement agency. The report shall not identify the victim, unless the victim consents to be identified after the victim has been informed of his/her/**their** right to have his/her/**their** personally identifying information withheld. If the victim does not consent to being identified, the alleged assailant shall not be identified in the information disclosed to the local law enforcement agency unless the institution determines that both of the following apply, in which case the institution shall disclose the identity of the alleged assailant to the local law enforcement agency and notify the victim of the disclosure:

- the alleged assailant represents a serious or ongoing threat to the safety of students, employees or the institution; and
- the immediate assistance of the local law enforcement agency is necessary to contact and detain the assailant.

Offices of Primary Responsibility: ~~College Operations~~ Administrative Services, Campus Police, Human Resources

Date Approved: February 17, 2009

Date Revised: May 21, 2013; October 20, 2015

Date Revised:

Academic Affairs

CCLC 38 updated this procedure to add optional language to highlight diversity, equity, and inclusion issues. Mici 2-3-2022

Jon H. approved without changes. 3-8-2022

ASC Reviewed & Approved 3-8-2022

To Jon E./Cari 3-30-2022

AP 4250 PROBATION**References:**

Title 5 Sections 55031-55034

Placement on-Probation**Progress Probation:**

After enrolling in at least 12 units at College of Marin, if the percentage of a student's recorded entries of "W," "I," "NC," and "NP" reaches or exceeds 50 percent of all units in which a student has enrolled in at College, of Marin, he/she/they shall be placed on progress probation at the end of the term.

Academic Probation:

After attempting at least 12 units at College of Marin, a student shall be placed on academic probation at the end of the term in which the student's cumulative grade point average (GPA) falls below 2.0 in all units enrolled in at College of Marin.

Removal from Probation**Progress Probation:**

A student will be removed from progress probation when the student's cumulative Non-Progress Grade (NPG) drops below 50 percent.

Academic Probation:

A student will be removed from academic probation when the student's cumulative GPA reaches 2.0 or higher.

A student who is on academic probation and earns a term grade point average of 1.75 or better shall not be dismissed as long as this minimum term grade point average is maintained.

Notification of Probation

Students will be notified of their probationary status prior to the start of the next term.

The notice will consist of, at a minimum, the following: the significance of being on probation, enrollment limits, appeal procedures, and a description of the support services and classes available to prevent dismissal.

Enrollment Limits:

Students on *probation* may not register in more than 15 units total for that entire fall or spring term. For the summer term, students may enroll in one class regardless of the unit value or multiple classes not to exceed 5 units.

Appeal Procedures:

A student placed on probation may file a petition with Enrollment Services only if the student can provide evidence that additional units beyond the enrollment limits are needed to:

- 1) Graduate or transfer at the end of that term.
- 2) Meet a legally mandated training requirement.

Enrollment limits may not be appealed beyond the College Petitions Committee.

Probation, Dismissal, Readmission Data Reporting

The Superintendent/President shall develop and provide to the Board for review annual report of the number of students who were placed on probation, dismissed, and reinstated. This report must disaggregate the students by race, age, gender, or any other characteristic identified by the Board.

Office of Primary Responsibility: Office of Enrollment Services

Date Approved: May 18, 2010 (*Replaces*sd portions of College of Marin Procedure 4.0003 DP.10)

Date Revised: June 18, 2019

Date Reviewed/Revised:

General Institution

CCLC 36 Update – Legally Advised: updated to add a section to address information security program requirements for those entities that participate in Title IV Educational Assistance Programs.

References updated and revised by Mici 10-14-2021

To Patrick E./IT 10-14-2021, 1-31-2022

To Greg/Admin Svcs 2-1-2022

AP 3720 INFORMATION TECHNOLOGY USE

References:

15 U.S. Code Section 6801 et seq.;

17 U.S. Code Sections 101 et seq.;

Penal Code Section 502, Cal. Const., Art. 1 Section 1;

Government Code Section 3543.1 subdivision (b);

16 Code of Federal Regulations Parts 314.1 et seq.;

17 U.S. Code Sections 101 et seq.;

Cal. Const., Art. 1 Section 1;

Federal Rules of Civil Procedure, Rules 16, 26, 33, 34, 37, and 45;

Homeland Security Act;

CALEA (Communications Assistance for Law Enforcement Act);

FERPA (Family Educational Rights and Privacy Act);

ACCJC Guide to Evaluating Distance Education and Correspondence Education

All information technology resources, including computers hardware devices, software applications and services, licenses, networks, and learning management systems, are the sole property of the District. They may not be used by any person without the proper authorization from the District. These technology resources Computer and Network systems are for District instructional and work-related purposes only.

This procedure applies to all District students, faculty, and staff and to others granted use of District information resources. These procedures govern desktop, network, email, telephone, internet, data security, and software uses of College-managed information technology equipment and resources. This procedure refers to all District information resources whether individually controlled or shared, stand-alone or networked. It applies to all computer and computer communication facilities owned, leased, operated, or contracted by the District. This includes hardware devices personal computers, workstations, mainframes, minicomputers, and associated peripherals, software and information resources, regardless of whether used for administration, research, teaching, or other purposes.

Conditions of Use

Individual units within the District may define additional conditions of use for information resources under their control. These statements must be consistent with this overall procedure but may provide additional detail, guidelines, and/or restrictions.

Legal Process

This procedure exists within the framework of the District Board Policy and local, state, and federal laws. A user of District information technology resources who is found to have violated these procedures will be subject to disciplinary action up to and including but not limited to: loss of information resources privileges; disciplinary suspension or termination from employment or expulsion; and/or civil or criminal legal action.

Copyrights and Licenses – Information technology users must respect copyrights and licenses to software and other online information.

Copying – Software, Technology, and information resources protected by copyright may not be copied except as expressly permitted by the owner of the copyright or otherwise permitted by copyright law. Protected software, Technology, and information resources may not be copied into, from, or by any District facility or system, except pursuant to a valid license or as otherwise permitted by copyright law.

Number of Simultaneous Users - The number and distribution of copies must be handled in such a way that the number of simultaneous users in a department does not exceed the number of original copies purchased by that department, unless otherwise stipulated in the purchase contract.

Copyrights - In addition to software, all other copyrighted information (text, images, icons, programs, etc.) retrieved from any technology computer or network resources must be used in conformance with applicable copyright and other law. Copied material must be properly attributed. Plagiarism of information is prohibited in the same way that plagiarism of any other protected work is prohibited.

Integrity of Information Resources

Information technology users must respect the integrity of computer-based information resources.

In making acceptable use of resources you are expected to:

- use resources only for purposes authorized by this procedure;
- protect your user ID, password, and resources from unauthorized use;
- access only information that is your own, that is publicly available, or to which you have been given authorized access;
- be aware of copyright laws as they apply to computer software and other materials that you may access with District information technology resources.

Modification or Removal of Equipment - Computer users must not attempt to modify or remove computer equipment, software, or peripherals that are owned by others without proper authorization.

Unauthorized Use - Computer users must not interfere with others access and use of the District computers. This includes but is not limited to: the sending of chain letters or excessive messages, either locally or off-campus; printing excess copies of documents, files, data, or programs, running grossly inefficient programs when efficient alternatives are known by the user to be available; unauthorized modification of system facilities, operating systems, or disk partitions; attempting to crash or tie up a District computer or network; and damaging or vandalizing District computing facilities, equipment, software or computer files.

Additional Unacceptable use of resources may include but is not limited to:

- unauthorized use of another person's system access, user ID, password, files, or data, or giving the use of one's system, user ID, password to another individual or organization;

- attempt to disguise the identity of the account or computer you are using;
- attempt to gain unauthorized access to resources and data, including other's passwords;
- attempt to circumvent, subvert, or disable system or network security measures;
- engaging in activities that may lead to disrupting services;
- intentionally damage files or make unauthorized modifications to District data;
- download, make or use illegal copies of copyrighted materials, software, or music, store such copies on District resources, or transmit them over District networks;
- creation or display of threatening, obscene, racist, sexist, defamatory, or harassing material which is in violation of existing law or District policy;
- use of the District's resources or networks for personal profit;
- installation of unauthorized hardware or software onto any District owned computer/network (the Information Technology Department or appropriate District authorized personnel is responsible for all installations, requests for exceptions should be sent to the Chief Information Officer);
- connect a personal computer to the District's network unless it meets technical and security standards established by the District.

Unauthorized Programs - Computer users must not intentionally develop or use programs which disrupt other computer users or which access private or restricted portions of the system, or which damage the software or hardware components of the system. Computer users must ensure that they do not use programs or utilities that interfere with other computer users or that modify normally protected or restricted portions of the system or user accounts. The use of any unauthorized or destructive program will result in disciplinary action as provided in this procedure, and may further lead to civil or criminal legal proceedings.

Unauthorized Access - Computer users must not seek to gain unauthorized access to information resources and must not assist any other persons to gain unauthorized access.

Abuse of Computing Privileges - Users of District information resources must not access computers, computer software, computer data, or information, or networks without proper authorization, or intentionally enable others to do so, regardless of whether the computer, software, data, information, or network in question is owned by the District. For example, abuse of the networks to which the District belongs or the computers at other sites connected to those networks will be treated as an abuse of District computing privileges.

Reporting Problems - Any defects discovered in system accounting or system security must be reported promptly to the appropriate system administrator so that steps can be taken to investigate and solve the problem.

Password Protection - An information technology user who has been authorized to use a password-protected account may be subject to both civil and criminal liability if the user discloses the password or otherwise makes the account available to others without permission of the system administrator. Users are required to change passwords as mandated by the District.

Usage - Computer users must respect the rights of other computer users. Attempts to circumvent these mechanisms in order to gain unauthorized access to the system or to another person's information are a violation of District procedure and may violate applicable law.

Unlawful Messages - Users may not use electronic communication facilities to send defamatory, fraudulent, harassing, obscene, threatening, or other messages that violate applicable federal, state

or other law or District policy, or which constitute the unauthorized release of confidential information.

Commercial Usage - Electronic communication facilities may not be used to transmit commercial or personal advertisements, solicitations or promotions (see Commercial Use, below). Some public discussion groups have been designated for selling items by ~~[insert names of groups, if any]~~ and may be used appropriately, according to the stated purpose of the group(s).

Information Belonging to Others - Users must not intentionally seek or provide information on, obtain copies of, or modify data files, programs, or passwords belonging to other users, without the permission of those other users.

Rights of Individuals - Users must not release any individual's (student, faculty, or staff) personal information to anyone without proper authorization.

User identification - Users shall not send communications or messages anonymously or without accurately identifying the originating account or station.

Political, Personal, and Commercial Use - The District is a non-profit, tax-exempt organization and, as such, is subject to specific federal, state and local laws regarding sources of income, political activities, use of property and similar matters.

Political Use - District information resources must not be used for partisan political activities where prohibited by local, state, federal, or other applicable laws.

Personal Use - District information resources should not be used for personal activities not related to District functions, except in a purely incidental manner. If the District otherwise grants access to the District's email system for personal use, employees may use the District's email system to engage in protected concerted activity during non-work time.

Commercial Use - District information resources should not be used for commercial purposes. Users also are reminded that the ".cc" and ".edu" domains on the Internet have rules restricting or prohibiting commercial use, and users may not conduct activities not authorized within those domains.

Nondiscrimination

All users have the right to be free from any conduct connected with the use of Marin Community College District network and computer resources which discriminates against any person on the basis of national origin, religion, age, family and medical care leave, gender, gender identity, gender expression, race or ethnicity, color, medical condition, genetic information, ancestry, sexual orientation, marital status, physical or mental disability, sex (which includes pregnancy, childbirth, breastfeeding and medical conditions related to pregnancy, childbirth), military and veteran status or because he/she/they is perceived to have one or more of the foregoing characteristics, or based on association with a person or group with one or more of these actual or perceived characteristics. No user shall use the District network and computer resources to transmit any message, create any communication of any kind, or store information which violates any District procedure regarding discrimination or harassment, or which is defamatory or obscene, or which constitutes the unauthorized release of confidential information.

Disclosure: No Expectation of Privacy - All information stored on District technology resources is subject to subpoenas and local, state, and federal laws and regulations. The District reserves the right to monitor all use of the District network and computer to assure compliance with these policies. Users should be aware that they have no expectation of privacy in the use of the District network and computer resources. The District will exercise this right only for legitimate District purposes, including but not limited to ensuring compliance with this procedure and the integrity and security of the system.

Possibility of Disclosure - Users must be aware of the possibility of unintended disclosure of communications.

Retrieval - It is possible for information entered on or transmitted via computer and communications systems to be retrieved, even if a user has deleted such information.

Public Records - The California Public Records Act (Government Code Sections 6250 et seq.) includes computer transmissions in the definition of "public record" and nonexempt communications made on the District network or computers must be disclosed if requested by a member of the public.

Litigation - Computer transmissions and electronically stored information may be discoverable in litigation.

Dissemination and User Acknowledgment

All users shall be provided copies of these procedures and be directed to familiarize themselves with them.

A "pop-up" screen addressing the e-mail portions of these procedures shall be installed on all e-mail systems. The "pop-up" screen shall appear prior to accessing the e-mail network. Users shall sign and date the acknowledgment and waiver included in this procedure stating that they have read and understand this procedure, and will comply with it. This acknowledgment and waiver shall be in the form as follows:

Computer and Network Use Agreement (Sample Language)

I have received and read a copy of the District Computer and Network Use Procedures and this Agreement dated, _____, and recognize and understand the guidelines. I agree to abide by the standards set in the Procedures for the duration of my employment or enrollment. I am aware that violations of this Computer and Network Usage Procedure may subject me to disciplinary action, including but not limited to revocation of my network account up to and including prosecution for violation of State or Federal law.

Title IV Information Security Compliance

- A designated employee or employees to coordinate the entity's information security program.
- Identification of reasonably foreseeable internal and external risks to the security, confidentiality, and integrity of customer information that could result in the unauthorized disclosure, misuse, alteration, destruction or other compromise of such information, and assess the sufficiency of any safeguards in place to control these risks. At a minimum, such a

risk assessment should include consideration of risks in each relevant area of the entity's operations, including:

(1) Employee training and management;

(2) Information systems, including network and software design, as well as information processing, storage, transmission and disposal; and

(3) Detecting, preventing and responding to attacks, intrusions, or other systems failures.

- Design and implementation of information safeguards to control the risks the entity identifies through risk assessment, and regularly test or otherwise monitor the effectiveness of the safeguards' key controls, systems, and procedures.

- Oversee service providers, by:
 - (1) Taking reasonable steps to select and retain service providers that are capable of maintaining appropriate safeguards for the customer information at issue; and
 - (2) Requiring the entity's service providers by contract to implement and maintain such safeguards.

- Evaluate and adjust the entity's information security program in light of the results of the testing and monitoring required; any material changes to the entity's operations or business arrangements; or any other circumstances that the entity knows or has reason to know may have a material impact on the entity's information security program.

Also see BP/AP 2510 ~~titled~~ Participation in Local Decision Making, BP/AP 4030 ~~titled~~ Academic Freedom, AP 6365 ~~titled~~ Accessibility of Information Technology, BP/AP 6520 ~~titled~~ Security for District Property, AP 6535 ~~titled~~ Use of District Equipment, and BP/AP 6700 ~~titled~~ Civic Center and Other Facilities Use

Offices of Primary Responsibility: ~~College Operations~~ Administrative Services, Information Technology

Date Approved: February 17, 2009 (*Replaces* ~~College of Marin Procedures 7.0020 DP.1 and 7.0032 DP.1~~)

Date Revised: June 28, 2011

Date Revised:

Student Services

CCLC 36 Update - Legally Required and updated to incorporate changes in the law pertaining to College and Career Access Pathways (CCAP) partnerships between community college districts and school districts. Formatting and revisions. Mici 3-15-2021

To Jon H. 9-21-21

To AS 2-24-2022

ASC Reviewed and Approved 3-8-22

To Jon E./Cari 3-30-2022

**AP 5011 ADMISSION AND CONCURRENT ENROLLMENT OF HIGH SCHOOL AND OTHER
YOUNG STUDENTS**

References:

Education Code Sections 48800, 48800.5, 76001, and 76002;

Title 5 Section 55530; ~~and Board Policy 5010;~~

The District authorizes the admission of special part-time and full-time minor students, who will benefit from advanced scholastic or vocational work and to help ensure a smoother transition from high school to college for students by providing them with greater exposure to the collegiate atmosphere.

The District retains the authority to restrict admission or enrollment of special part-time or full-time students in any session based on age, grade-level completion, current academic performance, or assessment and placement procedures in compliance with matriculation policies and procedures.

1.1. Definitions

- **Special Part-Time Student:** Any minor student (any elementary school, middle school, high school, or home-schooled student) who takes 11 or less community college course units during the Fall or Spring semesters and/or Summer Session(s) and meets certain eligibility standards.
- **Special Full-Time Student:** Any minor student (any elementary school, middle school, high school, or home-schooled student) who takes 12 or more community college course units during the Fall or Spring semesters and/or Summer Session(s) and meets certain eligibility standards.
- **Dual Enrollment or Concurrent Enrollment Student:** For purposes of this administrative procedure, the terms dual enrollment student and concurrent enrollment student are used interchangeably and defined as a student concurrently receiving both high school and college credit for the same course. Dual enrollment and concurrent enrollment students are a subset of special part-time or full-time students.

1.2. Special Part-Time Students

To be considered for admittance as a special part-time high school student, the student must meet the eligibility standards as established in Education Code Sections 48800 and 76001.

Admission Procedures

Admission is subject to seat availability. The student must submit to the Dean of Enrollment Services:

- College admissions application;
- College Credit Program (CCP) Form which includes:
 - a) Written and signed parental or guardian consent;

- b) Written and signed approval of the high school principal (NOTE: A parent or guardian of a student who is not enrolled in a public or private school may petition directly without the signature of a principal);
- c) Signature of a College of Marin counselor;
- Demonstration that the student is capable of profiting from instruction. The Dean of Enrollment Services or his/her/their designee has the authority to make the final decision whether a student can benefit from instruction-; **and**
- Depending on the requested courses, students may be required to complete the appropriate College matriculation process prior to registration.

Academic Eligibility

- Students must meet the stated prerequisite and/or co-requisite requirements for the desired course.
- Students with a disability (verification to be provided by the school of attendance) may be referred to Disabled Student Programs and Services for accommodation.

Limitations on Enrollment

- For the first semester, students with a cumulative high school grade point average (GPA) lower than 3.0 may be allowed to enroll in one course. Students wanting to enroll in two courses must have earned a cumulative GPA of 3.0 or better.
- A special part-time student may enroll in up to, and including, 11 units per semester.
- Students may not initially enroll in any course numbered below 100.

III.3. Special Full-Time Students

To be considered for admission as a special full-time student, the student must meet the eligibility standards as established in Education Code Section 48800.05.

Admission Procedures

Admission is subject to seat availability. The student must submit to the Dean of Enrollment Services:

- A completed College admissions application-;
- A completed College Credit Program (CCP) Form which includes:
 - a) Signature of the parent or guardian;
 - b) Signature of the high school principal. (Note: A student who is not enrolled in a public or private school does not need to provide written acknowledgment from his/her/their school principal);
 - c) Signature of a College of Marin counselor;
- Written approval of the governing board of the school district of attendance-;
- Demonstration that the student is capable of profiting from instruction. The Dean of Enrollment Services or his/her/their designee has the authority to make the final decision whether a student can benefit from instruction-; **and**
- Depending on the requested courses, students may be required to complete the appropriate College matriculation process prior to registration.

Academic Eligibility

- For all courses attempted students must meet the stated pre-requisite and/or co-requisite for the desired course.
- Students with a disability (verification to be provided by the school of attendance) may be referred to Disabled Student Programs and Services for accommodation.

Limitations on Enrollment

- Students are limited to 12 units for their first semester. For additional units, students must meet with a College of Marin counselor to complete the Petition to Carry Extra Units. A counselor's signature must be on the Petition to be accepted by the Office of Admissions and Records.
- Students may not initially enroll in any course numbered below 100.

IV. 4. Summer Session Students

To be considered for admission as a special summer session student, the student must meet the eligible standards as established in Education Code sections 48800 and 76001. Students will not be admitted unless they have availed themselves of all opportunities to enroll in equivalent courses at their schools of attendance.

The student must submit to the Dean of Enrollment Services:

- Written and signed parental or guardian consent;
- Signature of a College of Marin counselor; **and**
- Written and signed approval of his/her/**their** principal that the student has availed himself/herself/**themselves** of all opportunities to enroll in an equivalent course at his/her/**their** school of attendance; and **D**emonstration that the student has adequate preparation in the disciplines to be studied.

All required documents shall be sent to the Dean of Enrollment Services.

V. 5. High School Students

For students attending high school, the Dean of Enrollment Services will review the materials, and will determine if the student has the abilities and sufficient preparation to benefit from instruction at a community college. The decision of the Dean of Enrollment Services shall be final. This determination may be done by evaluating the following criteria:

- A review of the materials submitted by the student;
- Meeting with the student and his/her/**their** parent or guardian;
- Consultation with appropriate college staff;
- Consideration of the welfare and safety of the student and others; **and/or**
- Consideration of local, state, **and/or** federal laws.

VI. 6. Middle and Lower School Students

For students attending middle and lower schools, the determination shall be made by the Dean of Enrollment Services in conjunction with faculty. The school of attendance must provide transcripts and a letter signed by the principal indicating how in his/her/**their** opinion the student can benefit from instruction. The Dean of Enrollment Services and faculty will determine if the student has the abilities and sufficient preparation to benefit from instruction at a community college, and that the student's safety and that of others will not be affected.

The decision of the Dean of Enrollment Services and faculty to admit or deny admissions will be final. Once a decision has been made, the student, parent or guardian and school principal shall be informed of the decision. This determination may be made by evaluating the following criteria:

- A review of the materials submitted by the student;
- Meeting with the student and his or her parent or guardian;
- Consultation with a College of Marin counselor for matriculation;
- Consideration of the welfare and safety of the student and others;
- Consideration of local, state, **and/or** federal laws;
- Review of the content of the class in terms of sensitivity and possible effects on the minor;
- Requirements for supervision of the minor;
- Times the class(es) meet and the effect on the safety of the minor; **and/or**
- Instructor's recommendations.

VII. 7. Home Schooled Students

In addition to meeting all the requirements as established in the above described procedures, home schooled students are required to provide an affidavit from the County Board of Education indicating they are legally home schooled or chartered.

VIII. 8. Course Rigor

Courses in which high school and other young students are permitted to enroll will be open to the entire college population, and will be taught with the rigor appropriate to college-level courses in accordance with the approved course outline. Once enrolled, students must meet all standards for academic performance at the college level and conform to expectations of student conduct. The school of attendance retains the right to apply course credit.

IX. 9. Physical Education

If the class is a physical education class, no more than 10 percent of the enrollment of the class may consist of special part-time or full-time students.

X. 10. Courses Open to the Public

All classes must be open to the general public, and there may be limitations on the number of students who may enroll in a particular course. If the class is offered on a high school campus, the class may not be held during the time the campus is closed to the general public, as defined by the school board.

XI. 11. Appeals

If a request for concurrent part-time or full-time enrollment is denied for a student who has been identified as highly gifted, the Board of Trustees shall provide written findings and reasons for the denial within 60 days. A recommendation regarding the request for admission and the denial shall be submitted to the Board of Trustees at a regularly scheduled meeting that falls at least 30 days after the request for admission has been submitted.

XII. 12. College and Career Access Pathways (CCAP)

The Board of Trustees has adopted all the legal requirements of Education Code Section 76004 in order to participate in the College and Career Access Pathways (CCAP) partnership with the governing board of a school district for the purpose of offering or expanding dual enrollment opportunities for students who may not already be college bound or who are underrepresented in higher education, with the goal of developing seamless pathways from high school, including continuation high school, to community college for career technical education or preparation for transfer, improving high school graduation rates, or helping high school students achieve college and career readiness.

The District may enter into a CCAP partnership with a school district partner that is governed by a CCAP partnership agreement approved by the governing boards of both districts. As a condition of, ~~and before~~ adopting, a CCAP partnership agreement, the governing board of each district, ~~at an open public meeting of that board, shall present the dual enrollment partnership agreement as an informational item. The governing board of each district, at a subsequent open public meeting of that board, shall take comments from the public and approve or disapprove the proposed agreement. shall do both of the following:~~

- For career technical education pathways to be provided under the partnership, consult with, and consider the input of, the appropriate local workforce development board to determine the extent to which the pathways are aligned with regional and statewide employment needs. The governing board of each district shall have final decision-making authority regarding the career technical education pathways to be provided under the partnership; and
- Present, take comments from the public on, and approve or disapprove the dual enrollment partnership agreement at an open public meeting of the governing board of the district.

The CCAP partnership agreement shall be filed with the ~~office of the Chancellor of the~~ California Community Colleges Chancellor's Office and with the department before the start of the CCAP partnership, and shall:

- outline the terms of the CCAP partnership and shall include, but not necessarily be limited to, the total number of high school ~~students~~ pupils to be served and the total number of full-time equivalent students projected to be claimed by the community college district for those ~~students~~ pupils; the scope, nature, time, location, and listing of community college courses to be offered; and criteria to assess the ability of students to benefit from those courses.
- establish protocols for information sharing, in compliance with all applicable state and federal privacy laws, joint facilities use, and parental consent for high school students to enroll in community college courses. The protocols shall only require a high school pupil participating in a CCAP partnership to submit one parental consent form and principal recommendation for the duration of the pupil's participations in the CCAP partnership.
- identify a point of contact for the participating community college district and school district partner.
- certify that any community college instructor teaching a course on a high school campus has not been convicted of any sex offense as defined in Education Code Section 87010 or any controlled substance offense as defined in Education Code Section 87011.
- certify that any community college instructor teaching a course at the partnering high school campus has not displaced or resulted in the termination of an existing high school teacher teaching the same course on that high school campus.
- certify that a qualified high school teacher teaching a course offered for college credit at a high school campus has not displaced or resulted in the termination of an existing community college faculty member teaching the same course at the partnering community college campus.
- include a certification plan by the participating community college district to ensure ~~of~~ all of the following:
 - A community college course offered for college credit at the partnering high school campus does not reduce access to the same course offered at the partnering community college campus;
 - A community college course that is oversubscribed or has a waiting list shall not be offered in the CCAP partnership; and
 - Participation in a CCAP partnership is consistent with the core mission of the community colleges pursuant to Education Code Section 66010.4, and that students participating in a CCAP partnership will not lead to enrollment displacement of otherwise eligible adults in the community college.
- certify that both the school district and community college district partners comply with local collective bargaining agreements and all state and federal reporting requirements regarding the qualifications of the teacher or faculty member teaching a CCAP partnership course offered for high school credit.
- specify both of the following:
 - Which participating district will be the employer of record for purposes of assignment monitoring and reporting to the county office of education; and
 - Which participating district will assume reporting responsibilities pursuant to applicable federal teacher quality mandates.
- certify that any remedial course taught by community college faculty at a partnering high school campus shall be offered only to high school ~~students~~ pupils who do not

meet their grade level standard in math, English, or both on an interim assessment in grade 10 or 11, as determined by the partnering school district, and shall involve a collaborative effort between high school and community college faculty to deliver an innovative remediation course as an intervention in the ~~pupil~~student's junior or senior year to ensure the ~~student~~-pupil is prepared for college-level work upon graduation.

A community college district participating in a CCAP partnership shall not provide physical education course opportunities to high school students or any other course opportunities that do not assist in the attainment of at least one of the following goals:

- developing seamless pathways from high school to community college for career technical education or preparation for transfer;
- improving high school graduation rates; or
- helping high school students achieve college and career readiness.

The District will not enter into a CCAP partnership with a school district within the service area of another community college district, except where an agreement exists, or is established, between those community college districts authorizing that CCAP partnership.

A high school student enrolled in a course offered through a CCAP partnership shall not be assessed any fee that is prohibited by Education Code Section 49011.

The District may assign priority for enrollment and course registration to a student seeking to enroll in a community college course that is required for the student's CCAP partnership program that is equivalent to the priority assigned to a student attending a middle college high school as described in Education Code Section 11300 and consistent with middle college high school provisions in Education Code Section 76001. Units completed by a pupil pursuant to a CCAP agreement may count towards determining a pupil's registration priority for enrollment and course registration at a community college.

The District may limit enrollment in a community college course solely to eligible high school students if the course is offered at a high school campus, either in person or using an online platform, during the regular school day and the community college course is offered pursuant to a CCAP partnership agreement.

The District may allow a special part-time student participating in a CCAP partnership agreement established pursuant to this article to enroll in up to a maximum of 15 units per term if all of the following circumstances are satisfied:

- The units constitute no more than four community college courses per term;
- The units are part of an academic program that is part of a CCAP partnership agreement established pursuant to this article; and
- The units are part of an academic program that is designed to award students both a high school diploma and an associate degree or a certificate or credential.

The governing board of the District exempts special part-time students from the following fee requirements:

- Student representation fee (Education Code Section 76060.5);
- Nonresident tuition fee and corresponding permissible capital outlay fee ~~and/or~~ processing fee (Education Code Section 76140);
- Transcript fees (Education Code Section 76223);
- Course enrollment fees (Education Code Section 76300);
- Apprenticeship course fees (Education Code Section 76350); and

The District shall not receive a state allowance or apportionment for an instructional activity for which the partnering district has been, or shall be, paid an allowance or apportionment.

The attendance of a high school pupil at a community college as a special part-time or full-time student pursuant to this section is authorized attendance for which the community

college shall be credited or reimbursed pursuant to Education Code Section 48802 or 76002, provided that no school district has received reimbursement for the same instructional activity. For purposes of calculating classroom-based average daily attendance for classroom-based instruction apportionments, at least 80 percent (80%) of the instructional time offered by a charter school pursuant to an authorized CCAP partnership agreement shall be at the school site, and the charter school shall require the attendance of a pupil for a minimum of 50 percent (50%) of the minimum instructional time required to be offered pursuant to paragraph (1) of subdivision (a) of Education Code Section 47612.5, if the pupil is also a special part-time student enrolled in a community college pursuant to this section and the pupil will receive academic credit upon satisfactory completion of enrolled courses.

For each CCAP partnership agreement entered into pursuant to this section, the District shall report annually to the ~~office of the Chancellor of the~~ California Community Colleges Chancellor's Office, the Legislature, the Director of Finance, and the Superintendent all of the following information:

- The total number of high school students by school site enrolled in each CCAP partnership, aggregated by gender and ethnicity, and reported in compliance with all applicable state and federal privacy laws.
- The total number of community college courses by course category and type and by school site enrolled in by CCAP partnership participants.
- The total number and percentage of successful course completions, by course category and type and by school site, of CCAP partnership participants.
- The total number of full-time equivalent students generated by CCAP partnership community college district participants.
- The total number of full-time equivalent students served online generated by CCAP partnership community college district participants.

XIII.13. Location of Information

Current information regarding the procedures for application, admission, and enrollment of high school students is available on the College of Marin website at <http://www.marin.edu>.

See also Board Policy 5010 Admissions and Concurrent Enrollment

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

___ Date Approved: June 22, 2010 *(Replaced part of College of Marin Procedure 4.0003 DP.1)*

Date Revised: August 21, 2012

Total Revision/Title Change: February 21, 2017

Date Reviewed/Revised:

Student Services

To J Horinek 4/26/2019

CCLC Update 34 (March 2019) to add a legal citation and specify that residence determination is not required in the enrollment situations as noted.

CCLC Update 35 (October 2019) update to clarify the requirements for residence reclassification to reflect the statutory wording of Education Code Section 68044.

CCLC 38 updated this procedure to insert a deadline to make a determination on a reclassification petition. Mici 2-3-2022

ASC Reviewed and Approved 3-8-22

To Jon E./Cari 3-30-2022

AP 5015 RESIDENCE DETERMINATION**References:**

Education Code Sections 66093.3, 68000 et seq., 68130.5 ~~and~~ 68074 - 68075.7, and 68086;

Title 5 Sections 54000 et seq.;

38 U.S. Code Section 3679

Residence Classification

Residency classifications shall be determined for each student at the time of each registration and whenever a student has not been in attendance for more than one semester. Residence classifications are to be made in accordance with the following provisions:

- A residence determination date is that day immediately preceding the opening day of instruction for any session during which the student proposes to attend.
- Residence classification is the responsibility of the Office of Enrollment Services.

Students must be notified of residence determination within 14 calendar days of submission of application.

A student seeking to enroll exclusively in career development and college preparation courses, and other courses for which no credit is given, shall not be subject to this residency classification requirement.

The District shall publish the residence determination date and summary of the rules and regulations governing residence determination and classification in the District catalog or addenda thereto.

Right to Appeal

Students who have been classified as non-residents have the right to a review of their classification (Title 5 Section 54010 subdivision (a)). Any student, following a final decision of residence classification by the Office of Enrollment Services, may make written appeal to the Dean of Enrollment Services within 30 calendar days of notification of final decision by the District regarding classification.

Appeal Procedure

The appeal is to be submitted to the Office of Enrollment Services which must forward it to the Dean of Enrollment Services within five working days of receipt. Copies of the original application for admission, the residency questionnaire, and evidence or documentation provided by the student, with a cover statement indicating upon what basis the residence classification decision was made, must be forwarded with the appeal.

The Dean of Enrollment Services shall review all the records and have the right to request additional information from either the student or the Office of Enrollment Services.

Within 30 calendar days of receipt, the Dean of Enrollment Services shall send a written determination to the student. The determination shall state specific facts on which the appeal decision was made.

Reclassification

A student previously classified as a non-resident may submit a petition to the Office of Admissions and Records to be reclassified as of any residence determination date. A residence determination date is that day immediately preceding the opening day of instruction for any session during which the student proposes to attend.

Petitions must be submitted prior to the semester for which reclassification is to be effective. Extenuating circumstances may be considered in cases where a student failed to petition for reclassification prior to the residency determination date. In no case, however, may a student receive a non-resident tuition refund after the date of the first census.

Written documentation may be required of the student in support of the reclassification request.

A questionnaire to determine financial independence must be submitted with the petition for reclassification. Determination of financial independence is not required for students who were classified as non-residents by the University of California, the California State University, or another community college district. (Education Code Section 68044)

A student shall be considered financially independent for purposes of residence reclassification if the applicant meets **all** of the following requirements:

- Has not and will not be claimed as an exemption for state and federal tax purposes by his/her/**their** parent in the calendar year prior to the year the reclassification application is made;
- **Has not and will not receive more than seven-hundred fifty dollars (\$750) per year in financial assistance from his/her/their parent in the calendar year the reclassification application is made.**
- Has not lived and will not live for more than six weeks in the home of his/her parent during the calendar year the reclassification application is made.

A student who has established financial independence may be reclassified as a resident if the student has met the requirements of Title 5 Sections 54020, 54022, and 54024.

Failure to satisfy all of the financial independence criteria listed above does not necessarily result in denial of residence status if the one year requirement is met and demonstration of intent is sufficiently strong.

Financial dependence in the current or preceding calendar year shall weigh more heavily against finding California residence than financial dependence in the preceding second and third calendar years. Financial dependence in the current or preceding calendar year shall be overcome only if (1) the parent on whom the student is dependent is a California resident, or (2) there is no evidence of the student's continuing residence in another state.

The Dean of Enrollment Services will make a determination, based on the evidence and notify the student not later than 14 days of receipt of the petition for reclassification.

Students have the right to appeal according to the procedures above.

Non-Citizens

The District will admit any non-citizen who is 18 years of age or a high school graduate.

Non-citizens present in the United States without documentation or with any type of temporary visa, will be classified as non-residents and charged non-resident tuition unless they meet the exceptions contained below.

If, for at least one year and one day prior to the start of the semester in question, a non-citizen has possessed any immigration status that allows him/her/them to live permanently in the United States and he/she/they meets the California residency requirements, the student can be classified as a resident.

A student who is without lawful immigration status may be classified as a resident if he/she/they meets the following requirements:

- *high school attendance in California for three or more years;*
- *graduation from a California high school or attainment of the equivalent thereof;*
- *registration for classes not earlier than the fall semester or quarter of 2001-2002;*
- *the filing of an affidavit that the student has filed an application to legalize his/her/their immigration status, or will file an application as soon as he/she/they is eligible to do so.*

Any students who are U.S. citizens, permanent residents of the U.S., and aliens who are not nonimmigrants (including those who are undocumented), may be exempt from paying nonresident tuition if they meet one of the following requirements:

- Total attendance of, or attainment of credits earned while in California equivalent to three or more years of full-time attendance or attainment of credits at any of the following: (a) California high schools; (b) California high schools established by the State Board of Education; (c) California adult schools established by either a county office of education, unified or high school district, or The Department of Corrections and Rehabilitation; (d) campuses of the California community colleges; or (e) a combination thereof; or
- Three or more years of full-time high school coursework, and a total of three or more years of attendance in California elementary schools, or a combination of California elementary and secondary schools.

Additionally, the following requirements must be met:

- Graduation from a California high school or attainment of the equivalent thereof; or completed an associate degree from a California Community College; or completed the minimum requirements at a California Community College, or fulfill the minimum transfer requirements established for the University of California or the California State University for students transferring from a campus of the California Community Colleges;
- Registration or enrollment in a course offered by any college in the District for any term commencing on or after January 1, 2002,

- Completion of a questionnaire form prescribed by the Chancellor of the California Community Colleges and furnished by the District of enrollment, verifying eligibility for this nonresident tuition exemption; and
- In the case of a student without lawful immigration status, the filing of an affidavit that the student has filed an application to legalize his/her/their immigration status, or will file an application as soon as he/she/they is eligible to do so.

Documents and information obtained in implementing this exemption are confidential.

The initial residency classification will be made at the time the student applies for admission. Students may file residency questionnaire forms through the third week of the semester to request a review of their residency status. Final residency determination is made by the Dean of Enrollment Services. Students may appeal the decision.

The District shall avoid the disclosure of information that might indicate a student or family's citizenship or immigration status if the disclosure is not authorized by the Family Educational Rights and Privacy Act (FERPA) or state law.

Where permitted by law, the Superintendent/President of District shall enumerate alternative means to establish residency, age, or other eligibility criteria for enrollment or programs, and those alternative means shall include among them documentation or information that are available to persons regardless of immigration status or citizenship status, and that do not reveal information related to citizenship or immigration status.

Examples of documents that can be used as proof of residency include but are not limited to:

- Registering a motor vehicle operated in California;
- Obtaining a California driver's license or California identification card;
- Filing a resident or nonresident California state income tax return;
- Listing a California address on a federal income tax return;
- Listing a permanent military address or home of record in California;
- A professional or vocational license obtained from a California state licensing agency (e.g., nursing, teaching credentials);
- Maintaining active resident memberships in California based professional organizations (e.g., police union, teachers' union); and
- Maintaining an active bank account at a California bank

Where District is permitted by law to request parent's residency information for a minor student in order to determine tuition or aid, the District shall only require documentation or information that is available to persons regardless of immigration status (as noted above).

Where residency, age, and other eligibility criteria for purposes of enrollment or any program may be established by alternative documents or information permitted by law or this procedure, the District's procedures and forms shall describe to the applicant, and accommodate, all alternatives specified in law and authorized under this procedure.

Specifically, where District must determine a student's residency for purposes of in-state tuition, the District shall not inquire about a parent/guardian's citizenship or immigration status, and shall enumerate alternative means of establishing a parent/guardian's residency. If the student is considered a minor dependent of a California resident, the District shall only require documents to

determine whether the parent has resided in California for one year (e.g. vehicle registration, lease agreements, etc.).

Also see BP/AP 3415 District Response to Immigration Enforcement Actions; BP/AP 3501 Campus Security and Access; BP 5015 Residence Determination; BP/AP 5040 Student Records, Directory Information and Privacy

Office of Primary Responsibility: Office of Enrollment Services

Date Approved: December 8, 2009 (*Replaces*~~ed~~ *part of current College of Marin Procedure 4.0003 DP.1*)

Date Reviewed/Revised: February 12, 2019, April 16, 2019

Date Revised:

Student Services

CCLC 38 updated this procedure to reorganize (inserting a numbering sequence versus bullets in three sections of the template) to clarify that there are multiple factors that must be satisfied to qualify for the corresponding exemption. However, our procedure is well organized and formatted in a way that the District clearly requires multiple factors. Please compare to model procedure. Mici

2-3-2022

ASC Reviewed & Approved 3-8-22

To Greg/Admin Svcs 3-30-2022

AP 5020 NON-RESIDENT TUITION**References:**

Education Code Sections 68075.65, 68130.5 and 76140 et seq.;
Title 5 Section 54045.5

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

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

Any students who meet the following requirements:

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

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

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

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

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

Education Code Section 76140 specifies seven options for a district to choose in setting its nonresident tuition fee.

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

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

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

Office of Primary Responsibility: Administrative Services

Date Approved: September 3, 2009

Date Revised: January 15, 2013; November 17, 2020

Date Reviewed/Revised:

Student Services

Reviewed to align with review cycle of AP 5030 Fees (Update 38). Mici 3-8-2022
Minor fee revision. Jon H./Enrollment/ASC 3-23-2022
To Peggy I/Fiscal 3-30-2022

BP 5030 FEES

References:

Education Code Sections 76300 et seq.
Title 5 Section 58520;
ACCJC Accreditation Standard I.C.6

The Board of Trustees authorizes the following fees. The Superintendent/President shall establish procedures for the collection, deposit, waiver, refund, and accounting for fees as required by law. The procedures shall also ensure those who are exempt from or for whom the fee is waived are properly enrolled and accounted for. Fee amounts shall be published in the catalog and schedules of classes.

The Board of Trustees authorizes the deferral of payment of certain fees.**Baccalaureate Degree Pilot Program Fees** (Title 5 Section 58520)

Each student shall be charged a fee in addition to an enrollment fee for upper division coursework in a baccalaureate degree pilot program.

Community Service Fee (Education Code Section 78300): The District shall charge each student enrolled in community service classes a fee not to exceed the cost of maintaining community service classes.

Course Auditing Fees (Education Code Section 76370): Persons auditing a course shall be charged a fee of not more than fifteen dollars (\$15.00) per unit per semester. The fee amount shall be adjusted proportionally based upon the term length. Students enrolled in classes to receive credit for ten (10) or more semester credit units shall not be charged this fee to audit three or fewer units per semester.

Credit by Examination Fee (Title 5 Section 55753): The District shall charge a reasonable fee for credit by examination which shall be the per unit enrollment fee established by Education Code Section 76300.

Enrollment Fee (Education Code Section 76300): Each student shall be charged a fee for enrolling in credit courses as required by law.

Fee Refunds (Title 5 Section 58509, Education Code Section 66700): The refunding of various fees shall be in accordance with the law and AP 5030 titled Fees.

General Education Diploma (GED) Administrative Testing/Retesting Fee: The District shall charge a GED Testing/Retesting Fee not to exceed the cost of administering the GED Exam.

Health Fee (Education Code Section 76355): All students shall be charged the health fee equally, including full and part-time students, provided for in law and as approved by the Board of Trustees.

Students who depend exclusively upon prayer for healing in accordance with the teachings of bona fide religious sect shall be considered for an exemption of this fee.

International Student Application Processing Fee (Education Code Section 76142): The District may charge students who are both citizens and residents of a foreign country a fee to process their application for admissions. This processing fee and regulations for determining economic hardship may be established by the Superintendent/President. The fee shall not exceed the lesser of 1) the actual cost of processing an application and other documentation required by the U.S. government; or 2) one hundred dollars (\$100), which may be deducted from the tuition fee at the time of enrollment.

Instructional Materials Fee (Education Code Section 76365; Title 5 Sections 59400 et seq.): Students may be required to pay a fee for instructional and other materials for a credit or non-credit course, provided such materials are of continuing value to the student outside the classroom and provided that such materials are not solely or exclusively available from the District.

Non-Resident Capital Outlay Fee (Education Code Section 76141): The District may charge non-resident students a capital outlay fee. The amount of the non-resident capital outlay fee must be the lesser of:

- the amount that was expended by the District for capital outlay in the preceding fiscal year divided by the total full-time equivalent students of the District in the preceding fiscal year; or
- Fifty percent (50% fifty) of the preceding year non-resident tuition fee adopted pursuant to Education Code Section 76140.

Parking Fee (Education Code Section 76360): Each student purchasing a parking permit shall be charged a Board approved fee. At the Board's discretion, parking fees for non-students parking on District property may be assessed.

Physical Education Facilities (Education Code Section 76395): Where the District incurs additional expenses because a physical education course requires the use of non-District facilities, students enrolled in the course shall be charged a fee for participating in the course. Such fee shall not exceed the student's calculated share of the additional expenses incurred by the District.

Refund Processing Fee (Title 5 Section 58508): The District shall retain the maximum amount as prescribed in Title 5 Section 58508 for the processing of refunds.

Returned Check and/or Declined Credit Card Fee: The District shall charge a fee not to exceed the cost for processing and administering a returned check and/or declined credit card.

Student Representation Fee (Education Code Section 76060.5): Students will be charged a two one dollars (\$12) fee per semester to be used to provide support for student government affairs representation. Students may refuse to pay the fee for religious, political, financial, or moral reasons.

Student Activities Fee (California Community College Chancellor's Office (CCCCO) Student Fee Handbook)

Students may pay an optional student activities fee to support campus clubs, organizations, and intercollegiate athletics and to sponsor educational and social events for the campus community. Waivers must be submitted to the Office of Enrollment Services upon registration.

Student Transportation Fee Students shall be charged a fee for the purpose of recovering transportation costs incurred by the District for services provided by common carriers to students. These fees *were approved by students* in accordance with Education Code.

Transcript Fee/Verification of Enrollment (Education Code Section 76223): The District shall charge a reasonable amount for furnishing copies of any student record to a student or former student. The Superintendent/President is authorized to establish the fee, which shall not exceed the actual cost of furnishing copies of any student record. No charge shall be made for furnishing up to two transcripts of student records or for two verifications of various records. There shall be no charge for searching for or retrieving any student record.

Also see BP 4070 ~~titled~~ Auditing, BP 5020 ~~titled~~ Non-resident Tuition, and BP 4400 ~~titled~~ Community Service Programs

Date Adopted: April 20, 2010 (*Replaced College of Marin Policies 6.0011, 3.0041, and 3.0045*)

Dates Reviewed/Revised: November 16, 2010; April 16, 2013; December 6, 2016

Date Revised:

Student Services

CCLC 38 – Legally required and updated this procedure to remove a citation to Section 54801 of Title 5, which was repealed. Mici 2-3-2022

Jon H. approved 3-8-2022

ASC Reviewed and Approved 3-8-2022

To Peggy I./Fiscal Services 3-30-2022

AP 5030 FEES**References:**

Education Code Sections [66025.3](#), [68120](#), 70902(b)(9), 76300, 76300.5, ~~66025.3, and 68120~~;

Title 5 Sections 51012, 58520, 58629;

California Community Colleges Chancellor's Office (CCCCO) Student Fee Handbook; [and](#)

ACCJC Accreditation Standard I.C.6

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

Required fees include:

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

Fees authorized by law include:

- Non-District physical education facilities (Education Code Section 76395)
- Non-credit courses (Education Code Section 76385)

- Community service courses (Education Code Section 78300)
- Auditing of courses (Education Code Section 76370)
- Instructional materials (Education Code Sections 73365, 81457, and 81458; Title 5 Sections 5940059408)
- Athletic insurance (Education Code Section 70902(b)(9))
- Cross-Enrollment with CSU or UC (Education Code Section 66753)
- Health (Education Code Section 76355)
- Parking (Education Code Section 76360)
- Transportation (Education Code Sections 76361 and 82305.6)
- Student Center (Education Code Section 76375; Title 5 Section 58510)
- Copies of student records (Education Code Section 76223)
- Child care (Education Code Sections 79121 et seq. and 66060)
- Non-resident capital outlay (Education Code Section 76141)
- Non-resident application processing (Education Code Section 76142)
- Credit for Prior Learning (Education Code Section 76300; Title 5 Section 55753)
- Use of facilities financed by revenue bonds (Education Code Section 81901(b)(3))
- Refund processing (Title 5 Section 58508)
- Telephone registration (Education Code Section 70902(a))
- Physical fitness test (Education Code Section 70902(b)(9))
- Instructional Tape Lease/Deposit (Education Code Section 70902(b)(9))
- Credit Card Use (Education Code Section 70902(b)(9))
- International Student Medical Insurance (Education Code Section 70902(b)(9))

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

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

Prohibited fees include:

- Late application (CCCCO Student Fee Handbook)
- Add/drop (CCCCO Student Fee Handbook)
- Mandatory student activities (CCCCO Student Fee Handbook)
- Student Identification Cards (CCCCO Student Fee Handbook)
- Student Body Organization (CCCCO Student Fee Handbook)
- Non-resident application (CCCCO Student Fee Handbook)
- Field trip (Title 5 Sections 55450 and 55451)
- For dependents of certain veterans (Education Code Section 66025.3)
- For dependents of certain victims of the September 11, 2001 terrorist attacks. (CCCCO Student Fee Handbook)
- For certain recipients of the Medal of Honor and certain children of the recipients of the Medal of Honor (Education Code Section 66025.3)
- For surviving spouses and children of a firefighter employed by the federal government whose duty assignment involved the performance of firefighting services in California (Education Code Section 68120)
- For students who have been exonerated of a crime through writ of habeas corpus or pardon that meet certain conditions (Education Code Section 69000)
- Required or funded services (CCCCO Student Fee Handbook)
- Refundable deposits (CCCCO Student Fee Handbook)
- Distance education (other than the statutorily authorized enrollment fee) (CCCCO Student Fee Handbook)

- Mandatory mailings (CCCCO Student Fee Handbook)
- Rental of practice rooms (CCCCO Student Fee Handbook)
- Apprenticeship courses (Education Code Section 76350)
- Late payment fee (Title 5 Sections 58502 and 59410)
- Nursing/healing arts student liability insurance (Title 5 Section 55234)
- Cleaning (CCCCO Student Fee Handbook)
- Breakage (CCCCO Student Fee Handbook)
- Test proctoring (CCCCO Student Fee Handbook)

Collection of Fees (Credit Classes)

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

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

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

Fees Collected in Error

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

Refunds

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

- **Enrollment Fees: (Title 5 Section 50508)**

Enrollment fees paid by a student for program changes made during the first two weeks of instruction for a primary term-length course or by the ten percent point of the length of a course for short-term a course.

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

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

- **Instructional Materials Fees Refund:**

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

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

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

- **District Cancelled Classes**

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

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

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

- **Community Services Fees:**

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

- **Health Fees:**

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

- **Parking Fees:**

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

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

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

- **Student Technology, Representation and Activities Fee:**

The student representation fee paid by the student shall be refunded only if the District took action to cancel or reschedule a class(es) for which the student was enrolled and the student has no other enrollment in the term.

- **Refund Processing Fee (Title 5 Section 58508):**

A \$10 per semester refund processing fee and any outstanding balance due the District will be deducted from all refunds. No refund processing fee will be charged for action taken by the District to cancel or reschedule a class for which the student was enrolled. The refund processing fee applies to students who drop classes within the published deadline dates and who have not paid their fees.

Waiver of Fees

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

Exemption of Fees for CCAP agreements students (AB288)

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

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

Offices of Primary Responsibility: Office of Enrollment Services – Fees; Fiscal Services – Payments and Refunds

Date Approved: October 19, 2010 (*Replaces* ~~College of Marin Procedures 6.0011 DP.1 and 3.0045 DP.1~~)

Date Revised: March 19, 2013, November 15, 2016, November 17, 2020

Date Reviewed/Revised:

Student Services

CCLC 38 – Legally advised. Effective January 1, 2020, the Educational Debt Collection Practices Act prohibits Districts from withholding a transcript on the grounds that the student owes a debt. The Service updated this policy to reflect changes to Title 5 Regulations that prohibit withholding grades or transcripts in an effort to collect a debt. Mici 2-1-2022
To ASC 2-9-2022
To JE CT on 3-30-2022

BP 5035 WITHHOLDING OF STUDENT RECORDS

Reference:

Title 5 Section 59410

Students or former students who have been provided with written notice that they have failed to pay a proper financial obligation shall have ~~grades~~, diplomas, and registration privileges and other services withheld.

Date Adopted: October 13, 2009

Reviewed/Revised: November 9, 2021

Reviewed/Revised:

Student Services

CCLC 38 updated this procedure to reflect changes to Title 5 Regulations that prohibit withholding grades or transcripts in an effort to collect a debt. Mici 2-3-2022

Jon H. approved 3-8-2022

ASC Reviewed and Approved – 3-8-2022

To JE CT on 3-30-2022

AP 5035 WITHHOLDING OF STUDENT RECORDS

Reference:

Title 5 Section 59410

The District may withhold **grades**, diplomas, and registration privileges from any student or former student who fails to pay a proper financial obligation. The student shall be given written notification and the opportunity to explain if the financial obligation is in error.

The definition of proper financial obligation shall include, but is not limited to:

- student fees;
- non-resident tuition;
- international student tuition;
- obligations incurred through the use of facilities, equipment, or materials;
- library fines;
- unreturned library books;
- materials remaining improperly in the possession of the student; or
- any other unpaid obligation a student or former student owes to the District.

A proper financial obligation does not include any unpaid obligation to a student organization.

Students may access their account detail and financial obligations through the MyCOM portal.

Office of Primary Responsibility: Enrollment

Date Approved: September 10, 2009

Reviewed/Revised: October 12, 2021

Reviewed/Revised:

General Institution

CCLC Update 38 – Legally required. Reviewed/Revised Mici 2-1-2022

Approved without revisions. Nikki/HR 2-25-2022

BP 3550 DRUG AND ALCOHOL FREE ENVIRONMENT AND DRUG AND ALCOHOL ABUSE PREVENTION PROGRAM (DAAPP)**References:**20 U.S. Code Section ~~1145g~~ 1011i (Drug Free Schools and Communities Act);41 U.S. Code Section ~~702~~ 8103 (Drug Free Workplace Act of 1988);

34 Code of Federal Regulations Sections 86.1 et seq.;

~~Business and Professions Code Section 25608~~

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

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

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

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

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

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

~~California voters~~ On Tuesday, November 8, 2016 [California voters](#) passed Proposition 64 legalizing the use of recreational marijuana among people over the age of 21. The change in law does not permit any person to possess or use recreational or medical marijuana on a community college campus. Using and possessing marijuana is still illegal under federal law. The federal Drug Free Schools and Communities Act and the Drug Free Workplace Act require that the District, which receives federal funding, have policies and procedures that prohibit marijuana use, possession and distribution on campus and in the workplace.

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

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

See BP/AP 3560 ~~titled~~ Alcohol on Campus

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

Date Reviewed/Revised: April 18, 2017

Date Reviewed/Revised:

Business and Fiscal Affairs

CCLC 36 Update – Legally required. This procedure was updated to reflect the “ABC” test for determining independent contractor status that was codified as part of AB 5.

Mici Rev. 3-4-2021

To Fiscal 4/19/2021

To Administrative Services 4/19/2021; follow up 9/21/21

To Greg N. 10-7-2021, 3-23-2022

AP 6370 CONTRACTS – PERSONAL/OTHER SERVICES**References:**

Education Code Section 88003.1;
Government Code Section 53060;
Labor Code Sections [2750.3](#) and 3353;
Public Contract Code Section 10335.5

The District may enter into service contracts to achieve cost savings when each of the following conditions are met:

- It can be clearly demonstrated that the proposed contract will result in actual overall cost savings to the District;
- The contractor’s wages are at the industry's level and do not undercut District pay rates;
- The contract does not cause the displacement of District employees;
- The savings are large enough to ensure that employees will not be eliminated by private sector and District cost fluctuations that could normally be expected during the contracting period;
- The amount of savings clearly justifies the size and duration of the contracting agreement;
- The contract is awarded through a publicized, competitive bidding process if required;
- The contract includes specific provisions pertaining to the qualifications of the staff that will perform the work under the contract as well as assurance that the contractor's hiring practices meet applicable nondiscrimination standards;
- The potential for future economic risk to the District from potential contractor rate increases is minimal;
- The contract is with a legal entity; and
- The potential economic advantage of contracting is not outweighed by the public's interest in having a particular function performed directly by the District.

Service contracts are also permissible when any one of the following conditions is met:

- The contract is for new functions mandated or authorized by the Legislature to be performed by independent contractors;
- The services are not available within the District or cannot be satisfactorily performed by District employees;
- The services are incidental to a purchase or lease contract;
- The policy, administrative, or legal goals and purposes of the District cannot be accomplished through the regular or ordinary hiring process;
- The work meets the criteria for emergency appointment;

- Equipment, materials, facilities, or support services could not feasibly be provided by the District; or
- The services are of an urgent, temporary, or occasional nature.

Professional Experts – Contracts for the services of persons who qualify as professional experts may be let without competitive bidding. Professional experts are persons specially qualified to provide services and advise in financial, economic, accounting, engineering, legal, or administrative matters. They must be specially trained, experienced, and competent to perform the services required. Compensation for special services and advice from professional experts may be paid from available funds in the amounts deemed proper for the services rendered.

Independent Contractors – To be an independent contractor, substantial conformance with all the following conditions must exist:

- The contractor is free from the control and direction of the District in connection with the performance of the work, both under the contract for the performance of the work and in fact;
- The contractor performs work that is outside the usual course of the District's business; and
- The contractor is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed.
- ~~• The contractor controls the way in which work is performed.~~
- ~~• The contractor sets his or her own hours.~~
- ~~• The contractor is not restricted from taking jobs from other businesses at the same time that they are doing work for the District.~~
- ~~• No District employees have duties similar to the independent contractor.~~
- ~~• The District does not provide assistants to the contractor.~~
- ~~• The duration of employment is for a specific job, not for a specified period of time.~~
- ~~• The District does not furnish tools, training, or equipment to the contractor. Contractors should be able to perform their services without the District's facilities (e.g., equipment, office furniture, machinery).~~
- ~~• The contractor's investment in his or her trade must be real, essential, and adequate.~~
- ~~• The contractor has employer identification numbers with the Internal Revenue Service and the California Employment Development Department for reporting employer payroll taxes and employee wages.~~
- ~~• The individual is not presently employed by the District to do the same type of work.~~
- ~~• Contractors are hired to provide a result and usually have the right to hire others to do the actual work.~~
- ~~• Contractors are hired for the final result, and therefore should not be asked for progress or interim reports.~~
- ~~• Contractors are generally responsible for their incidental expenses.~~
- ~~• Contractors should be able to make a profit or a loss. Five circumstances show that a profit or loss is possible:~~
 - ~~○ If the contractor hires and pays assistants~~
 - ~~○ If the contractor has his own office, equipment, materials, or facilities~~
 - ~~○ If the contractor has continuing and reoccurring liabilities~~
 - ~~○ If the contractor has agreed to perform specific jobs for prices agreed upon in advance~~
 - ~~○ If the contractor's services affect his own business reputation~~

Contractors cannot be fired as long as they produce a result that meets the contract specifications. Termination of a contractor must abide by the law and be in accordance with the specifications in the

contract or agreement for services. The District shall use a District contract or Agreement for Services and not rely on the contractor's contract.

Contractors are responsible for the satisfactory completion of a job or they may be legally obligated to compensate the ~~hiring firm~~ District for failure to complete.

Consultants – Consulting services contracts refer to all services that:

- Are of an advisory nature,
- Provide a recommended course of action or personal expertise,
- Have an end product which is basically a transmittal of information either written or verbal, and
- Are obtained by awarding a procurement-type contract, a grant, or any other payment of funds for services of the above type.

The product may include anything from answers to specific questions to design of a system or plan, and includes workshops, seminars, retreats, and conferences for which paid expertise is retained by contract.

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

Date Approved: April 21, 2009 (*Replaced College of Marin Procedure 5.0011 DP.1*)

Date Reviewed/Revised: June 20, 2017

Date Reviewed/Revised:

Business and Fiscal Affairs

Due for review as part of the regular review cycle. No legal updates from CCLC. Formatting updates. Mici 1-31-2022

Greg N. approved without changes. 2-28-2022

BP 6800 INDUSTRIAL SAFETY**References:**

49 Code of Federal Regulations, Part 40 and Part 655;
29 Code of Federal Regulations Sections 1910.101 et seq.;
Health and Safety Code Section 104420;
Title 8 Section 3203

The Superintendent/President shall establish administrative procedures to ensure the safety of employees as part of their assigned work duties on District sites, including the following:

- Compliance with the United States Department of Transportation regulations implementing the Federal Omnibus Transportation Employee Testing Act of 1991. Specifically, the District shall comply with the regulations of the Federal Highway Administration (FHWA) and, if applicable, the Federal Transit Administration (FTA). Compliance with these policies and procedures may be a condition of employment.
- Establishment of an Injury and Illness Prevention Program in compliance with applicable Occupational Safety and Health Administration (OSHA) regulations and state law. These procedures shall promote an active and aggressive program to reduce and/or control safety and health risks.
- Establishment of a Hazardous Material Communications Program, which shall include review of all chemicals or materials received by the District for hazardous properties, instruction for employees and students on the safe handling of such materials, and proper disposal methods for hazardous materials.
- Prohibition of smoking by all employees, students, and visitors at all times on District property EXCEPT in Designated Smoking Areas. District property refers to any and all buildings, parking lots, District Vehicles, as well as property on the Kentfield Campus, the Indian Valley Campus, and the Bolinas Marine Lab.

Also see BP/AP 3500 ~~titled~~ Emergency Preparedness and BP 3570 ~~titled~~ Smoke-Free Learning and Working Environment

Date Adopted: March 17, 2009 *(This is a new policy recommended by the CC League and the League's legal counsel)*

Date Revised: March 8, 2016

Date Reviewed/Revised:

Human Resources

Due for review as part of regular review cycle, in conjunction with AP 7236 updates. Mici 3-8-2022

Reviewed and approved without changes. Nikki 3-8-2022

BP 7236 SUBSTITUTE AND SHORT-TERM EMPLOYEES

References:

Education Code Sections 88003, 87470, 87475-87482, and 88105

The Board of Trustees may retain the services of substitute and short-term employees as necessary for any purpose authorized by the Education Code. Such employees shall be compensated at a rate set in appropriate salary schedules or as determined by the Superintendent/President or designee.

Also see BP/AP 7270 ~~titled~~ Student Workers and AP 7212 ~~titled~~ Temporary Faculty

Date Adopted: August 23, 2011 (*Replaced College of Marin Policy 5.0011*)

Date Reviewed:

Human Resources

CCLC 38 Update added *optional* use of force and reporting language to highlight diversity, equity, and inclusion issues. Mici 2-1-2022

Human Resources has no revisions. Nikki H. 3-2-2022

Campus Police approved without revisions. Jeff M. 3-8-2022

BP 7600 DISTRICT POLICE**References:**

Education Code Sections 72330 et seq.;
Government Coded Sections 3300 et seq.

The Board of Trustees has established a police department under the supervision of the Chief of Police, who shall report to the Superintendent/President. The purpose of the department is to enforce the law on or near the campuses and other grounds or properties owned, operated, controlled, or administered by the District or by the state acting on behalf of the District.

District police officers shall be employed as members of the classified service but shall, when duly sworn, be peace officers as defined by law. Prior to employment, they shall satisfy the training requirements set out in Penal Code Sections 830 et seq.

Minimum qualifications of employment for the Chief of Police shall be established including, but not limited to, prior employment as a peace officer or completion of a peace officer training course approved by the Commission on Peace Officers' Standards and Training.

Every member of the District Police Department first employed by the District before July 1, 1999 must satisfy the requirements of state law regarding qualifications for continued employment.

Every member of the District Police Department shall be issued a suitable identification card and badge bearing the words "College of Marin Police."

The Chief of Police, in cooperation with appropriate District officials, shall issue such other regulations as may be necessary for the administration of the District Police Department.

Use of Force

The Board directs the Chief of Police to establish operational guidelines regarding reasonable use of force for District police officers. The Board expects every District police officer to carry out their duties, including the use of force, in a fair and unbiased manner and to use reasonable force in any situation and make decisions in a professional, impartial, and reasonable manner and to use of de-escalation techniques whenever possible.

Report Regarding Complaints

The Chief of Police shall provide the Board, when requested, with a report regarding complaints against the police department and police officers. This report must disaggregate the complainants by race, gender, religion, or any other characteristic identified by the Board.

Date Adopted: February 21, 2012 (*Replaced College of Marin Policy 8.0001*)

Date Reviewed/Revised: