



District Consultation Council Meeting

April 22, 2024

2:00 p.m.

Anaheim Campus – Chancellor’s Conference Room (9th Floor)

Videoconferencing participation available from the Cypress College President’s Conference Room and the Fullerton College President’s Conference Room B

AGENDA

MEETING SUMMARY

1. March 25, 2024 Summary **Action**

STRATEGIC GOALS & PLANNING

1. Updated NOCCCD Mission, Vision, and Values **Action**
2. Strategic Enrollment Management Work with Ruffalo Noel Levitz: Timeline and Stakeholder Engagement **Information**
3. Open Educational Resources/Zero Textbook Costs/Peer Online Course Review MOU Funds **Action**

OPERATIONAL REVIEW

- 1.

POLICY

1. Revised AP 7120-6, Employment of NonClassified Short-Term Employees and Substitute Employees **Action**
2. Revised BP/AP 2105, Election of Student Members **Action**
3. New AP 3830, Flying of National, State, Military, and Commemorative Flags **Discussion**
4. Revised BP 5020, Nonresident Tuition **Discussion**
5. Revised 3410, Unlawful Discrimination **Discussion**

OTHER ITEMS

- 1.

DISTRICT CONSULTATION COUNCIL
March 25, 2024

SUMMARY

MEMBERS PRESENT: Byron D. Clift Breland, Jennifer Combs, Damon de la Cruz, Jean Foster, Geoff Hurst, Naveen Kanal, Elaine Loayza, Kathleen McAlister, Flavio Medina-Martin Cynthia Olivo, Jeremy Peters, Valentina Purtell, Jeanette Rodriguez, Pamela Spence, Gabrielle Stanco (for Cherry Li-Bugg), Kai Stearns, Scott Thayer, and Fred Williams.

VISITORS: Danielle Davy and Kashu Vyas.

Chancellor Byron D. Clift Breland called the meeting to order at 2:02 p.m.

MEETING SUMMARY

Summary: The summary of the February 26, 2024 meeting was approved with the noted correction to page 2.

STRATEGIC GOALS & PLANNING

One Time Funding Request: Fred Williams, Vice Chancellor of Finance & Facilities, presented a one-time funding request discussion related to 1) funding of the Supplemental Employee Retirement Plan (SERP), 2) a \$2.14 million districtwide success advocates pilot program, and 3) a request to approve \$139,318 in additional 2023-24 technology expenses which were previously discussed by the Council on Budget and Facilities (CBF). He reminded the group that DCC receives recommendations from CBF, and then makes recommendations to the Chancellor as the budget assumptions are prepared, and later the proposed budget.

SERP Funding: Vice Chancellor Williams shared that the cost of the annuity to fund the SERP will include 75% of base compensation for each employee who participates, in addition to the commission fees for the program, with all costs being paid out over five years, and that the final calculations will occur in May once the participation window closes. He recommended setting aside the SERP costs, estimated at \$10+ million, from one-time funds so that the campuses can realize the savings instead of having to pay for the costs over the next five years.

Members asked when the final cost and expenses would be determined and how many faculty retirements would be needed. Chancellor Byron D. Clift Breland expressed support for the recommendation so that the campuses don't have to pay for it later.

Success Advocates Pilot Program: Cynthia Olivo, Fullerton College President, presented a first reading of a pilot to address student enrollment, retention and success via Success Advocates for students at an estimated cost of \$2.14 million. The Success Advocates would help prospective, former, and current students to enroll, re-enroll, or remain enrolled through providing just-in-time help, referrals and support in a proactive manner via text messaging, phone calls, online support and in person assistance in caseloads. The advocates would be implemented at all three campuses and through a combination of hands-on support and technology, they would connect with students to help on a regular basis.

As part of the discussion, members state the following:

- Where is the ownership portion of the program if they are all part-time employees who are taking classified jobs?
- What would the start date be and would Human Resources be able to process them?
- Were grants sought to offset costs?
- In calculating the number of students who did not return, were students who graduated or transferred taken into account?
- Where would these jobs be housed? In Admissions & Records?
- Do we know at what threshold the pilot would be considered a success?
- It's easy to see what they would do, but less clear what they would do beyond setting it up.
- The pilot could also help to have a Starfish lead (super user) create the cohorts on the backend and use that system to its fuller capacity.
- It includes three new managers with no new faculty as a result of the SERP. The District should invest in other hires if it works.
- The District is not currently earning the revenue that we're receiving and we need to be doing everything we can to increase enrollment. If enrollment increases, the faculty obligation number (FON) also increases, and we can then determine if we can hire more full-time faculty positions.
- Classified and management positions can be rehired right away, but it is not that easy for faculty, so we need to make sure that faculty are hired and supported down the road.
- Will these positions be remote? How will they be assigned?
- Will specialty training be provided for the areas that they're working with the student in?
- This sounds like a really good program, but concern with the number of staff taking the SERP, the hiring 80 temporary employees, and the impact on the lower number of employees.
- How will these advocates mesh with the student support services that already exist in each program?
- The need for permanent classified positions who will train the advocates.
- Ensure that enough planning is taking place to ensure that the areas that students are referred to for services and resources are ready for the influx of students.
- The pilot could help identify areas that require support that are oversaturated already.
- It is important to capture the feedback from our students and focus on areas where we need to improve.
- With a captive group, intentionality will allow us to capture the data to help us get back to where we were and also see where we can replicate and scale successful programs for all students, not just for first-time students.
- Have the advocates work with the campus strategic enrollment and retention committees to collaborate and keep them informed.

This item will return for consideration to the next DCC meeting.

2023-24 Technology Expenses Funding Request: Geoff Hurst, Executive Director of Information Technology, shared that the Districtwide Technology Budget was revised and approved by the Districtwide Technology Committee (DTC) and \$139,318 in additional funding is requested to cover an increase in 2023-24 districtwide expenses. A five-year projection was provided for review, It was also noted that Starfish was not included in the listing because it is not used by all of the campuses, and that for the last few years, the District has been underbudget, but three have been recent cost increases for Ellucian and Oracle.

Subsequent to clarification on the distinction between District Services expenses and districtwide technology expenditures (those used by the campuses and District Services), **there was consensus to approve \$139,318 in one-time funding for 2023-24 technology expenses.**

Budget Update: Vice Chancellor Fred Williams provided DCC with a budget update that outlined the following major points:

- The 2023-24 proposed budget deficit factor at P-1 which was 3.5512% and equates to \$9.4 million for the District.
- The 2024-25 early preliminary budget which reflects a \$3.8 million structural deficit, but a balance of \$17.7 million with the additional revenue sources (emergency conditions and hold harmless) along with ongoing districtwide expenses and budget assumptions.
- A review of the estimated cost of lecture lab parity.
- Scheduled maintenance contributions.

As part of the presentation, Vice Chancellor Williams stated that for the last several years when there has been a deficit it goes away after P-2, but cautioned that this year might be different and advised that the campuses need to be prepared to cover the deficit if it is maintained. He reiterated that if enrollment does not increase the District will have a new floor and will not receive COLA from the State for 3-5 years. He provided a recommendation to increase interest revenue income from \$1 million to \$3 million, noted that the extended day budget included in the tentative budget is at least \$5 million dollars short, and that the lecture lab parity rate that was negotiated will cost more than what was projected (currently at \$1.7 million with a partial review of the lab courses).

During the discussion, members asked why expenses were up despite enrollment being down and Vice Chancellor Williams clarified that enrollment increased and the costs reflect what was spent on overload and extended day. Members also requested an update on the money that was allocated to the campuses and scheduled maintenance at the next CBF meeting.

Vice Chancellor Williams noted that the State budget information is evolving, but that developments would be shared with CBF and DCC, and also shared that the 2024-25 budget year will not be too bad, but the years after seem to be concerning.

Strategic Enrollment Management – Partnership with Ruffalo Noel Levitz: Gabrielle Stanco, District Director of Research, Planning, & Data Management, introduced discussion on the District proposal to enter into a year-long engagement with Ruffalo Noel Levitz (RNL) to create a five-year strategic enrollment management plan with goals, key performance indicators, and market analysis for potential new academic programs. The engagement will encompass: 1) an enrollment projection model to assist the District in forecasting the impact of demographic changes on enrollment for new students, using demographic variables, institutional data, and county data; 2) an academic program demand/environmental scan analysis to review data on market share, degree trends, employer hiring and occupational trends, and NOCCCD student survey data to inform program offerings that may meet the needs of prospective students; 3) strategic enrollment planning consulting to develop a strategic enrollment management plan, including identification of key performance indicators, data analysis of NOCCCD enrollment and market data, strategy development, enrollment goal setting, and workshop and professional development sessions; 4) facilitation of a districtwide enrollment management summit; and 5) the administration of the Student Satisfaction Inventory (SSI) to measure student satisfaction

and priorities. The engagement is projected to begin in late spring 2024 with data gathering, and all other activities, including data discussions, enrollment planning, workshops, and professional development would commence in fall 2024 once all employee groups are back on contract.

During the discussion, members noted the following:

- RNL would help the District set actual numbers and goals with KPIs to help us see where we are which will be highly beneficial, and will also work with the campus enrollment committees.
- The data aspect is fascinating, especially the external data and how we can serve the community, but wondered how that would be helpful.
- What evidence has RNL provided that their work increases enrollment?
- Concern about how the academic program demand/environmental scan analysis could potentially lead to looking at programs for elimination.
- The cost and funding source for the partnership.
- Whether RNL could learn about noncredit in order to provide a comparison for NOCE to allow for customized recommendations that are separate from the colleges.
- The need for context to accompany the data in order to assist with marketing efforts.
- The need for additional marketing to highlight the Promise Program, dual enrollment, and other missed opportunities.
- The partnership would help identify a roadmap to identify the necessary steps the campuses need to take to help get to the benchmarks that they've identified.

Dr. Stanco asked DCC members to share any opportunities to collaborate in order to better serve the campuses.

OPERATIONAL REVIEW

Updated NOCCCD Mission, Vision, and Values: During the spring 2022 semester DCC authorized the formation of a districtwide workgroup to recommend revisions and updates to BP 1000, NOCCCD Mission, Vision and Values (MVV). The workgroup, which included full districtwide constituency representation, met and worked to update the MVV in fall 2022 and that draft was shared with the constituent groups who forwarded feedback to the Vice Chancellor of Educational Services & Technology.

Gabrielle Stanco introduced the draft MVV revisions which were originally presented to DCC in fall 2022 and returned for a fresh first reading with a second reading planned for the April 2024 DCC meeting. During the discussion, there were no suggestions for revisions to the MVV, only clarification as to why there was a gap between readings.

POLICY

AP 3830, Flying of National, State, Military, and Commemorative Flags Workgroup: Kai Stearns, District Director of Public & Governmental Affairs, shared that the workgroup to develop AP 3830 which will outline the process for raising commemorative flags was not met yet, but shared a draft document that will be reviewed by the group when it meets in April. The workgroup currently includes Damon de la Cruz, Jeanette Rodriguez, and Kai Stearns, but others are welcome to participate.

OTHER

May DCC Meeting: After discussing the need for a May DCC meeting, it was determined that the meeting would take place on May 20, 2024.

Faculty Appointments for Management Search Committees: United Faculty representatives shared that they are experiencing issues getting faculty members on management search committees due to the short notification period and the committees meeting into the summer and requested that, in the future, the process not go into the summer. Chancellor Clift Breland noted that searches aren't planned for the summer and occur only when necessary. Members expressed concern about the number of committees that will need to be formed due to retirements related to the early retirement incentive program, how faculty would be compensated during the summer, the potential use of counselors or librarians who are on contract during that time, and how the senates could assist with recruiting faculty.

ADJOURNMENT: Prio to adjournment, Chancellor Clift Breland shared that Cypress College Grounds Coordinator Sergio Leonardo suddenly passed away over the weekend, and noted that as memorial information becomes available it would be shared. The meeting adjourned at 3:55 p.m. in memory of Sergio Leonardo.

DRAFT

DISTRICT CONSULTATION COUNCIL

Agenda Item Submittal Form

Date: April 16, 2024

From: Cherry Li-Bugg, Vice Chancellor, EST
 Gabrielle Stanco, District Director, Research, Planning and Data Management

Re: Agenda Item for District Consultation Council Meeting of April 22, 2024

1. AGENDA ITEM NAME

Updated NOCCCD Mission, Vision, and Values

2. AGENDA ITEM ACTION (Please check all that apply.)

Information Only		Second Reading	X
Review/Discussion		Action	X
First Reading		Consent Agenda Item	

3. ESTIMATED TIME REQUIRED FOR PRESENTATION/DISCUSSION: **10 minutes**

4. BRIEF NARRATIVE SUMMARY OF AGENDA ITEM:

In spring 2022, DCC authorized the formation of a Districtwide Workgroup (Design Team) to recommend revisions and updates to BP 1000, NOCCCD Mission, Vision and Values (MVV). The duly formed Workgroup with full districtwide constituency representation, met and worked to update the District’s MVV in fall 2022. The MVV Workgroup members shared the draft MVV with their constituent groups and forwarded feedback to the Vice Chancellor of Educational Services and Technology. The MVV was also shared with DCC in April 2023 and again in March 2024 for discussion. The MVV document is now coming to DCC for final review and approval before being submitted to the Board of Trustees for review and approval.

5. RECOMMENDATION:

It is recommended that DCC review and approve the revisions to the District’s Mission, Vision, and Values by the Districtwide Workgroup.

6. OTHER PEOPLE CONSULTED, INFORMED OR ATTENDING MEETING ABOUT THIS ITEM:

Districtwide Workgroup (Design Team); Chancellor’s Staff, Campus PAC’s



NORTH ORANGE COUNTY
COMMUNITY COLLEGE DISTRICT

DRAFT MISSION:

We at NOCCCD create and nurture inclusive, equitable learning and working environments to empower students and employees to reach their full potential. Collectively, we provide comprehensive academic programs and support services through our institutions that enable our students to achieve their educational, professional, and personal goals.

DRAFT VISION:

NOCCCD is a compassionate community where everyone belongs and thrives.

PROPOSED VALUES:

Integrity: We uphold high standards of integrity and performance by ensuring consistency between our words and actions, and promote joy in learning, teaching, and work.

Equity: We actively dismantle practices, processes and policies that create and sustain inequity, and are committed to achieving equitable outcomes and experiences for all students and employees.

Innovation: We create a culture of innovation where faculty, staff, students, and administrators are supported in taking the necessary risk to make their best ideas come alive in service of our mission. We respond to the changing needs of our community through adaptability, technological advancement, and continuous improvement.

Collaboration: We embrace collaborative decision-making by drawing upon the collective wisdom of the institution and the perspectives of multiple constituents at all levels in the institution.

Stewardship: We are committed to responsible, transparent, and equitable stewardship of fiscal, physical, and human resources of the North Orange County Community College District and embrace a data-informed approach with a focus on results.

Care and compassion: We infuse care and compassion in all we do by appreciating the social, cultural, and human assets brought to North Orange County Community College District by the internal and external communities.

Sustainability: We are committed to sustainability practices and the promotion of environmental awareness; to incorporating and teaching ecological values; to acting locally and thinking globally; and to supporting sustainability efforts in our community.

Respect: We believe that all members of the District are entitled to work and learn in an atmosphere of courtesy, civility, and collegiality by nurturing a culture of open, transparent, and authentic communication, taking care to invite traditionally marginalized voices to the center.

DISTRICT CONSULTATION COUNCIL

Agenda Item Submittal Form

Date: April 17, 2024

From: Cherry Li-Bugg, Vice Chancellor, EST
 Gabrielle Stanco, District Director, Research, Planning, and Data Management

Re: Agenda Item for District Consultation Council Meeting of April 22, 2024

1. AGENDA ITEM NAME

NOCCCD Strategic Enrollment Management Work with Ruffalo Noel Levitz: Timeline and Stakeholder Engagement

2. AGENDA ITEM ACTION (Please check all that apply.)

Information Only	X	Second Reading	
Review/Discussion	X	Action	
First Reading		Consent Agenda Item	

3. ESTIMATED TIME REQUIRED FOR PRESENTATION/DISCUSSION: **20 minutes**

4. BRIEF NARRATIVE SUMMARY OF AGENDA ITEM:

The District has engaged with Ruffalo Noel Levitz (RNL), the national leading organization on Strategic Enrollment Management to create campus-specific strategic enrollment management plans. The goal of this collaborative work is to partner with RNL to create a five-year strategic enrollment management plan with goals, key performance indicators, and market analysis for potential new academic programs.

The tentative timeline for the work is attached. For this project to reflect the needs, interests, and input of each stakeholder group, collaborative working groups will be formed to guide and direct the project. The proposed working groups include the following:

- Academic Working Group
- Admissions/Outreach Working Group
- Finance/Financial Aid Working Group

Cypress and Fullerton Colleges have enrollment management work groups established as a result of the PRT process; we will be tapping into the membership to staff the Working Groups. For additional members at NOCE and the colleges, we will need the cooperation of campus and constituency leadership to appoint representatives to the Working Groups. If faculty representatives on the Working Groups are needed during the times full-time faculty members are off contract, they will be compensated appropriately.

5. RECOMMENDATION:

It is recommended that DCC review and discuss the proposed timeline and stakeholder engagement plan for the Ruffalo Noel Levitz engagement.

NOTE: Please forward this form by required dates with all backup material to the Chancellor's Office.

6. OTHER PEOPLE CONSULTED, INFORMED OR ATTENDING MEETING ABOUT THIS ITEM:

Chancellor’s Staff

Tentative Timeline:

Month	Milestone
May / June	Data Collection/Analysis: Enrollment Projection Models and Academic Environmental Scan
Summer	Enrollment Projection Models/ Academic Environmental Scan data Presentations to Leadership & Preparation for Strategic Enrollment Planning
Mid-September	Strategic Enrollment Planning (SEP) Consultation One
October	SEP Consultation Two – Workgroup Launch w/ Market Research Presentation and APDA survey development
November	SEP Consultation Three – Situation Analysis
February	SEP Consultation Four – Action Planning
March	SEP Consultation Five – Continued Action Planning
April	SEP Consultation Six – The Prioritization Summit
May	SEP Consultation Seven – Plan development, funding priorities, comprehensive rollup
June	SEP Consultation Eight – Implementation
TBD	SEP Consultation Nine – Professional Development

NOTE: Please forward this form by required dates with all backup material to the Chancellor's Office.

DISTRICT CONSULTATION COUNCIL

Agenda Item Submittal Form

Date: April 12, 2024

From: Jeremy Peters, United Faculty

Re: Agenda Item for District Consultation Council Meeting of April 22, 2024

1. AGENDA ITEM NAME

Open Educational Resources (OER)/Zero Textbook Costs (ZTC)/Peer Online Course Review (POCR) MOU Funds

2. AGENDA ITEM ACTION (Please check all that apply.)

Information Only		Second Reading	
Review/Discussion	X	Action	X
First Reading		Consent Agenda Item	

3. ESTIMATED TIME REQUIRED FOR PRESENTATION/DISCUSSION: **10 Minutes**

4. BRIEF NARRATIVE SUMMARY OF AGENDA ITEM:

Discuss the reallocation of the \$740,000 One-time Funds earmarked for the OER / ZTC / PORC MOU to each campus to cover the stipends as outlined in the MOU

5. RECOMMENDATION:

Reallocation recommendation as follows; 40.5% Cypress \$300,000; 54% Fullerton \$400,000; 5.5% NOCE \$40,000

6. OTHER PEOPLE CONSULTED, INFORMED OR ATTENDING MEETING ABOUT THIS ITEM:

Christy Diep – United Faculty

J. Ramos

**MEMORANDUM OF UNDERSTANDING
BETWEEN
NORTH ORANGE COUNTY COMMUNITY COLLEGE DISTRICT
AND
UNITED FACULTY CCA-CTA-NEA**

February 26, 2024

This Memorandum of Understanding (“MOU”) is entered into by and between the North Orange County Community College District (“District”) and the United Faculty Association (“Association”).

WHEREAS, the District is offering an Open Educational Resources (OER) Incentive Program to reduce/eliminate textbook costs for students; and a compensation program for Peer Online Course Review (POCR) to improve quality of online teaching and learning; and

WHEREAS, United Faculty requested to bargain full-time faculty compensation in regard to OER development Districtwide, and for POCR and

WHEREAS, the District and United Faculty agree to compensate faculty for performing OER work, and for POCR outside of their regular academic assignments.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

1. OER stipends will be provided to faculty as follows:

Full time faculty members engaged in adopting/curating available OER for their courses resulting in zero textbook cost (ZTC), the compensation is as follows:

- First course - \$1,000
- Second course - \$750
- Third course - \$500

Full time faculty members engaged in adopting/curating available OER that are DEIAA responsive/relevant for their courses resulting in zero textbook cost (ZTC), the compensation is as follows:

- First course - \$3,000
- Second course - \$1,500
- Third course - \$1,000

Full time faculty members engaged in creating from scratch OER materials on their own in order to replace for-cost publisher textbooks/materials for their courses resulting in ZTC, the compensation is as follows:

- First course - \$5,000
- Second course - \$3,000
- Third course - \$2,000

All OER materials created from scratch by the full-time faculty member must be registered on the Creative Commons platform for a Creative Commons license. Stipends will only be paid upon registration of created OER on the Creative Commons Platform resulting in a Creative Commons license, and upon the course/section certified as ZTC in Banner.

2. POCR stipends will be provided to faculty as follows:

Full time faculty members engaged in the POCR (Peer Online Course Review) process will be compensated as follows:

- First course - \$3,000
- Second course - \$1,500
- Third course - \$750

Full time faculty members serving as reviewers/mentors in the POCR process will be compensated as follows:

- Up to 10 hours per course at \$55 per hour on PE contract, not to exceed \$550 per course

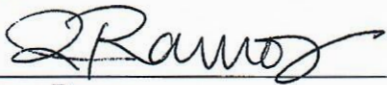
Stipends will only be paid upon POCR certification.

3. Either the District or the Association may request to revisit the provisions of this MOU prior to its expiration.
4. This MOU is unique unto its own circumstances and shall in no way set a precedent for any other employee in the future, and furthermore, no party hereto shall cite this MOU or its terms as past practice for any purpose in the future, and this MOU is not subject to the grievance procedure.
5. This MOU contains the sole and entire agreement and understanding of the Parties with respect to the entire subject matter hereof, and any and all prior discussions, negotiations, commitments and understandings related hereto are hereby merged herein. No representations, oral or otherwise, expressed or implied, other than those contained herein have been made by any Party hereto. No other agreements not specifically referred to herein, oral or otherwise, shall be deemed to exist or to bind any of the Parties.
6. This MOU will expressly expire on June 30, 2025, unless it is extended by the mutual written agreement of all Parties.

APPROVED AND ACCEPTED.

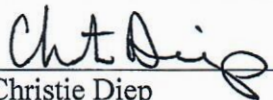
Date: February 26, 2024

NORTH ORANGE COUNTY COMMUNITY COLLEGE
DISTRICT

By: 
Irma Ramos
Vice Chancellor, Human Resources

Date: February 26, 2024

UNITED FACULTY ASSOCIATION

By: 
Christie Diep
President, United Faculty

DISTRICT CONSULTATION COUNCIL

Agenda Item Submittal Form

Date: August 23, 2023

From: Fred Williams, Vice Chancellor, Finance and Facilities

Re: Agenda Item for District Consultation Council Meeting of August 28, 2023

1. AGENDA ITEM NAME

One-Time Funding Request Update: Follett Equitable Access

2. AGENDA ITEM ACTION (Please check all that apply.)

Information Only	X	Second Reading	
Review/Discussion		Action	
First Reading		Consent Agenda Item	

3. ESTIMATED TIME REQUIRED FOR PRESENTATION/DISCUSSION: 10 minutes

4. BRIEF NARRATIVE SUMMARY OF AGENDA ITEM:

At its May 22, 2023 meeting, DCC approved funding for up to \$5,000,000 to pilot a digital book program with Follett. As part of the program, students would pay a fixed fee per unit/hour for students that take an agreed upon number of hours. At the time of the DCC meeting, the concept was in the assessment and approval stage, and campus administration was working through their senates for support for the program. DCC approved the \$5 million allocation but requested that campus administration receive support from the senates.

During the summer, campus administration continued discussions at their respective campuses and various ideas emerged. In summary, Cypress college approved the Follett digital book program and Fullerton and NOCE proposed alternatives to the program.

- Cypress College – The original program was estimated at \$19 per unit/hour, assuming that all three (3) campuses would participate. Without Fullerton and NOCE participation, the unit/hour rate increased to \$21 per unit. The approved allocation was \$2.5 million.
- Fullerton College – Through their constituent process, a proposal was developed and recommended an Open Educational Resources (OER) Incentive Program, along with texts on reserve, and a textbook voucher program. The overall cost was \$2.4 million.
- NOCE – A proposal for one-time funds in the amount of \$100,000 was received for a CTE Textbook program and OER support.

These proposals were discussed at Chancellor’s Staff and the Chancellor approved the \$5 million dollars for inclusion in the District’s 2023-24 Budget. Information is being brought to DCC to close the loop on the funding proposals.

NOTE: Please forward this form by required dates with all backup material to the Chancellor's Office.

**Textbook Cost Reduction Proposal
Fullerton College 2023 & 2024**

OER Incentive Program

Faculty who are existing OER users who meet with leaders to share ideas and expand efforts:

\$500.00 stipend

Faculty adopting OER for Spring 2024

\$1,000 stipend

Faculty adopting OER with major changes and DEIA pedagogy

\$2,000 stipend

Faculty who creates new OER course content for others to adopt in Fall 2024:

\$4,000 stipend

Total Needed: \$700,000

Textbook Voucher for Students

6,634 Students x \$100.00

Total Needed: \$663,400 x 2= \$1,326,800 (Fall & Spring)

Texts on Reserve

Total Needed: \$300,000

Grand Total: \$ 2,326,800

Rationale:

The FC faculty are highly committed to reducing textbook costs for students. These stipends are for additional work done off contract. This investment will lead to real long-term solutions because OER textbooks will be used for years; there is no price increase for students after the pilot. Our Faculty Senate OER Workgroup, Guided Pathways, and Enrollment & Retention Committee could contribute to the coordination of this work and integrate it in shared governance. Inviting Part-Time Faculty to access these stipends will allow smaller departments with only a few full-time faculty and long-term adjuncts to collaborate. Utilize existing canvas course and conduct workshops (require participation) for faculty by faculty on how to reduce textbook costs for students (where they can get books for less, use of older editions, etc.).

Reducing Textbook Costs for Students ASAP - in Fall 2023:

Provide bookstore vouchers for students in 12 units linked to their student IDs. Bookstore will monitor purchases for texts only.

Purchase textbooks to put on reserve in the Library. Librarians curate lists of texts in demand. Identify expensive texts (>\$100) that can be used for years (unless/until OER are adopted).

Produce a guide for students on how they can get lower cost books.



Textbook Purchase Assistance

Proposal for the NOCCCD One-Time Funds

Having met with the Follett representatives and reviewed their proposal for the NOCE Equitable Access Program, we determined that the proposal would not be beneficial for the participating students. Specifically, of the 6,815 students enrolled in the courses requiring textbook purchase, less than 10% purchase their textbooks at Follett's. Furthermore, the proposed flat fee of \$155.00 per regular term and \$107 for summer intersession, is cost-prohibitive if not subsidized and, therefore, not sustainable.

NOCE is grateful for the District's support with lowering the cost of learning materials. For the reasons mentioned above, we are proposing an alternative plan and requesting \$100,000 of one-time funds to be spent as follows:

1. To subsidize the Book Award Program and CTE Textbook Loan Program: \$60,000

The Book Award Program program was created for students enrolled in any of the NOCE noncredit programs that require books. The award is given in the form of a credit at the Fullerton Bookstore for assistance in purchasing required books, access codes, and any other instructional material as deemed necessary for the course and by the instructor and available at the bookstore. Criteria used to determine award amounts include the number of courses in which the student is enrolled, the cost of the required textbooks and materials listed by the bookstore, and book funds available. Students who need financial assistance with purchasing their books and meet the eligibility criteria listed below may apply:

- Student Educational Plan (SEP) completed (valid from 2022 Fall, to the present)
- Provide book needs/book expenses for the 2023 Fall
- Written response in the application: Your educational and career goals
- Answer income question on the application

For more information on the Book Award Program, visit: <https://noce.edu/student-services/aid/book-award/>

For more information on the CTE Textbook Loan Program, visit: <https://noce.edu/student-services/aid/cte-textbook-loan/>

2. To support OER work: \$40,000

Because NOCE is not eligible for the State OER grant, this would be the only funding source specifically dedicated to establishing OER for the courses offered at NOCE. The requested funds will be used to compensate faculty for the activities related to the research and development of open-source materials for noncredit disciplines, including:

- Research of available resources
- Accessibility review
- Content development
- Curriculum mapping

DISTRICT CONSULTATION COUNCIL
August 28, 2023

SUMMARY

MEMBERS PRESENT: Yasmine Andrawis, Byron D. Clift Breland, Jennifer Carey, Karla Frizzler, Jennifer Combs, Christie Diep, Jean Foster, Geoff Hurst, Cherry Li-Bugg, Kathleen McAlister, Cynthia Olivo, Jennifer Oo, Jeremy Peters, Valentina Purtell, Irma Ramos, Alba Recinos, Jeanette Rodriguez, JoAnna Schilling, Pamela Spence, Kai Stearns, and Fred Williams.

VISITORS: Danielle Davy and Leslie Tsubaki.

Chancellor Byron D. Clift Breland called the meeting to order at 2:03 p.m. and led a round of introductions.

MEETING SUMMARY

Summary: The summary of the May 22, 2023 meeting was approved as submitted.

STRATEGIC GOALS & PLANNING

District Consultation Council 2023-24: Chancellor Byron D. Clift Breland led discussion related to the following:

Meeting Schedule: The 2023-24 DCC meeting dates are scheduled through May 2024. Meetings for December 2023 and June 2024 will take place only if needed. Dr. Breland reminded the group that the May meeting will be held on May 20 due to the Memorial Day holiday.

Membership Listing:

The 2023-24 DCC membership list was reviewed. It was noted that all three student representative positions from the campuses were vacant and needed to be filled. The group inquired about payment for students, and it was confirmed that they are compensated at a rate of \$16/hour.

Budget Update – Year End Closing: Fred Williams, Vice Chancellor, Finance & Facilities, provided a brief update on year-end closing and the 2023-24 Proposed Budget, and shared a copy of the draft Analysis of Ending Fund Balance as of June 30, 2023. He highlighted that the District has a structural deficit, that the beginning general fund balance increased by \$10 million since last year, and that the Board Policy Reserve Contingency increased from 5% to two months of operating expenses using PERS/STRS funds and the increase in Emergency Conditions funding. The team will present the Proposed Budget, including several scenarios that address the structural deficit, at the September 11 Council on Budget & Facilities and the September 12 Board of Trustees meeting.

During the discussion, Mr. Williams clarified the following:

- The higher restricted fund balance for parking at Fullerton College is due to a budget transfer done at Cypress College.

- Resuming parking charges and implementing electric vehicle charging station fees in the future could help efforts to address the structural deficit.
- The State took back allocations for Deferred Maintenance & Instructional Equipment and Student Retention Funds.
- The biggest change to the budget was the 8.22% COLA increase.
- Local revenue bonds are being requested to cover student housing funding that will no longer be covered by the State.
- The State Chancellors Office will be providing an additional two years of funding for LBTQIA2+ efforts which will be represented in the next update to the compendium.

One-Time Funding Request Update: Follett Equitable Access: At its May 23 meeting, DCC approved \$5,000,000 in one-time funding for the textbook assistance program with Chancellor's Staff determining how the split should be allocated. During the summer, campus administration continued discussions at their respective campuses with Cypress College approving the Follett Equitable Access Program and Fullerton College and NOCE proposing alternatives.

- Cypress College: The original program was estimated at \$19 per unit/hour with the participation of all three campuses. Without Fullerton College and NOCE participation, the unit/hour rate increased to \$21 per unit with a \$2.5 million cost.
- Fullerton College: The College developed a proposal which recommended an Open Educational Resources (OER) incentive program, along with textbooks on reserve in the library, and a textbook voucher program. The overall cost was \$2.4 million.
- NOCE: A proposal for one-time funds in the amount of \$100,000 was received for a CTE Textbook program and OER support.

The three proposals were discussed at Chancellor's Staff with Chancellor Clift Breland approving the \$5 million allocations for inclusion in the District's 2023-24 Proposed Budget. The information was presented to DCC to conclude the one-time funding proposal discussion.

During the discussion, Valentina Purtell, NOCE President, explained that the Follett proposal of \$155/term per student is not sustainable considering the small number of students using textbooks. Cynthia Olivo, Fullerton College President, shared more details about the Textbook Voucher and Textbook on Reserve Programs for students. JoAnna Schilling, Cypress College President, provided clarification that the \$100 cost is only for students that opt-in for the Pilot Book Program.

Members shared that United Faculty has filed a demand to bargain over OER funds prior to moving forward with stipends, as the Cypress College Senate did not have an opportunity to review changes made to the incentive program. It was requested that Fullerton College not send information regarding OER funds to faculty until it has been negotiated across the District.

Chancellor Clift Breland explained that OER stipends should be consistent across the District, and Vice Chancellor Williams confirmed that the funds have been allocated but not spent.

POLICY

Revised AP 3434, Responding to Harassment Based on Sex Under Title IX (Interim Procedures): DCC received a copy of revised AP 3434, Responding to Harassment Based on

DISTRICT CONSULTATION COUNCIL

Agenda Item Submittal Form

Date: April 15, 2024

From: Irma Ramos, Vice Chancellor, Human Resources

Re: Agenda Item for District Consultation Council Meeting of April 22, 2024

1. AGENDA ITEM NAME

Revised AP 7120-6, Employment of NonClassified Short-Term Employees and Substitute Employees

2. AGENDA ITEM ACTION (Please check all that apply.)

Information Only		Second Reading	
Review/Discussion		Action	X
First Reading	X	Consent Agenda Item	

3. ESTIMATED TIME REQUIRED FOR PRESENTATION/DISCUSSION: **10 minutes**

4. BRIEF NARRATIVE SUMMARY OF AGENDA ITEM:

Effective January 1, 2024, SB 616 amended the Healthy Workplaces, Healthy Families Act to provide five paid sick days per year for employees. This bill modifies NOCCCD's current alternate sick leave accrual method to require that employees have no less than 40 hours of accrued sick leave in each 12-month period.

5. RECOMMENDATION:

It is recommended that upon DCC consensus, revised AP 7120-6 5030 be posted on the District website.

6. OTHER PEOPLE CONSULTED, INFORMED OR ATTENDING MEETING ABOUT THIS ITEM:

Human Resources and Payroll Departments.

AP 7120-6 Employment of NonClassified Short-Term Employees and Substitute Employees

Reference:

Healthy Workplaces, Healthy Families Act of 2014 (AB1522)

1.0 Use of Temporary NonClassified Short-Term Employees and Substitute Employees

- 1.1 The Short-Term Employee category is used for the *temporary* employment of a person to perform a service for the District, upon the completion of which, the service required or similar services will not be extended or needed on a continuing basis (e.g., temporary increase in workload or special project).
- 1.2 The Substitute Employee category is used for the *temporary* employment of a person to replace a classified employee who is temporarily absent from duty or to take the place of a classified employee in a vacant position while the District is actively engaged in recruitment for the position. The maximum period for which a vacant position may be filled through the employment of one or more Substitute Employees is sixty (60) working days. A "working day" is defined as a weekday on which the central administrative office of the District is regularly open for business.
- 1.3 A classified employee of the District who replaces an absent classified employee or who takes the place of a classified employee in a vacant position is not a Substitute Employee for the purposes of this procedure.

2.0 Criteria for Employment

- 2.1 The employment must be for a service or project that will not be needed on a continuous basis (Short-Term Employee) or to temporarily replace classified employee (Substitute Employee), as specified above. The service to be performed must have defined starting and ending dates and the requested period of employment must be for the actual period of time during which services are required.
- 2.2 The service to be performed may not be of a type designated as "academic" in Title 5 of the California Code of Administrative Regulations (i.e., service which requires state-mandated minimum qualifications.)

3.0 Conditions of Employment

3.1 Terms of Employment: Short-Term Employees and Substitute Employees are temporary employees. They are employed on an "as needed" basis, subject to termination at will by either the District or the employee.

3.2 Period of Employment

3.2.1 Short-Term Employees

- 3.2.1.1 A person may be employed as a Short-Term Employee for two or more separate time periods within a fiscal year. Each period of employment shall not exceed thirteen (13) weeks. Each period of

AP 7120-6 Employment of NonClassified Short-Term Employees and Substitute Employees

employment must be separated by a break in employment of at least nine (9) weeks. Exceptions to these provisions may be approved by the Vice Chancellor of Human Resources or designee where employment for more than thirteen weeks during a semester is reasonably necessary to ensure the continuity of an educational program (e.g., tutors, art models).

3.2.1.2 Upon approval of the Vice Chancellor of Human Resources or designee, a person may be employed as a Short-Term Employee to perform a specific, limited-term project requiring employment in excess of thirteen (13) weeks, provided the employment does not exceed thirty-eight and one-half (38-1/2) weeks in a fiscal year. Any subsequent employment as a Short-Term Employee must be separated by a break in employment for a period at least equal to the period of employment.

3.2.1.3 The cumulative duration of employment for all periods of employment of a person as a Short-Term Employee shall be limited to not more than thirty-eight and one-half (38-1/2) weeks within any fiscal year, including all time employed during the fiscal year as a Substitute Employee, Student Employee, or Professional Expert. Employment will be automatically terminated if this limit is exceeded.

3.2.1.4 All calendar days during a specified employment period as a Short-term Employee will count toward the specified employment limits, irrespective of the number of days worked during the employment period or the number of hours worked per day.

3.2.2 Substitute Employees

3.2.2.1 A person may be employed as a Substitute Employee for a period of not more than thirty-eight and one-half (38-1/2) weeks within any fiscal year, including all time employed during the fiscal year as a Short-term Employee, Student Employee, Professional Expert, or Substitute Employee in other positions. Employment will be automatically terminated if this limit is exceeded.

3.2.2.2 All calendar days during a specified employment period as a Substitute Employee will count toward the specified employment limits, irrespective of the number of days worked during the employment period or the number of hours worked per day.

3.3 Employment Limitations

3.3.1 The employment of a Short-term Employee or Substitute Employee shall be limited to not more than twenty-six (26) hours per week. Employment will be automatically terminated if this limitation is exceeded.

AP 7120-6 Employment of NonClassified Short-Term Employees and Substitute Employees

3.3.2 A person employed as a Short-term Employee or Substitute Employee shall not be concurrently employed in any other capacity within the District.

3.3.3 The employment of a Short-term Employee or Substitute Employee during any period of service shall be limited to work under the direction of one immediate management supervisor. The supervising manager shall be responsible for ensuring that the employment limitation of twenty-six (26) hours per week is not exceeded.

4.0 Compensation

4.1 Short-term Employees and Substitute Employees will be compensated at the appropriate hourly rate according to the NonClassified Short-Term Hourly Employee Rate Schedule, for the actual hours of service rendered in performance of the specified duties.

4.2 Persons employed as Short-Term Employees and Substitute Employees are not eligible to participate in the District's Health and Welfare plan or optional fringe benefit plan in conjunction with their employment as a Short-Term Employee or Substitute Employee.

4.3 Beginning ~~July 1, 2015~~ **January 1, 2024**, employees will accrue one (1) hour of paid sick leave for every thirty (30) hours worked **not to exceed forty (40) hours per fiscal year**. This sick leave will carry over from year to year but is limited to a maximum balance of ~~forty-eight (48)~~ **eighty (80)** hours. Employees are eligible to use this leave once it has been accrued, however, it must be used in whole hour increments. When separating from the District, employees will not be provided compensation for any accrued, unused paid sick leave hours. If an employee separates from the District and is rehired within one year from the date of separation, any previously accrued and unused paid sick days will be reinstated.

4.3.1 Upon oral or written request, the District shall permit an employee to use paid sick leave for the following purposes:

4.3.1.1 For the diagnosis, care, or treatment of an existing health condition of, or preventative care for, an employee or an employee's family member. "Family member" means any of the following:

4.3.1.1.1 A child, which for this purpose means a biological, adopted or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis. This definition of child is applicable regardless of age or dependency status.

4.3.1.1.2 A biological, adoptive, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was

AP 7120-6 Employment of NonClassified Short-Term Employees and Substitute Employees

a minor child.

4.3.1.1.3 A spouse or registered domestic partner.

4.3.1.1.4 A grandparent or grandchild.

4.3.1.1.5 A sibling.

4.3.1.2 For an employee who is the victim of domestic violence, sexual assault, or stalking, the purposes described in subdivision (c) of Section 230 and subdivision (a) of Section 230.1.

4.4 If the need for sick leave is foreseeable, employees shall notify the Immediate Management Supervisor not less than two (2) working days in advance of the day and time of the appointment. If the need for paid sick leave is unforeseeable, employees shall contact the supervisor's office as soon as possible, but not later than the scheduled time the employee would be required to report for duty.

4.5 Persons employed as Short-Term Employees or Substitute Employees do not receive paid holidays, paid vacation days, or paid leaves of absence in conjunction with their employment as a Short-term Employee or Substitute Employee.

Date of Adoption: February 12, 2008

Date of Last Revision: October 26, 2015 District Consultation Council
March 25, 2013 District Consultation Council
September 24, 2012

DISTRICT CONSULTATION COUNCIL

Agenda Item Submittal Form

Date: April 18, 2024

From: Valentina Purtell, President

Re: Agenda Item for District Consultation Council Meeting of April 22, 2024

1. AGENDA ITEM NAME

Election of Student Members

2. AGENDA ITEM ACTION (Please check all that apply.)

Information Only		Second Reading	
Review/Discussion		Action	X
First Reading		Consent Agenda Item	

3. ESTIMATED TIME REQUIRED FOR PRESENTATION/DISCUSSION:

10 minutes

4. BRIEF NARRATIVE SUMMARY OF AGENDA ITEM:

Following the approval of the revised BP and AP 2015, Student Members, and the establishment of the NOCE Student Trustee position, this is a proposal to revise BP and AP 2105 Election of Student Members to initiate the election process for the NOCE Student Trustee position in fall 2024.

5. RECOMMENDATION:

Approval of the proposed revisions to BP and AP 2105

6. OTHER PEOPLE CONSULTED, INFORMED OR ATTENDING MEETING ABOUT THIS ITEM:

NOCE Student Leadership Team, NOCE SEA Committee, NOCE Academic Senate, and NOCE President's Cabinet

BP 2105 Election of Student Members

Reference:

Education Code Section 72023.5 and 72103

- 1.0 The student members shall be chosen by the students enrolled in the colleges as follows:
 - 1.1 Student members shall be elected by all the students of the student body in a general election held for that purpose. During the spring semester of each academic year, one student member shall be elected by students enrolled at Cypress College, ~~and~~ one student member shall be elected by students enrolled at Fullerton College, and one student member shall be elected by students enrolled at North Orange Continuing Education for a one-year term, commencing on June 1 following their election and ending on May 31. The student members may be recalled by all the students of the student body in an election held for that purpose in accordance with Administrative Procedure 2105, Election of Student Members.
 - 1.2 To be eligible for election as a student trustee, students shall be enrolled in and must maintain enrollment in a minimum of five (5) semester credit units or 75 semester noncredit hours at the ~~college~~ campus they represent at the time of nomination and throughout the term of service, and must maintain a minimum of a cumulative 2.0 grade point average or Satisfactory Progress (SP) and Pass (P) grades in noncredit classes. If, on the first day of each semester, or during the term of service, a student member fails to meet the criteria of this policy, the student member shall be disqualified for service on the Board.
 - 1.3 If the seat of a student member becomes vacant by reason of the resignation, recall, or disqualification of an elected student member, or by any other reasons during his/her term, the Board of Trustees may authorize:
 - 1.3.1 The officers of student body associations, established pursuant to Education Code Section 76060, at each community college in the District to appoint a student to serve the remainder of the term in accordance with procedures established by the Board, or;
 - 1.3.2 A special election conducted by the appropriate student body association at Cypress College or Fullerton College, or student body organization at North Orange Continuing Education to select a student to serve the remainder of the term. Any such special election shall be held within thirty (30) days after notice of the vacancy comes to the attention of the Chancellor, unless a regular election of the student member is scheduled within thirty (30) days.
 - 1.4 Candidates for the student member position may nominate themselves or be nominated by others by the filing of an application certifying that the candidate is eligible for service under the criteria set forth in California law and this policy. The election will be conducted in accordance with administrative procedures established by the Chancellor.

BP 2105 Election of Student Members

See Board Policy and Administrative Procedure 2015, Student Members; and Administrative Procedure 2105, Election of Student Members.

Date of Adoption: June 24, 2003

Date of Last Revision: February 12, 2019
August 26, 2014
May 8, 2012
June 14, 2005

AP 2105 Election of Student Members

Reference:

Education Code Section 72023.5

- 1.0 The student member shall be elected by a plurality vote of those voting in a regular election of the student body. All members of the student body may vote. The election will be conducted during the spring semester and will be completed in time for the student member to take office on June 1.
- 2.0 The student member may be recalled in an election conducted in the same manner as the election to office, except that all members of the student body shall be permitted to vote in the recall election. An election will be called upon presentation to the Chancellor of a petition signed by at least 20% of the students enrolled at the time of filing the petition. No recall election will be held if the petition is received within 30 days of a regularly scheduled election for student member.
- 3.0 If the seat of a student member becomes vacant by reason of the resignation, recall, or disqualification of an elected student member, or by any other reasons during his or her term, the Board of Trustees may authorize:
 - 3.1 The officers of student body associations, established pursuant to Education Code Section 76060, at each college in the District to appoint a student to serve the remainder of the term in accordance with procedures established by the Board, or;
 - 3.2 A special election be conducted by the appropriate student body association [at Cypress College or Fullerton College, or student body organization at North Orange Continuing Education](#) to select a student to serve the remainder of the term. Any such special elections shall be held within thirty (30) days after notice of the vacancy comes to the attention of the Chancellor, unless a regular election of the student member is scheduled within thirty (30) days. If a special election is decided upon, then the following is to be adhered to:
 - 3.2.1 notice communicated to the student body of the result of the recall election, if the vacancy has occurred as the result of a recall election, and arrangements for a special election;
 - 3.2.2 an application period for students to submit an application to become a candidate for the open position that will last for at least five (5) days during which classes are regularly held;
 - 3.3.3 following such application period, a period of time no less than five (5) days upon which classes are regularly held for campaigning, and;
 - 3.3.4 voting for the special election to be concluded within thirty (30) days following the date upon which the position became vacant.

See Board Policy and Administrative Procedure 2015, Student Members; and Board Policy 2105, Election of Student Member.

AP 2105 Election of Student Members

Date of Adoption: June 24, 2003

Date of Last Revision: November 26, 2018 District Consultation Council
September 22, 2014 District Consultation Council
May 18, 2012 District Consultation Council

DISTRICT CONSULTATION COUNCIL

Agenda Item Submittal Form

Date: April 15, 2024

From: Kai Stearns, District Director, Public & Governmental Affairs

Re: Agenda Item for District Consultation Council Meeting of April 22, 2024

1. AGENDA ITEM NAME

New AP 3830 Flying of National, State, Military and Commemorative Flags

2. AGENDA ITEM ACTION (Please check all that apply.)

Information Only		Second Reading	
Review/Discussion	X	Action	
First Reading		Consent Agenda Item	

3. ESTIMATED TIME REQUIRED FOR PRESENTATION/DISCUSSION: **30 minutes**

4. BRIEF NARRATIVE SUMMARY OF AGENDA ITEM:

On January 30, 2024, the NOCCCD Board of Trustees adopted BP 3830 Flying of National, State, Military and Commemorative Flags. A District Consultation Council subcommittee was convened to put together a draft of the associate Administrative Procedure for review and discussion at DCC.

The subcommittee met on April 15, 2024 and put together a first draft for reading and discussion.

5. RECOMMENDATION:

It is recommended that DCC review and discuss the draft version of AP 3830 Flying of National, State, Military and Commemorative Flags and distribute to the appropriate campus constituencies.

6. OTHER PEOPLE CONSULTED, INFORMED OR ATTENDING MEETING ABOUT THIS ITEM:

Subcommittee consisted of Jeannette Rodriguez, Damon de la Cruz, Connie Moreno Yamashiro, and Kai Stearns.

AP 3830 Flying of National, State, Military, and Commemorative Flags

Reference:

4 U.S.C. Sections 5 et seq.;
Government Code Section 436

- 1.0 The purpose of this procedure is to provide guidance and process for the flying of flags on Cypress College, Fullerton College, and NOCE Anaheim Campus. NOCCCD retains all rights related to the use of District property and spaces and exercises of expression in those spaces. In general, with the exception of the U.S. flag, California state flag, or approved military flags, permanent flag displays are not otherwise permitted.
- 2.0 Hanging a flag on a District-owned flagpole is a process of request and approval through the Chancellor's Office and the Board of Trustees.
- 3.0 **Procedures**
 - 3.1 Recognized campus and District organizations and/or other NOCCCD offices and entities supporting students may submit a request to hang a flag on a campus flagpole, when such a flag meets the requirements outlined in BP 3830 Flying of National, State, Military, and Commemorative Flags and is not in conflict with any NOCCCD policy. Flags can be hung for a minimum of 24 hours and a maximum of 30 consecutive days on a pre-identified campus flagpole.
 - 3.2 The sponsoring organization must submit the Chancellor's Office Flag Request Form one month prior to the first date of the request to have the flag hung.
 - 3.3 The sponsoring organization must provide, at its own expense, the flag to be flown. The flag must be a professionally-produced, commercially available flag which has been outfitted to fly on a flagpole. Flags must conform to approved dimensions for the specific physical setting.
 - 3.4 Requests are reviewed on a first-come, first-served basis in the order in which they are received.
 - 3.5 Upon approval of the Chancellor, the requested flag will be agendized at a regularly-held Board of Trustees meeting so it can be discussed and voted on.
 - 3.6 Flags that meet the following criteria will be considered by the Chancellor and Board of Trustees:
 - 3.6.1 Flag must be nationally recognized;
 - 3.6.2 The flag cannot represent another country, political party, campaign, or religious organization; and
 - 3.6.3 The flag shall be displayed for a period of time that is reasonable or customary for the subject that is to be commemorated, but no longer than thirty (30) consecutive days.

AP 3830 Flying of National, State, Military, and Commemorative Flags

- 3.7 Once a flag has been approved by the Chancellor and Board of Trustees, the flag is considered an official flag and can be flown each year, per the campus process.
 - 3.7.1 If the design of the approved flag evolves or is updated, the new design must go through the approval process.

See Board Policy 3830, Flying of National, State, Military, and Commemorative Flags.

Date of Adoption: TBD

DRAFT

DISTRICT CONSULTATION COUNCIL

Agenda Item Submittal Form

Date: April 16, 2024

From: Byron D. Clift Breland, Chancellor

Re: Agenda Item for District Consultation Council Meeting of April 22, 2024

1. AGENDA ITEM NAME

Revised BP 5020, Nonresident Tuition

2. AGENDA ITEM ACTION (Please check all that apply.)

Information Only		Second Reading	X
Review/Discussion	X	Action	
First Reading		Consent Agenda Item	

3. ESTIMATED TIME REQUIRED FOR PRESENTATION/DISCUSSION: **10 minutes**

4. BRIEF NARRATIVE SUMMARY OF AGENDA ITEM:

On February 26, 2024 DCC approved revisions to BP 5020, Nonresident Tuition which reflected legally required language. Subsequent to the meeting, and prior to forwarding the policy to the Board for their consideration, Fullerton College faculty expressed concern with the proposed revisions. (Please refer to the attached summary.)

5. RECOMMENDATION:

It is recommended that DCC again review the proposed revisions to BP 5020.

6. OTHER PEOPLE CONSULTED, INFORMED OR ATTENDING MEETING ABOUT THIS ITEM:

Drop for Nonpayment Workgroup (comprised of districtwide admissions and records, student services, and finance staff) and Chancellor’s Staff.

BP 5020 Nonresident Tuition

Reference:

**Education Code Sections 68050, 68051, 68130, [68130.5](#), [76140](#), and [76141](#);
Title 5 Section 54045.5**

- 1.0 Nonresident students shall be charged nonresident tuition for all units enrolled, unless specifically required otherwise by law.
- 2.0 Not later than ~~February~~ [March](#) 1 of each year, the Chancellor shall bring to the Board for approval an action to establish nonresident tuition for the following fiscal year. The fee shall be calculated in accordance with guidelines contained in applicable state regulations and/or the California Community College Attendance Accounting Manual.
- 3.0 The Chancellor shall establish procedures regarding collection, waiver, and refunds of nonresident tuition.
- 4.0 The Chancellor is authorized to implement an additional per unit fee to be charged only to non-residents who are both citizens and residents of foreign countries. This fee shall not exceed the amount expended by the District for capital outlay in the preceding year divided by the total full-time equivalent students (FTES) in the preceding fiscal year.
 - 4.1 Students who would otherwise be charged this fee shall be exempt if they demonstrate that they are a victim of persecution or discrimination in the country of which they are a citizen and resident, or if they demonstrate economic hardship.
 - 4.1.2 Students shall be deemed victims of persecution or discrimination if they present evidence that they are citizens and residents of a foreign country and that they have been admitted to the United States under federal regulations permitting such persons to remain in the United States. Students shall be deemed to have demonstrated economic hardship if they present evidence that they are citizens and residents of a foreign country and that they are receiving Temporary/Assistance for Needy Families Program, Supplemental Income/State Supplementary benefits, or general assistance.
 - [4.2](#) Students who would otherwise be charged this fee shall be exempt if they demonstrate that they have a parent who has been deported or was permitted to depart voluntarily, they moved abroad from California as a result of that deportation or voluntary departure, and they attended a public or private secondary school in the state for three or more years. Upon enrollment, students who qualify for this exemption must be in their first academic year as a matriculated student in California public higher education, live in California, and file an affidavit with the District stating that they intend to establish residency in California as soon as possible.
 - [4.3](#) Students who would otherwise be charged nonresident tuition fees for credit English as a Second Language courses shall be exempt if they demonstrate they are a recent immigrant, a recent refugee, or a person who has been granted asylum by the United States. This exemption applies only to individuals who, upon entering the United States, settled in California and

BP 5020 Nonresident Tuition

[who have resided in California for less than one year.](#)

See Administrative Procedure 5020, [Nonresident Tuition.](#)

Date of Adoption: June 14, 2005

Date of Last Revision: October 9, 2007

I wanted to give some feedback on the proposed BP/AP revisions related to nonresident tuition fees and describe some of the experiences of ESL students directly affected by these policies and procedures.

Here's the official Ed Code language as amended by **AB 1232**.

Ed Code 76140. (a) A community college district may admit, and shall charge a tuition fee to, nonresident students, except that a community college district may exempt from all or parts of the fee any person described in paragraph (1), (2), (3), or (6), and **shall exempt** from all of the fee any person described in paragraph (4), (5), or **(7)**:

Paragraph 7

(A) A nonresident student who enrolls in a credit English as a second language (ESL) course at a California Community College and who is any of the following:

(i) A recent immigrant, as defined in Section 1101(a)(15) of Title 8 of the United States Code.

(ii) A recent refugee, as defined in Section 1101(a)(42) of Title 8 of the United States Code.

(iii) A person who has been granted asylum by the United States, as defined in Section 1158 of Title 8 of the United States Code.

(B) This exemption shall apply only to individuals who, upon entering the United States, settled in California and who have resided in California for less than one year.

(C) This exemption shall apply only to the tuition fee for credit ESL courses.

(Source AB 1232 - https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220AB1232)

According to the **2022 California Community Colleges Chaptered Legislation Report** (Source: [CCCCO](https://www.cccco.edu/)), "The purpose of this is to help **provide a smooth transition to the United States (U.S) for recent immigrants, refugees, and asylees by offering a nonresident tuition exemption for enrollment in credit ESL courses.**" The report adds, "**Districts should communicate** the availability of this nonresident tuition exemption **as part of their financial aid materials, policies, and practices.**"

The policy revisions

The added language in **BP 5020** states, "(4.3) *Students who would otherwise be charged nonresident tuition fees for credit English as a Second Language courses shall be exempt **if they demonstrate** they are a recent immigrant, a recent refugee, or a person who has been granted asylum by the United States. This exemption applies only to individuals who, upon entering the United States, settled in California and who have resided in California for less than one year.*"

It seems that the burden of proof still remains with the student. For a recent immigrant, refugee, or asylee developing their English language skills, this is more than a burden. It's an obstacle that could deter them from going to Fullerton College. It's still also

unclear how the District and Fullerton College plan to require students to "demonstrate" they are recent immigrants, refugees, or asylees to get "qualified" for nonresident tuition fee exemption.

In addition, **AP 5030** states, "(4.1) All registration fees must be paid in full within seven (7) calendar days of registering." However, the revision adds, "AP 5030 (4.1.3) For nonresident students excluding international students, tuition must be paid in full within 72 hours of registering. Failure to do so will result in the students being dropped from all registered classes unless the student enrolls and actively participates in the payment plans offered by the District."

Does this mean that new ESL students who are erroneously charged nonresident tuition fees only have 3 days to demonstrate they qualify for the exemption while other students get 7 days? Is there a reason why our students are only given 3 days? This just seems inequitable for our ESL student population, who constantly face barriers in our college.

DISTRICT CONSULTATION COUNCIL

Agenda Item Submittal Form

Date: April 15, 2024

From: Yasmine Andrawis, District Director, EEO & Compliance

Re: Agenda Item for District Consultation Council Meeting of April 22, 2024

1. AGENDA ITEM NAME

Revised AP 3410, Unlawful Discrimination

2. AGENDA ITEM ACTION (Please check all that apply.)

Information Only		Second Reading	
Review/Discussion	X	Action	
First Reading	X	Consent Agenda Item	

3. ESTIMATED TIME REQUIRED FOR PRESENTATION/DISCUSSION: **20 minutes**

4. BRIEF NARRATIVE SUMMARY OF AGENDA ITEM:

California Ed Code has implemented regulations that impact NOCCCD's AP 3410 Unlawful Discrimination. The proposed edits are to bring AP 3410 into compliance with those regulations.

5. RECOMMENDATION:

It is recommended that the District Consultation Council review the recommended AP 3410 changes and discuss. Many of the changes are driven by regulatory updates around reporting responsibilities and timelines.

6. OTHER PEOPLE CONSULTED, INFORMED OR ATTENDING MEETING ABOUT THIS ITEM:

Legal Counsel

AP 3410 Unlawful Discrimination

Reference:

[Education Code Sections 72010 et seq.; Education Code Sections 200 et seq.; Education Code Sections 66250 et seq.; Government Code Sections 11135, 12900 et seq. Penal Code Sections 422.55 et seq.; Title 5, California Code of Regulations, Sections 59300, et seq.; ACCJC Accreditation Eligibility Requirement 20 and ACCJC Accreditation Standard Catalog Requirements \(formerly II.B.2.c\)](#)

1.0 The District’s prohibitions on unlawful discrimination and unlawful harassment (including sexual harassment) are set out in Board Policy 3410, Unlawful Discrimination; Board Policy 3430, Prohibition of Harassment; and Administrative Procedure 3434, Responding to Harassment Based on Sex Under Title IX. These prohibitions are collectively referred to herein as “unlawful discrimination.”

2.0 Introduction

2.1 These are the written procedures for filing and processing complaints of unlawful discrimination and ~~sexual~~ harassment at North Orange County Community College District. These procedures incorporate the legal principles contained in the nondiscrimination provisions of the California Code of Regulations, Title 5 Sections 59300, et seq., as well as other state and federal substantive and procedural requirements. **Complaints of sexual harassment under Title IX shall be processed under Administrative Procedure 3434, Responding to Harassment Based on Sex Under Title IX. However, complaints dismissed from AP 3434 shall be processed under Section 16 of this Procedure where the complainant is a student or under Section 7 for all other complainants.**

2.2 A copy of the District’s unlawful discrimination ~~policy~~ **policies** will be displayed in a prominent location in the main administrative building or other areas where notices regarding the institution’s rules, regulations, procedures, and standards of conduct are posted. **The unlawful discrimination policies also shall be published on the District website.**

Authority: 20 U.S. Code Section 1681 et seq.; Education Code, Sections 66270, 66271.1, and 66281.5; Government Code, Sections 11135-11139.5, **and 12900 et seq.**; ~~California Code of Regulations, Title 5 Section 59326.~~ Reference: ~~California Code of Regulations, Title 5 Sections 59300 et seq.; 34 C.F.R. Section 106.8(b)~~

~~2.0 The District’s prohibitions on unlawful discrimination and unlawful harassment (including sexual harassment) are set out in Board Policies 3410, Unlawful Discrimination, and 3430, Prohibition of Harassment.~~

3.0 Responsible District Officer

3.1 The ~~Vice Chancellor of Human Resources~~ **following person** is designated by the District as the ~~single~~ District Officer responsible for receiving all unlawful discrimination complaints filed pursuant to ~~section 59328 of Title 5~~ **Section 59328**

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~~of the California Code of Regulations~~ (formal complaints) [and this administrative procedure](#), and for coordinating their investigation.

Name: ~~Irma Ramos~~ [Yasmine Andrawis](#)
Position: ~~Vice Chancellor, Human Resources~~ [District Director, EEO & Compliance](#)
Address: 1830 W. Romneya Drive
Anaheim, CA 92801-1819
Telephone: 714-808-~~4826~~ [4820](#)
Email: yandrawis@noccdd.edu

3.2 Informal charges of unlawful discrimination should be brought to the attention of the Responsible District Officer, who shall oversee the informal resolution process pursuant to Section 59327. The actual investigation of complaints may be assigned to other staff or to outside persons or organizations under contract with the District. Such delegation procedures will be used whenever the officer designated to receive complaints is named in the complaint or is implicated by the allegations in the complaint.

3.3 Administrators, faculty members, other District employees, and students shall direct all complaints of unlawful discrimination to the Responsible District Officer. ~~Employees with supervisory responsibilities~~ [All employees](#) who witness or receive reports of sexual harassment are required to immediately report such conduct to the Responsible District Officer.

3.4 [The Responsible District Officer shall have adequate training on what constitutes sexual harassment and on trauma-informed investigatory and hearing practices, and shall understand how the institution's grievance procedures for addressing student claims of sexual harassment operate.](#)

Authority: ~~California Code of Regulations, Title 5 Section 59324, and 34 C.F.R. § 106.8,~~ [and Education Code Section 66281.8.](#)

4.0 Students and Employees Notice, Training, and Education

4.1 The District's Responsible Officer shall make arrangements for or provide training to employees and students on the District's unlawful discrimination policy and procedures, [including the identification of sexual harassment and reporting procedures](#). Faculty members, members of the administrative staff, and members of the support staff will be provided with a copy of the District's written ~~policy~~ [policies](#) on unlawful discrimination at the beginning of the semester of the academic year after the policy is adopted.

4.2 All District employees will receive this training and/or a copy of the unlawful discrimination policies and procedures during the first year of their employment. Because of their special responsibilities under the law, supervisors will undergo mandatory sexual harassment training at least once every two years. All new supervisory employees shall be provided with sexual harassment training within six months of assuming a supervisory position. In years in which a substantive

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

- 4.3 A training program or informational services will be made available to all students at least once annually. The student training or informational services ~~should~~ **will** include an explanation of the policy, ~~how it works,~~ **a list of resources,** and **information on** how to file a complaint. In addition, a copy of the District's written ~~policy~~ **policies** on unlawful discrimination, as ~~it~~ **they** pertains to students, will be provided as part of any orientation program conducted for new students at the beginning of each semester, or summer session, as applicable.

- 4.4 The District's Responsible Officer shall make arrangements for or provide training to all District employees engaged in the grievance procedures for addressing student complaints of sex discrimination, including sexual violence, on (a) trauma-informed investigatory and hearing practices that help ensure an impartial and equitable process, (b) best practices for assessment of a sexual harassment or sexual violence complaint, (c) best practices for questioning of the complainant, respondent, and witnesses, and (d) implicit bias and racial inequities, both broadly and in school disciplinary processes.**

Materials approved for this training shall include statistics on the prevalence of sexual harassment and sexual violence in the educational setting, and the differing rates at which students experience sexual harassment and sexual assault in the educational setting based on their race, sexual orientation, disability, gender, and gender identity.

Authority: Education Code, Sections ~~66281.5~~ **66281.8**; ~~California Code of Regulations, Title 5 Sections 59324 and 59326.~~ Reference: ~~California Code of Regulations, Title 5 Section 59300 et seq.;~~ 34 C.F.R. Section 106.8(b); Government Code Section 12950.1.

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

Authority: 20 U.S. Code Sections 1681 et seq.; 34 C.F.R. Section 106; ~~California Code of Regulations, Title 5 Sections 59300 et seq.;~~ **Education Code Section 66281.8**; Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, Title IX, Office for Civil Rights, January 19, 2001.

6.0 Informal Resolution

- 6.1 When a person brings charges of unlawful discrimination to the attention of the District as provided in Section 3.0 of these procedures, the Responsible District Officer or designee **may undertake efforts to informally resolve the charges with the complainant's consent. The Responsible District Officer or designee also** will:

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- ~~6.1.1 undertake efforts to informally resolve the charges;~~
- 6.1.~~12~~¹² advise the complainant that ~~he or she~~ **they** need not participate in informal resolution;
- 6.1.~~23~~²³ notify the person bringing the charge of ~~his or her~~ **their** right to file a formal complaint as provided in Section 7.0 of these procedures, and of the procedure for filing such a complaint;
- 6.1.~~34~~³⁴ advise the complainant, that ~~he or she~~ **they** may file a nonemployment-based complaint with the Office for Civil Rights of the U.S. Department of Education (OCR) where such a complaint is within that agency's jurisdiction;
- 6.1.~~45~~⁴⁵ advise the complainant that ~~he or she~~ **they** may file ~~his or her~~ **their** employment-based complaint with the U.S. Equal Opportunity Commission (EEOC) and/or the California **Civil Rights Department (CRD) (formerly** Department of Fair Employment and Housing (~~DFEH~~) where the complaint is within the jurisdiction of those agencies.
- 6.2 Efforts at informal resolution need not include an investigation unless the Responsible District Officer determines that an investigation is warranted by the seriousness of the charges.
- 6.3 Selection of informal resolution by the complainant does not extend the time limitations for filing a ~~formal~~ complaint **under Section 7.2.2 of these procedures.**
- 6.4 Efforts at informal resolution may continue **for no more than 90 days** after **a written or verbal complaint is made. Any investigation pending under Section 9.0 of these procedures** ~~the filing of a formal written complaint, but after a complaint is filed an investigation is required to be conducted pursuant to Title 5 Section 59334 and must be completed unless the matter is informally resolved~~ **informally** and the complainant dismisses the complaint, ~~or the complainant files with the DFEH and the Chancellor elects not to require further investigation pursuant to Title 5, section 59328(f)(2).~~ **However, the timelines for completing the investigation and issuing an administrative determination under Sections 9.0 and 11.0 of these procedures shall be tolled while the parties are engaged in good faith efforts at informal resolution.** Even if the complainant ~~does~~ **es** dismisses the complaint, the Responsible District Officer may require the investigation to continue if ~~he or she~~ **they** determines that the allegations ~~are serious enough to warrant an investigation. Any efforts at informal resolution after the filing of a written complaint will not exceed the 90-day period for rendering the administrative determination pursuant to Title 5 Section 59336.~~
- ~~6.5 Allegations of unlawful discrimination made by parties who have not personally suffered unlawful discrimination, and thus are not complainants under the description set out in Title 5 Section 59328(a), are not covered by Title 5. However, the District may process and investigate such allegations under the above informal or formal complaint process (as required by federal regulations governing OCR). When such a complaint is processed under the formal process, the complainant's~~

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~~appeal rights shall be up to and including the first level appeal to the Governing Board. All complainants shall be advised of their right to file complaints with the OCR (for non-employment matters) and with EEOC or DFEH (for employment matters).~~

~~6.6 In employment-related cases, if the complainant also files with the Department of Fair Employment and Housing or with the U.S. Equal Employment Opportunity Commission, upon receipt by the District a copy of that filing will be sent to the State Chancellor's Office requesting a determination of whether a further investigation under Title 5 is required. Unless the State Chancellor's Office determines that a separate investigation is required, the District will discontinue its investigation under Title 5 and the matter will be resolved through the Department of Fair Employment and Housing or the U.S. Equal Employment Opportunity Commission.~~

~~6.5~~ 7 The District will ~~provide for~~ **allow** representation where required by law and may allow for representation for the ~~accused~~ **complainant** and ~~complainant~~ **respondent** in other circumstances on a case-by-case basis.

Authority: ~~California Code of Regulations, Title 5 Sections 59327, 59328, 59334, 59336, and 59339;~~ **Education Code Section 66281.8;** NLRB v. Weingarten, Inc. (1975) 420 U.S. 251.

7.0 Formal Complaint

7.1 Filing Complaint

7.1.1 Complaints of unlawful discrimination may be written or verbal, and be made by a student, an employee, a parent of a minor, or an individual with legal authority on behalf of a student or employee, who alleges that the student or employee has suffered unlawful discrimination.

~~7.1.4~~ 2 If a complainant ~~decides to file~~ **s** a formal written unlawful discrimination complaint against the District, ~~he or she~~ **they** ~~must~~ **may be asked, but shall not be required, to submit** file the complaint on a form prescribed by the State Chancellor **or the District**. These approved forms are available from the District's Office of **EEO Diversity and Compliance**, **and at** the District website, ~~and at the State Chancellor's website~~, as follows:

http://www.nocccd.edu/files/discrimination_complaint_form_95912.pdf
~~<http://extranet.cccco.edu/Divisions/Legal/Discrimination.aspx#CmpltForm>~~
~~ff~~

~~7.1.4~~ 2.1 The completed form must be filed with the Responsible District Officer; ~~or mailed directly to the State Chancellor's Office of the California Community Colleges.~~

~~7.1.2~~ 2 If a complaint of unlawful discrimination is presented in another written format, such as a letter, the District may request that the

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~~complainant complete the form. If there is a delay in obtaining a completed form, or the complainant refuses to transfer the information or otherwise complete the form but wishes to pursue the formal complaint process, the District may attach the letter to the form and open a formal investigation. While a complaint filed in an improper form is still procedurally defective under Title 5 standards, the merits of the complaint itself may still be valid and must be addressed. The timelines set out by Title 5 and this procedure for filing complaints (Title 5 Sections 59328(d) and (e)) shall be calculated based on the initial complaint regardless of the form in which it is filed.~~

7.1.3 **Verbal complaints shall be lodged with the Responsible District Officer or designee. The Responsible District Officer or designee shall record the verbal complaint in writing. The District shall take appropriate steps to ensure the writing accurately reflects the facts alleged by the complainant.**

~~7.1.3.~~ **4** Once a complaint is filed, the individual(s) accused of engaging in prohibited discriminatory conduct should be advised of that filing and the general nature of the complaint. This should occur as soon as possible and appropriately ~~under~~ **based on** the circumstances. The District will also advise the accused that an assessment of the accuracy of the allegations has not yet been made, that the complaint will be investigated, that the ~~accused~~ **respondent** will be provided an opportunity to present ~~his/her~~ **their** side of the matter, and that any conduct that could be viewed as retaliatory against the complainant or any witnesses must be avoided. The ~~accused individual(s)~~ **respondent(s)** do not have a right to a copy of the actual complaint.

Authority: ~~California Code Regulations,~~ Title 5 Sections 59311 and 59328.

7.2 **Threshold Requirements Prior to Investigation of a Formal Written Complaint:** An investigation of alleged unlawful discrimination ~~prohibited by this subchapter~~ will be initiated by filing a complaint that meets the following requirements:

7.2.1 The complaint of unlawful discrimination shall be filed by one who alleges that ~~he or she has~~ **they are a student, an employee, a parent of a minor, or an individual with legal authority on behalf of a student or employee, who alleges that the student or employee has suffered unlawful discrimination,** ~~personally suffered unlawful discrimination or by one who has learned of such unlawful discrimination in his or her official capacity as a faculty member or administrator. The exception to this general rule is addressed in the "Informal Resolution" Section 6.0.~~

7.2.2 **The complaint shall state sufficient facts to support a claim of unlawful discrimination.**

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7.3.2.3 Timeliness

7.3.2.3.1 In any complaint not involving employment, the complaint must be filed within one year of the date of the alleged unlawful discrimination or within one year of the date on which the complainant knew or should have known of the facts underlying the allegation of unlawful discrimination.

7.3.2.3.2 In any complaint alleging discrimination in employment, the complaint shall be filed within 180 days of the date the alleged unlawful discrimination occurred, except that this period may 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.

7.2.4 Complaints that meet the requirements of Sections 7.2.1, 7.2.2 and 7.2.3 shall be referred to herein as “formal complaints” and investigated under Section 9, below.

7.2.5 Complaints that do not meet the requirements of Sections 7.2.1, 7.2.2 and 7.2.3 are considered “informal complaints.” The District reserves the right to investigate informal complaints to determine whether District policies and expectations have been violated or corrective actions are needed to prevent discrimination or harassment claims from arising in the future. Investigations of informal complaints are not governed by these procedures.

7.43 In any complaint alleging discrimination ~~in employment~~, the District shall **do the following**:

7.43.1 **In relation to complaints alleging discrimination in employment, advise** ~~Advise~~ the complainant that ~~he or she~~ **they** may file the complaint with the U.S. Equal Employment Opportunity Commission (EEOC) and/or the **California Civil Rights Department (formerly** Department of Fair Employment and Housing ~~(DFEH)~~ where the complaint is within the jurisdiction of those agencies; and

7.43.2 ~~Forward a copy of any filing by the complainant with the DFEH to the State Chancellor’s Office for a determination of whether the issues presented require an independent investigation of the matter under the provisions of this subchapter.~~ **In relation to complaints not involving alleged discrimination in employment, advise student complainants that they may file their nonemployment-based complaint with the Office for Civil Rights of the U.S. Department of Education (OCR) where the complaint is within that agency’s jurisdiction.**

7.54 ~~Defective Complaint: When the District receives a complaint which it finds does not meet the requirements of Title 5, section 59328 the District shall immediately notify the complainant and the Chancellor of the California Community Colleges~~

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~~that the complaint does not meet the requirements of Title 5, Section 59328 and shall specify in what requirement the complaint is defective.~~

7.4.1 **When the District receives a complaint that does not meet the requirements of Section 7.0 above, the District shall notify the complainant in writing within 14 days that the complaint does not meet the requirements of Section 7.0 and shall specify in what requirement the complaint is defective.**

7.4.2 **If the defect is based on the complainant's failure to state sufficient facts to support a claim of unlawful discrimination, the District shall offer the complainant an opportunity to proffer additional facts to support their claims through an intake interview, which shall be scheduled as soon as reasonably convenient for the parties.**

7.4.3 **If, after the intake interview, the District determines that a complainant has still not stated sufficient facts to support a claim of unlawful discrimination, the District shall provide to the complainant, within 14 days of the intake interview, a written determination explaining the basis for dismissing the complaint and notice of the complainant's right to appeal the determination pursuant to Section 12.2, below.**

~~Authority: California Code of Regulations, Title 5, Sections 59328 and §59332.~~

~~**7.6** Notice to State Chancellor or District: Immediately upon receiving a complaint filed in accordance with Title 5 section 59328, the District shall forward a copy of the complaint to the State Chancellor.~~

~~Authority: California Code of Regulations, Title 5, Section 59330.~~

7.7.5 ~~Complaints Filed with the State Chancellor: Upon receiving a complaint filed pursuant to Title 5 section 59328, the Chancellor will immediately forward a copy of the complaint to the District's designated responsible officer who shall respond pursuant to Title 5 section 59332 or initiate the investigation required pursuant to Title 5 section 59334. In any complaint alleging employment discrimination, the Chancellor shall notify the complainant that he or she has the right to file with the Department of Fair Employment and Housing (DFEH) or the U. S. Equal Opportunity Employment Commission where the complaint is within the jurisdiction of those agencies.~~ **Complaints alleging sexual harassment as defined by Title IX, shall be processed in accordance with AP 3434, Responding to Harassment Based on Sex under Title IX. For other forms of sexual harassment or gender-based harassment, this procedure shall apply.**

8.0 Confidentiality of the Process

8.1 Investigative processes ~~can best be~~ **are most effective when** conducted ~~within~~ **in** a confidential climate, ~~and~~ **Therefore,** the District does not reveal information about such matters except as necessary to fulfill its legal obligations. ~~However,~~

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~~potential complainants are sometimes reluctant to pursue a complaint if their names will be revealed.~~ 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 student and employee respondents during the investigation process and any ensuing discipline.

- 8.2 ~~The inability to reveal the name of a complainant or facts that are likely to reveal the identity of the complainant can~~ Maintaining a complainant’s request for anonymity may severely limit the ~~ability of the District’s ability to respond~~ conduct an effective investigation. ~~Complainants must also recognize that persons who are accused of wrongdoing~~ To ensure a fair and equitable process, respondents have a right to present their side of the matter, and this right may be jeopardized if the District is prohibited from revealing the name of the complainant or facts that are likely to disclose the identity of the complainant.
- 8.3 If a complainant insists ~~that his or her name not be revealed~~ on anonymity, the ~~Responsible District Officer should take all~~ reasonable steps will be taken to investigate and respond to the complaint consistent with the complainant’s request as long as doing so does not jeopardize the rights of other students or employees.
- 8.4 ~~It is also important that~~ Complainants and witnesses understand the possibility that they may be charged with allegations of defamation if they circulate the charges outside of the District’s process. In general, ~~persons who are~~ parties participating in a District ~~investigative~~ investigation or disciplinary process ~~that is~~ related to a charge of discrimination are protected from tort claims such as defamation. However, persons who make allegations outside of these processes or who discuss their claims with persons outside of the process may expose themselves to tort charges. Complainants, witnesses, and ~~those accused of discrimination will all be asked to sign a confidentiality acknowledgement statement.~~ respondents should exercise sensitivity and discretion, as doing so mitigates gossip and charges of defamation, and protects the rights of all concerned and the interests of a sound investigation process. The parties may not intentionally or unintentionally attempt to influence the substance of what others share with an investigator, or otherwise interfere with the investigation process.
- 8.5 ~~Where an investigation reveals the need for disciplinary action, the~~ The complainant may wish to have information ~~about what~~ related to disciplinary actions the District took based on the results of an investigation. However, the privacy rights of the persons involved often prevent the District from providing such information. In student disciplinary actions for sexual assault/physical abuse charges, Education Code Section 76234 provides that the victim shall be informed within three calendar days of the results of the disciplinary action, but that the victim must keep the information confidential. Except as required by law or applicable collective bargaining agreements, ~~D~~disciplinary actions taken against employees are generally considered confidential.

Authority: California Const. Art. I, Section 1; Civil Code Section 47; Ed. Code, Sections 76234 and 87740; Silberg v. Anderson (1990) 50 Cal.3d. 205; Revised

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Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, Title IX, Office for Civil Rights, January 19, 2001.

9.0 District Investigation of Formal Complaint

9.1 Upon receiving a **formal** complaint (**i.e., one** that is properly filed in accordance with **Section 7.0)** ~~section 50328~~, the District will commence an impartial fact-finding investigation of ~~the~~ **the** complaint and notify the complainant **and respondent accordingly**, ~~and State Chancellor that it is doing so~~. The results of the investigation shall be set forth in a written report that shall include ~~at least all of~~ the following:

9.1.2~~1~~ a description of the circumstances giving rise to the complaint;

9.1.3~~2~~ a summary of the testimony provided by each witness, including the complainant and any ~~viable~~ **available** witnesses identified by the complainant in the complaint;

9.1.4~~3~~ an analysis of any relevant data or other evidence collected during the course of the investigation;

9.1.5~~4~~ a specific finding as to whether **each factual allegation in the complaint** ~~there is probable cause to believe that discrimination occurred with respect to each allegation in the complaint~~ **based on the preponderance of the evidence standard, which shall be explained**; and

9.1.6~~5~~ any other information deemed appropriate by the District.

Authority: Title 5 Section 59334.

9.2 During the course of the investigation, involved persons (including complainant(s), **respondent(s)**, ~~accused person(s)~~, **and** witness(es)) shall be interviewed and relevant documents collected and reviewed, as applicable. All interviewed ~~persons~~ **parties** shall be advised of the prohibition against retaliation.

9.3 The District may retain the services of an ~~outside~~ **external** investigator whenever the Responsible District Officer determines such services are necessary ~~or beneficial~~ to the investigation and resolution of the complaint.

9.4 The preponderance of the evidence is met if it is determined that it is more likely than not that the alleged misconduct occurred, based on the facts available at the time of the decision.

9.5 For the purpose of investigative efficiency, the Responsible District Officer may consolidate two or more complaints, including amendments to complaints, for investigation if the complaints involve the same parties or witnesses and concern the same incident or similar issues. Timelines for completing an investigation and issuing a written report may be affected by consolidation of complaints, but less so than investigating each complaint

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or amendment separately. The District will provide notice to the complainant(s) and respondent(s) of the consolidation of complaints.

10.0 Discipline and Corrective Action

- 10.1 If unlawful harassment, discrimination, sexual assault, and/or retaliation occurred in violation of Board Policies 3410, Unlawful Discrimination, and 3430, Prohibition of Harassment, 3540, Sexual Assaults and Other Sexual Misconduct, and this procedure, the District shall take disciplinary action against the ~~accused~~ respondent and any other appropriate remedial action ~~it determines to be appropriate.~~ The action will be prompt, effective, and commensurate with the severity of the offense. If discipline is imposed, the nature of the discipline will not be communicated to the complainant except to the degree permitted in student disciplinary actions for sexual assault/physical abuse charges under Education Code Section 76234.
- 10.2 Disciplinary actions against faculty, staff, and students (up to and including discharge, expulsion, or termination of contract) will conform to all relevant statutes, regulations, personnel policies and procedures, including the provisions of any applicable collective bargaining agreement, or student discipline policies and procedures, as applicable.
- 10.3 The District shall also take reasonable steps to protect the complainant from further harassment, and/or discrimination, and to protect the complainant, respondent, and witnesses from retaliation as a result of communicating the complaint and/or ~~assisting~~ participating in the investigation. 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.
- 10.4 Employees should be aware that if they engage in unlawful discrimination, such acts are outside the course and scope of their employment and may result in personal liability to the employee.

11.0 Administrative Determination

- 11.1 In any case not involving employment discrimination, within ninety (90) days of receiving a formal complaint filed in accordance with Section 7.0 of these procedures, the District shall complete its investigation and forward a copy or summary of the investigative report (see District Investigation Section 9.0 (Title 5 Section 59334)) ~~to the Chancellor of the California Community Colleges, a summary of the report to the complainant,~~ and written notice setting forth all of the following to ~~both the complainant and the State Chancellor:~~
- 11.1.1 the determination of the chief executive officer of the District or designee as to whether ~~there is probable cause to believe~~ unlawful discrimination occurred with respect to each allegation in the complaint based on the preponderance of the evidence standard;

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- 11.1.2 in the event a discrimination allegation is substantiated, a description of actions taken, if any, to prevent recurrence ~~similar problems from occurring~~ in the future;
- 11.1.3 the proposed resolution of the complaint; ~~and~~
- 11.1.4 the complainant's right to appeal to the District governing board and the Chancellor of the California Community Colleges, pursuant to Title 5 Sections 59338 and 59339; and
- 11.1.5 in matters involving student sexual misconduct, the respondent's right to appeal to the District governing board any disciplinary sanction imposed upon the respondent (See Section 16.0).**
- 11.2 In any case involving employment discrimination, within ninety (90) days of receiving a formal complaint (see Section 7.0) the District shall complete its investigation and forward to the complainant a copy or summary of the investigative report, ~~and~~ with written notice setting forth ~~all of~~ the following to the complainant:
- 11.2.1 the determination of the chief executive officer of the District or designee as to whether ~~there is probable cause to believe~~ discrimination occurred with respect to each allegation in the complaint based on the preponderance of the evidence standard;
- 11.2.2 if a discrimination allegation is substantiated, a description of actions taken, if any, to prevent recurrence ~~similar problems from occurring~~ in the future;
- 11.2.3 the proposed resolution of the complaint; and
- 11.2.4 the complainant's right to appeal to the District governing board and to file a complaint with the California Civil Rights Department (formerly Department of Fair Employment and Housing).
- ~~Authority: California Code of Regulations, Title 5, section 59336.~~
- 11.3 When the District completes an investigation of a formal complaint of unlawful discrimination and provides the complainant with information ~~against an employee of the District~~ pursuant to these procedures, the District shall also provide the following to the respondent: ~~employee will be provided with written notice of the District's administrative determination regarding the complaint.~~
- 11.3.1 the determination of the chief executive officer of the District or designee as to whether discrimination occurred with respect to each allegation in the complaint based on the preponderance of the evidence standard;**
- 11.3.2 the proposed resolution of the complaint, including any disciplinary action against the respondent; and**

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11.3.3 **in matters involving student sexual misconduct governed by Title 5 Section 59337, subdivision (b), the right to appeal to the District governing board any disciplinary sanction imposed upon the respondent. The respondent may not appeal the District's administrative determination as to whether discrimination occurred.**

Authority: Title 5 Section 59336.

12.0 Complainant's Appeal Rights

12.1 Appeal to District Governing Board (Board of Trustees)

12.1.1 If the complainant is not satisfied with the results of the administrative determination rendered pursuant to section 11.0 of these procedures, the complainant may file a written appeal to the District governing board (Board of Trustees) within ~~fifteen (15)~~ **thirty (30)** days from the date of notice pursuant to Section 11.0 of these procedures that sets forth the administrative determination and the complainant's appeal rights.

12.1.2 The governing board (Board of Trustees) will review the original complaint, the investigative report, the administrative determination, and the appeal and issue a final District decision ~~in the matter~~ within forty-five (45) days after receiving the appeal.

12.1.2.1 In any case not involving employment discrimination, the District shall promptly forward to the complainant, **and the respondent,** ~~and to the Chancellor of the California Community Colleges~~ a copy of the final District decision rendered by the governing board (Board of Trustees), **if any, and** ~~that includes~~ notice of the complainant's right to appeal the District's decision to the Chancellor of the California Community Colleges (set forth below).

12.1.2.2 In any case involving employment discrimination, the District shall promptly forward to the complainant a copy of the final District decision rendered by the governing board (Board of Trustees) that includes notice of the complainant's right to file a complaint with the **California Civil Rights Department (formerly Department of Fair Employment and Housing)**, where the case is within the jurisdiction of that agency.

12.1.3 Alternatively, if the governing board (Board of Trustees) does not act within forty-five (45) days, the administrative determination shall be deemed approved and shall become the final District decision in the matter. **The District shall promptly notify the complainant and the respondent that the board took no action and the administrative determination is deemed approved.**

Authority: Title 5 Section 59338.

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~~12.1.3.1 In any case not involving employment discrimination, the District shall notify the complainant and the Chancellor of the California Community Colleges that the governing board (Board of Trustees) took no action and the administrative action is deemed approved pursuant to section 59338 of Title 5 of the California Codes of Regulations. The complainant shall also be notified of his or her right to appeal the District's decision to the Chancellor of the California Community Colleges.~~

~~12.1.3.2 In any case involving employment discrimination, the District shall notify the complainant that the governing board (Board of Trustees) took no action and the administrative action is deemed approved pursuant to section 59338 of Title 5 of the California Code of Regulations. The complainant shall also be notified of his or her right to file a complaint with the Department of Fair Employment and Housing, where the case is within the jurisdiction of that agency.~~

12.2 Appeal to [a State Agency](#) the Chancellor of the California Community Colleges

12.2.1 In any case not involving employment discrimination, if the complainant is not satisfied with the results of the appeal to the District's governing board rendered pursuant to Section 12.1 of these procedures, the complainant ~~shall have the right to~~ **may** file a written appeal with the Chancellor of the California Community Colleges within thirty (30) days from the date that the District's **notice of final decision**, ~~governing board issues the final District decision or permits the administrative determination to become final pursuant to section 59338 (or from the date of the notice provided pursuant to section 12.1.2 or 12.1.3 whichever is later).~~ Such appeals shall be processed pursuant to the provisions of Title 5 Section 59350, et seq. The appeal must ~~be accompanied by a copy~~ **include copies** of **the complaint**, ~~the decision of the District's governing board,~~ **and notice of final decision**, ~~or evidence showing the date on which the complainant filed an appeal with the governing board and a statement under penalty of perjury that no response was received from the governing board within forty-five (45) days from that date.~~

12.2.2 In any case involving employment discrimination, the complainant may, at any time before or after the final District decision is rendered, file a complaint with the **California Civil Rights Department (formerly Department of Fair Employment and Housing (DFEH))** where the complaint is within the jurisdiction of that agency.

~~12.2.3 A decision by the State Chancellor is subject to judicial review by the District, as provided by Section 1094.5 of the Code of Civil Procedure. (See Title 5 California Code of Regulations Section 59362.)~~

~~12.2.4 Complainants must submit all appeals in writing.~~

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12.2.5~~3~~ The Title 5 process, which is set out in this Administrative Procedure provides no corresponding appeal rights to other parties aside from the complainants.

Authority: ~~California Code of Regulations, Title 5 Sections 59338 and 59339.~~

13.0 ~~Provision of Information~~ Disclosure to the State Chancellor

13.1 In any case not involving employment discrimination, ~~within 150 days of receiving a complaint~~ and upon request of the Chancellor, the Responsible District Officer will provide copies of all relevant, non-privileged documents related to a discrimination complaint, as specified at Section 59340. ~~either:~~

~~13.1.1 Forward the following to the State Chancellor:~~

~~13.1.1.1 A copy of the final District decision rendered by the governing board or a statement indicating the date on which the administrative determination became final as a result of taking no action on the appeal within 45 days.~~

~~13.1.1.2 A copy of the notice of appeal rights the District sent the complainant.~~

~~13.1.1.3 Any other information the State Chancellor may require; or~~

~~13.1.2 Notify the State Chancellor that the complainant has not filed an appeal with the District governing board and that the District has closed its file.~~

~~13.2 The District will keep these documents on file for a period of at least three years after closing the case, including cases involving employment discrimination, make them available to the State Chancellor upon request.~~

13.2 The District shall provide to the Chancellor an annual report with the following information: the number of employment and non-employment discrimination complaints and informal charges received in the previous academic year; the number of complaints and informal charges resolved in the previous academic year; the number of complaints of unlawful discrimination received in the previous academic year, and the number of those complaints that were sustained in whole or in part; and any other information requested by the Chancellor.

Authority: ~~California Code Regulations,~~ Title 5 Sections 59338, **59339**, and 59340.

14.0 Extensions

14.1 ~~If for reasons beyond its control, the District is unable to comply with the 90-day or 450-day deadlines specified in~~ **Sections 6.0 or 11.0, the District may extend the time to respond by up to 45 additional days.** ~~section 13.0 for submission of materials to the complainant and that State Chancellor's Office, the Responsible~~

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~~District Officer or designee may file a written request that the Chancellor of the California Community Colleges grant an extension of the deadline. Where an extension is deemed necessary by the District, it must be requested from the State Chancellor regardless of whether or not the case involves employment discrimination. The request shall be submitted no later than ten (10) days prior to the expiration of the deadline established by Title 5 in sections 59336 and/or 59340 and shall set forth the reasons for the request and the date by which the District expects to be able to submit the required materials.~~ **An extension may be taken only once without permission from the Chancellor's Office, and must be necessary for one of the following reasons:**

14.1.1 to interview a party or witness who has been unavailable;

14.1.2 to review or analyze additional evidence, new allegations, or new complaints related to the matter; or

14.1.3 to prepare and finalize an administrative determination.

14.2 The District shall send a written notice to the complainant, and to a respondent who is aware of an investigation, indicating the necessity of an extension, the justification for the extension, and the number of days the deadline will be extended. Notice of an extension shall be sent no later than 10 days prior to the initial time to issue the District's administrative determination.

~~14.23~~ **14.23 The District may request additional extensions from the Chancellor after the initial 45-day extension.** A copy of the request for an extension shall be sent to the complainant **and to a respondent who is aware of an investigation** with notice that ~~he or she~~ **they** may file a written objection with the State Chancellor within five (5) days of receipt.

~~14.34~~ **14.34** The State Chancellor may grant the request **extension for good cause**, unless delay would be **unduly** prejudicial to the **complainant or** investigation. ~~If an extension of the 90-day deadline is granted by the State Chancellor, the 90-day deadline or the 150-day deadline is automatically extended by an equal amount.~~

~~14.45~~ **14.45** If the District fails to comply with the requirements of ~~Title 5 sections 59336 or 59340 by the required deadline, including any extensions granted pursuant to the above-mentioned procedures,~~ **Sections 11.0 or 14.0**, the Chancellor may proceed to review the case as provided in Title 5 Sections 59350 et seq. based on the original complaint and any other relevant information ~~then available.~~

Authority: ~~California Code of Regulations, Title 5 Section 59342.~~

15.0 Definitions

15.1 "Appeal" means a request made in writing by a complainant to the North Orange County Community College District governing board, pursuant to ~~section 59338 of Title 5~~ **Section 59338** of the California Code of Regulations, and/or to the State Chancellor's Office pursuant to ~~section 59339 of Title 5~~ **Section 59339** of the

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~~California Code of Regulations~~, to review the administrative determination of the District regarding a complaint of unlawful discrimination as provided in Section ~~7~~**12**.0 of these procedures.

- 15.2 “Association with a person or group with these actual or perceived characteristics” includes advocacy for or identification with people who have one or more characteristics of a protected category listed under “Unlawful Discrimination Policy” and Title 5 Section 59300, participation in a group associated with persons having such characteristics, or use of a facility associated with use by such persons.
- 15.3 "Days" means calendar days.
- 15.4 "District" means the North Orange County Community College District or any District program or activity that is administered by, directly funded by, or that receives financial assistance from, the Chancellor or Board of Governors of the California Community Colleges.
- 15.5 "Formal Complaint" means a written **or verbal** ~~and signed~~ statement meeting the requirements of Title 5 Section 59328 that alleges unlawful discrimination in violation of the nondiscrimination regulations adopted by the Board of Governors of the California Community Colleges, as set forth at Title 5 Sections 59300 et seq. (and these procedures).
- 15.6 “Gender” means sex, and includes a person’s gender identity and gender related expression, appearance and behavior whether ~~or not~~ stereotypically associated with the person’s assigned sex at birth.
- 15.7 "Mental disability" includes, but is not limited to, ~~all of~~ the following:
- 15.7.1 Having any mental or psychological disorder or condition, such as mental retardation, organic brain syndrome, emotional or mental illness, or specific learning disabilities, that limits a major life activity. For purposes of this section:
- 15.7.1.1 "Limits" shall be determined without regard to mitigating measures, such as medications, assistive devices, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.
- 15.7.1.2 A mental or psychological disorder or condition limits a major life activity if it makes the achievement of the major life activity difficult.
- 15.7.1.3 "Major life activities" shall be broadly construed and shall include physical, mental, and social activities and working.
- 15.7.2 Any other mental or psychological disorder or condition not described in Section 15.7.1 that requires special education or related services.

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- 15.7.3 Having a record or history of a mental or psychological disorder or condition described in Section 15.7.1 or 15.7.2, which is known to the District.
- 15.7.4 Being regarded or treated by the District as having, or having had, any mental condition that makes achievement of a major life activity difficult.
- 15.7.5 Being regarded or treated by the District as having, or having had, a mental or psychological disorder or condition that has no present disabling effect, but that may become a mental disability as described in Section 15.7.1 or 15.7.2.
- 15.7.6 "Mental disability" does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.
- 15.8 "Physical disability" includes, but is not limited to, ~~all of~~ the following:
 - 15.8.1 Having any physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss that does both of the following:
 - 15.8.1.1 Affects one or more of the following body systems: neurological, immunological, musculoskeletal, special sense organs, respiratory, including speech organs, cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin, and endocrine.
 - 15.8.1.2 Limits a major life activity. For purposes of this section:
 - 15.8.1.2.1 "Limits" shall be determined without regard to mitigating measures such as medications, assistive devices, prosthetics, or reasonable accommodations, unless the mitigating measure itself limits a major life activity.
 - 15.8.1.2.2 A physiological disease, disorder, condition, cosmetic disfigurement, or anatomical loss limits a major life activity if it makes the achievement of the major life activity difficult.
 - 15.8.1.2.3 "Major life activities" shall be broadly construed and includes physical, mental, and social activities and working.
 - 15.8.2 Any other health impairment not described in Section 15.8.1 that requires special education or related services.

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- 15.8.3 Having a record or history of a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment described in Section 15.8.1 or 15.8.2, which is known to the District.
- 15.8.4 Being regarded or treated by the District as having, or having had, any physical condition that makes achievement of a major life activity difficult.
- 15.8.5 Being regarded or treated by the District as having, or having had, a disease, disorder, condition, cosmetic disfigurement, anatomical loss, or health impairment that has no present disabling effect but may become a physical disability as described in Section 15.8.1 or 15.8.2.
- 15.8.6 "Physical disability" does not include sexual behavior disorders, compulsive gambling, kleptomania, pyromania, or psychoactive substance use disorders resulting from the current unlawful use of controlled substances or other drugs.

15.9 "Race or ethnicity" includes ancestry, color, ethnic group identification, and ethnic background.

15.10 "Religion" includes all aspects of religious belief, observance, and practice and includes agnosticism and atheism.

~~15.9~~**11** "Responsible District Officer" means the officer identified by the District to the State Chancellor's Office as the person responsible for receiving complaints filed pursuant to ~~section 59328~~ of Title 5 **Section 59328** of the ~~California Code of Regulations~~, and for coordinating their investigation.

15.12 "Responsible employee" means an employee who has the authority to take action to redress sexual harassment or provide supportive measures to students, or who has the duty to report sexual harassment to an appropriate official who has that authority. "Responsible employee" includes, but is not limited to, those individuals with any of the following positions or substantially similar positions or job duties, regardless of the specific title attached to the position:

15.12.1 Title IX coordinator or other coordinator designated to comply with and carry out the institution's responsibilities under this section.

15.12.2 Housing directors, coordinators, or deans.

15.12.3 Student life directors, coordinators, or deans.

15.12.4 Athletic directors, coordinators, or deans.

15.12.5 Coaches of any student athletic or academic team or activity.

15.12.6 Faculty, instructors, or lecturers.

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[15.12.7 Laboratory directors, coordinators, or principal investigators.](#)

[15.12.8 Internship or externship directors or coordinators.](#)

[15.12.9 Study abroad program directors or coordinators.](#)

[“Responsible employee” does not include an individual employed to serve as a therapist, physician, psychotherapist, member of the clergy, sexual assault counselor, domestic violence counselor, or otherwise act in a formal professional capacity for which confidentiality is mandated by law.](#)

15.13~~0~~ “Sex” includes, but is not limited to, pregnancy, childbirth, or medical conditions related to pregnancy or childbirth. “Sex” also includes, but it not limited to, a person’s gender, as defined in Section 422.56 of the Penal Code. Discrimination on the basis of sex or gender also includes sexual harassment.

15.14~~4~~ “Sexual harassment” means unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone from or in the work or educational setting, under any of the following conditions:

15.14~~4~~.1 Submission to the conduct is explicitly or implicitly made a term or a condition of an individual's employment, academic status, or progress.

15.14~~4~~.2 Submission to, or rejection of, the conduct by the individual is used as the basis of employment or academic decisions affecting the individual.

15.14~~4~~.3 The conduct has the purpose or effect of having a negative impact upon the individual's work or academic performance, or of creating an intimidating, hostile, or offensive work or educational environment.

15.14~~4~~.4 Submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the District.

15.15~~2~~ Examples of sexual harassment include but are not limited to the following:

15.15~~2~~.1 Making unsolicited or unwelcome written, verbal, physical, and/or visual contacts with sexual overtones. Examples of possible sexual harassment that appear in a written form include but are not limited to: suggestive or obscene letters, notes, invitations, and e-mails. Examples of possible verbal sexual harassment include but are not limited to: leering, gestures, display of sexually aggressive objects or pictures, cartoons, or posters. Examples of possible physical sexual harassment include, but are not limited to inappropriate or offensive touching or interfering with free movement such as kissing, grabbing, or blocking another person.

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- 15.152.2 Continuing to express sexual interest after being informed that the interest is unwelcomed.
- 15.152.3 Making reprisals, threats of reprisal, or implied threats of reprisal following a rebuff of harassing behavior. The following are examples of conduct in an academic environment that might be found to be sexual harassment: threatening to withhold, or actually withholding, grades earned or deserved; suggesting a poor performance evaluation will be prepared; or suggesting a scholarship recommendation or college application will be denied.
- 15.152.4 Engaging in explicit or implicit coercive sexual behavior within the work environment which is used to control, influence, or affect the employee's career, salary, and/or work environment.
- 15.152.5 Engaging in explicit or implicit coercive sexual behavior within the educational environment that is used to control, influence, or affect the educational opportunities, grades, and/or learning environment of a student.
- 15.152.6 Offering favors or educational or employment benefits, such as grades or promotions, favorable performance evaluations, favorable assignments, favorable duties or shifts, recommendations, reclassifications, etc., in exchange for sexual favors.
- 15.152.7 Awarding educational or employment benefits, such as grades or duties or shifts, recommendations, etc., to any student or employee with whom the decision maker has a sexual relationship and denying such benefits to other students or employees.
- 15.152.8 Other unlawful harassment: In addition to sexual harassment, unlawful harassment can also include harassment based on other protected status defined by this procedure or BP 3410 that meets the criteria set out in **Sections 15.13** ~~15.11.1 through 15.11.4~~ as applied to the applicable protected status.
- 15.163 "Sexual orientation" means heterosexuality, homosexuality, or bisexuality.
- 15.174 "Unlawful discrimination" means **unfair or unequal treatment of an individual (or group) based upon an actual or perceived characteristic related to ethnic group identification, national origin, immigration status, religion, age, sex, pregnancy, gender, gender identification, gender expression, military and veteran status, marital status, medical condition, genetic information, race, color, ancestry, sexual orientation, physical or mental disability, or any other characteristic protected under applicable federal or state law.** ~~any complaint of unlawful discrimination based on a category protected under Title 5, section 59300, including retaliation and sexual harassment.~~
- 15.18 "Affirmative consent" means affirmative, conscious, and voluntary agreement to engage in sexual activity. It is the responsibility of each person**

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involved in the sexual activity to ensure that the person has the affirmative consent of the other or others to engage in the sexual activity. Lack of protest or resistance does not mean consent, nor does silence mean consent. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time. The existence of a dating relationship between the parties involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of consent. In the evaluation of complaints in any disciplinary process, it shall not be a valid excuse to alleged lack of affirmative consent that the respondent believed the complainant consented to the sexual activity under either of the following circumstances:

15.18.1 The respondent's belief in affirmative consent arose from the intoxication or recklessness of the respondent.

15.17.2 The respondent did not take reasonable steps, in the circumstances known to the respondent at the time, to ascertain whether the complainant affirmatively consented.

Authority: Title 5 Sections 59300 and 59311; Government Code, Sections 12926 and 12940; Education Code, Sections 212.5, 66262.5, and 67386; ~~California Code of Regulations, Title 5, Section 50314~~; Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students, or Third Parties, Title IX, Office for Civil Rights, January 19, 2001.

16.0 Procedure for Student Complaints of Sexual Harassment:

16.1 Student complaints of sexual harassment that are not processed under AP 3434, Responding to Harassment Based on Sex Under Title IX, shall be processed under this Section.

16.2 For purposes of this Section, "sexual harassment" has the same meaning as defined in Section 15.0 above, but also includes sexual battery, sexual violence, and sexual exploitation.

16.2.1 "Sexual battery" means the intentional touching of another person's intimate parts without consent, intentionally causing a person to touch the intimate parts of another without consent, or using a person's own intimate part to intentionally touch another person's body without consent.

16.2.2 "Sexual exploitation" means a person taking sexual advantage of another person for the benefit of anyone other than that person without that person's consent, including, but not limited to, any of the following acts:

16.2.2.1 The prostituting of another person.

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16.2.2.2 The trafficking of another person, defined as the inducement of a person to perform a commercial sex act, or labor or services, through force, fraud, or coercion.

16.2.2.3 The recording of images, including video or photograph, or audio of another person's sexual activity or intimate parts, without that person's consent.

16.2.2.4 The distribution of images, including video or photograph, or audio of another person's sexual activity or intimate parts, if the individual distributing the images or audio knows or should have known that the person depicted in the images or audio did not consent to the disclosure.

16.2.2.5 The viewing of another person's sexual activity or intimate parts, in a place where that other person would have a reasonable expectation of privacy, without that person's consent, for the purpose of arousing or gratifying sexual desire.

16.2.3 "Sexual violence" means physical sexual acts perpetrated against a person without the person's affirmative consent, as defined in Section 15 above. Physical sexual acts include both of the following:

16.2.3.1 Rape, defined as penetration, no matter how slight, of the vagina or anus with any part or object, or oral copulation of a sex organ by another person, without the consent of the victim.

16.2.3.2 Sexual battery, as defined above at section 16.2.1.

16.3 Students may report sexual harassment to the Responsible District Officer or to the campus Title IX Coordinators whose contact information is below:

Name: Paul de Dios
Position: Cypress College Title IX Coordinator/Vice President, Student Services
Telephone: 714-484-7335
Email: pdedios@cypresscollege.edu

Name: Naomi Abesamis
Position: Fullerton College Title IX Coordinator/Interim Dean of Student Support Services
Telephone: 714-992-7088
Email: nabesamis@fullcoll.edu

Name: Martha Gutierrez
Position: North Orange Continuing Education Title IX Coordinator/Vice President, Student Services

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Telephone: [714-808-4660](tel:714-808-4660)
Email: mgutierrez@noce.edu

These individuals shall have adequate training on what constitutes sexual harassment and on trauma-informed investigatory and hearing practices and shall understand how the institution's grievance procedures for addressing student claims of sexual harassment operate.

16.4 District Response to Student Reports of Sexual Harassment:

16.4.1 The District shall take reasonable steps to respond to each incident of sexual harassment involving individuals subject to the District's policies that occur in connection with any District educational activity or program, as well as incidents that occurred outside of those educational programs or activities, whether they occurred on or off campus, if, based on the allegations, there is any reason to believe that the incident could contribute to a hostile educational environment or otherwise interfere with a student's access to education.

16.4.2 Regardless of whether a complaint has been filed under this procedure, if the District knows, or reasonably should know, about possible sexual harassment involving individuals subject to the District's policies at the time, the District shall promptly investigate to determine whether the alleged conduct more likely than not occurred, or otherwise respond if the District determines that an investigation is not required. If the District determines that the alleged conduct more likely than not occurred, it shall immediately take reasonable steps to end the harassment, address the hostile environment, if one has been created, prevent its recurrence, and address its effects.

16.4.2.1 The District shall be presumed to know of sexual harassment if a responsible employee knew, or, in the exercise of reasonable care, should have known, about the sexual harassment.

16.4.2.2 The District may rebut this presumption of knowledge if it shows all of the following:

16.4.2.2.1 The District provides training and requires all nonconfidential responsible employees to report sexual harassment.

16.4.2.2.2 Each nonconfidential responsible employee with actual or constructive knowledge of the conduct in question was provided training and direction to report sexual harassment.

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16.4.2.2.3 Each nonconfidential responsible employee with actual or constructive knowledge of the conduct in question failed to report it.

16.4.2.3 The District shall consider and respond to requests for accommodations relating to prior incidents of sexual harassment that could contribute to a hostile educational environment or otherwise interfere with a student's access to education where both individuals are, at the time of the request, subject to the District's policies.

16.4.3 The Title IX coordinator or other designated employee shall assess each report of sexual harassment and provide outreach, as appropriate, to each identifiable student who is alleged to be the victim of the reported conduct. The outreach shall include the following information:

16.4.3.1 The District has received a report that the student may have been a victim of sexual harassment.

16.4.3.2 A statement that retaliation for filing a complaint or participating in a complaint process, or both, under this section is prohibited.

16.4.3.3 Counseling resources within the institution or in the community.

16.4.3.4 Where a crime may have occurred, notice that the student has the right, but not the obligation, to report the matter to law enforcement.

16.4.3.5 The District's investigation procedures established pursuant to the requirements of this section.

16.4.3.6 Potential interim measures, such as no-contact directives, housing changes, and academic schedule changes, where applicable.

16.4.3.7 The importance of preserving evidence.

16.4.3.8 A request for the student to meet with the Title IX coordinator or other designated employee to discuss options for responding to the report.

16.4.3.9 The manner in which the District responds to reports of sexual harassment and a description of potential disciplinary consequences.

16.4.4 Student parties shall be advised of the possible interim measures that may be put in place during the pendency of an investigation,

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the supportive measures that may be provided in the absence of an investigation, and the disciplinary outcomes, remedial measures, and systemic remedies that may follow a final finding of responsibility, subject to the following:

16.4.4.1 The District shall not mandate mediation to resolve allegations of sexual harassment, and shall not allow mediation, even on a voluntary basis, to resolve allegations of sexual violence.

16.4.4.2 The District shall not require that complainants enter a voluntary resolution agreement or any other form of resolution as a prerequisite to receiving remedial measures that safeguard the complainant's access to education.

16.4.4.3 When requested by a complainant or otherwise determined to be appropriate, the District shall issue an interim no-contact directive prohibiting the respondent from contacting the complainant during the pendency of the investigation. The District shall not issue an interim mutual no-contact directive automatically, but instead shall consider the specific circumstances of each case to determine whether a mutual no-contact directive is necessary or justifiable to protect the noncomplaining party's safety or well-being, or to respond to interference with an investigation. A no-contact directive issued after a decision of responsibility has been made shall be unilateral and only apply against the party found responsible.

16.4.4.4 Upon the issuance of a mutual no-contact directive, the District shall provide the parties with a written justification for the directive, an explanation of the terms of the directive, including the circumstances, if any, under which violation could be subject to disciplinary action.

16.4.5 If a formal investigation is initiated, the student parties shall receive notice of a formal investigation. The notice shall include the allegations and the alleged institutional policy violations under review. Any new allegations that arise during the investigation that could subject either party to new or additional sanctions shall be subject to the same notice requirements.

16.5 Confidentiality:

16.5.1 If a complainant requests confidentiality, which could preclude a meaningful investigation or potential discipline of the potential respondent, or requests that no investigation or disciplinary action be pursued to address alleged sexual harassment, the District shall take the request seriously, while at the same time considering its responsibility to provide a safe and nondiscriminatory environment

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for all students, including for the complainant. The District shall generally grant the request.

16.5.2 In determining whether to disclose a complainant's identity or proceed with an investigation over the objection of the complainant, the District may consider whether any of the following apply:

16.5.2.1 There are multiple or prior reports of sexual misconduct against the respondent.

16.5.2.2 The respondent reportedly used a weapon, physical restraints, or engaged in battery.

16.5.2.3 The respondent is a faculty or staff member with oversight of students.

16.5.2.4 There is a power imbalance between the complainant and respondent.

16.5.2.5 The complainant believes they will be less safe if their name is disclosed, or an investigation is conducted.

16.5.2.6 The District can effectively conduct a thorough investigation and obtain relevant evidence in the absence of the complainant's cooperation.

16.5.3 If the District determines it can honor the student's request for confidentiality, it shall:

16.5.3.1 Take reasonable steps to respond to the complaint, consistent with the request, to limit the effects of the alleged sexual harassment and prevent its recurrence without initiating formal action against the alleged perpetrator or revealing the identity of the complainant. These steps may include increased monitoring, supervision, or security at locations or activities where the alleged misconduct occurred; providing additional training and education materials for students and employees; or conducting climate surveys regarding sexual violence.

16.5.3.2 Take immediate steps to provide for the complainant's safety while keeping the complainant's identity confidential as appropriate. These steps may include changing course schedules, assignments, or tests.

16.5.3.3 The complainant shall be notified that the steps the District will take to respond to the complaint will be limited by the request for confidentiality.

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16.5.4 If the District determines that it must disclose the complainant's identity to the respondent or proceed with an investigation, it shall:

16.5.4.1 Inform the complainant prior to making this disclosure or initiating the investigation.

16.5.4.2 Take immediate steps to provide for the safety of the complainant where appropriate.

16.5.4.2 If the complainant requests that the District inform the respondent that the student asked the District not to investigate or seek discipline, the institution shall honor this request.

16.6 Investigation Requirements

16.6.1 The investigation under this procedure is not an adversarial process between the complainant, the respondent, and the witnesses, but rather a process for the District to comply with its obligations under existing law. The complainant does not have the burden to prove, nor does the respondent have the burden to disprove, the underlying allegation or allegations of misconduct.

16.6.2 Students shall receive notice of these procedures, including where and how complaints may be filed.

16.6.3 The persons or entities responsible for conducting investigations, finding facts, and making disciplinary decisions shall be neutral.

16.6.4 These procedures shall provide for trauma-informed and impartial investigation of complaints. Student parties shall be given an opportunity to identify witnesses and other evidence to assist the District in determining whether a policy violation has occurred, and shall be informed that any evidence available but not disclosed during the investigation might not be considered at a subsequent hearing.

16.6.5 Reasonable and equitable evidentiary guidelines may be implemented, including page or word limitations on party submissions.

16.6.6 The investigator shall not consider the past sexual history of a complainant or respondent, except in the limited circumstances permitted below.

16.6.6.1 The investigator shall not consider prior or subsequent sexual history between the complainant and anyone other than the respondent for any reason unless directly relevant to prove that physical injuries alleged to have been inflicted by the respondent were inflicted by another individual.

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16.6.6.2 The investigator shall not consider the existence of a dating relationship or prior or subsequent consensual sexual relations between the complainant and the respondent unless (a) the evidence is relevant to how the parties communicated consent in prior or subsequent consensual sexual relations; AND (b) the parties are provided with a written explanation as to why consideration of the evidence is consistent with this section.

16.6.6.3 Where the investigator considers of evidence about a dating relationship or prior or subsequent consensual sexual relations between the complainant and the respondent, the mere fact that the complainant and respondent engaged in other consensual sexual relations with one another is never sufficient, by itself, to establish that the conduct in question was consensual.

16.6.7 The investigator shall prohibit questions of either party or of any witness that are repetitive, irrelevant, or harassing.

16.6.8 In cases of alleged sexual violence, the District shall decide whether or not a hearing is necessary to determine whether any sexual violence more likely than not occurred. In making this decision, the District may consider whether the parties elected to participate in the investigation and whether each party had the opportunity to suggest questions to be asked of the other party or witnesses, or both, during the investigation. Any hearing shall be subject to the following rules:

16.6.8.1 The hearing officer shall adhere to Section 16.6.6 above.

16.6.8.2 Any cross-examination of either party or any witness shall not be conducted directly by a party or a party's advisor.

16.6.8.3 Either party or any witness may request to answer the questions by video from a remote location.

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

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

16.6.9 The parties shall receive a reasonably prompt timeframe for the investigation process, including the period during with the investigation shall occur, the date by which the parties will be notified of the outcome of the investigation, the deadlines and process for parties to appeal, where applicable. The parties further shall receive periodic status updates on the investigation consistent with the timelines identified.

16.6.10 Upon conclusion of the investigation, the parties shall receive written notice of the outcome of the complaint, including whether a policy violation was found to occur, the basis for that determination, including factual findings, and any discipline to be imposed.

16.6.11 The student parties may each have a support person or adviser accompany them during any stage of the process. Student parties may consult with an attorney, at their own expense, at any time during the process and/or have the attorney serve as a support person or adviser.

16.6.12 Student parties shall receive a notice regarding appropriate counseling resources developed and maintained by the District.

Authority: Title 5 Section 59300; Education Code Sections 212.5, 66281.5, and 66281.8.

~~17~~6.0 **Academic Freedom:** The District supports the principle of academic freedom, and the provisions of this policy are not intended to prohibit bona fide academic program and course requirements. However, the exercise of academic freedom with respect to course content and discourse does not extend to any form of unlawful discrimination in violation of this policy.

~~18~~7.0 **Consensual Relationships**

~~18~~7.1 Within the North Orange County Community College District, sexual harassment is prohibited regardless of the status and/or relationship the affected parties may have.

~~18~~7.1.1 Employees shall not enter into or maintain a romantic or sexual relationship with a student or employee over whom that employee exercises or influences academic, administrative, supervisory, evaluative, teaching, counseling, coaching, or extracurricular authority. Examples of extracurricular authority include, but are not limited to,

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overseeing student organizations or activities, being an advisor to a student club, and responsibility over a college event or competition.

~~187~~.1.2 There is an inherent imbalance of power and potential for exploitation in such relationships. A conflict of interest may arise if the administrator, faculty, or staff member must evaluate the student's or employee's work or make decisions affecting the employee or student. Decisions affecting the other person include, but are not limited to, grading, evaluating, counseling, advising, supervising, coaching, scheduling, or otherwise influencing that person's education, employment, or participation in any District activity. The relationship may create an appearance of impropriety and lead to charges of favoritism by other students or employees. A consensual sexual relationship may change with the result that sexual conduct that was once welcome becomes unwelcome and harassing.

~~187~~.1.3 Employees shall immediately notify their supervisor or Human Resources if a romantic or sexual relationship exists or could develop so that steps may be taken to eliminate or mitigate the employee's authority or influence of **over** the other individual within the District's education programs or activities. Such action by the District is a proactive and preventive measure to avoid possible charges of harassment and potential conflicts of interest, while supporting employees' freedom of association. Such action does not constitute discipline against any affected employee. As in any case of sexual harassment, if conduct is determined to be unwelcome, then the District may pursue discipline and/or other corrective actions. Additionally, the employee may face personal liability for the actions deemed to constitute sexual harassment.

~~198.0~~ **Record Retention:** ~~Unlawful discrimination records that are part of an employee's employment records may be classified as Class 1 Permanent records and retained indefinitely or microfilmed in accordance with Title 5, California Code of Regulations, Section 59022. Unlawful discrimination records of a student that are deemed worthy of preservation but not classified as Class 1 Permanent may be classified as Class 2 Optional records or as Class 3 Disposable records, to be retained for a period of three years.~~

19.1 **The District will retain all records arising from informal discrimination charges and formal discrimination complaints for a period of at least five years after closing a case.**

Authority: Title 5 Section 59340.

19.2 **Unlawful discrimination records that are part of an employee's employment records may be classified as Class-1 Permanent records and retained indefinitely or microfilmed in accordance with Title 5 Section 59022. Unlawful discrimination records of a student that are deemed worthy of preservation but not classified as Class-1 Permanent may be classified as Class-2 Optional records or as Class-3 Disposable records, to be retained for a period of three years.**

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Authority: ~~California Code of Regulations~~, Title 5 Section 59020.

See Board Policy 3410, Unlawful Discrimination; Board Policy 3430, Prohibition of Harassment; Board Policy 3540, Sexual Assaults and Other Sexual Misconduct; [Administrative Procedure 3434, Responding to Harassment Based on Sex Under Title IX – Interim Procedures](#); and Administrative Procedure 3540, Sexual Assaults and Other Sexual Misconduct.

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