

BP 5700 ATHLETICS

References:

Education Code Sections 78223, 66271.6, 66271.8, and 67360 et seq.

NOTE: The language in red, underlined ink is legally required.

❖ From the current CLPCCD Policy 5435 titled Intercollegiate Athletics

Intercollegiate athletics is part of the total community college educational program. The District shall maintain an organized program for men and women in intercollegiate athletics. The program shall not discriminate on the basis of gender in the availability of athletic opportunities.

The Chancellor shall assure that the athletics program complies with state law, the California Community College Athletic Association Constitution, and appropriate Conference Constitution regarding student athlete participation.

~~It is a responsibility of the Vice President of student services and Dean of athletics to develop and maintain a quality intercollegiate athletics program, which shall adhere to California Commission on Athletics and Conference standards.~~

~~The intercollegiate athletics program will be financed by both District funds and by Associated Student Body Trust Fund or Intercollegiate Athletic Operations Fund, as provided for in the two college's Administrative Rules and Procedures.~~

NOTE: Recommend the following language for deletion as BP/AP 4300 titled Field Trips and Excursions addresses this issue.

❖ From the current CLPCCD Policy 5415 titled Authorization for Boosters to Contract for Rooters Transportation

~~With the approval of the Chancellor or designee, the Boosters may contract for the use of buses to transport rooters, song leaders, cheerleaders and musical groups to athletic contests. A faculty advisor must ride in each bus. It is further understood that such trips will be undertaken at no expense to the District.~~

NOTE: The **red ink** signifies language that is **legally required** and recommended by the Policy and Procedure Service and its legal counsel. The language in **black ink** is from current Chabot-Las Positas CCD Policy 5415 titled Authorization for Boosters to Contract for Rooters Transportation adopted on March 19, 1996 and current Chabot-Las Positas CCD Policy 5435 titled Intercollegiate Athletics adopted on March 19, 1996. The language in **green ink** was added during the administrative review on June 4, 2013.

Date Adopted:

(This policy replaces current CLPCCD Policies 5415 and 5435)

Legal Citations for BP 5700

EDUCATION CODE SECTIONS 78223, 66271.6, 66271.8, 67360 et seq.

78223. The governing board of a community college district may enforce rules and regulations relating to eligibility for and participation in intercollegiate athletics. The rules and regulations may include, but are not limited to, those adopted by a voluntary association, one of whose purposes is to govern intercollegiate athletics among schools and colleges.

66271.6. The Legislature finds and declares all of the following:

(a) On June 23, 1972, Congress enacted Title IX of the **Education** Amendments of 1972 to the 1964 Civil Rights Act. This landmark legislation provides that: "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving Federal financial assistance."

(b) While Title IX applies to all aspects of educational opportunities, it is well-known for opening the door to athletics for girls and women.

(c) In 1975, the United States Department of Health, **Education** and Welfare enacted regulations requiring that secondary and postsecondary schools comply with Title IX immediately. Those that could show real barriers to immediate compliance had just three years to meet the regulations, including equalizing their athletic programs.

(d) California state law has included several athletic equity provisions similar to those in Title IX since 1976. For example, the Sex Equity in **Education** Act provides, in subdivision (a) of Section 221.7, that: "It is the intent of the Legislature that opportunities for participation in athletics be provided equally to male and female pupils." Similar provisions are expressly applicable to community colleges and the California State University.

(e) Enhancing athletic opportunities for young women and girls is vitally important because of the significant benefits athletic opportunities provide including greater academic success, better physical and psychological health, responsible social behaviors, and enhanced interpersonal skills. For some women and girls, the financial support made available through athletic scholarships can make it possible to attend college.

(f) Title IX has promoted significant advances for women and girls to participate in sports. While fewer than 32,000 women participated in college sports nationally prior to the enactment of Title IX, today approximately 163,000 women participate--a nearly five fold--or more than 400 percent increase. Athletic opportunities for girls at the high school level nationally have grown even more dramatically--from 294,000 in 1972 to 2,800,000 today--an 894 percent increase. California boasts the second highest number of high school girls participating in athletics nationwide--a total of 270,000 girls in California's high schools now participate in interscholastic athletics.

(g) Men's intercollegiate athletic participation has also increased, rising from approximately 220,000 in 1981-82 to approximately 232,000 in 1998-99. Between 1981-82 and 1998-99, football participation increased by 7,199; men's participation in baseball, lacrosse, and soccer also increased during the same time period. High school boys' participation rates have also increased--jumping 8.2 percent in the last three years in California.

(h) The dramatic increases in participation rates at both the high school and college levels since Title IX was passed show that when doors are opened to women and girls, they will rush through. Courts have repeatedly recognized that it is unfounded and unlawful to claim that women and girls are less interested in sports than men and boys. As one court stated, "interest and ability rarely develop in a vacuum; they evolve as a function of opportunity and experience . . ." (Cohen v. Brown University (1st Cir. 1996) 101 F.3d 155, 179). Accordingly, courts have repeatedly rejected arguments that the assessed interest level of girls in athletics should determine Title IX compliance (Neal v. California State University (9th Cir. 1999) 198 F.3d. 763, 767). Thus, interest surveys cannot accurately determine whether an educational institution has effectively accommodated the interests and abilities of female students.

(i) The United States Department of **Education** uses a three-part test adopted in 1979 to determine whether an educational institution has met the key Title IX requirement that a school "effectively accommodate the interests and abilities of members of both sexes" when it comes to athletic participation. All three prongs of the test have been used successfully by schools to comply with Title IX, and have given schools flexibility in structuring their athletic programs. The three-part test neither imposes quotas or requires preferential treatment, nor requires mirror-image men's and women's sports programs. The lawfulness of the three-part test has been affirmed by every federal appellate court to consider the issue.

(j) Despite major advances in athletic opportunities for females since 1972, discrimination still limits athletic opportunities for girls and women at all educational levels today. For example, although women in Division I colleges are 53 percent of the student body, they receive only 41 percent of the opportunities to play sports, 36 percent of the overall athletic operating budgets, and 32 percent of the dollars spent to recruit new athletes.

(k) In California, the percentage of female athletes at California State University (CSU) campuses actually declined from 36 percent in 1977 to 30 percent in 1990. In 1993, California National Organization for Women (Cal NOW) filed suit against the CSU system alleging violations of California's gender equity in athletics law. Ultimately, CSU and Cal NOW entered into a consent decree focusing on participation, expenditures, and grants-in-aid for women athletes. As a result of the consent decree, women now comprise over 52 percent of CSU athletes, expenditures on women's sports have increased 315 percent in the last 10 years and grants-in-aid for female athletes have increased 232 percent during the same time period.

(l) Despite major gains for women under California and federal law, inequities in the treatment of men's and women's and boys' and girls' athletic teams at some educational institutions remain. These inequities include, but are not limited to, all of the following:

- (1) Participation rates for women and girls.
- (2) Number of sports offered.
- (3) Number of levels of teams.
- (4) Encouragement by spirit and band groups.
- (5) Facilities.
- (6) Locker rooms.
- (7) Scheduling of games and practice times.
- (8) Level of financial support by the district, school, booster club or clubs, and outside sponsors.
- (9) Treatment of coaches.

- (10) Opportunities to receive coaching and academic tutors.
- (11) Travel and per diem allowance.
- (12) Medical and training facilities and services.
- (13) Housing and dining facilities and services.
- (14) Scholarship money.
- (15) Publicity.

(m) Educational institutions at all levels are strongly encouraged to take immediate active steps toward full compliance with Title IX and California's gender equity in athletics laws by reviewing all aspects of their athletic program, including those factors listed in subdivision (l) where appropriate, to ensure that they are offering male and female student athletes equivalent opportunities to play sports and that they are treating male and female athletes fairly. The need to encourage and increase athletic participation by girls and women is especially strong at educational institutions serving inner-city and urban communities. Full compliance with Title IX is nondiscretionary.

66271.8. (a) The Legislature finds and declares that female students should be accorded opportunities for participation in public postsecondary educational institution athletic programs equivalent to those accorded male students.

(b) In apportioning public funds, public postsecondary educational institutions shall apportion amounts available for athletics to ensure that equitable amounts will be allocated for all students, except that allowances may be made for differences in the costs of various athletic programs. Notwithstanding any other provision of law, no public funds shall be used in connection with any athletic program conducted under the auspices of a public postsecondary educational institution, or any student organization within the postsecondary educational institution, that does not provide equivalent opportunity to both sexes for participation and use of facilities. The factors considered when determining whether an educational institution has provided equivalent opportunity include, but are not limited to, all of the following:

(1) Whether the selection of sports and levels of competition offered effectively accommodate the athletic interests and abilities of members of both sexes.

- (2) The provision of equipment and supplies.
- (3) Scheduling of games and practice times.
- (4) Selection of the season for a sport.
- (5) Location of the games and practices.
- (6) Compensation for coaches.
- (7) Travel arrangements.
- (8) Per diem.
- (9) Locker rooms.
- (10) Practice and competitive facilities.
- (11) Medical services.
- (12) Housing facilities.
- (13) Dining facilities.
- (14) Scholarships.
- (15) Publicity.

(c) Whether a postsecondary educational institution has effectively accommodated the athletic interests and abilities of members of both sexes shall be assessed in any one of the following ways:

(1) Whether intercollegiate level participation opportunities for male and female students are provided in numbers substantially proportionate to their respective enrollments.

(2) Where the members of one sex have been and are underrepresented among intercollegiate athletes, whether the institution can show a history and continuing practice of program expansion that is demonstrably responsive to the developing interest and abilities of the members of that sex.

(3) Where the members of one sex are underrepresented among intercollegiate athletes, and the institution cannot show a history and continuing practice of program expansion as required in paragraph (2), whether the institution can demonstrate that the interests and abilities of the members of that sex have been fully and effectively accommodated by the present program.

(d) Nothing in this section shall be construed to invalidate any existing consent decree or any other settlement agreement entered into by an educational institution to address gender equity in athletic programs.

(e) Nothing in this section shall be construed to require a public postsecondary educational institution to require competition between male and female students in school-sponsored athletic programs.

(f) If an educational institution must cut its athletic budget, the educational institution shall do so consistently with its legal obligation to comply with both state and federal gender equity laws.

(g) It is the intent of the Legislature that the three-part test articulated in subdivision (c) be interpreted as it has been in the policies and regulations of the Office of Civil Rights in effect on January 1, 2003.

67360. (a) Except as provided in subdivision (b), no person shall give, offer, promise, or attempt to give any money or other thing of value to any particular student athlete or member of the immediate family of the student athlete for either of the following purposes:

(1) To induce, encourage, or reward the student athlete's application, enrollment, or attendance, at a public or private institution of postsecondary **education** in order to have the athlete participate in intercollegiate sporting events, contests, exhibitions, or programs at that institution.

(2) To induce, encourage, or reward the student athlete's participation in an intercollegiate sporting event, contest, exhibition, or program.

No person shall aid and abet any act described in this subdivision.

(b) This section does not apply to any public or private institution of postsecondary **education** or to any officer or employee of that institution when the institution, officer, or employee is acting in accordance with an official written policy of that institution which is in compliance with the bylaws of the National Collegiate Athletic Association; or to any intercollegiate athletic awards approved or administered by the student athlete's institution; or to any other student of that institution; or to any member of the immediate family of the student athlete.

(c) For purposes of this section, the following definitions apply:

(1) "Immediate family" means the student athlete's spouse, child, parent, stepparent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any of those persons, or guardian of any of those persons.

(2) "Student athlete" means a student at a public or private institution of postsecondary **education** who engages in, is eligible to engage, or may be eligible to engage, in, any intercollegiate

sporting event, contest, exhibition, or program, or an individual who has applied, is eligible to apply, or may be eligible to apply in the future to a public or private institution of postsecondary **education**.

(d) Except as provided in subdivision (b), any person who engages in conduct knowing or having reason to know that such conduct is in violation of subdivision (a) shall be subject to a civil penalty not to exceed ten thousand dollars (\$10,000), or three times the amount given, offered, or promised to the student athlete or immediate family member of the athlete, whichever is greater. The district attorney of any county in which a violation occurs shall enforce this chapter.

67361. (a) Except as provided in subdivision (b), no student athlete or member of his or her immediate family, as defined by subdivision (c) of Section **67360**, shall solicit or accept any money or other thing of value as an inducement, encouragement, or reward, the giving of which is in violation of subdivision (a) of Section **67360**.

No person shall aid and abet any act described in this subdivision.

(b) This section does not apply to any student athlete who receives any money or other thing of value from a public or private institution or officers or employees of that institution, offered in accordance with an official written policy of that institution, which is in compliance with the bylaws of the National Collegiate Athletic Association; or from any other student of that institution; or from any member of the immediate family of the student athlete; nor shall this section apply to any student athlete who receives any intercollegiate athletic award approved or administered by that institution.

(c) Except as provided in subdivision (b), any person who engages in conduct knowing or having reason to know that such conduct is in violation of subdivision (a) shall be subject to a civil penalty not to exceed one thousand dollars (\$1,000) or an amount equal to the amount accepted by the student athlete or immediate family member, whichever is greater. The district attorney of any county in which a violation occurs shall enforce this chapter.

67362. (a) Notwithstanding Section 78223 or any other provision of law, no student athlete enrolled at any campus of the University of California, the California State University, or the California Community Colleges may participate as a member of any intercollegiate athletic team, or as a participant in any intercollegiate athletic event, except in a manner available to the general public, if he or she, at any time after his or her enrollment as a college or university student, is prosecuted as an adult and is convicted of a violation of Section 187, 209, 210, 211, 220, 243.8, 245, 261, 262, 264.1, 286, 288, 288a, 288.5, 289, or 459 of, or is convicted of attempted murder pursuant to subdivision (a) of Section 664 of, the Penal **Code**.

(b) An institution to which this section applies may rely upon the declaration of a student athlete to determine his or her eligibility for participation in intercollegiate athletics with respect to the requirements of this section. Any declaration obtained from a student athlete pursuant to this subdivision shall contain a notice advising the student that he or she may be subject to disciplinary action, including, but not limited to, suspension, dismissal, or expulsion, if the student knowingly provides false information in the declaration. An institution to which this section applies may, at the discretion of its appropriate administrators, seek independent

confirmation of the truth of any and all of the statements of a student athlete taken pursuant to this subdivision.

(c) A student convicted of a violation of any of the Penal **Code** sections listed in subdivision (a) is eligible to participate as a member of an intercollegiate athletic team after he or she successfully completes the entire term of his or her probation or successfully completes his or her assigned prison term and parole period, if any.

(d) A student who knowingly provides a false declaration pursuant to subdivision (b) may be subject to disciplinary action under Section 66017 of the **Education Code**.