

BP 7140 COLLECTIVE BARGAINING

References:

Government Code Sections 3540 et seq.

If eligible employees of the District select an employee organization as their exclusive representative, and if after recognition by the District or after a properly conducted election, an exclusive representative is certified as the representative of an appropriate unit of employees under the provisions of the Educational Employment Relations Act, Government Code Sections 3540 et seq., the District will meet and negotiate in good faith on matters within the scope of bargaining as defined by law.

❖ **From the current CLPCCD Policy 4000 titled General Personnel Policies**

~~The General Personnel Policies in Series 4000 pertain to all personnel except where otherwise contained in the Classified and Faculty employee/employer agreements.~~

❖ **From the current CLPCCD Policy 4600 titled Effect of Collective Bargaining Agreement**

~~Policies 4600 and 4610~~ Each provision of this policy shall be applicable to bargaining unit members if ~~these policies~~ it does not conflict with any collective bargaining agreement in effect.

General Policy

The Board of Trustees of the Chabot-Las Positas Community College District recognizes the right of its employees to join organizations of their own choice and to be represented by such organizations in their professional and employment relations in accordance with the provisions of Government Code Sections 3540-3549. These sections of the Government Code allow employees to select an exclusive representative for the purpose of meeting and negotiating with respect to wages, hours of employment, and specified terms and conditions of employment.

Whether or not groups of Chabot-Las Positas Community College District employees choose to exercise their prerogatives in accordance with Government Code Sections

3540-3549, the Board intends to continue to maintain the cooperative relationship that it has had with its employees. The Board remains committed to reasonable and safe conditions of employment and to fair and competitive wages and salaries that are within the financial resources of the District.

The Board's highest priority is to maintain quality educational programs and services that are responsive to the needs of the community and students, and all District employees are encouraged to share this priority. It is important that processes designed to obtain the advice and participation of the faculty and staff in educational matters are not associated with employee organizations which have as a primary purpose meeting and negotiating over wages, hours of employment, and terms and conditions of employment.

These advisory processes shall be developed and maintained apart ~~form~~ from the issues that are primarily matters of meeting and negotiating. When employee organizations exercise their right to consult on educational matters, institutional processes shall not be by-passed through such consultation.

Regulations

~~It is also necessary that the Board adopt policies for the purpose of allowing an orderly implementation of Government Code Sections 3540-3549. Thus, the following policies are hereby adopted:~~

~~1. Designated Management and Confidential Employees~~

- ~~a. Government Code Section 3540.1(g) directs the Board to designate "management employees." The definition of this group of employees is . . . any employee in a position having significant responsibilities for formulating District policies or administering district programs." The following positions fall within that definition:~~

~~Administrative Intern _____ Director of Research and Planning~~

~~Assistant Controller _____ Director, Safety and Security~~

~~Assistant Dean _____ District Budget Officer~~

~~Assistant Manager, _____ District Dean, Economic
Bookstore _____ Development & Continuing
Education~~

~~Assistant Manager, MIS _____ District Director of Public Information
and Marketing~~

~~Chancellor _____ Executive Director of the Foundation~~

~~Chief Technology Officer~~ ————— ~~Manager, Bookstore~~
~~Contract Education~~ ————— ~~Manager, Employee Benefit~~
~~Program/ Account Manager~~ ————— ~~Programs~~
~~Controller~~ ————— ~~Manager, Purchasing and~~
~~Warehouse Services~~
~~Dean~~ ————— ~~President~~
~~Director, Admissions &~~ ————— ~~Vice Chancellor of Business~~
~~Records~~ ————— ~~Services~~
~~Director, Financial Aid~~ ————— ~~Vice Chancellor of Educational~~
~~Services & Planning~~
~~Director, Human Resources~~ ————— ~~Vice President, Academic Services~~
~~District Director, Facilities~~ ————— ~~Vice President, Business Services~~
~~Planning & Management~~
~~Director, Maintenance &~~ ————— ~~Vice President, Student Services~~
~~Operations~~
~~Director, Media Services~~

- b. Pursuant to the definitions stated in Government Code Section 3540.1(c), the Board of Trustees designates the following positions by title category as confidential positions:

~~Business Operations Coordinator~~
~~Executive Assistant/Coordinator~~
~~Executive Assistant to College President~~
~~Executive Assistant, Planning~~
~~Executive Assistant to Vice President~~
~~Human Resources Specialist~~
~~Human Resources Technician I~~
~~Human Resources Technician II~~
~~Office Assistant I~~
~~Office Assistant II~~
~~Public Information Assistant~~

This designation does not negate the responsibility of any employee who is privy to confidential information to adhere to the ethical responsibility to maintain confidentiality.

- e. Pursuant to the definition stated in Government Code Section 3540.1(m), the Board of Trustees designates the following positions by title category as supervisory positions:

~~Accounting Supervisor
Children's Center Manager
Children's Center Assistant Manager
College Business Office Supervisor
Computer Operations Supervisor
Custodial Manager
Custodial Supervisor
Financial Aid Officer
Grounds Manager
Grounds Supervisor
Instructional Technology/Open Learning Coordinator
Maintenance Manager
Maintenance Supervisor
Payroll Supervisor
Security Supervisor
Senior Instructional Network Systems Specialist
Teacher Preparation & AmeriCorps Program Manager
Theatre Manager~~

2. Rights of Access

Government Code Section 3543.1(b) states: "Employee organizations shall have the right to access at reasonable times to areas in which employees work, the right to use institutional bulletin boards, mailboxes, and other means of communication, subject to reasonable regulation, and the right to use institutional facilities at reasonable times for the purpose of meetings concerned with the exercise of the rights guaranteed by this chapter."

The following regulations shall apply to those employee organizations which fall within the definition of Government Code Section 3540.1(d):

- a. A reasonable number of employee organization representatives shall have the right of access to areas in which employees work so long as the employee organization representatives do not interfere with the work performance of any employee. The representatives shall obtain permission from the manager/supervisor prior to gaining access to the work area and shall identify themselves. Managers and supervisors shall not schedule work time for access to employees but shall make it possible for employee representatives to talk to employees during work breaks, meal breaks, or before and after work hours. In the case of faculty, when faculty members are available outside of their assigned duties, including classes, office hours and division meetings, representatives of employee

organizations may approach faculty members so long as the faculty members agree to the contact.

- b. Employee organizations may use bulletin board space designated by the Chancellor for their use in appropriate places located in District campus and off-campus facilities. All items to be posted shall bear the date of posting and the name of the employee organization sponsoring the bulletin and shall be removed by the employee organization within a reasonable amount of time. It shall be the duty of the employee organization to maintain all assigned spaces in a neat and current fashion. The bulletin will also specify whether it is officially authorized by the organization. One copy will be filed with the Chancellor.
- c. Communications submitted to be placed in staff mailboxes shall bear the date of the communication and the name of the employee organization responsible for the writing and distribution of the communication. The communication shall also specify whether it is officially authorized by the organization. One copy of all such materials will be filed with the Chancellor.
- d. Employee organizations shall pay for their own supplies. District equipment shall not be used for producing materials.
- e. Employee organizations shall be permitted the use of conference rooms and similar facilities available to the public and are subject to the same regulations governing other users as specified in the District policy and regulations on use of facilities.
- f. Employee organizations shall be provided materials that are available to the public. When materials are requested that are not readily available in the form requested, the requesting organization shall pay for the staff time and supplies necessary to produce the materials providing such materials can be produced subject to the time limitations of staff and work priorities.
- g. Employee organizations shall not be granted the use of the District postage machines.
- h. District telephones shall not be used for employee organization purposes except as provided in a collective bargaining agreement.
- i. Employees shall not be given time off from work for meetings of employee organizations except as provided in a collective bargaining agreement.

3. ~~Released~~ Reassigned Time

Government Code Section 3543.1(c) states: "A reasonable number of representatives of an exclusive representative shall have the right to receive

reasonable periods of ~~released~~ reassigned time without loss of compensation when meeting and negotiating and for the processing of grievances."

In order to implement this section, the Board adopts the following regulations:

- a. Meetings for the purpose of negotiating with academic staff shall be scheduled at times that do not conflict with classes being taught by the employee representatives. Non-instructional academic employees shall attempt to schedule their primary duties so that ~~released~~ reassigned time from primary duties will not be required. For example, a counselor shall not use counseling time for the purpose of meeting and negotiating but is to arrange counseling appointments through their manager so as to not conflict with meeting and negotiating.

Released Reassigned time for academic employees shall be given from other than their primary duties. Academic representatives shall not be released from classes, division meetings, or office hours but may be released from such other duties as committee assignments, curriculum development, student advising, sponsorship of extracurricular activities, research, or student follow-up, except as provided by negotiated agreements.

- b. Meetings for the purpose of negotiating with classified staff shall be scheduled at times that are least disruptive of work schedules. Generally, the meetings could not be scheduled to start prior to 3:00 p.m. during work days. Employee representatives shall be given ~~released~~ reassigned time to participate in such scheduled meetings.

When meetings last beyond scheduled work times, employee representatives shall not be given compensatory time for the amount of time spent meeting and negotiating on their own time and shall not be paid overtime. The Board recognizes that ~~released~~ reassigned time cannot be open-~~ended~~ added; therefore, unit representatives and board representatives will negotiate reasonable amounts of ~~released~~ reassigned time for classified employees engaged in negotiating sessions.

4. Public Notice

The official bulletin board of the District is that located at the District Office Headquarters ~~in the Chancellor's Office, 7011 Koll Center Parkway, Suite 200, Pleasanton, California.~~

Notices required to be officially posted are also posted on the bulletin board of the administration buildings at both colleges.

5. Other

- a. For the purpose of meeting and negotiating with employee organizations, the Board will designate its representatives from time to time.

- b. The Board authorizes the employment of legal counsel and negotiation consultants as required in the course of meeting and negotiating and such other times as needed.
- c. Any proposals for altering these policies should be directed to the Board through the Chancellor.

❖ **From the current CLPCCD Policy 4610 titled Work Stoppage**

Work Stoppage

The Board of Trustees seeks at all times to maintain constructive and productive relationships with the employees of the District in the interest of providing educational opportunities of excellence to students. To this end, the Board seeks to take reasonable actions and to maintain open communications with respect to its employees. The following provisions of this policy shall be operative in the event that any of the employees, classified or certificated, of the District take action producing a work stoppage of any kind such as, but not limited to, a strike, walk out, "sick-in", or partial withholding of services.

1. The college(s) will remain open if at all possible for those students and employees who wish to learn and work. The Chancellor is authorized to take such action as may be deemed appropriate, including the employment of substitute employees to achieve this goal.
2. A committee of the Board, consisting of the President of the Board and two other Board members appointed by the President of the Board, shall be created to work with the Chancellor during the work stoppage.
3. All public comments and communications shall be issued jointly by the President of the Board and the Chancellor.
4. The Chancellor is authorized to develop and execute procedures to carry out the intent of this policy, including but not limited to:
 - a. the assignment of duties and hours to all employees as may be required by any situation;
 - b. the employment of any and all personnel and services as may be required;
 - c. the making of whatever arrangements that are necessary and appropriate for the security of persons, property, and equipment, including the closing of any or all facilities if, in his/her judgment, the safety of persons or property is endangered.

5. During the course of any and all work stoppages, the following will be effective:
 - a. provisions for personal leave of absence for all employees will be suspended;
 - b. employees may not take vacation during a work stoppage without prior written approval of the Chancellor;
 - c. for payroll purposes, employees other than those designated as management may be required to sign in and out on a daily basis in a manner prescribed by the Chancellor;
 - d. all employees claiming absence due to illness or personal necessity will be required to submit satisfactory evidence in writing that the employees were disabled from performing their duties;
 - e. any other absence shall be unauthorized unless approved by the Chancellor or verified as not related to the work stoppage by a suitable document;
 - f. an employee absent without approved leave shall not receive compensation for such period of absence and the District's contributions to fringe benefits shall be pro-rated for such absence.
6. Employees engaged in a work stoppage shall be denied access to all facilities of the District.
7. Dues deductions for employees engaged in a work stoppage will be discontinued immediately and will be reinstated only upon individual application.
8. In the event of a threatened or actual work stoppage, the Chancellor shall direct a letter to employees advising them that the work stoppage is illegal and may constitute grounds for dismissal or other disciplinary action for anyone engaging in such conduct. Employees shall also be advised of the provisions of paragraph 5f of this policy.
9. The Board of Trustees reserves the right to suspend all normal and regular procedures for the adoption of policies, including but not limited to, revisions, deletions, and additions to this policy.

[Also see BP/AP 2610 titled Presentation of Initial Collective Bargaining Proposals](#)

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 CLPCCD Policy 4000 titled General Personnel Policies adopted on March 19, 1996; current CLPCCD Policy 4600 titled Effect of Collective Bargaining Agreement adopted on March 19, 1996 and revised on October 17, 2000 and May

21, 2002; and current CLPCCD Policy 4610 titled Work Stoppage adopted on March 19, 1996. The language in **blue ink** is included for consideration. The language in **green ink** was added on July 30, 2013 during the review with Wyman, David, Diana, Kit and on March 28, 2014 with Wyman, David, and Kit. The language in **brown ink** was added with Wyman, David, and Kit on June 30, 2014. The changes in **purple ink** were made by David on May 18, 2015.

Date Adopted:

(This policy replaces current CLPCCD Policies 4000, 4600, and 4610)

Legal Citations for BP 7140

GOVERNMENT CODE SECTIONS 3540-3540.2

3540. It is the purpose of this chapter to promote the improvement of personnel management and employer-employee relations within the public school systems in the State of California by providing a uniform basis for recognizing the right of public school employees to join organizations of their own choice, to be represented by the organizations in their professional and employment relationships with public school employers, to select one employee organization as the exclusive representative of the employees in an appropriate unit, and to afford certificated employees a voice in the formulation of educational policy. This chapter shall not supersede other provisions of the Education **Code** and the rules and regulations of public school employers which establish and regulate tenure or a merit or civil service system or which provide for other methods of administering employer-employee relations, so long as the rules and regulations or other methods of the public school employer do not conflict with lawful collective agreements.

It is the further intention of the Legislature that this chapter shall not restrict, limit, or prohibit the full exercise of the functions of any academic senate or faculty council established by a school district in a community college to represent the faculty in making recommendations to the administration and governing board of the school district with respect to district policies on academic and professional matters, so long as the exercise of the functions does not conflict with lawful collective agreements.

It is the further intention of the Legislature that any legislation enacted by the Legislature governing employer-employee relations of other public employees shall be incorporated into this chapter to the extent possible. The Legislature also finds and declares that it is an advantageous and desirable state policy to expand the jurisdiction of the board created pursuant to this chapter to cover other public employers and their employees, in the event that this legislation is enacted, and if this policy is carried out, the name of the Educational Employment Relations Board shall be changed to the "Public Employment Relations Board."

3540.1. As used in this chapter:

(a) "Board" means the Public Employment Relations Board created pursuant to Section 3541.

(b) "Certified organization" or "certified employee organization" means an organization which has been certified by the board as the exclusive representative of the public school employees in an appropriate unit after a proceeding under Article 5 (commencing with Section 3544).

(c) "Confidential employee" means any employee who is required to develop or present management positions with respect to employer-employee relations or whose duties normally require access to confidential information that is used to contribute significantly to the development of management positions.

(d) "Employee organization" means any organization which includes employees of a public school employer and which has as one of its primary purposes representing those employees in their relations with

that public school employer. "Employee organization" shall also include any person of the organization authorized to act on its behalf.

(e) "Exclusive representative" means the employee organization recognized or certified as the exclusive negotiating representative of certificated or classified employees in an appropriate unit of a public school employer.

(f) "Impasse" means that the parties to a dispute over matters within the scope of representation have reached a point in meeting and negotiating at which their differences in positions are so substantial or prolonged that future meetings would be futile.

(g) "Management employee" means any employee in a position having significant responsibilities for formulating district policies or administering district programs. Management positions shall be designated by the public school employer subject to review by the Public Employment Relations Board.

(h) "Meeting and negotiating" means meeting, conferring, negotiating, and discussing by the exclusive representative and the public school employer in a good faith effort to reach agreement on matters within the scope of representation and the execution, if requested by either party, of a written document incorporating any agreements reached, which document shall, when accepted by the exclusive representative and the public school employer, become binding upon both parties and, notwithstanding Section 3543.7, is not subject to subdivision 2 of Section 1667 of the Civil Code. The agreement may be for a period of not to exceed three years.

(i) "Organizational security" is within the scope of representation, and means either of the following:

(1) An arrangement pursuant to which a public school employee may decide whether or not to join an employee organization, but which requires him or her, as a condition of continued employment, if he or she does join, to maintain his or her membership in good standing for the duration of the written agreement. However, an arrangement may not deprive the employee of the right to terminate his or her obligation to the employee organization within a period of 30 days following the expiration of a written agreement.

(2) An arrangement that requires an employee, as a condition of continued employment, either to join the recognized or certified employee organization, or to pay the organization a service fee in an amount not to exceed the standard initiation fee, periodic dues, and general assessments of the organization for the duration of the agreement, or a period of three years from the effective date of the agreement, whichever comes first.

(j) "Public school employee" or "employee" means any person employed by any public school employer except persons elected by popular vote, persons appointed by the Governor of this state, management employees, and confidential employees.

(k) "Public school employer" or "employer" means the governing board of a school district, a school district, a county board of education, a county superintendent of schools, or a charter school that has declared itself a public school employer pursuant to subdivision (b) of Section 47611.5 of the Education Code.

(l) "Recognized organization" or "recognized employee organization" means an employee organization which has been recognized by an employer as the exclusive representative pursuant to Article 5 (commencing with Section 3544).

(m) "Supervisory employee" means any employee, regardless of job

description, having authority in the interest of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or the responsibility to assign work to and direct them, or to adjust their grievances, or effectively recommend that action, if, in connection with the foregoing functions, the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

3540.2. (a) A school district that has a qualified or negative certification pursuant to Section 42131 of the Education **Code** shall allow the county office of education in which the school district is located at least 10 working days to review and comment on any proposed agreement made between the exclusive representative and the public school employer, or designated representatives of the employer, pursuant to this chapter. The school district shall provide the county superintendent of schools with all information relevant to yield an understanding of the financial impact of that agreement.

(b) The Superintendent shall develop a format for use by the appropriate parties in generating the financial information required pursuant to subdivision (a).

(c) The county superintendent of schools shall notify the school district, the county board of education, the district superintendent, the governing board of the school district, and each parent and teacher organization of the district within those 10 days if, in his or her opinion, the agreement reviewed pursuant to subdivision (a) would endanger the fiscal well-being of the school district.

(d) A school district shall provide the county superintendent of schools, upon request, with all information relevant to provide an understanding of the financial impact of any final collective bargaining agreement reached pursuant to Section 3543.2.

(e) A county office of education, or a school district for which the county board of education serves as the governing board, that has a qualified or negative certification pursuant to Section 1240 of the Education **Code** shall allow the Superintendent at least 10 working days to review and comment on any proposed agreement or contract made between the exclusive representative and the public school employer, or designated representatives of the employer, pursuant to this chapter. The county superintendent of schools shall provide the Superintendent with all information relevant to yield an understanding of the financial impact of that agreement or contract. The Superintendent shall notify the county superintendent of schools, and the county board of education within those 10 days if, in his or her opinion, the proposed agreement or contract would endanger the fiscal well-being of the county office.