

**Business and Fiscal Affairs  
DRAFT as of 1/28/15**

**AP 6700 CIVIC CENTER AND OTHER FACILITIES USE**

**References:**

Education Code Sections 82537 and 82542;

Public Resources Code Section 42648.3

Clark v. Community For Creative Non-Violence (1984) 468 U.S. 288, 104 S.Ct. 3065, 82 L.Ed.2d 221

***NOTE: Except as noted, this procedure is legally required. Local practice may be inserted, but the procedure must include the elements below.***

**General Provisions**

District facilities identified as Civic Centers or as designated public forums are available for community use when such use does not conflict with District programs and operations. Facility use shall be limited to places and time identified by the College Vice President of Administrative Services, but shall be sufficiently frequent, and available on specific dates and times, so as to allow meaningful use by outside groups. Except as provided in these procedures, or as authorized by law, no organizations shall be denied the use of District facilities because of the content of the speech to be undertaken during the use.

The College Vice President of Administrative Services is responsible for the coordination and implementation of these procedures. The College Vice President of Administrative Services shall determine all applicable fees to be charged.

Outside the designated public forum areas, the following shall apply:

- All user groups shall be required to provide the District with a hold harmless and indemnification agreement acknowledging that they will be financially responsible for any losses, damages, or injuries incurred by any person as a result of their use of the facilities.
- All user groups shall also be required to provide a certificate of insurance with limits acceptable to the District and/or other proof of financial responsibility acceptable to the District.

**Civic Centers**

Eligible persons or groups may use District buildings or grounds designated as the Civic Center for public, literary, scientific, recreational, or educational meetings, or for discussion of matters of general or public interest, subject to this procedure.

The groups identified in Education Code Section 82542(a) will be permitted, “when an alternative location is not available,” as described in the statute, to use District facilities upon payment only of the following:

- the cost of opening and closing the facilities, if no District employees would otherwise be available to perform that function as a part of their normal duties;
- the cost of a District employee’s presence during the organization’s use of the facilities if it is determined by the District that the supervision is needed, and if that employee would not otherwise be present as part of his/her normal duties;
- the cost of custodial services, if the services are necessary and would not have otherwise been performed as part of the custodian’s normal duties; and
- the cost of utilities directly attributable to the organization’s use of the facilities.

Except as provided herein, other groups shall be charged an amount not to exceed the direct costs of District facilities. Direct costs shall include costs of supplies, utilities, custodial services, services of any other District employees, and salaries paid District employees necessitated by the organization’s use of District facilities.

The following shall be charged fair rental value for the use of District facilities:

- Any church or religious organization for the conduct of religious services which may be conducted for temporary periods where the church or organization has no suitable meeting place for the conduct of such services.
- Entertainments or meetings where admission fees are charged or contributions are solicited and the net receipts of the admission fees or contributions are not expended for the welfare of the students of the District or for charitable purposes.

The American Red Cross or other public agencies may use District facilities, grounds, and equipment for mass care and welfare shelters during disasters or other emergencies affecting the public health and welfare, and the District will cooperate with these agencies in furnishing and maintaining services deemed by the Board of Trustees to be necessary to meet the needs of the community.

**NOTE: The following section is legally advised.**

### **Rules for Facilities Use**

Requests for use of the District’s Civic Center must be made at least 10 days in advance of the first date of use being requested. Requests shall be made to the College Vice President of Administrative Services on forms provided by the college. Authorization to use the Civic Center shall be based on a reservation system and the priorities for student and other use detailed at the end of this section.

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**NOTE:** *This request requirement does not apply to groups intending to use available designated public forums for expressive activities. Rules applicable to those areas are described in AP 3900 titled Speech: Time, Place, and Manner.*

Permission to use District facilities shall not be granted for a period to exceed one fiscal year. No person or organization may be granted a monopoly on any facility.

Overnight camping on District facilities, including in the designated public forum areas, is prohibited. No person or organization may use any District facility for living accommodation purposes such as sleeping activities, or making preparations to sleep (including the laying down of bedding for the purpose of sleeping), or storing personal belongings, or making any fire, or using any tents or other structure for sleeping, or doing any digging or earth breaking, or carrying on cooking activities.

All charges for the use of District facilities are payable in advance. Please refer to the college websites for specific information.

Any persons applying for use of District property on behalf of any groups shall be a member of the groups and, unless he/she is an officer of the group, must present written authorization to represent the group. Each person signing an application shall, as a condition of use, agree to be held financially responsible in the case of loss or damage to District property.

The District may require security or other personnel as a condition of use whenever it is deemed to be in the District's best interests.

No person applying for use of District property shall be issued a key to District facilities.

Future facility requests may be denied on grounds including, but not limited to, abuse or misuse of District property, failure to pay promptly for any damage to District property or failure to pay promptly for facilities use.

No alcoholic beverages, intoxicants, controlled substances, or tobacco *in any form* shall be brought onto the property of the District. Persons under the influence of alcohol, intoxicants, or controlled substances shall be denied participation in any activity.

No structures, electrical modifications, facility modifications, or mechanical apparatus may be erected or installed on District property without specific written approval by the Director of Maintenance & Operations.

All decorative materials, including but not limited to draperies, hangings, curtains, and drops shall be made or treated with flame-retardant processes approved by the State Fire Marshall.

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**NOTE:** The following section is **legally advised**. Public Resources Code Section 42648.3 applies only “upon request by the local agency,” but does not specifically require the local agency to so request.

### **Recycling: Large Venues and Events**

“Large venue” means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the District per day of operation of the venue facility.

“Large event” means an event that charges an admission price or is operated by a local agency and serves an average of more than 2,000 individuals per day of operation of the event.

A District with a large venue or large event shall, on or before July 1, 2005, and on or before July 1, biennially thereafter, meet with recyclers and with the solid waste enterprise that provides solid waste handling services to the large venue or large event to determine the solid waste reduction, reuse, and recycling programs that are appropriate for the large venue or large event. In determining feasible solid waste reduction, reuse, and recycling programs, the operator may do any of the following:

- Develop solid waste reduction, reuse, and recycling rates and a solid waste reduction, reuse, and recycling plan that would achieve those solid waste reduction, reuse, and recycling rates.
- Determine a timeline for implementation of the solid waste reduction, reuse, and recycling plan and solid waste reduction, reuse, and recycling rates.

**NOTE:** Additional priorities, reflected in local practice, can be inserted here as **good practice** but the District should consult with local counsel to confirm the priorities are consistent with the Civic Center Act and applicable law.

### **Priority for the Use of District Facilities**

Priority for the use of District Civic Center facilities will be as follows:

1. Student clubs and organizations
2. Fundraising entertainment or meetings where admission fees charged or contributions solicited are expended for the welfare of the students of the District
3. Parent-teachers' associations
4. School-community advisory councils

**NOTE:** No further District procedural language is necessary because LPC has a college facilities use process and procedures on its website that is used to administer the facilities use function. A fee schedule for direct costs has not yet been developed for non-charging entities and market cost for charging entities. For this reason, it is best to delete the language below in current CLPCCD Administrative Rules and Procedures 1112 to avoid conflicts and confusion with already established college processes. Some of the text below could be used for

***Chabot College's processes and procedures, but some of the language conflicts with the language in the District administrative procedure above.***

- ❖ **From current CLPCCD Administrative Rules and Procedures 1112 titled Use of District Facilities**

## **1. Use of Chabot College Facilities**

### **Priorities for Use of Facilities**

The following guidelines and procedures will be issued to assist the public with access to the District's facilities and to ensure that both the needs of the community and College may be reasonably met whenever economic and space availability permit.

To provide for maximum use of College facilities by the community and to minimize the potential for conflict, the following priorities are established:

- a. First priority is reserved for the College's educational program and for College-sponsored events.
- b. Second priority will be given to local public agencies and schools and colleges when the purpose of the use is educational.
- c. Third priority will be given to youth groups, civic and service groups, and other groups organized for cultural, educational or recreational activities.
- d. The priorities for the use of the auditorium shall be those prescribed in the Agreement with the Hayward Area Recreation and Park District.
- e. Organizations within the District will have priority over those from outside the District.
- f. Priorities shall be maintained in such a way that no group will monopolize a facility.
- g. Groups which are not generally recognized as "non-profit" or "not for profit" will receive the lowest priority when requesting use of the facilities.
- h. While space availability will be confirmed upon receipt of application, the application may be approved when appropriate signatures and deposits are received within the time frame identified. Once an application has been approved, the use shall not be preempted by another applicant with a higher priority.

### **Applications for Use of College Facilities**

- a. Applications for use of College facilities may be obtained from the Chabot College Office of Facility Reservations.
- b. The Office of Facilities Reservations will approve the dates and times the facilities are to be used upon compliance with application requirements. Events will subsequently be posted on the master calendar and the permit issued.
- c. Applications for use of College facilities should be filed at least two weeks in advance of the time the use of the premises is desired. Permits shall not be issued for a period exceeding two years.

- d. ~~The College may limit or deny applications that require scheduling a series of dates for facility use.~~
- e. ~~When a rental or service fee is to be charged, the date of payment established on the permit shall be honored by the applicant. Except in cases of extenuating circumstances, the fee must be paid in advance.~~
- f. ~~The application and the Technical Check Lists must include a description of all requested facilities and equipment. The Office of Facility Reservations will make arrangements for personnel to operate equipment requiring skilled operators. Changes in the application for facilities equipment and services will not be accepted less than 48 hours in advance of use.~~
- g. ~~Permits to use District facilities are for the dates and times specified. The District assumes no obligation in the event that a change of either dates or times is requested.~~

### **Special Requirements and Conditions**

- a. ~~In accordance with the agreement between the Chabot-Las Positas Community College District and the Hayward Area Recreation and Park District, the following requirements and conditions apply:
  - 1) ~~The auditorium shall be available for use for recreational purposes when such use is not inconsistent with the use of the buildings or grounds for school purposes, and will not interfere with its use for school purposes.~~
  - 2) ~~In granting the use of said auditorium, requests for its use by the Recreation District shall be given first preference over similar requests by other parties or groups.~~
  - 3) ~~The Chabot-Las Positas Community College District will make the auditorium available for use by the Recreation District and by civic or other public groups for public recreational and for civic center purposes as much as possible but no less than twenty percent (20%) of the total auditorium schedule.~~~~
- b. ~~Applications shall be accepted only from established and responsible organizations. Groups not qualifying as community organizations but making an application for non-commercial purposes may also qualify for use of facilities.~~
- c. ~~The laws of the State contain certain restrictions against the use of school property for sectarian purposes. Also, State law specifies that no entertainment shall be permitted which reflects in any way upon persons because of race, color, national origin, religion, sex, age or handicap.~~
- d. ~~Whenever a College facility is being used, a District employee shall be on duty and shall be fully in charge of the facility being used.~~
- e. ~~The possession or use of alcoholic beverages or illegal drugs is not permitted on College property except for restricted use of alcoholic beverage, per Board Policy~~

~~1113. Any person under the influence of intoxicating liquor or illegal drugs shall be denied opportunity to participate in any way.~~

- ~~f. Groups or organizations using College facilities shall conform to all city and county ordinances and fire regulations.~~
  - ~~g. Decorations must be flame-proof and shall be erected and taken down in a manner not destructive to property. The use of any material or device which constitutes a hazard is expressly prohibited.~~
  - ~~h. Announcements which community organizations may wish to display on campus must be approved and posted as directed by the Office of Facility Reservations.~~
  - ~~i. Restrictions regarding smoking, eating, drinking and use of photographic or sound reproduction equipment in particular rooms and buildings must be observed.~~
  - ~~j. Groups with minors in attendance shall provide their own chaperones. The number required may be determined by the District.~~
  - ~~k. The District may require, as a condition for approval of an application, that the applicant provide for the cost of security officers as is determined necessary by the District.~~
  - ~~l. The lessee is liable for the care and protection of College property and facilities and will be charged for any damages sustained to the premises, furniture or equipment because of the occupancy of the College premises by the lessee.~~
  - ~~m. The lessee shall be held responsible for any and all loss, accident, negligence, injury or damage to person, life or property which may be the result of, or may be caused by, the lessee's occupancy of the facilities or premises. The lessee shall protect and indemnify the District, the Board, and/or any officer, agent, or employee of the District and save them harmless in every way from all suits or actions at law that may arise or be occasioned in any way because of the occupancy of the facilities or premises, regardless of responsibility or negligence.~~
- ~~The District may require, at its discretion except when the use is as defined in Sections 82537-82548 of the Education Code, and as related to the intended use of facilities or premises, the furnishing of a certificate of liability insurance by the lessee in an amount appropriate to the intended use.~~
- ~~n. The statement of Rules and Regulations accompanying each Technical Check List shall be a part of these special requirements and conditions.~~

## **Fees**

~~The use of all Chabot College facilities requires payment of fees in an amount sufficient to cover all the costs to the District (Education Code Sections 82537-82548). The Fee Schedule will be approved by the Board of Trustees.~~

~~Swimming Pool charges will be by lane and by entire pool use. When by lane, more than one user group may have access to the pool at the same time. This will make the pool accessible to various size groups at affordable prices. Schools only will receive a group rate for a season.~~

~~Public tax-supported agencies, schools and colleges may use College facilities with payment of all direct costs, unless admission fees, tuition or course fees, or contributions, are collected for other than educational, cultural or recreational activities, or they shall be subject to a percent of gross profit assessment and facility fees.~~

~~When admission fees, tuition or contributions are collected for other than educational, cultural or recreational purposes (for example: profit-making, political, and private purposes), the organization will pay rental costs plus actual costs and a percent of gross receipts.~~

~~The actual sum to be paid is to be determined in accordance with a fee use schedule which has been established after review of actual cost related to the use of a specific room or other facility. These fees may be revised and approved by the Board of Trustees as evaluation of the college's costs to operate them changes.~~

## **2. Use of Las Positas College Facilities**

~~(Procedures to be developed.)~~

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**NOTE:** The **red ink** signifies language that is **legally required** and recommended by the Policy and Procedure Service and their legal counsel. The language in **black ink** is from current CLPCCD Administrative Rules and Procedures 1112 titled Use of District Facilities issued on January 16, 1996 and revised on March 20, 2001. The language in **blue ink** was added by Business Services on February 6, 2013. This was document was reviewed on June 3, 2013 by Barb, Connie, and Natasha. The language in **green ink** was added by LPC and was reviewed by Bard Yesnosky on 1-28-15. The language in **purple ink** was added by Jane Wright from the Policy and Procedure Service based on legal Update #25 revisions (disseminated to member districts in November 2014) to make this procedure more likely to withstand a constitutional challenge.

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### **Date Approved:**

*(Replaces current Administrative Rules and Procedure 1112)*

## Legal Citations for AP 6700

### Education Code Sections 82537 and 82542

**82537.** (a) There is a civic center at each and every community college within the state where the citizens, Camp Fire Girls, Boy Scout troops, farmers' organizations, school-community advisory councils, senior citizens' organizations, clubs, and associations formed for recreational, educational, political, economic, artistic, or moral activities of the public school districts may engage in supervised recreational activities, and where they may meet and discuss, from time to time, as they may desire, any subjects and questions which in their judgment appertain to the educational, political, economic, artistic, and moral interests of the citizens of the communities in which they reside. Governing boards of the community college districts may authorize the use, by citizens and organizations of any other properties under their control, for supervised recreational activities.

(b) The governing board of any community college district may grant the use of college facilities or grounds for public, literary, scientific, recreational, educational, or public agency meetings, or for the discussion of matters of general or public interest upon terms and conditions which the board deems proper, and subject to the limitations, requirements, and restrictions set forth in this article.

(c) No use shall be granted in a manner that constitutes a monopoly for the benefit of any person or organization.

(d) The use of any community college facility and grounds for any meeting is subject to reasonable rules and regulations as the governing board of the district prescribes, and shall not interfere with the use and occupancy of the community college facilities and grounds, as is required for the purposes of the community colleges of the state.

(e) The management, direction, and control of the civic center is vested in the governing board of the community college district.

(f) The governing board of the community college district shall make all needful rules and regulations for conducting the civic meetings and for such recreational activities as are provided for in this chapter and which aid, assist, and lend encouragement to the activities.

**82542.** (a) Except as provided in subdivision (b), the governing board of any community college district shall grant without charge the use of any college facilities or grounds under its control, pursuant to the requirements of this article, when an alternative location is not available, to nonprofit organizations and clubs and associations organized for general character building or welfare purposes, such as:

(1) Student clubs and organizations.

(2) Fundraising entertainments or meetings where admission fees charged or contributions solicited are expended for the welfare of the students of the district.

(3) Parent-teachers' associations.

(4) School-community advisory councils.

(5) Camp Fire Girls, Girl Scout troops, and Boy Scout troops.

(6) Senior citizens' organizations.

(7) Other public agencies.

(8) Organizations, clubs, or associations organized for cultural activities and general character building or welfare purposes (such as folk and square dancing).

(9) Groups organized for the purpose specified in subdivision (g).

(b) The governing board may charge those organizations and activities listed in subdivision (a) an amount not to exceed the following:

(1) The cost of opening and closing the facilities, if no college employees would otherwise be available to perform that function as a part of their normal duties.

(2) The cost of a college employee's presence during the organization's use of the facilities, if the governing board determines that the supervision is needed, and if that employee would not otherwise be present as part of his or her normal duties.

(3) The cost of janitorial services, if the services are necessary, and would not have otherwise been performed as part of the janitor's normal duties.

(4) The cost of utilities directly attributable to the organization's use of the facilities.

(c) The governing board may charge an amount not to exceed its direct costs or not to exceed fair rental value of college facilities and grounds under its control, and pursuant to the requirements of this article, for activities other than those specified in subdivision (a). Each governing board which decides to levy these charges shall first adopt a policy specifying which activities shall be charged an amount not to exceed direct costs and which activities shall be charged an amount not to exceed fair rental value.

(1) As used in this section, "direct costs" to the district for the use of college facilities or grounds means those costs of supplies, utilities, janitorial services, services of any other district employees, and salaries paid community college district employees necessitated by the organization's use of the college facilities and grounds of the district.

(2) As used in this section, "fair rental value" means the direct costs to the district, plus the amortized costs of the college facilities or grounds used for the duration of the activity authorized.

(d) The governing board of any college district which authorizes the use of college facilities or grounds for the purpose specified in subdivision (e) shall charge the church or religious denomination an amount at least equal to the fair rental value of the facilities or grounds.

(e) The governing board of any community college district may grant the use of college facilities or grounds to any church or religious organization for the conduct of religious services for temporary periods where the church or organization has no suitable meeting place for the conduct of these services upon the terms and conditions as the board deems proper, and subject to the limitations, requirements, and restrictions set forth in this article. The governing board shall charge the church or religious organization using the property for the conduct of religious services a fee as specified in subdivision (d).

(f) In the case of entertainments or meetings where admission fees are charged or contributions are solicited and the net receipts of the admission fees or contributions are not expended for the welfare of the students of the district or for charitable purposes, a charge shall be made for the use of the college facilities, property, and grounds, which charge shall not be less than the fair rental value for the use of the college facilities, property and grounds, as determined by the governing board of the district.

The governing board may, however, permit the use, without charge, by organizations, clubs, or associations organized for senior

citizens and for cultural activities and general character-building or welfare purposes, when membership dues or contributions solely for the support of the organization, club, or association, or the advancement of its cultural, character-building or welfare work, are accepted.

(g) The governing board of a community college district may grant the use of college facilities, grounds, and equipment to public agencies, including the American Red Cross, for mass care and welfare shelters during disasters or other emergencies affecting the public health and welfare, and may cooperate with these agencies in furnishing and maintaining services deemed by the governing board to be necessary to meet the needs of the community.

### Public Resources Code Section 42648.3

**42648.3.** On or before July 1, 2005, and on or before July 1 annually thereafter, each operator of a large venue or large event shall submit to the local agency, upon request by the local agency, written documentation of waste reduction, reuse, recycling, and diversion programs, if any, implemented at the large venue or large event, and the type and weight of materials diverted and disposed at that large venue or large event. If the operator of a large venue or large event cannot implement a program as provided in the solid waste reduction, reuse, and recycling plan, the operator shall include a brief explanation for the delay as part of its report to local agency. The operator of the large venue or large event shall submit the requested information to the local agency, no later than one month from the date the operator receives the request.