



## **Chabot-Las Positas Community College District**

### **Chancellor's Council**

Tuesday, December 8, 2020

3:00 p.m. – 4:30 p.m.

ConferZoom

### Meeting Minutes

Present: Ron Gerhard, Noell Adams, Miguel Colon, Dyrell Foster, Dave Fouquet, David Rodriguez, Sarah Thompson, Rachel Ugale, Chasity Whiteside, Yvonne Wu Craig

Guests: David Betts, Theresa Fleischer Rowland, Owen Letcher, Jonah Nicholas, Kirti Reddy, Susan Sperling

Chancellor Ron Gerhard called the meeting to order at 3:05 p.m.

#### **I. Review and Approval of the Agenda**

There was a motion to approve the agenda as posted. **(Thompson/Rodriguez)** SThompson mentioned that she was sure that student fees were removed. RGerhard stated that there was an insertion of the \$15 per unit for auditing. It was really to add the language for auditing. The added language reads, “Persons auditing shall be charged a fee of not more than \$15 per unit per semester. The fee amount shall be adjusted proportionally based upon the term length. Students enrolled in classes to received credit for 10 or more semester credit units should not be charged this fee to audit three or fewer units per semester.” Minutes state BP 5030 will be adjusted and sent out and added an agenda for subsequent meeting.

SThompson said that we also did the same for 6750. RGerhard will pull it off. Going back to the issue, one was refunds for parking and the second was related to EV chargers. The EV charger question was answered. The lingering issue was related to a mechanism for parking refunds. MColon agreed that OLetcher addressed the EV. We will modify the agenda to pull off BP 5030 and AP 6750.

#### **II. Review and Approval of the November 10, 2020 Meeting Minutes**

NAdams submitted some edits to KCostello and wants to make sure they are incorporated. Those changes include:

**Page 6** – The following comments are related to BP/AP 4250 Probation, Dismissal, & Readmission, not BP/AP 4240 Academic Renewal: *“Another suggestion is to modify the mention of waiting five years for re-admission. The modification would read, “The first time a student is dismissed, the student may apply for readmission after one semester (summer session, not included) or non-attendance. In the case of a second dismissal, the student may apply for readmission after 1 year of nonattendance. Summer session does not count as a semester in determining academic status.”*

**Page 7** – It was requested to move the discussion where Miguel asked what role Council will play in the direction of the budget to follow VI. Future Agenda Items.

**Page 8** – It was requested to change the verbiage to state: *“It is also requested that ~~classified professionals are consistently communicated with and involved,~~ leaders of this council consistently communicate that classified professionals are involved in the decision-making process and the budget work because ~~as~~ they are exercising their right to do so.”*

*“NAdams mentioned that there are ~~sometimes that~~ still instances when classified professionals must make the argument ~~must be made to be~~ involved in matters that are going to have a significant impact on classified professionals. Classified professionals shouldn't have to do this.”*

MColon added that the minutes captured the letter but did not capture the spirit of the discussion. What was really trying to be conveyed was that the three legs, it is not like one leg can be stronger than the other, the administrators should not consider themselves to be stronger than the classified or the faculty or the faculty stronger than the administrators. It is only that we can really move the ball when the three of us are working together. RGerhard asked how the current minutes could be changed to capture the spirit. It is not known, but it is an important part of the discussion.

DRodriguez added that on the bottom of page 8, it was mentioned that there is a commitment to inclusion of classified professionals districtwide. That was along the lines of moving forward on BP 1300. RGerhard asked what would be added to the minutes. DRodriguez added the verbiage, “Moving BP 1300 forward is part of showing a commitment to inclusion of classified professionals and governance.”

It was motioned to approve the minutes with the changes. **(MColon/DRodriguez)**  
**YWCraig abstained.**

### III. Board Policies/Administrative Procedures (standing item)

#### a. Proposed Chapter 5 Review (TFleischerRowland)

TFleischerRowland presented the informational item. Chapter 4 is nearly done, just a few lingering policies. Next year, chapter 5 will be reviewed.

SThompson mentioned that since we are going to be looking at enrollment of priorities in February, it is requested that the auditing exploration subcommittee meet before that is modified. February is close, but maybe it can be pulled for February and moved to March. TFleischerRowland agreed that it fine. BP and AP 5055 Enrollment Priorities will move to the March Chancellor's Council meeting. A call to compose the group has not been sent out yet but will be sent by the end of this week.

#### b. First Reading

##### 1. AP 4101 Independent Study

TFleischerRowland stated that there are not a lot of students that opt for this, but it outlines the procedure. It was vetted by the vice presidents of instruction with me and what you see are their recommended changes.

DFouquet questioned that there have been some requests to bring this up at the bargaining table. In terms of compensating faculty for their work in terms of independent study. I thought there may have been some language in an old contract about that, but it may have been removed at some point. Is this something that is needed? What would be the expected work of a faculty member to do independent study? Would it translate to any load at all? Is this something that would be done for free? RGerhard stated that this is really adjusting the verbiage to conform with practice. DFouquet mentioned that he is not sure there is a well-defined method at this point to compensate faculty for doing it. Questions about compensation will come up. That has some dovetailing with what is decided in this group in terms of the board policy. SSperling remembers, as a faculty person, sponsoring some independent studies in which a student was interested in a unit through an agreement with a faculty person. There was not compensation involved in it. It was voluntary. DFouquet mentioned that there is nothing in the current contract about this. SThompson stated that in ESS, two different applications of this were discussed. If a student was close to graduating and they were short a unit, this was a work around. In that case, faculty did not ask to be compensated. Then there was a discussion if this was applicable if the student was unable to take a regular class. This would be much more time consuming for

faculty. There may be a load issue. RGerhard stated this discussion can be moved offline with HR.

MColon stated that there are a lot of similarities between this and credit for prior learning, in that it requires faculty in a one-off basis to spend time that is not classroom specific. The concern with any policy where the perception or reality is that it is going to result in more work, the economics need to be addressed.

**c. Second Reading**

RGerhard reminded Council that 15 and 16 would be removed. There was some feedback received on minor edits. It was requested to move through this discussion in order.

**1. BP 3430 Prohibition of Harassment**

NAdams mentioned that on page 2 of this one, in the third paragraph down, it states “To this end, the Chancellor shall ensure that the institution undertakes education and training activities to counter harassment and to prevent, minimize or eliminate any hostile environment that impairs access to equal education opportunity...” It is felt that the word minimize contradicts what the rest of the board policy states on page two, “State and federal law and this policy prohibit retaliatory acts by the district, its employees, students, and agents.” The suggestion is to strike out the word minimize.

Another thing, in the last paragraph on page two, it is suggested to add the word related to state, “Employees who violate the policy and related procedures may be subject to disciplinary action up to and including termination.” There will be these actions taken against them if they violate this policy and related procedures.

Another item in the last paragraph is that we do not mention anything about what will happen to the volunteers. We talk about unpaid interns, but not volunteers. I think we should throw something in there about what happens to the volunteers.

RUgale mentioned that there are contract employees that are not officially employees, not interns, and not volunteers. Would they fall under this policy as well? RGerhard stated that there is general language in our independent contractor agreements related to behavior of independent contractors so they would not be subject to the board policy. As a matter of principle, depending on the length or size of the contract, they are subject to the same standards as employees. The BP and AP would not apply to contractors, but through contracting process, we do prescribe standards in terms of behavior. The recourse would be the violation of the contract. An example is if there is a trade or subgrant contract working at one

of our colleges that is acting inappropriately, there would be provisions in the contract. SThompson asked if they were the victim. RGerhard stated that this would apply if the perpetrator of the offender is an employee.

RGerhard asked HR on their thoughts. DBetts mentioned that there is a policy on volunteers. NAdams added that in BP 3433, which is a new policy being proposed, in the last paragraph, it does include, *“Employees who violate the policy and procedures may be subject to disciplinary action up to and including termination. Students who violate this policy and related procedures may be subject to disciplinary measures up to and including expulsion. Volunteers or unpaid interns who violate this policy and related procedures may be subject to disciplinary measure up to and including termination from the volunteer assignment, internship, or other unpaid work experience program.”* This is where we have included disciplinary actions for volunteers, along with unpaid interns. RGerhard mentioned AP 3430 is talking to all forms of harassment, not just sexual harassment. Is it being suggested that we copy the language from AP 3433 into AP 3430? DBetts will have to check with legal about on why they excluded volunteers in AP 3430.

DRodriguez reiterated what NAdams mentioned by adding, the last paragraph could probably be used in this policy and related procedures for that first sentence in that last paragraph.

MColon stated that these are only valuable if the offense is reported. Do we have a whistleblower policy? SSperling stated that this is an area of very fluid case law and it is a subject of much legal import. DBetts and HR are conscious of Ed Code. MColon stated that even in government, there are clear rules to protect whistleblowers against retaliation. DBetts stated that there is a board policy and procedure that protects whistleblowers.

RUgale also added that in the section that discusses verbal remarks, people make pointed comments that do not necessarily fall under the categories that do not fall within the categories that are listed in this AP. Is there a way to expand that? Part of the reason we negotiated the antibullying language in our contract is because our union members were filling out the complaint forms and you are limited to being able to file a complaint to something under these categories. It seems limiting. If there is something that we can do to address broadening what can apply to this policy and procedure would be helpful. DBetts understands and appreciates this. The problem is that we are talking about territory, where it is kind of between speech which is a violation of a persons protected classification

and speech that is protected under the first amendment. The Chancellor understands this has been a topic that has been discussed and looked into in terms of the types of attacks that are being referred to.

DRodriguez asked how some of those things would be categorized. Could things such as slanderous comments be added here as an option. SThompson mentioned that she had a similar experience the last time she was academic senate president.

NAdams has heard this from classified professionals at Chabot and it crosses over to SEIU but wants to request a little bit more of a description or a broader harassment policy. Could there be a board policy about antibullying? JNicholas mentioned that a lot of what being described exists in an institutional code of ethics. Policies on harassment discuss issues of a purely legal realm and are put out to show what is not acceptable on the person that is doing something opposed to what they are doing and how that makes someone react or feel.

DBetts also stated that in the last round of negotiations with SEIU, it was negotiated to add some additional language that gives classified employees the ability to bring forward complaints of bullying. RUGale mentioned that there is bullying going on at all levels. If we can do anything to broaden it so that it is more protective of our employees and our community. DBetts stated that this board policy and procedure specifically speaks to unlawful harassment and not bullying.

DFoster mentioned that there was language that was brought up at Rio Hondo College that fell into prevention of workplace violence and disruption and the link was provided: [https://www.riohondo.edu/president/wp-content/uploads/sites/27/2016/06/AP3510\\_Prevention\\_of\\_Workplace\\_Violence\\_and\\_Disruption.pdf](https://www.riohondo.edu/president/wp-content/uploads/sites/27/2016/06/AP3510_Prevention_of_Workplace_Violence_and_Disruption.pdf) RGerhard stated that Rio Hondo nested this under their AP 3510 Prevention of Workplace Violence and Disruption. DBetts stated that we do have a 3510 Workplace Violence. SThompson stated ours prevents someone from being physically attacked. NAdams likes what DFoster is proposing.

NAdams mentioned that on page 1 of AP 3430 in the general harassment area, we do not list immigration status there, but it was included on the board policy. On page 3, in the second to last paragraph, it says, “*A single or isolated incident of sexual harassment may be sufficient to create a hostile environment if it is severe, i.e., a sexual assault.*” Is this exclusively a sexual assault here or is it being used as an example? RGerhard stated that in terms of the spirit of it, it should be e.g., because it is an example. DFouquet mentioned that we received a legal briefing

that definitions around hostile environment has changed and ultimately been weakened. To what extent is this language informed by the recent changes in Title IX?

DBetts stated that the CCLC basically who manage these templates for the board policies and procedures. Districts customize them for their needs, but lawyers go through these templates to make sure they are up to date with current law. BP 3433 and AP 3433 are entirely new and were brought about because of the changes that happened under the current Department of Education.

DFouquet asked if the Trump administration comes in and says we want to weaken what is defined by hostile work environment, could we as a district say we prefer to maintain our current definition that is stronger than what the Feds say because we believe it is the right thing to do. DBetts stated that he believes it is a matter of policy application versus law. The Trump administration has not changed the law. They changed the policy in terms of how under Title IX things are defined and applied. Ultimately, all of this is subject to interpretation or challenge under the law.

DFouquet asked about retaliation. There was a situation that a faculty member believed they were being retaliated against by their dean. We do not have any specific language in the contract for this item. DBetts mentioned that retaliation is addressed in AP 3435. Retaliation is essentially taking an adverse action against someone for engaging in a protected activity.

DRodriguez suggested a way to improve the language on workplace safety. Could BP and AP 3510 be brought forward sooner so that the conversation is not lost in waiting? NAdams suggested working on 3435 as well. DBetts agreed it can be brought forward.

**2. AP 3430 Prohibition of Harassment**

**3. BP 3433 Prohibition of Sexual Harassment Under Title IX**

RGerhard stated this is an entirely new policy. Many of these policies and procedures are intertwined and connected, but this one speaks to the district is committed to providing an academic and work environment that respects the dignity of individuals and groups.

**4. AP 3433 Prohibition of Sexual Harassment Under Title IX**

NAdams stated that on page 2 of this AP states that definition of rape. The California Penal Code uses different language to define it as sexual intercourse instead of what it stated here as carnal knowledge. DBetts mentioned that this is the language that came from CCLC and will go back to legal and ask. JNicholas mentioned this is out of Title VII and Title IX, not the penal code. DFouquet mentioned the one thing to be careful about here is that other things may fall under carnal knowledge that may not just be aligned with sexual intercourse. DBetts stated that the references they use for this is Title VII and Title IX but will double check with legal on the justification of the use of the term.

**5. AP 3434 Responding to Harassment Based on Sex Under Title IX**

NAdams stated that there is the same concern with the use of the verbiage “carnal knowledge.” DFouquet mentioned that this one has the definition of carnal knowledge.

**6. BP 3540 Sexual and Other Assaults on Campus**

DFouquet mentioned that it appears that a lot of these things shuffle back to 3434. DBetts mentioned that BP and AP 3434 are entirely new. AP 3434 takes pieces out of 3435 and creates a new AP all on its own specifically addressing Title IX. Anything that does not fall under Title IX remains in AP 3435.

**7. AP 3540 Sexual and Other Assaults on Campus**

No comment.

RGerhard reiterated that DBetts will get back to Council after speaking to legal on 3430 and 3434 regarding carnal knowledge.

**8. BP 4300 Field Trips and Excursions**

No comments or questions.

**9. AP 4300 Field Trips and Excursions**

No comments or questions.

**10. BP 4400 Community Education Programs**

No comments or questions.

**11. AP 4400 Community Education Programs**

No comments or questions.

**12. AP 4500 Student News Media**

NAdams mentioned on page 2 that there was concern in interpreting paragraph number one that a staff member could bring a journalistic grievance against a student writer. The recommendation to clarify is to add the word, “a student journalistic grievance is the complaint that alleges facts and the rest..”

**13. AP 4610 Instructional Service Agreements**

RGerhard stated that these are most applicable to our academies and much of it is encoded in Title V.

**14. ~~BP 5030 Student Fees~~**

RGerhard stated that SThompson reminded us that this is taken off the agenda because we are going to insert language that discusses refunds or the refunding process. DRodriguez will send his comments to RGerhard due to this already taken off the agenda.

**15. ~~AP 5030 Student Fees~~**

This AP is pulled from the agenda.

**16. ~~AP 6750 Parking~~**

This AP is pulled from the agenda.

RGerhard went over the items went over for the second reading. DBetts will get back to Council on 3430 in terms of changing one area. He will also get back to Council on 3434 and 3435 regarding the use of carnal knowledge. Council also pulled 5030 and 6750.

DFouquet stated that it was decided to move up 3510 Workplace Violence Plan.

BP 3433, AP 3433, BP 4300, AP 4300, BP 4400, AP 4400, AP 4500 with a revision, and AP 4610 were moved for approval. **(Thompson/Colon).**

**IV. District-wide Strategic Plan Update (TFleischerRowland)**

VC Theresa Fleischer Rowland gave an update of the district-wide strategic plan update. Most of you got the plan that we are calling the formative draft. We are doing an iterative process with the writing of the draft and the feedback period. The formative draft is available on the district website as well as the email where people can send comments at [districtwideplan@clpccd.org](mailto:districtwideplan@clpccd.org). There are five strategic directions in this draft. What happens next? We will be giving this broad exposure across the district. There are two districtwide forums where we will walk through the strategic plan and if you want to give input in person, this is the place to do it. January 19 is our target for the more fully developed plan. If you know of a group that needs a visit, let TFleischerRowland know.

**V. Future Agenda Items**

- **Update on Pending/Tabled BPs/APs**
- **3435 moves forward with the new 3434**
- **Update on uncoupling on summer and fall registration**

RGerhard mentioned there is support on uncoupling. There was a series of DEMC and PBC meetings this week. There is support behind it, but what does that mean in terms of supporting our student services folks to be able to handle the workload volume? In short, we are moving forward with planning around that but trying to get more specificity and support for A&R (as an example). MColon asked if the level of support they need playing a role in determining it or has the decision been made to couple therefore now we need to figure out the needs. RGerhard stated that it is the latter. There are no predictions of how the vaccines will roll out and be accessible. While a vaccine is likely to be rolled out, the question is in terms of timing is what will influence our ability to get back in the classroom. Uncoupling summer and fall gives us greater flexibility to be able to plan and meet the needs of our students.

MColon asked what body is going to be assessing fall and making the determination. RGerhard stated that there is a districtwide return to work task force. The scope and their purview are to make recommendations for safe work practices. When it comes to how do we uncouple this? It is being left up to those who know best: College Presidents, VP of Student Services and Student Services teams and departments. There are legitimate concerns about uncoupling. That is not something a task force has the expertise to come in and make a recommendation. SThompson pointed out that the discussion initially happened in this transition team. It was brought up, agreed upon, and then it was turned down. The only reason the discussion happened again was because faculty pushed this and argued for this. There are a lot of extremely experienced faculty that are very familiar with the SCFF and what we have to do to transform as an institution. It could have been dropped off the planet because our voices were not there. You need the right people in the room to know exactly what is needed, but you also need to have the loud people in the room to cut through some of the excuses to push us towards we need to go.

DRodriguez appreciates the importance of these conversations in dealing with responding to the changing needs and maintaining the health of our institutions moving forward. As a classified senate president, it is concerning how it looks for classified. Many times, these decisions are made outside of them. Even if there are additional resources, they are going to be told that they are going to have to do a lot more without understanding the context, if they are not included in the conversation. How do we do this together? It is not just what we do, but how we do it. The concern is with how it looks for a lot of people that are not apart of these conversations and

the ability for us to message that we are trying to do this as a team and not imposing things.

NAdams has been with Chabot College for 12 years and years ago, we were having the same conversation. Now, there is more motivation to do this. I think there has been support for this from Chabot historically. Right now, the question is just more about feasibility and if we are approaching this, which it sounds like we are, we are going to move forward with this, but we are also going to be looking at the feasibility of it and making sure that we are putting resources where resources need to go to be able to do this. The experts need to have the opportunity to be the ones to say these are the things that we need to be able to do that and it sound like senior leadership is taking that approach and it is appreciated. RGerhard stated this will be on the agenda for the next meeting.

DFouquet asked about when it comes time to reopen, is it anticipated to get any guidance from the state regarding COVID testing and vaccination. MColon asked about student. RGerhard mentioned it is not known. We have not heard anything from the county or the state. There has been a lot of press on the app that apple and google has in terms of letting folks know if they have crossed paths with someone who has tested positive. OLetcher stated that the federal government will provide the vaccine for free to everyone who gets it, but there is no definition of requirement to attend or participate in activities. You need 70 to 80% for herd immunity, so what does that mean for us. DFouquet is trying to figure out what we need to negotiate around the issue if someone is anti-vaccine. RGerhard stated that clearly there is a component of this that falls under the broader working conditions that will require discussion with our labor leaders. SThompson mentioned that the state may provide answers for us. According to the CDC, young adults and teenagers are above the 30- to 40-year-old group. MColon stated that this will be a massive topic of discussion. We need to formerly put that to bed so that the conversation about the fall can be taken up. RGerhard stated that right now the conversation is with the Presidents and the VPs to figure out how are going to make this work.

- **Budget**

The January budget proposal will be available. We will have better data in terms of submission of enrollment numbers.

If there are other agenda items, please send to Kelly.

An email will be sent out for the committee on auditing.

**VI. Next Meeting: February 9, 2021**

Meeting adjourned at 5:08 p.m.