

DRAFT



Chabot-Las Positas Community College District

Chancellor's Council

Tuesday, March 9, 2021

3:00 p.m. – 4:30 p.m.

ConferZoom

Meeting Minutes

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

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

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

I. Review and Approval of the Agenda

The agenda was approved as presented. **(Craig/Adams)**

II. Review and Approval of the December 8, 2020 Meeting Minutes

On page 6, under AP 3433, “*The OCR website’s definition of rape is as follows*” will change to “*The National Incident Based Reporting System’s definition of rape is as follows.*”

There was a motion to approve the February 9, 2021 meeting minutes, with the correction. **(Colon/Whiteside) Orf abstained.**

III. Board Policies/Administrative Procedures (standing item)

a. First Reading

1. AP 3435 Discrimination and Harassment Complaint Procedures

DBetts mentioned that this procedure is updated and substantially shorter due to the Title IX language now exists in BP and AP 3433 and 3434. There were Title V changes that impacted 3435, which include complaints of unlawful discrimination may now be verbal or written, complaints no longer need to be filed with the Chancellor’s Office, complaints may but are no longer required to be filled on a prescribed form. Districts are no longer required to forward copies

of initial complaints or provide notice of the initiation of the investigation to the Chancellor's Office. Districts must now make specific findings as to whether each factual allegation in the complaint occurred based on the preponderance of the evidence standard. There are new procedures for the handling of complaints following within the purview of Title IX. The time for appealing the district administrative determination to the Governing Board is extended from 15 to 30 days. Districts may grant themselves an extension up to 45 days of the 90-day deadline for completing investigation without providing notice to the Chancellor's Office. If they need to do another extension, they will need permission from the Chancellor's Office.

MColon understands that the items that are struck were moved into a different AP. DBetts mentioned that some of the items that were struck were rewritten with new language, but a lot of what is struck has been moved to AP 3433 and AP 3434.

SThompson mentioned it states who can file a formal complaint is student, employee, parent of a minor or individuals' legal authority on behalf of a student or employee. If a non-employee, non-student has a complaint on campus, they are limited to only filing an information complaint. For example, a student coming onto campus to register is not technically a student. If they have a complaint, they will have to file an informal complaint. DBetts mentioned that we would consider that person a student because they are registering to become a student. For others, it states "or third party in violation of this procedure." SThompson mentioned the third-party mention is discussing the violator. It was asked if the language can be changed that anyone can make a formal complaint. DBetts mentioned that there was a complaint by someone who is not an employee, not a student, no relation to any program at either college or the district. They tried to file a complaint against a student, but the interaction did not take place because of our institution. We must be careful about stating that anyone can file a formal complaint. WFong asked to check if the list of names that can make a complaint under informal or formal should be the same. WFong stated that what is legally required will be brought back to the group. DBetts mentioned that what is presented is legally required but will double check.

NAdams asked about submitting an informal complaint to either the Vice Chancellor or the RDO. Does this revision make it so that if the person makes the informal complaint to their direct supervisor, who is not the RDO or the Vice Chancellor, that administrator does not have the obligation to notify the RDO? DBetts stated that it says administrators receiving an informal complaint shall immediately notify the RDO. If an informal complaint is submitted to an administrator, they are under the obligation to notify the RDO. RGerhard stated that the strike out's intent is all complaints ultimately go to the RDO or the Vice

Chancellor and they are not intended to be left with the college level administrator.

TFleischerRowland presented 10 chapter 5 first readings. These versions reflect the league updates based on legislation. They come to Council after consultation with our Director of Admission and Records.

2. BP 5012 International Students

3. AP 5012 International Students

4. AP 5013 Students in the Military

NAdams was looking at students in the military and the residency piece on them. On page 1, it speaks about veterans who were discharged to release in at least 90 days. I believe that this group of students is exempt from nonresident fees as opposed to being classified as California residents. TFleischerRowland stated that the language was provided by the league, but it is good to raise the questions. For the second reading, TFleischerRowland will go back to the primary authorities and re-ask the question.

5. BP 5035 Withholding of Student Records

6. AP 5035 Withholding of Student Records

7. BP 5040 Student Records, Directory Info, Privacy

8. AP 5040 Student Records, Directory Info, Privacy

9. AP 5045 Student Records, Challenging Content & Access Log

10. BP 5055 Enrollment Priorities

11. AP 5055 Enrollment Priorities

12. AP 6625 Art, Exhibits and Displays in Public Places (New)

OLetcher presented a new AP 6625 in draft version. This sets up a process that mimics what we have in place where arts committee on the campuses are appointed by the President. They look, solicit, define art that could be on loan or acquired. They make a recommendation to the President. The President forwards that to the Chancellor and the Board and the Board is the final authority for acceptance of the art as a gift or purchase, and then executed to move forward.

b. Second Reading

RGerhard stated that the first three are the ones that were discussed last time. There has continued to be conversation between legal and HR regarding some of the questions and definitions we have had last time.

- 1. BP 3433 Prohibition of Sexual Harassment Under Title IX**
- 2. AP 3433 Prohibition of Sexual Harassment Under Title IX**

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

DBetts mentioned there were several questions in this procedure. The definition of rape was one of the questions. It was advised by legal to not change the definition. Essentially, these laws are under the purview of OCR. They do audits. If there is ever a complaint, one of the first things they would do is ask us about our policies and procedures pertaining to Title IX, so we would be in violation if it was changed.

Sodomy is also a question that came up. Sodomy in and of itself is not against the law, so the issue really was more about forcible or nonconsensual sodomy. We could put “nonconsensual” in front of the word “sodomy.” If we do this, it is recommended to also add the same in front of the word “fondling.” SThompson stated that the terminology predates 2003, where in 22 states there really were sodomy laws used to discriminate against gays and lesbians. It is important to distinguish our policy from those policies.

NAdams shared what she learned after some research. It was found that in Title IX, through the associated code of federal regulations, sexual assault is defined as an offense classified as forcible or nonforcible sex offense under the uniform crime reporting system of the FBI. In 2013, the FBI UCR program began to use a revised definition of rape to include both male and female victims and offenders and reflect the various forms of sexual penetration that are understood to be rape. Proponents of that revision agreed that the changes broaden the scope of the previously narrow definition by capturing data without regard to gender, and whether physical force was involved. The FBI then began through the UCR program counting instances in which offenders were using drugs or alcohol or instances where the offender sodomized victims of the same gender as rape for statistical purposes. Around 2017, the FBI announced that it was retiring the UCR system. Last year, they were going to transition to the NIBRS system. That system has a whole set of different definition for sex offense. The information that was shown at the last meeting from the OCR, indicated that because Title IX through those related codes of federal regulation, schools could get away with using referencing the Cleary Act as opposed to specifically taking the definitions out of the National Incident Based Reporting System. These definitions are almost identical to the definition in the NIBRS system, but using code 11A for rape. If we have the flexibility to change nonconsensual sodomy and fondling, how can

we not make changes to the rape portion? DBetts stated that there is no changing of the definition, only what the item is called. Legal advised us to not make any changes, but if we did make those changes to add nonconsensual, there is some level of risk. NAdams asked if the Cleary Act could be referenced. DBetts stated that the attorneys recommend that we follow what is shown, they are not recommending that we reference the Cleary Act. NAdams mentioned that with a different administration at the federal government level, there may be a reconsideration of some of these definitions that they are using in the NIBRS. We know that historically sodomy laws have been used against the gay community and it is appreciated that is has been discussed at Council. RGerhard appreciated the discussion to add to the level of awareness.

MColon asked about President Biden proposing some changes and that Title IX will be impacted. It was asked if these changes should wait until there are some changes enacted. DBetts mentioned that the reason that these changes are being made is because the Trump administration did not like what the Obama administration did. After the end of the four years of the Trump administration, the changes to Title IX finally came down. It is highly likely that we will be changing this in another two or three years. For now, this is what the law is and what the Department of Education is requiring us to do.

4. BP 5010 Admission and Concurrent Enrollment

5. AP 5010 Admissions

NAdams stated there is a correction on the second bullet where it says admission procedures for students over 18 with a high school diploma. One bullet would be admission procedures for students with a high school diploma or equivalent. The next bullet would be admission procedures for students who are over 18 without a high school diploma or equivalent. That will match up with the corrections made on the BP.

6. AP 5011 Admission and Concurrent Enrollment of High School and Other Young Students

DRodriguez suggested the following:

- On the first page, instead of it stating, “An addenda,” it should read, “Addenda.”
- On the third page, delete the following bullet points and replace with “proof of eligibility”:
 - ~~Written and signed parental or guardian consent;~~
 - ~~Written and signed approval of the student’s principal (Note: Home schooled students shall secure approval from the affiliated local school district);~~
 - ~~Current high school transcript;~~

Under page 2, eligibility of students is shown and lists all the things required, so this simplifies the AP.

On page 5, where it states “The CCAP partnership agreement shall be filed with the California Community Colleges Chancellor’s Office and with the department before the start of the CCAP partnership,” the word department seems vague. Is this the Department of Education? It will be changed to the California Department of Education.

In looking at another document regarding CCAP, they mention presenting any changes to the board in open as an informational item, ours looks a bit different. TFleischerRowland stated that our CCAP agreements get put on the agenda and the public can comment on items that are on the agenda.

7. BP 5015 Residence Determination

8. AP 5015 Residence Determination

NAdams mentioned that there is a recommendation on page four about veterans who are discharged are released. These folks are exempt from nonresident tuition. TFleischerRowland will double check on that language and there was dialogue last time around the age of 18 or high school equivalency diploma or equivalency, so we will make those changes as well. If Council is ok with it, we can move forward recognizing those edits will be made, but the suggestion is to table AP 5015 to look into this resident classification.

9. BP 5020 Nonresident Tuition

10. AP 5020 Nonresident Tuition

NAdams mentioned this one is similar to AP 5015 with suggested changes. TFleischerRowland pulled this procedure as well.

11. BP 5070 Attendance

12. AP 5070 Attendance

13. AP 5075 Course Adds and Drops

14. BP 5210 Communicable Disease

15. AP 5210 Communicable Disease

DRodriguez suggested both the titles on the BP and AP change to say regarding students. SThompson suggestion changing the title to Communicable Disease Protocols for Students.

AP 5015 and AP 5020 have been tabled. Grammar recommendations were made on some of the other second readings. There was a recommendation to move the second

reading BPs and APs, items 1-15, minus 8 and 10 forward. **(Thompson/Colon)**
Adams abstained.

c. Discussion

1. BP 3440 Service Animals

SThompson mentioned that the BP and the AP were of concern. Since mental health issues have intensified with the pandemic, the desire for emotional support animals might intensify next year when we bring students back. We need to have clear guidelines for staff and faculty as to what students can and cannot bring. The term emotional support animal is relatively new. If we want to make sure that we are clear to students that emotional support animals are not allowed on campus, we better have it stated somewhere.

II. IPBM evaluation

RGerhard mentioned that this was discussed last time. There are a few volunteers to serve on the subcommittee to make a recommendation, not on the committee themselves, but the structure. There are currently four volunteers. Samantha Kessler also wants to volunteer.

III. Budget Update

JNicholas gave a brief update on the budget. On the federal level, what will go to the board is the additional stimulus dollars based upon the round that passed in late December. It is on board for LPC's financial aid component for students and the institutional component. Chabot's financial aid component will be there. It had previously sent, at the February meeting, its institutional portion for the board to approve. This is based on the December package that was about \$22 billion dollars for higher education. What that translates to is about \$11.9 million in institutional aid between the two colleges and \$3.5 million dollars in student aid. What passed in March, is the \$1.9 trillion stimulus, includes \$40 billion for higher education. The only difference is that it will be as the original stimulus was a 50/50 split, between institutional and student financial aid.

The Governor asked for early action items to occur in January. The Community College System was recently passed \$100 million dollars in emergency grants for students, so that is on top of the federal aid. Our students will probably get about \$1.2 to \$1.5 million, which is our proportional share. There was a smaller package of \$20 million that has been passed and will be distributed shortly for retention and reenrollment efforts within the Community College System. Our proportional share is maybe a quarter million dollars, maybe slightly more.

MColon asked about the financial aid money for students. Will the students have to apply for that? JNicholas stated that each college had a slightly different methodology for awarding those grants to students. It is presumed that it will follow the same process.

YCraig mentioned that between the two funds, the CARES funding from the direct student aid was automatically issued to students based on criteria. The additional MSI cares funding that was used for emergency aid was run through the foundation. It was discretionary based on how the college wanted to use those funds. There was a separate application.

JNicholas mentioned that there is continued lobbying and it sounds to an extent at least that on the January budget proposal had a 1.2% COLA for the Community College System and a 3.8% COLA for K-12. Locally, the budget calendar has gone out. The most recent PBC meeting, the tentative budget assumptions were presented. Budget development is on track and we anticipate fully that we will meet all our obligations on timelines for the tentative budget in June, as well as the adopted budget by the middle of September.

DFouquet reported that when the hold harmless sunsets, that within the SCFF itself, the credit FTES rate has been re-benchmarked. The impact of that is huge. Essentially, what it meant if you were just looking at the application of COLA a couple of years ago, which was 3.26%, the credit FTES apportionment rate under the SCFF went up about double to 7.5%. The impact of that would close that gap in our supplemental allocation by almost half. It would make the difference in about \$2 million in revenue. I did take the opportunity to say that we still have an equity problem. There is still a bunch of new money in the system, that essentially might have otherwise gone to categoricals in the past. The fact that we are not getting a share of that, even if we are not seeing a loss of revenue under the SCFF, we still have the problem of low-income students who would not be receiving any additional funding, which was the whole purpose of the SCFF in the first place. They did mention that many districts, including ours, has recalibrated their cost of attendance rates, but that only applies to promise grants. The Pell Grants are still not indexed for cost of living, but there is some work on the federal level to relook at that and maybe make us able to get more students qualified for the Pell. SThompson stated that if they did raise the income maximum for financial aid to include high-cost areas, that means that even more students in those low-cost areas would apply for it or would qualify for it. The UCs are making that formal request from the federal government, but I think they were just doing it for an income increase.

JNicholas stated that the UCs and the CSUs, with a large proportion of the revenue is generated through tuition dollars, they are looking for additional federal support to get the students that are on the margin of deciding between the UC/CSU versus a community college. Just by its nature, more students would flock to certain higher cost options. UCs and CSUs have a different strategy when it comes to raising revenue. SThompson pointed out that the problem is there is not an endless amount of money for the supplemental allocation. If they did raise the income maximum to include high cost of living areas, it would mean that more students in those low-cost areas would apply for it and qualify. RGerhard mentioned there were conversations had with the folks at AACC about this

subject. It had been advocated for in previous years, but it was not broadly supported because the fear was that California and New York would have gotten a lot more money at the expense of some of the mid-western states and lower cost of living areas. Related to budget advocacy, we have been meeting with our elected state senators and assembly members within our coalition.

DFouquet mentioned that they are intending to add another phase or two coming up later this year, including tracking how the supplemental and success points have changed, so they can see the trends.

IV. Campus Alerting Systems

OLetcher presented the Campus Alerting Systems Local Policy and Procedures. Our campuses both have on campus fire alarm annunciation systems that we can make announcements into classrooms and buildings. We have the ability to use our Everbridge system to send out text messages and emails. This local policy is an attempt to write procedures around what we would use those systems for and what types of messages would be sent out on them. This is being presented from the Health and Safety Committees on both campuses and being brought forth for adoption and recommendation for acceptance and recommendation to the Chancellor.

V. Accreditation Update

TFleischerRowland stated that the District Accreditation Coordinating Council has met once. The main topics are around the writing and sections that respond to the district for standard three and four. Each of the Vice Chancellors and standard three are on point and working with the colleges. The Chancellor is writing 4C and 4D.

VI. Future Agenda Items

- Bring back AP and BP 1300. Now that we got through 4100, RGerhard wants to reach out to the constituencies to form a workgroup that will go back and review BP and AP 1300. That will come from the Chancellor early next week asking for your respective appointees to move on that work.

The meeting adjourned at 4:35 p.m.