

General Institution

BP 3433 PROHIBITION OF SEXUAL HARASSMENT UNDER TITLE IX

References:

Title IX of the Education Amendments Act of 1972;
34 Code of Federal Regulations Part 106

NOTE: *This policy is legally required.*

All forms of sexual harassment are contrary to basic standards of conduct between individuals. State and federal law and this policy prohibit sexual harassment and the District will not tolerate sexual harassment. The District is committed to providing an academic and work environment that respects the dignity of individuals and groups. The District shall be free of sexual harassment and all forms of sexual intimidation and exploitation including acts of sexual violence.

The District seeks to foster an environment in which all employees, students, applicants for employment, and applicants for admission feel free to report incidents of sexual harassment in violation of this policy and Title IX, without fear of retaliation or reprisal. Therefore, the District also strictly prohibits retaliation against any individual for filing a complaint of sexual harassment in violation of this policy and Title IX or for participating, or refusing to participate, in a sexual harassment investigation. The District will investigate all allegations of Title IX retaliation swiftly and thoroughly. If the District determines that someone has retaliated, it will take reasonable steps within its power to stop such conduct. Individuals who engage in Title IX retaliatory conduct are subject to disciplinary action, up to and including termination or expulsion.

Any employee, student, applicant for employment, or applicant for admission who believes he/she/they has been harassed or retaliated against in violation of this policy should immediately report such incidents by following the procedures described in AP 3434. The District requires supervisors to report all incidents of harassment and retaliation that come to their attention.

This policy applies to all aspects of the academic environment, including but not limited to classroom conditions, grades, academic standing, employment opportunities, scholarships, recommendations, disciplinary actions, and participation in any community college activity. In addition, this policy applies to all terms and conditions of employment, including but not limited to hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, training opportunities, and compensation.

To this end the Chancellor shall ensure that the institution undertakes education and training activities to counter sexual harassment and to prevent, minimize, or eliminate any hostile environment that impairs access to equal education opportunity or impacts the terms and conditions of employment.

The Chancellor shall establish procedures that define sexual harassment on campus. The Chancellor shall further establish procedures for employees, students, and other members of the campus community that provide for the investigation and resolution of complaints regarding sexual harassment in violation of this policy, and procedures to resolve complaints of sexual harassment in violation of this policy. State and federal law and this policy prohibit retaliatory acts against all participants by the District, its employees, students, and agents.

The District will publish and publicize this policy and related written procedures (including the procedure for making complaints) to administrators, faculty, staff, students, applicants for employment, and applicants for admission, particularly when they are new to the institution. The District will make this policy and related written procedures (including the procedures for making complaints) available in all administrative offices and will post them on the District's website.

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.

Date Adopted: _____, 2020

General Institution

AP 3433 PROHIBITION OF SEXUAL HARASSMENT UNDER TITLE IX

References:

Title IX, Education Amendments of 1972; Title 5 Sections 59320 et seq.;
Title VII of the Civil Rights Act of 1964, 42 U.S.C.A. Section 2000e

NOTE: This procedure is legally required.

The District is committed to providing an academic and work environment free of unlawful sex harassment under Title IX. This procedure defines sexual harassment on campus.

This procedure and the related policy protects students, employees, in connection with all the academic, educational, extracurricular, athletic, and other programs of the District, whether those programs take place in the District's facilities, a District bus, or at a class or training program sponsored by the District at another location.

Definitions

Sexual Harassment under Title IX: Conduct that satisfies one or more of the following:

- A District employee conditions the provision of an aid, benefit, or service of the District on an individual's participation in unwelcome sexual conduct (*quid pro quo* harassment);
- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the District's education program or activity;
- Sexual assault, including the following:
 - **Sex Offenses.** Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.

- **Rape** (except Statutory Rape). The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity. There is carnal knowledge if there is the slightest penetration of the genital or anal opening of the body of another person.
- **Sodomy**. Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity.
- **Sexual Assault with an Object**. To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity. An "object" or "instrument" is anything the offender uses other than the offender's genitalia, e.g., a finger, bottle, handgun, stick.
- **Fondling**. The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity.
- **Sex Offenses, Non-Forcible Unlawful, Non-Forcible Sexual Intercourse**.
 - **Incest**. Non-Forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
 - **Statutory Rape – Non-Forcible**. Sexual intercourse with a person who is under the statutory age of consent. There is no force or coercion used in Statutory Rape; the act is not an attack.
- **Dating violence**. Violence against a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of a relationship will be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

- **Domestic Violence.** Violence committed:
 - By a current or former spouse or intimate partner of the victim;
 - By a person with whom the victim shares a child in common;
 - By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
 - By a person similarly situated to a spouse of the victim under the domestic or family violence laws of California; or
 - By any other person against an adult or youth victim protected from that person's acts under the domestic or family violence laws of California.

- **Stalking.** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his/her/their safety or the safety of others or suffer substantial emotional distress.

Date Approved: _____ 2020.

General Institution

**AP 3434 RESPONDING TO HARASSMENT BASED ON SEX UNDER
TITLE IX**

References:

- 20 U.S. Code Sections 1681 et seq.;
- 34 Code of Federal Regulations Parts 106.1 et seq.

NOTE: This procedure is legally required.

Introduction

The District encourages members of the District community to report sexual harassment. This procedure only applies to conduct defined as sexual harassment under Title IX and applicable federal regulations and that meet Title IX jurisdictional requirements. The District will respond to sexual harassment and sexual misconduct that falls outside that definition and outside the jurisdiction of the Title IX federal regulations using California law and applicable District policies and procedures. In implementing these procedures discussed below, the District will also provide supportive measures, training, and resources in compliance with California law, unless they are preempted by the Title IX regulations.

Title IX Coordinator

Questions concerning Title IX may be referred to the District Title IX Coordinator whose contact information is below.

The Title IX Coordinators' contact information is:

Chabot College	Las Positas College	District Office
Debbie Trigg Dean of Counseling 25555 Hesperian Blvd., Room 755 Hayward, CA 94545 dtrigg@chabotcollege.edu	Anette Raichbart Vice President, Administrative Services 300 Campus Hill Drive, Bldg. 1600 Livermore, CA 94551-7623 araichbart@laspositascollege.edu	David Betts Director, Employee & Labor Relations 7600 Dublin Blvd, 3 rd Floor Dublin, CA 94568 dbetts@clpccd.org

The Title IX Coordinator is required to respond to reports of sexual harassment or misconduct. The Title IX Coordinator will handle information received with the utmost discretion and will share information with others on a need-to-know basis. For example, the Title IX Coordinator may need to address public safety concerns on campus, comply

with state and federal legal requirements, or share information to implement supportive measures.

A report of sexual harassment to the Title IX Coordinator does not necessarily lead to a full investigation, as discussed more fully below. However, the Title IX Coordinator will make an assessment to determine if there is a safety risk to the campus. If the Title IX Coordinator finds there is a continued risk, the Title IX Coordinator will file the formal complaint without the Complainant's consent or cooperation.

Title IX Harassment Complaints, Investigations, and Hearings

These Title IX sexual harassment procedures and the related policy protect students, employees, applicants for employment, and applicants for admission.

Jurisdictional Requirements – Application of Procedures

These procedures apply if the conduct meets the following three jurisdictional requirements:

- The conduct took place in the United States;
- The conduct took place in a District “education program or activity.” This includes locations, events, or circumstances over which the District exercised substantial control over both the Respondent and the context in which the harassment occurred, including on-campus and off-campus property and buildings the District owns or controls or student organizations officially recognized by the District own or control.
- The conduct meets the definition of Title IX “sexual harassment.”

Definitions

Advisor: Throughout the grievance process, both the Complainant and Respondent have a right to an Advisor of their choice. If a Party does not have an Advisor at the time of the hearing, the District must provide the Party an Advisor of its choice, free of charge. The District may establish restrictions regarding the extent to which the Advisor may participate in the proceedings as long as the restrictions apply equally to both Parties.

Complainant: A Complainant is an individual who alleges he/she/they is the victim of conduct that could constitute sexual harassment.

Consent: Consent means affirmative, conscious, and voluntary agreement to engage in sexual activity. Both Parties must give affirmative consent to sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that he/she/they has the affirmative consent of the other or others to engage in the sexual activity. Lack of protest, lack of resistance, or silence does not indicate consent. Affirmative consent must be ongoing throughout a sexual

activity and one can revoke his/her/their consent at any time. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, is not an indicator of consent.

The Respondent's belief that the Complainant consented will not provide a valid defense unless the belief was actual and reasonable, based on the facts and circumstances the Respondent knew, or reasonably should have known, at the time of the incident. A Respondent's belief is not a valid defense where:

- The Respondent's belief arose from the Respondent's own intoxication or recklessness;
- The Respondent did not take reasonable steps to ascertain whether the Complainant affirmatively consented; or
- The Respondent knew or a reasonable person should have known that the Complainant was unable to consent because the Complainant was incapacitated, in that the Complainant was:
 - asleep or unconscious;
 - unable to understand the fact, nature, or extent of the sexual activity due to the influence of drugs, alcohol, or medication; or
 - unable to communicate due to a mental or physical condition.

Decision-Maker: The person(s) who will oversee the live hearing and make a determination of responsibility. The District may have one Decision-Maker determine whether the Respondent is responsible, and another Decision-Maker determine the appropriate level of penalty for the conduct. The Decision-Maker cannot be the Title IX Coordinator or the investigator.

Formal Complaint: A written complaint signed by the Complainant or Title IX Coordinator, alleging sexual harassment and requesting an investigation. If the Title IX Coordinator signs the formal complaint, he/she/they will not become a Party to the complaint.

Parties: As used in this procedure, this means the Complainant and Respondent.

Respondent: A Respondent is an individual reported to be the perpetrator of conduct that could constitute sexual harassment.

Sexual Harassment under Title IX: Conduct that satisfies one or more of the following:

- A District employee conditions the provision of an aid, benefit, or service of the District on an individual's participation in unwelcome sexual conduct (*quid pro quo* harassment);
- Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the District's education program or activity;
- Sexual assault, including the following:
 - **Sex Offenses.** Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.
 - **Rape** (except Statutory Rape). The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity. There is carnal knowledge if there is the slightest penetration of the genital or anal opening of the body of another person.
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 - **Sexual Assault with an Object.** To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity. An "object" or "instrument" is anything the offender uses other than the offender's genitalia, e.g., a finger, bottle, handgun, stick.
 - **Fondling.** The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity.

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- **Dating violence.** Violence against a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of a relationship will be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- **Domestic Violence.** Violence committed:
 - By a current or former spouse or intimate partner of the victim;
 - By a person with whom the victim shares a child in common;
 - By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
 - By a person similarly situated to a spouse of the victim under the domestic or family violence laws of California; or
 - By any other person against an adult or youth victim protected from that person's acts under the domestic or family violence laws of California.
- **Stalking.** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his/her/their safety or the safety of others or suffer substantial emotional distress.

Reporting Options

Any individual may report sexual harassment to the College/District Title IX Coordinator.

The District strongly encourages prompt reporting of sexual harassment. Prompt reporting allows for the collection and preservation of evidence, including physical evidence, digital media, and witness statements. A delay may limit the District's ability to effectively investigate and respond.

Individuals have the opportunity to decide whether they want to pursue a formal Title IX complaint. Reporting sexual harassment to the Title IX Coordinator does not automatically initiate an investigation under these procedures. A report allows the District to provide a wide variety of support and resources to impacted individuals and to prevent the reoccurrence of the conduct. A Complainant or the Title IX Coordinator filing a formal complaint will initiate an investigation.

If there are parallel criminal and Title IX investigations, the District will cooperate with the external law enforcement agency and will coordinate to ensure that the Title IX process does not hinder legal process or proceedings.

The District will document reports of sexual harassment in compliance with the Clery Act, a federal law requiring data collection of crime within the campus geography. Under the Clery Act, the District does not document personal information; the District reports the type of conduct, and the time, date, and location. (Also see BP/AP 3540 Sexual and Other Assaults on Campus.)

District Employees and Officials with Authority

District Officials with Authority are not confidential resources and are required to report allegations of sexual harassment to the Title IX Coordinator promptly. All other employees are encouraged to report allegations to the Title IX Coordinator but are not required to do so.

The District has designated the following employees as Officials with Authority:

- Executives
- Administrators
- Supervisors

Officials with Authority are required to report all relevant information they know about sexual harassment including the name of the Respondent, the Complainant, any other witnesses, and the date, time, and location of the alleged incident.

Intake and Processing of Report

Receipt of Report

After receiving a report of sexual harassment, the Title IX Officer will contact the Complainant and reporting party to explain rights under this policy and procedure and invite the Complainant to an in-person meeting. The Title IX Officer will discuss supportive measures with the Parties.

Timeframe for Reporting

To promote timely and effective review, the District strongly encourages individuals to report sexual harassment as soon possible because a delay in reporting may affect the ability to collect relevant evidence and may affect remedies the District can offer.

Supportive Measures

Supportive measures are non-disciplinary, non-punitive individualized services offered free of charge to the Complainant or the Respondent regardless of whether a formal complaint has been filed. The District will provide the Complainant and Respondent with supportive measures as appropriate and as reasonably available to restore or preserve equal access to the District's education program or activities. These measures are designed to protect the safety of all Parties, protect the District's educational environment, or deter sexual harassment. The District will provide supportive measures on a confidential basis and will only make disclosures to those with a need to know to enable the District to provide the service. Supportive measures may include counseling, extensions of deadlines, other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the Parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

Removal of Respondent Pending Final Determination

Upon receiving a report regarding sexual harassment, the Title IX Coordinator will make an immediate assessment concerning the health and safety of the Complainant and campus community as a whole. The District has the right to order emergency removal of a Respondent, or if the Respondent is an employee, place the employee on administrative leave.

Emergency removal

The District may remove a non-employee Respondent from the District's education program or activity on an emergency basis after it conducts an individualized safety and risk analysis and determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal.

The District may not use emergency removal to address a Respondent's threat of obstructing the sexual harassment investigation or destroying relevant evidence. Emergency removal is only available to address health or safety risks against individuals arising out of sexual harassment allegations, not to address other forms of misconduct that a Respondent might commit pending the processing of a complaint.

The College/District Title IX Officer, or designee, will conduct the individualized safety and risk analysis.

If the District/Campus Title IX Officer or designee determines emergency removal is appropriate, he/she/they or designee will provide the person the District is removing from campus on an emergency basis with a notice and opportunity to attend a meeting and challenge the basis of his/her/their removal. The College

President or Vice Chancellor of HR, or designee, will determine whether the emergency removal from campus order is warranted after considering information provided by the Respondent challenging the emergency removal.

Administrative leave

The District may place a non-student employee Respondent on administrative leave during the pendency of a grievance process described in the formal complaint process below. The District will follow any relevant policies, procedures, collective bargaining agreements, or state law in placing an employee on administrative leave.

Formal Complaint Grievance Process

Notice to Parties

Upon receipt of a formal complaint, the Title IX Coordinator will provide the following notice in writing, to the Parties:

- Notice of the District's Title IX grievance process;
- Notice of the allegations of alleged sexual harassment with sufficient details known at the time and with sufficient time to prepare a response before any initial interview;
- Statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process;
- Notice that the Parties may have Advisor of their choice, who may be, but is not required to be, an attorney;
- Notice that the Parties may inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including the evidence upon which the District does not intend to rely in reaching a determination regarding responsibility, and inculpatory or exculpatory evidence whether obtained from a Party or other source; and
- Inform the Parties of any provision in the District's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.

If, in the course of an investigation, the District decides to investigate allegations about the Complainant or Respondent that are not included in the notice provided above, the Title IX Coordinator will provide notice in writing of the additional allegations to the Parties.

Dismissal of formal complaint

The District must investigate the allegations in a formal complaint. However, the District must dismiss the formal complaint and will not process the complaint under these procedures if any of the following three circumstances exist:

- If the conduct alleged in the formal complaint would not constitute Title IX sexual harassment as defined in this procedure;
- If the conduct alleged did not occur in the District's education program or activity;
- If the conduct alleged did not occur against a person in the United States.

The District has discretion to dismiss a formal complaint or any allegation under the following circumstances:

- If at any time during the investigation or hearing: a Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations;
- If the Respondent is no longer enrolled or employed by the District; or
- If there are specific circumstances that prevent the District from gathering evidence sufficient to reach a determination regarding responsibility as to the formal complaint or allegations.

If the District dismissed the formal complaint or any allegations, the Title IX Coordinator shall simultaneously provide the Parties with written notice of the dismissal and reason. The District will also notify the Parties of their right to appeal.

The District may commence proceedings under other policies and procedures after dismissing a formal complaint.

Consolidation of Formal Complaints

The District may, but is not required to, consolidate formal complaints as to allegations of sexual harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one Party against the other Party, where the allegations of sexual harassment arise out of the same facts or circumstances.

Equitable Treatment of the Parties

The District's determination of responsibility is a neutral, fact-finding process. The District will treat Complainants and Respondents equitably. The procedures will apply equally to both Parties. The District will not discipline a Respondent unless it

determines the Respondent was responsible for sexual harassment at the conclusion of the grievance process.

Statement of Presumption of Non-Responsibility

The investigation is a neutral, fact-finding process. The District presumes all reports are in good faith. Further, the District presumes the Respondent is not responsible for the alleged conduct. The District makes its determination regarding responsibility at the conclusion of the grievance process.

Bias or Conflict of Interest

The College/District Title IX Coordinator, investigator, Decision-Maker, or any person designated by the District to facilitate an informal resolution process, will not have potential actual bias or conflict of interest in the investigatory, hearing, sanctioning, or appeal process or bias for or against Complainants or Respondents generally. Actual bias is an articulated prejudice in favor of or against one Party or position; it is not generalized concern about the personal or professional backgrounds, positions, beliefs, or interests of the Decision-Maker in the process. The District will ensure that the Title IX Coordinator, investigator, Decision-Maker, and facilitator receive training on:

- The definition of sexual harassment in this procedure;
- The scope of the District's education program or activity;
- How to conduct an investigation;
- The grievance process including conducting hearings, appeals, and informal resolution processes; and
- How to serve impartially, including avoiding: prejudgment of the facts at issue; conflicts of interest; and bias.

Timeline for Completion

The District will undertake its grievance process promptly and as swiftly as possible. The District will complete the investigation and its determination regarding responsibility or the informal resolution process within 180 calendar days.

When appropriate, the Title IX Coordinator may determine that good cause exists to extend the 180-calendar day period to conduct a fair and complete investigation, to accommodate an investigation by law enforcement, to accommodate the unavailability of witnesses or delays by the Parties, to account for District breaks or vacations, or due to the complexity of the investigation. The District will provide notice of this extension to the Complainant and Respondent in writing and include the reason for the delay and anticipated timing of completion.

A Party may request an extension from the Title IX Coordinator in writing by explaining the reason for the delay and the length of the continuance requested. The Title IX

Coordinator will notify the Parties and document the grant or denial of a request for extension or delay as part of the case recordkeeping.

Role of Advisor

The role of the Advisor is to provide support and assistance in understanding and navigating the investigation process.

The Advisor may not testify in or obstruct an interview or disrupt the process. The Title IX Coordinator has the right to determine what constitutes appropriate behavior of an Advisor and take reasonable steps to ensure compliance with this procedure.

A Party does not have a right to self-representation at the hearing; an Advisor must conduct any cross-examination. The District must provide an Advisor of its choice, free of charge to any Party without an Advisor in order to conduct cross-examination. If an Advisor fails to appear at the hearing, the District will provide an Advisor to appear on behalf of the non-appearing Advisor. To limit the number of individuals with confidential information about the issues, each Party may identify one Advisor.

Confidentiality Agreements

To protect the privacy of those involved, the Parties and Advisors are required to sign a confidentiality agreement prior to attending an interview or otherwise participating in the District's grievance process. The confidentiality agreement restricts dissemination of any of the evidence subject to inspection and review or use of this evidence for any purpose unrelated to the Title IX grievance process. The confidentiality agreement will not restrict the ability of either Party to discuss the allegations under investigation.

Use of Privileged Information

The District's formal complaint procedure does not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally-recognized privilege (e.g., attorney-client privilege, doctor-patient privilege, spousal privilege, etc.), unless the person holding the privilege provides voluntary, written consent to waive the privilege.

Investigations

The Title IX Coordinator is responsible to oversee investigations to ensure timely resolution and compliance with Title IX and this procedure.

Both Parties have the right to have an Advisor present at every meeting described in this section.

Trained investigators

The District will investigate Title IX formal complaints fairly and objectively. Individuals serving as investigators under this procedure will have adequate training on what constitutes sexual harassment and how the District's grievance procedures operate. The District will also ensure that investigators receive training on issues of relevance to

create an investigative report that fairly summarizes relevant evidence and complies with this procedure.

Gathering Evidence and Burden of Proof

The District, not the Parties, has the responsibility to gather information and interview witnesses. When the investigator evaluates the evidence, he/she/they will do so using the preponderance of the evidence standard. After considering all the evidence gathered, the investigator will decide whether it is more likely than not that reported conduct occurred.

Notice of Investigative Interview

The District will provide written notice of the date, time, location, participants, and purpose of all investigative interviews to a Party whose participation is invited or expected, with sufficient time for the Party to prepare to participate.

Evidence Review

Both Parties have an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including the evidence upon which the District does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a Party or other source.

Prior to the investigator preparing an investigative report, the District will send to each Party and the Party's Advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy. The Parties will have at least ten days to submit a written response. The investigator must consider this written response prior to completing the investigative report.

Investigative Report

The results of the investigation of a formal complaint will be set forth in a written report that will include at least all of the following information:

- A description of the circumstances giving rise to the formal complaint;
- A description of the procedural steps taken during the investigation, including all individuals contacted and interviewed;
- A summary of the testimony of each witness the investigator interviewed;
- An analysis of relevant evidence collected during the investigation, including a list of relevant documents;
- A specific finding as to whether the allegations occurred using a preponderance of the evidence standard;
- A table of contents if the report exceeds ten pages; and
- Any other information deemed appropriate by the District.

The investigator will not make a determination regarding responsibility.

The investigator may redact information not directly related to the allegations or privileged information. However, the investigator will keep a log of information he/she/they do not produce to the Parties. The investigator will provide this log only to the Title IX Coordinator. The Title IX Coordinator will not disclose the log to the Parties but will maintain the log in the Title IX Coordinator's file, in the event it later becomes relevant.

At least ten days prior to a hearing or other time of determination regarding responsibility, the District will send the investigative report to each Party and their Advisors, if any, the investigative report in an electronic format or a hard copy, for review and written response. The Parties will have at least ten days to submit a written response.

Hearing

After completing an investigation and prior to completing a determination regarding responsibility, the District will hold a live hearing to provide the Complainant and Respondent an opportunity to respond to the evidence gathered before a Decision-Maker. Neither Party may choose to waive the right to a live hearing, but the Parties can choose whether to participate in the hearing or answer some or all cross-examination questions.

Notice

If the District proceeds to a hearing, the District will provide all Parties written notice of the date, time, location, participants, and purpose of the hearing with sufficient time for the Party to prepare to participate.

Hearing Format

The District may provide a live hearing with all Parties physically present in the same geographic location or, at the District's discretion if either Party requests, the District may provide any or all Parties, witnesses, and other participants the ability to appear at the live hearing virtually, with technology enabling participants simultaneously to see and hear each other in real time.

The District will make the information reviewed during the Evidence Review available at the hearing for reference and consultation. The District will not restrict the ability of either Party to discuss the allegations under investigation or to gather and present relevant evidence.

The District will create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the Parties for inspection and review.

Decision-Maker

The Decision-Maker will be free from conflict of interest or bias, including bias for or against Complainants or Respondents.

The Decision-Maker may ask the Parties and the witnesses questions during the hearing. The Decision-Maker must objectively evaluate all relevant evidence both inculpatory and exculpatory and must independently reach a determination regarding responsibility without giving deference to the investigative report. The Decision-Maker must receive training on issues of relevance, how to apply the rape-shield protections for Complainants, and any technology to be used at the hearing.

Presenting Witnesses

The District will provide the Complainant and Respondent an equal opportunity to present witnesses, including fact and expert witnesses, and other inculpatory and exculpatory evidence. Witnesses, like Parties, are not required to participate in the live hearing process.

Only relevant evidence will be admissible during the hearing. Relevant evidence means evidence, including evidence relevant to the credibility of a Party or witness, having any tendency in reason to prove or disprove any disputed fact material to the allegations under investigation.

Cross-Examination

The District will permit each Party's Advisor to ask the other Party and any witnesses all relevant questions and follow-up questions, including those questions challenging credibility. The Party's Advisor must conduct cross-examination directly, orally, and in real time. A Party may never personally conduct cross-examination.

Advisors may only ask relevant cross-examination and other questions of a Party or witness. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the Decision-Maker must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. The Decision-Maker need not provide a lengthy or complicated explanation in support of a relevance determination. If a Party or witness disagrees with a relevance determination, that individual has the choice of either (1) abiding by the Decision-Maker's determination and answering the question or (2) refusing to answer the question.

If a Party or witness does not submit to cross-examination at the live hearing, the Decision-Maker will not rely on any statement of that Party or witness in reaching a determination regarding responsibility. A Party or witness may also decline to answer a question, and the Decision-Maker cannot rely on any statement on which that Party or witness has declined to answer cross-examination questions. A Decision-Maker cannot draw an inference about the determination regarding responsibility based solely on a Party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.

Determinations of Responsibility

When the Decision-Maker makes a determination of responsibility or non-responsibility, the Decision-Maker will issue a written determination regarding responsibility, no later than 20 business days after the date that the hearing ends.

When making a determination regarding responsibility, a Decision-Maker will objectively evaluate all relevant evidence, including both inculpatory and exculpatory evidence. A Decision-Maker may not make credibility determinations based on an individual's status as a Complainant, Respondent, or witness. In evaluating the evidence, the Decision-Maker will use the preponderance of the evidence standard. Thus, after considering all the evidence it has gathered, the District will decide whether it is more likely than not that sexual harassment occurred.

The written determination will include:

- Identification of the allegations potentially constituting Title IX sexual harassment as defined in these procedures;
- A description of the procedural steps taken from the receipt of the formal complaint through the determination, including who conducted the investigation and gave notifications to the Parties. The determination will also state when, where, and the date the investigator interviewed the Parties and witnesses, conducted site visits, the methods used to gather other evidence. The procedural section should also discuss the dates and how the Parties were provided the opportunity to review and inspect evidence and the date of any hearings held and who attended the hearing;
- Findings of fact supporting the determination. In making these findings, the Decision-Maker will focus on analyzing the findings of fact that support the determination of responsibility or non-responsibility;
- Conclusions regarding the application of the District's code of conduct to the facts;
- A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility;
- A statement of, and rationale for, any disciplinary sanctions the District imposes on the Respondent;
- A statement of whether the District will provide the Complainant with remedies designed to restore or preserve equal access to the District's education program or activity;
- The District need not disclose to the Respondent remedies that do not affect him/her/them as part of the written determination. The District can inform the Respondent that it will provide remedies to the Complainant. However, the District will inform the Complainant of the sanctions against the Respondent;
- The District's procedures and permissible bases for the Complainant and Respondent to appeal.

The District will provide the written determination to the Parties simultaneously. The determination regarding responsibility becomes final either on the date that the District provides the Parties with the written determination of the result of the appeal, if the Parties file an appeal, or if the Parties do not file an appeal, the date on which an appeal would no longer be timely.

Disciplinary Sanctions and Remedies

The District must have completed the grievance procedures (investigation, hearing, and any appeal, if applicable) before the imposing disciplinary sanctions or any other actions that are not supportive measures against a Respondent. If the Decision-Maker determines the Respondent was responsible for conduct that constitutes sexual harassment, the District will take disciplinary action against the Respondent and any other remedial action it determines to be appropriate. The action will be prompt, effective, and commensurate with the severity of the offense.

Remedies for the Complainant might include, but are not limited to:

- Providing an escort to ensure that the Complainant can move safely between classes and activities;
- Ensuring that the Complainant and Respondent do not attend the same classes or work in the same work area;
- Providing counseling services or a referral to counseling services;
- Providing medical services or a referral to medical services;
- Providing academic support services, such as tutoring;
- Arranging for a Complainant, if a student, to re-take a course or withdraw from a class without penalty, including ensuring that any changes do not adversely affect the Complainant's academic record; and
- Reviewing any disciplinary actions taken against the Complainant to see if there is a causal connection between the harassment and the misconduct that may have resulted in the Complainant's discipline.

Possible disciplinary sanctions for student Respondents include written or verbal reprimand, required training or counseling, non-academic probation, suspension, and expulsion. Possible disciplinary sanctions for employee Respondents include written or verbal reprimand, required training or counseling, reduction in, demotion, suspension, or discharge.

Appeal of Dismissal of a Formal Complaint or of the Determination of Responsibility

A Complainant or Respondent may appeal the District's determination regarding responsibility or the dismissal of a formal complaint or any allegations. A Complainant

or Respondent must submit a written appeal within seven business days from the date of the notice of determination regarding responsibility or from the date of the District's notice of dismissal of a formal complaint or any allegations.

Grounds for Appeal

The Chancellor/College President or designee will serve as the Decision-Maker on Appeal. In filing an appeal of the District's determination regarding responsibility or the District's dismissal of a formal complaint, the Party must state the grounds for appeal and a statement of facts supporting those grounds. The grounds for appeal are as follows:

- A procedural irregularity affected the outcome;
- New evidence was not reasonably available at the time the District's determination regarding responsibility or dismissal was made, and this new evidence could affect the outcome; or
- The District's Title IX Coordinator, investigator, or Decision-Maker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome.

Appeal Procedure

If the Complainant or Respondent submit an appeal to the District, the District will:

- Notify the other Party in writing within 5 business days of receiving a Party's appeal;
- Allow the non-appealing Parties at least ten business days from the date of receipt of the appeal to submit a written statement in support of, or challenging, the outcome;

The appeal Decision-Maker will issue a written decision on whether to grant or deny the appeal, and the rationale for the decision, within 45 business days after the Decision-Maker on appeal receives the response to the appeal or the last day to provide a response. The District will provide the written decision simultaneously to both Parties.

The Decision-Maker on appeal may extend or otherwise modify the deadlines provided above. Either Party may seek an extension by submitting a written request to the appeal Decision-Maker explaining the need for the extension and the proposed length of the extension. The Decision-Maker will respond to the request within 48 hours in writing and will inform the Parties simultaneously whether the extension is granted.

Informal resolution

If the District determines that a formal complaint is appropriate for informal resolution, it may provide the Parties with the opportunity to participate in an informal resolution process, including mediation, at any time prior to reaching a determination regarding responsibility.

The District will provide the Complainant and Respondent written disclosure of the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the Parties from resuming a formal complaint arising from the same allegations, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.

The District must obtain the Parties' voluntary, written consent to the informal resolution process. If the Parties reach an agreement, the District does not have to complete a full investigation and adjudication of a report of sexual harassment. At any time prior to agreeing to a resolution, any Party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint.

The informal resolution process is not available to resolve allegations that an employee sexually harassed a student.

Retaliation prohibited

The District prohibits any intimidation, threats, coercion, or discrimination against any individual who made a report or complaint of sexual harassment, testified, assisted, or participated or refused to participate in any manner in a Title IX investigation, proceeding, or hearing. Individuals who experience retaliation may file a complaint using the formal complaint process described above.

Dissemination of Policy and Procedures

The District will provide its policy and procedures related to Title IX on its website and in each handbook or catalog provided to applicants for admission and employment, students, employees, and all unions or professional organizations holding collective bargaining with the District.

When hired, employees are required to sign acknowledging that they have received the policy and procedures. The District will place the signed acknowledgment of receipt in each employee's personnel file.

Training

The District will provide training to Title IX Coordinators, investigators, Decision-Makers, and any individual who facilitates an informal resolution process, on the definition of sexual harassment, the scope of the District's education program or activities, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including avoiding prejudgment of the facts at issue, conflicts of interest, and bias. Any materials used to train the District's Title IX Coordinator, investigators, Decision-Makers, and any person who facilitates an informal resolution process, will not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment.

File retention

The District will retain on file for a period of at least seven years after closing the case copies of:

- The original report or complaint;
- Any actions taken in response to the complaint, including supportive measures;
- The investigative report including all evidence gathered and any responses from the Parties;
- The District's determination regarding responsibility;
- Audio or audiovisual recording or transcript from a hearing;
- Records of any disciplinary sanctions imposed on the Respondent;
- Records of any remedies provided to the Complainant;
- Any appeal and the result;
- Any informal resolution and the result; and
- All materials used to train Title IX Coordinators, investigators, Decision-Makers, and any person who facilitates an informal resolution process. The District will make these training materials publicly available on its website.

The District will make these documents available to the U.S. Department of Education Office for Civil Rights upon request.

Date Approved: _____ 2020.

BP 5010 ADMISSIONS AND CONCURRENT ENROLLMENT

References:

Education Code Sections [52620](#), [52621](#), 76000, 76001, 76002, and 76038;
[Education Code Section 48800, 48800.5](#)

Labor Code Section 3077;

~~U.S. Department of Education regulations on the Integrity of Federal Student Financial Aid Programs under Title IV of the Higher Education Act of 1965, as amended;~~

~~34 Code of Federal Regulations [Section-Part 668.16 subdivision \(p\)](#) (U.S. Department of Education regulations on the Integrity of Federal Student Financial Aid Programs under Title IV of the Higher Education Act of 1965, as amended);~~
[ACCJC Accreditation Standard II.C.6](#)

The District shall admit students who meet one of the following requirements ~~and who are capable of profiting from the instruction offered:~~

- Any person ~~over the age of 18 and~~ possessing a high school diploma or its equivalent.
- Other persons who are over the age of 18 years and who, in the judgment of the Chancellor or [Chancellor](#) designee are capable of profiting from the instruction offered. Such persons shall be admitted as provisional students, and thereafter shall be required to comply with the District's rules and regulations regarding scholastic achievement and other standards to be met by provisional or probationary students as a condition to being readmitted in any succeeding semester.
- Persons who are apprentices as defined in Labor Code Section 3077.

The District may deny or place conditions on a student's enrollment upon a finding by the Board of Trustees or designee that the applicant has been expelled within the preceding five years or is undergoing expulsion procedures in another California community college district, and that the applicant continues to present a danger to the ~~physical~~ safety of the students and employees of the District. The District shall in its discretion, or as otherwise federally mandated, evaluate the validity of a student's high school completion. The Chancellor shall establish procedures for evaluating the validity of a student's high school completion.

The District may provide opportunities for high school students to enroll in courses at Chabot and Las Positas Colleges. The concurrent enrollment conditions and procedures for high school students to obtain credit (Education Code [Section](#) 76001) are described in the Administrative Rules and Procedures.

Admission – Any student whose age or class level is equal to grades 10 – 12 is eligible to attend as a special part-time student for advanced scholastic or career and technical education courses.

Any student in an adult education program administered by a school district or noncredit program administered by a community college district that is pursuing a high school diploma or high school equivalency certificate, and receives the recommendation of the administrator of the student's adult school or noncredit program of attendance, is eligible to attend as a special part-time student.

Any student whose age or class level is equal to grades 10 – 12 is eligible to attend as a special full-time student.

Any student enrolled in 10 – 12 may attend summer session.

The Chancellor shall establish procedures regarding ability to benefit and admission of high school and younger students.

Denial of Requests for Admission – If the Board denies a request for special full-time or part-time enrollment by a pupil who is identified as highly gifted, the Board will record its findings and the reason for denying the request in writing within 60 days.

The written recommendation and denial shall be issued at the next regularly scheduled board meeting that occurs at least 30 days after the pupil submits the request to the District.

The Chancellor shall establish procedures regarding evaluation of requests for special full-time or part-time enrollment by a pupil who is identified as highly gifted.

Claims for State Apportionment for Concurrent Enrollment – Claims for Sstate apportionment submitted by the District based on enrollment of high school pupils shall satisfy the criteria established by statute and any applicable regulations of the Board of Governors for the California Community Colleges.

The Chancellor shall establish procedures regarding compliance with statutory and regulatory criteria for concurrent enrollment.

The District shall provide in its policies and practices equal opportunity in the admission of students to educational programs and college activities to assure that there shall be no discrimination against any person based on the protected status categories delineated in BP/AP 3410 Nondiscrimination on the grounds of gender, gender identity, gender expression, race, color, age, religion, national origin, medical condition, genetic information, ancestry, sexual orientation, marital status, physical or mental disability, or because he/she is perceived to have one or more of the foregoing characteristics, or

~~based on association with a person or group with one or more of these actual or perceived characteristics.~~

The College Catalog is an official publication of the colleges. The rules, regulations, and procedures contained therein regarding students are made a part of the Administrative Procedures.

Also see AP 5010 Admissions and Concurrent Enrollment, AP 5011 Admission and Concurrent Enrollment of High School and Other Young Students, BP/AP 5012 International Students, AP 5013 Students in the Military, BP/AP 5015 Residence Determination, BP/AP 5020 Nonresident Tuition, and BP/AP 5030 Fees.

Adopted: June 17, 2014

Revised:

(~~This policy r~~Replaces former CLPCCD Policies 5124, 5126, and 5270)

AP 5010 ADMISSIONS

References:

Education Code Section 76000;

~~U.S. Department of Education regulations on the Integrity of Federal Student Financial Aid Programs under Title IV of the Higher Education Act of 1965, as amended;~~

~~34 Code of Federal Regulations Part Section 668.16 subdivision (p) (U.S. Department of Education regulations on the Integrity of Federal Student Financial Aid Programs under Title IV of the Higher Education Act of 1965, as amended);~~
ACCJC Accreditation Standard II.C.6

Admissions procedures for the Chabot-Las Positas Community College District (District) are set forth in detail in the College Catalogs, available in each College's Admissions and Records Office and posted on the District website.

The District's admissions procedures reflected in the catalogs address:

- Designated authority and responsibility for the admissions process;
- Admission procedures for students over 18 with a high school diploma;
- Admission criteria and procedures for other persons who are over the age of 18 without a high school diploma; and
- Admission procedures for nonresident students that include a determination of residency status (also see AP 5015 Residence Determination).

The Chief Student Services Officer shall establish procedures for evaluating the validity of a student's high school completion if the District or the United States Department of Education has reason to believe that the high school diploma is not valid or was not obtained from an entity that provides secondary school education.

Also see BP 5010 Admissions and Concurrent Enrollment, AP 5011 Admission and Concurrent Enrollment of High School and Other Young Students, BP/AP 5012 International Students, AP 5013 Students in the Military, BP/AP 5015 Residence Determination, BP/AP 5020 Nonresident Tuition, and BP/AP 5030 Fees.

Approved: March 18, 2014

Revised:

~~(This is a new procedure recommended by the Policy and Procedure Service and its legal counsel)~~

AP 5011 ADMISSION AND CONCURRENT ENROLLMENT OF HIGH SCHOOL AND OTHER YOUNG STUDENTS

References: _____

Education Code Sections 48800, 48800.5, 76001, ~~and~~ 76002, and 76004

Admission criteria and procedures for younger students enrolling in the community college, pertaining to:

- Special part-time students (if applicable and as defined in Board Policy).
- Special full-time students (if applicable and as defined in Board Policy).
- Summer school students (if applicable and as defined in Board Policy).
- Agreements between school dDistrict(s) and community college dDistrict.
- Credit granted for courses.
- Limits on the number of units for which special part-time students may enroll (Education Code Section 76001 subdivision (d)).
- Procedures for denial of request for full-time enrollment, including time constraints (Education Code Section 76001 subdivision (d)).
- Procedures for recording Board findings and reasons for denial of a request for admission by a student identified as highly gifted.
- Procedures for assigning a low enrollment priority to special part-time or full-time students, except for students attending a middle college high school if the student is seeking to enroll in a course that is required for the student's middle college high school program, to ensure they do not displace regularly admitted students.
- Procedures for maintaining records of enrollment of these students for apportionment purposes.
- Procedures for ensuring that claims for Sstate apportionment for K-12 students meet all of the following criteria:
 - The class is open to the general public
 - The class is advertised as open to the general public in one or more of the following:
 - The college catalog
 - The regular schedule of classes
 - An addenda to the catalog or schedule

If the decision to offer a class on a high school campus is made after publication of the District's regular schedule of classes, and the class is only advertised to the general public through electronic media, the class must be advertised for a minimum of 30 continuous days prior to the first meeting of the class.

If the class is offered on a high school campus, the class may not be held during the time the campus is closed to the general public, as defined by the school board.

If the class is a physical education class, no more than 10 percent of the enrollment of the class may consist of special part-time or full-time students.

The District may provide opportunities for students enrolled in high school courses to enroll concurrently in courses at either college for credit. To be considered for admittance as a **special part-time student**, the student must meet the eligibility standards as established in Education Code Sections 48800 and 76001. To be considered for admission as a **special full-time student**, the student must meet the eligibility standards as established in Education Code Section 48800.05. The concurrent enrollment conditions and eligibility requirements for high school students are herein described.

1. Conditions of Enrollment

- a. The colleges may determine which student shall be admitted. Such decisions shall be based on:
 - i. completion of course prerequisites
 - ii. appropriateness of the course(s) requested
 - iii. students who are concurrently enrolled will be accommodated on a space available basis.
- b. High school students will be held to the same academic standards as any other college student enrolled in the class.
- c. High school students will remain a member of the high school. High school students will not be permitted to enroll in more than 11 units per semester.
- d. High school students will arrange for transportation to and from the college.
- e. High school students will attend the high school for at least the minimum high school day.
- f. High school students will purchase the required books and supplies for the college course(s).
- g. High school students will provide grade reports to their high school counselor or principal.

2. Eligibility of Students

To be eligible for concurrent enrollment, students must:

- a. be concurrently enrolled in high school.
- b. be authorized by the high school principal and counselor to pursue specific courses.
- c. have written parental approval secured in advance by the high school.
- d. secure approval from the affiliated local school district if the student is home schooled.

3. Procedures for Enrollment

The college will inform the high schools about the process that high school students must follow for concurrent enrollment. The college will also develop with each high school district a policy related to high school students receiving credit

for completed courses at either college. High school credit is determined by the student's high school district.

Admission is subject to seat availability. The student must submit:

- application for admission;
- 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;
- demonstration that the student is capable of profiting from instruction.

The Chief Student Services Officer has the authority to make the final decision whether a student can benefit from instruction.

All required documents shall be submitted to the Admissions and Records Office.

High School Students: For students attending high school, the Admissions and Records Office will review the materials, and will determine if the student has the abilities and sufficient preparation to benefit from instruction at a community college. The decision of the Chief Student Services Office shall be final.

This determination may be done by (one or more of the following options):

- a review of the materials submitted by the student;
- meeting with the student and their parent or guardian;
- consultation with [the Chief Student Services Officer or designee;](#)
- consideration of the welfare and safety of the student and others; or
- consideration of local, state, or federal laws.

Students will not be admitted unless they have availed themselves of all opportunities to enroll in equivalent courses at their schools of attendance. Courses will be taught with the rigor appropriate to college-level courses in accordance with the approved course outline.

If a request for special part-time or full-time enrollment is denied for a pupil who has been identified as highly gifted, the Board shall provide written findings and reasons for the denial within 60 days. A recommendation regarding the request for admission, and the denial shall be submitted to the Board at a regularly scheduled meeting that falls at least 30 days after the request for admission has been submitted.

To be considered for admission as a special summer session student, the student must meet the eligibility standards as established in Education Code Sections 48800 and 76001. Students will not be admitted unless they have availed themselves of all opportunities to enroll in equivalent courses at their schools of attendance.

Middle and Lower School Students: For students attending middle and lower schools, the determination shall be made by [the Chief Student Services Officer](#). The school must

provide transcripts and a letter signed by the principal indicating how in their opinion the student can benefit from instruction. The Chief Student Services Officer will determine if the student has the abilities and sufficient preparation to benefit from instruction at a community college, and that the student's safety and that of others will not be affected. The decision of the Chief Student Services Officer shall be final. Once a decision has been made, the student, their parent or guardian, and the school principal shall be informed of the decision. This determination may be done by applying the following criteria (one or more of the following options):

- a review of the materials submitted by the student;
- meeting with the student and their parent or guardian;
- consultation with the Chief Student Services Officer or designee;
- consideration of the welfare and safety of the student and others;
- consideration of local, state, or federal laws;
- review of the content of the class in terms of sensitivity and possible effects on the minor;
- requirements for supervision of the minor; or
- times the class(es) meet and the effect on the safety of the minor.

Courses in which high school and other young students are permitted to enroll will be open to the entire college population, and will be taught with the rigor appropriate to college-level courses in accordance with the approved course outline.

If a request for special part-time or full-time enrollment is denied for a pupil who has been identified as highly gifted, the Board shall provide written findings and reasons for the denial within 60 days. A recommendation regarding the request for admission, and the denial shall be submitted to the Board at a regularly scheduled meeting that falls at least 30 days after the request for admission has been submitted.

College and Career Access Pathways (CCAP)

The governing board had adopted all the legal requirements of Education Code Section 76004 in order to participate in the College and Career Access Pathways (CCAP) partnership with the governing board of a school district for the purpose of offering or expanding dual enrollment opportunities for students who may not already be college bound or who are underrepresented in higher education, with the goal of developing seamless pathways from high school, including continuation high school, to community college for career technical education or preparation for transfer, improving high school graduation rates, or helping high school pupils achieve college and career readiness.

The District may enter into a CCAP partnership with a school district partner that is governed by a CCAP partnership agreement approved by the governing boards of both districts. As a condition of adopting a CCAP partnership agreement, the governing board of each district, shall do both of the following:

- For career technical education pathways to be provided under the partnership, consult with, and consider the input of, the appropriate local workforce development board to determine the extent to which the pathways are aligned with regional and statewide employment needs. The governing board of each district

shall have final decision-making authority regarding the career technical education pathways to be provided under the partnership; and

- Present, take comments from the public on, and approve or disapprove the dual enrollment partnership agreement at an open public meeting of the governing board of the district.

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, and shall:

- outline the terms of the CCAP partnership and shall include, but not necessarily be limited to, the total number of high school pupils to be served and the total number of full-time equivalent students projected to be claimed by the community college district for those pupils; the scope, nature, time, location, and listing of community college courses to be offered; and criteria to assess the ability of pupils to benefit from those courses.
- establish protocols for information sharing, in compliance with all applicable state and federal privacy laws, joint facilities use, and parental consent for high school pupils to enroll in community college courses. The protocols shall only require a high school pupil participating in a CCAP partnership to submit one parental consent form and principal recommendation for the duration of the pupil's participation in the CCAP partnership.
- identify a point of contact for the participating community college district and school district partner.
- certify that any community college instructor teaching a course on a high school campus has not been convicted of any sex offense as defined in Education Code Section 87010 or any controlled substance offense as defined in Education Code Section 87011.
- certify that any community college instructor teaching a course at the partnering high school campus has not displaced or resulted in the termination of an existing high school teacher teaching the same course on that high school campus.
- certify that a qualified high school teacher teaching a course offered for college credit at a high school campus has not displaced or resulted in the termination of an existing community college faculty member teaching the same course at the partnering community college campus.
- include a plan by the participating community college district to ensure all of the following:
 - A community college course offered for college credit at the partnering high school campus does not reduce access to the same course offered at the partnering community college campus;
 - A community college course that is oversubscribed or has a waiting list shall not be offered in the CCAP partnership; and
 - Participation in a CCAP partnership is consistent with the core mission of the community colleges pursuant to Education Code Section 66010.4, and that pupils participating in a CCAP partnership will not lead to enrollment displacement of otherwise eligible adults in the community college.

- certify that both the school district and community college district partners comply with local collective bargaining agreements and all state and federal reporting requirements regarding the qualifications of the teacher or faculty member teaching a CCAP partnership course offered for high school credit.
- specify both of the following:
 - Which participating district will be the employer of record for purposes of assignment monitoring and reporting to the county office of education; and
 - Which participating district will assume reporting responsibilities pursuant to applicable federal teacher quality mandates.
- certify that any remedial course taught by community college faculty at a partnering high school campus shall be offered only to high school pupils who do not meet their grade level standard in math, English, or both on an interim assessment in grade 10 or 11, as determined by the partnering school district, and shall involve a collaborative effort between high school and community college faculty to deliver an innovative remediation course as an intervention in the pupil's junior or senior year to ensure the pupil is prepared for college-level work upon graduation.

A community college district participating in a CCAP partnership shall not provide physical education course opportunities to high school pupils or any other course opportunities that do not assist in the attainment of at least one of the following goals:

- developing seamless pathways from high school to community college for career technical education or preparation for transfer;
- improving high school graduation rates; or
- helping high school pupils achieve college and career readiness.

The District will not enter into a CCAP partnership with a school district within the service area of another community college district, except where an agreement exists, or is established, between those community college districts authorizing that CCAP partnership.

A high school pupil enrolled in a course offered through a CCAP partnership shall not be assessed any fee that is prohibited by Education Code Section 49011.

The District may assign priority for enrollment and course registration to a pupil seeking to enroll in a community college course that is required for the pupil's CCAP partnership program that is equivalent to the priority assigned to a pupil attending a middle college high school as described in Education Code Section 11300 and consistent with middle college high school provisions in Education Code Section 76001. Units completed by a pupil pursuant to a CCAP agreement may count towards determining a pupil's registration priority for enrollment and course registration at a community college.

The District may limit enrollment in a community college course solely to eligible high school students if the course is offered at a high school campus, either in person or using an online platform, during the regular school day and the community college course is offered pursuant to a CCAP partnership agreement.

The District may allow a special part-time student participating in a CCAP partnership agreement established pursuant to this article to enroll in up to a maximum of 15 units per term if all of the following circumstances are satisfied:

- The units constitute no more than four community college courses per term;
- The units are part of an academic program that is part of a CCAP partnership agreement established pursuant to this article; and
- The units are part of an academic program that is designed to award students both a high school diploma and an associate degree or a certificate or credential.

The governing board of the District exempts special part-time students from the following fee requirements:

- Student representation fee (Education Code Section 76060.5)
- Nonresident tuition fee and corresponding permissible capital outlay fee or processing fee (Education Code Section 76140)
- Transcript fees (Education Code Section 76223)
- Course enrollment fees (Education Code Section 76300)
- Apprenticeship course fees (Education Code Section 76350)
- Child development center fees (Education Code Section 79121)

The District shall not receive a state allowance or apportionment for an instructional activity for which the partnering district has been, or shall be, paid an allowance or apportionment.

The attendance of a high school pupil at a community college as a special part-time or full-time student pursuant to this section is authorized attendance for which the community college shall be credited or reimbursed pursuant to Education Code Section 48802 or 76002, provided that no school district has received reimbursement for the same instructional activity. For purposes of calculating classroom-based average daily attendance for classroom-based instruction apportionments, at least 80 percent (80%) of the instructional time offered by a charter school pursuant to an authorized CCAP partnership agreement shall be at the school site, and the charter school shall require the attendance of a pupil for a minimum of 50 percent (50%) of the minimum instructional time required to be offered pursuant to paragraph (1) of subdivision (a) of Education Code Section 47612.5, if the pupil is also a special part-time student enrolled in a community college pursuant to this section and the pupil will receive academic credit upon satisfactory completion of enrolled courses.

For each CCAP partnership agreement entered into pursuant to this section, the district shall report annually to the California Community Colleges Chancellor's Office, the Legislature, the Director of Finance, and the Superintendent all of the following information:

- The total number of high school pupils by school site enrolled in each CCAP partnership, aggregated by gender and ethnicity, and reported in compliance with all applicable state and federal privacy laws.
- The total number of community college courses by course category and type and by school site enrolled in by CCAP partnership participants.

- The total number and percentage of successful course completions, by course category and type and by school site, of CCAP partnership participants.
- The total number of full-time equivalent students generated by CCAP partnership community college district participants.
- The total number of full-time equivalent students served online generated by CCAP partnership community college district participants.

Also see BP/AP 5010 Admissions and Concurrent Enrollment, BP/AP 5012 International Students, AP 5013 Students in the Military, BP/AP 5015 Residence Determination, BP/AP 5020 Nonresident Tuition, and BP/AP 5030 Fees.

Approved: March 18, 2014

Revised:

(~~This new procedure r~~Replaces former CLPCCD Administrative Rules and Procedures 5124 and 5270)

BP 5015 RESIDENCE DETERMINATION

References:

Education Code Sections 68040, [68086](#), and 76140;
Title 5 Sections 54000 et seq.

Except for students seeking to enroll exclusively in career development and college preparation courses, and other courses for which no credit is given, sStudents shall be classified at the time of each application for admission or registration as a resident or nonresident student.

A resident is a person who has been a bona fide resident of California for at least one year on the residence determination date. The residence determination date shall be the day immediately preceding the first day of a semester or summer session for which the student applies to attend.

Pursuant to Title 5 Section 54020, in order to establish a residence, it is necessary that there be a union of act and intent. To establish residence, a person capable of establishing residence in California must couple ~~his or her~~their physical presence in California with objective evidence that the physical presence is with the intent to make California the home for other than a temporary purpose.

Residence classification shall be made for each student at the time applications for admission are accepted or registration occurs and whenever a student has not been in attendance for more than one semester. A student previously classified as a nonresident may be reclassified as of any residence determination date.

The Chancellor shall enact procedures to assure that residence determinations are made in accordance with Education Code and Title 5 Regulations.

With the exception of certain impacted health science and indentured apprentice programs, all Chabot-Las Positas Community College District course offerings are open to California residents who are otherwise eligible to attend. Out-of-state and international students are eligible for admission, but subject to payment of nonresident tuition.

Also see BP/AP 5010 Admissions and Concurrent Enrollment, AP 5011 Admission and Concurrent Enrollment of High School and Other Young Students, BP/AP 5012 International Students, AP 5013 Students in the Military, AP 5015 Residence Determination, BP/AP 5020 Nonresident Tuition, and BP/AP 5030 Fees.

Adopted: June 17, 2014

Revised: _____

(~~This policy r~~Replaces former CLPCCD Policy 5120)

AP 5015 RESIDENCE DETERMINATION

References:

Education Code Sections 68000 et seq., ~~68130 et seq.~~ 68130.5, and ~~68074-68075.7, and 68086;~~

Title 5 Sections 54000 et seq.;

38 U.S. Code Section 3679

Residence Classification – Residency classifications shall be determined for each student at the time of each registration and whenever a student has not been in attendance for more than one semester. Residence classifications are to be made in accordance with the following provisions:

- A residence determination date is that day immediately preceding the opening day of instruction for any session during which the student proposes to attend. ~~In order to establish a residence, it is necessary that there be a union of act and intent. To establish residence, a person capable of establishing residence in California must couple his or her physical presence in California with objective evidence that the physical presence is with the intent to make California the home for other than a temporary purpose.~~
- Residence classification is the responsibility of the College Admissions & Records Office.

Students must be notified of residence determination within 14 calendar days of submission of application.

A student seeking to enroll exclusively in career development and college preparation courses, and other courses for which no credit is given, shall not be subject to this residency classification requirement.

The District shall publish the residence determination date and summary of the rules and regulations governing residence determination and classification in the District catalog or addenda thereto on the residency page of the college Admissions & Records webpage, overseen by the Admissions & Records administrator.

Rules Determining Residence

- A student who has resided in the state for more than one year immediately preceding the residence determination date is a resident.

- A student who has not resided in the state for more than one year immediately preceding the residence determination date is a nonresident.

The residence of each student enrolled in or applying for enrollment in any class or classes maintained by this District shall be determined in accordance with the Education Code which states that every person has, in law, a residence. In determining the place of residence, the following rules are to be observed:

- Every person who is married or eighteen (18) years of age, or older, and under no legal disability to do so, may establish residence.
- A person may have only one residence.
- A residence is the place where one remains when not called elsewhere for labor or other special or temporary purpose and to which one returns in seasons of repose.
- A residence cannot be lost until another is gained.
- The residence can be changed only by the union of act and intent.
- A ~~man or a woman~~ person may establish ~~his or her~~ their residence. A ~~woman's person's~~ residence shall not be derivative from that of ~~her~~ their ~~husband's~~ spouse.
- The residence of the parent with whom an unmarried minor child maintains ~~his/her~~ their place of abode is the residence of the unmarried minor child. ~~When~~ if the minor lives with neither parent, the minor's residence is that of the parent with whom the last place of abode was maintained, provided the minor may establish ~~his/her~~ their residence when both parents are deceased and a legal guardian has not been appointed.
- The residence of an unmarried minor who has a parent living cannot be changed by the minor's own act, by the appointment of a legal guardian, or by relinquishment of a parent's right of control.

Determination of Resident Status

A resident is a student who has been a bona fide resident of the Sstate for one year prior to the residence determination date. A bona fide resident is a person whose residence is in California as determined above except:

- A student who is a minor and remains in this state after the parent, who was previously domiciled in California and has established residence elsewhere, shall be entitled to retain resident classification until attaining the age of majority and has resided in the Sstate the minimum time necessary to become a resident, so long as continuous attendance is maintained at an institution.

- A student who is a minor and who provides evidence of being entirely self-supporting and actually present in California for more than one year immediately preceding the residence determination date with the intention of acquiring a residence therein, shall be entitled resident classification until ~~he/she has resided~~residence in the Sstate meets the minimum time necessary to become a resident.
- A student who has not been an adult for one year immediately preceding the residence determination date for the semester for which the student proposes to attend an institution shall have the immediate pre-majority-derived California residence, if any, added to the post-majority residence to obtain the one year of California residence.
- A student holding a valid credential authorizing service in the public schools of this Sstate, who is employed by a school district in a full-time position requiring certification qualifications for the college year in which the student enrolls in an institution, shall be entitled to resident classification if each student meets any of the following requirements:
 - He/she/they holds a provisional credential and is enrolled in courses necessary to obtain another type of credential authorizing service in the public schools.
 - He/she/they holds a credential issued pursuant to Education Code Section 44250 and is enrolled in courses necessary to fulfill credential requirements.
 - He/she/they is enrolled in courses necessary to fulfill the requirements for a fifth year of education prescribed by subdivision (b) of Education Code Section 44259.
 - A student holding a valid emergency permit authorizing service in the public schools of this Sstate, who is employed by a school district in a full-time position requiring certification qualifications for the academic year in which the student enrolls at an institution in courses necessary to fulfill teacher credential requirements, is entitled to resident classification only for the purpose of determining the amount of tuition and fees for no more than one year. Thereafter, the student's residency status will be determined under the other provisions of this procedure.
- A student who is a full-time employee of the California State University, the University of California or a community college, or of any Sstate agency or a student who is a child or spouse of a full-time employee of the California State University, the University of California or a community college, or of any Sstate agency may be entitled to resident classification, until the student has resided in the Sstate the minimum time necessary to become a resident.

- A student who is a natural or adopted child, stepchild, or spouse who is a dependent of a member of the armed forces of the United States stationed in this Sstate on active duty and is attending at, or has been admitted to the District shall be entitled to resident classification. If the member of the armed forces of the United States later transfers on military orders to a place outside this Sstate, or retires as an active member of the armed forces of the United States, the student dependent shall not lose his/her resident classification, so long as he/she/they remains continuously enrolled in the District.
- A student who is a member of the armed forces of the United States stationed in this Sstate ~~on active duty~~, except a member of the Armed Forces assigned for educational purposes to a Sstate-supported institution of higher education, is entitled to resident classification only for the purpose of determining the amount of tuition and fees. If the student later transfers on military orders to a place outside this Sstate, the student shall not lose his/her resident classification, so long as he/she/they remains continuously enrolled in the District.
- A veteran who was discharged or released from at least 90 days of active service less than three years before the date of enrollment in a course commencing on or after July 1, 2015, and the veteran's dependents, regardless of the veteran's state of residence is/are entitled to resident classification.
- An individual who is the child or spouse of a person who, on or after September 11, 2001, died in the line of duty while serving on active duty as a member of the Armed Forces who resides in California.
- An individual who is entitled to transferred Post-9/11 GI Bill program benefits by virtue of their relationship to a member of the uniformed services who is serving on active duty.
- ~~A student who was a member of the armed forces of the United States stationed in this state on active duty for more than one year immediately prior to being discharged from the armed forces is entitled to resident classification for the length of time he/she lives in this state after being discharged up to the minimum time necessary to become a resident.~~
- ~~A student who is a minor and resides with his or her their parent in a district or territory not in a district shall be entitled to resident classification, provided that the parent has been domiciled in California for more than one year prior to the residence determination date for the semester, quarter, or term for which the student proposes to attend.~~
- ~~A student who is the child or spouse of a person who, on or after September 11, 2001, died in the line of duty while serving on active duty as a member of the Armed Forces who resides in California.~~
-

- ~~A student who is entitled to transferred Post-9/11 GI Bill program benefits by virtue of their relationship to a member of the uniformed services who is serving on active duty.~~
- A student who is a Native American is entitled to resident classification for attendance at a community college if the student is also attending a school administered by the Bureau of Indian Affairs located within the community college district.
- A student who is a federal civil service employee and ~~his/her~~their natural or adopted dependent children are entitled to resident classification if the parent has moved to this ~~SS~~state as a result of a military mission realignment action that involves the relocation of at least 100 employees. This classification shall continue until the student is entitled to be classified as a resident, so long as the student continuously attends an institution of public higher education.
- A student who resides in California and is 19 years of age or under at the time of enrollment, who is currently a dependent or ward of the state through California's child welfare system, or was served by California's child welfare system and is no longer being served either due to emancipation or aging out of the system, may be entitled to resident classification until ~~he/she has resided~~residency in the ~~S~~state ~~meets~~ the minimum time necessary to become a resident.
- A student who lives with a parent who earns a livelihood primarily by performing agricultural labor for hire in California and other states, and the parent has performed such labor in this ~~S~~state for at least two months per year in each of the two preceding years, and the parent resides in this District and the parent of the student has claimed the student as a dependent on ~~his~~-~~S~~state or federal personal income tax return if he/she/~~they~~ has sufficient income to have personal income tax liability shall be entitled to resident classification.
- A student who demonstrates financial need, has a parent who has been deported or was permitted to depart voluntarily, moved abroad as a result of that deportation or voluntary departure, lived in California immediately before moving abroad, attended a public or private secondary school in the ~~S~~state for three or more years, and upon enrollment, will be in ~~his/her~~their first academic year as a matriculated student in California public higher education, will be living in California, and will file an affidavit with the District stating ~~that he/she intends~~intention to establish residency in California as soon as possible.
- A student who has a special immigrant visa that has been granted status under Section 1244 of Public Law 110-181 or under Public Law 109-163, or is a refugee admitted to the United States under Section 1157 of Title 8 of the United States Code, and who, upon entering the United States, settled in California, shall be exempt from paying the nonresident tuition fee required by Education Code

Section 76140 for the length of time ~~he/she lives~~residing in this Sstate up to the minimum time necessary to become a resident.

Right ~~T~~To Appeal – Students who have been classified as non-residents have the right to a review of their classification (Title 5 Section 54010 subdivision (a)). Any student, following a final decision of residence classification by the College Admissions & Records Office may make written appeal to the Chief Student Services Officer within 30 calendar days of notification of final decision by the college regarding classification.

Appeal Procedure – The appeal is to be submitted to College Admissions & Records Office which must forward it to the Chief Student Services Officer within five working days of receipt. Copies of the original application for admission, the residency questionnaire, and evidence or documentation provided by the student, with a cover statement indicating upon what basis the residence classification decision was made, must be forwarded with the appeal.

The Chief Student Services Officer shall review all the records and have the right to request additional information from either the student or the Admissions Office.

Within 30 calendar days of receipt, the Chief Student Services Officer shall send a written determination to the student. The determination shall state specific facts on which the appeal decision was made.

Reclassification – A student previously classified as a non-resident may be reclassified as of any residence determination date. A residence determination date is that day immediately preceding the opening day of instruction for any session during which the student proposes to attend.

Petitions are to be submitted to the Admissions Office.

Petitions must be submitted prior to the semester for which reclassification is to be effective. Extenuating circumstances may be considered in cases where a student failed to petition for reclassification prior to the residency determination date. In no case, however, may a student receive a non-resident tuition refund after the date of the first census.

Written documentation may be required of the student in support of the reclassification request.

A questionnaire to determine financial independence must be submitted with the petition for reclassification. Determination of financial independence is not required for students who were classified as non-residents by the University of California, the California State University, or another community college District (Education Code Section 68044).

A student shall be considered financially independent for purposes of residence reclassification if the applicant meets all of the following requirements:

- Has not and will not be claimed as an exemption for State and federal tax purposes by his/her parent in the calendar year prior to the year the reclassification application is made and in any of the three calendar years prior to the year the reclassification application is made;
- Has not and will not receive more than seven-hundred fifty dollars (\$750) per year in financial assistance from a parent in the calendar year the reclassification application is made and in any of the three calendar years prior to the reclassification; and
- Has not lived and will not live for more than six weeks in the home of his/her parent during the calendar year the reclassification application is made and in any of the three calendar years prior to the reclassification application.

A student who has established financial independence may be reclassified as a resident if the student has met the requirements of Title 5 Sections 54020, 54022, and 54024.

Failure to satisfy all of the financial independence criteria listed above does not necessarily result in denial of residence status if the one-year requirement is met and demonstration of intent is sufficiently strong.

Financial dependence in the current or preceding calendar year shall weigh more heavily against finding California residence than financial dependence in the preceding second and third calendar years. Financial dependence in the current or preceding calendar year shall be overcome only if (1) the parent on whom the student is dependent is a California resident, or (2) there is no evidence of the student's continuing residence in another state.

The Chief Student Services Officer will make a determination, based on the evidence and notify the student not later than 14-30 days of receipt of the petition for reclassification.

Students have the right to appeal according to the procedures above.

Non-Citizens – The District will admit any non-citizen who is 18 years of age or a high school graduate.

If non-citizens are present in the United States illegally or with any type of temporary visa, they will be classified as non-residents and charged non-resident tuition unless they meet the exceptions contained below.

If, for at least one year and one day prior to the start of the semester in question, a non-citizen has possessed any immigration status that allows him/her/them to live permanently in the United States and he/she/their residency meets the California residency requirements, the student can be classified as a resident.

Any students who are U.S. citizens, permanent residents of the U.S., and aliens who are not nonimmigrants (including those who are undocumented), may be exempt from paying nonresident tuition if they meet one of the following requirements:

- Total attendance of, or attainment of credits earned while in California equivalent to three or more years of full-time attendance or attainment of credits at any of the following: (a) California high schools; (b) California high schools established by the State Board of Education; (c) California adult schools established by either a county office of education, unified or high school district, or The Department of Corrections and Rehabilitation; (d) campuses of the California community colleges; or (e) a combination thereof; or
- Three or more years of full-time high school coursework, and a total of three or more years of attendance in California elementary schools, or a combination of California elementary and secondary schools.

Additionally, the following requirements must be met:

- Graduation from a California high school or attainment of the equivalent thereof; or completed an associate degree from a California Community College; or completed the minimum requirements at a California Community College, or fulfill the minimum transfer requirements established for the University of California or the California State University for students transferring from a campus of the California Community Colleges;
- Registration or enrollment in a course offered by any college in the District for any term commencing on or after January 1, 2002;
- Completion of a questionnaire form prescribed by the Chancellor of the California Community Colleges and furnished by the District of enrollment, verifying eligibility for this nonresident tuition exemption; and
- In the case of a student without lawful immigration status, the filing of an affidavit that the student has filed an application to legalize his/her/their immigration status, or will file an application as soon as he/she/they is eligible to do so.

Documents and information obtained in implementing this exemption are confidential.

The initial residency classification will be made at the time the student applies for admission. Students may file residency questionnaire forms through the third week of the semester to request a review of their residency status. Final residency determination is made by the College Admissions & Records Office. Students may appeal the decision.

[Also see BP/AP 5010 Admissions and Concurrent Enrollment, AP 5011 Admission and Concurrent Enrollment of High School and Other Young Students, BP/AP 5012](#)

International Students, AP 5013 Students in the Military, BP 5015 Residence Determination, BP/AP 5020 Nonresident Tuition, and BP/AP 5030 Fees.

Approved: March 18, 2014

Revised: ~~Edited:~~ August 21, 2018

Revised:

Student Services

BP 5020 NONRESIDENT TUITION

References: _____

Education Code Sections 68050, 68051, 68130, 68130.5, 76140, and 76141;
Title 5 Section 54045.5

Nonresident students shall be charged nonresident tuition for all units enrolled, unless specifically required otherwise by law.

Not later than ~~February~~ March 1 of each year, the Chancellor shall bring to the Board for approval an action to establish nonresident tuition for the following fiscal year. The fee shall be calculated in accordance with guidelines contained in applicable Sstate regulations and/or the California Community College Attendance Accounting Manual.

The Chancellor shall establish procedures regarding collection, waiver, and refunds of nonresident tuition.

1. Nonresident Tuition

International students and students classified as nonresidents of the State of California shall be charged nonresident tuition. Nonresident tuition is calculated annually by the District Business Services Office.

2. Determination of Residence

Residence for the purpose of community college attendance shall be determined in accordance with the provisions of the Education Code and Title 5 of the California Administrative Code.

Also see BP/AP 5010 Admissions and Concurrent Enrollment, AP 5011 Admission and Concurrent Enrollment of High School and Other Young Students, BP/AP 5012 International Students, AP 5013 Students in the Military, BP/AP 5015 Residence Determination, AP 5020 Nonresident Tuition, and BP/AP 5030 Fees.

Adopted: June 17, 2014

Revised: _____

(~~This policy r~~Replaces ~~current-former~~ CLPCCD Policy 5122)

AP 5020 NONRESIDENT TUITION

References: _____

Education Code Sections 68075.65, 68130.5, and 76140 et seq.;
Title 5 Section 54045.5

The Chabot-Las Positas Community College District (District) Chancellor shall ensure that District procedures for nonresident tuition will comply with legal references cited below and follow the guidelines of the California Community College Budget and Accounting Manual in determining the District's full expense of education.

Exemptions, ~~including~~ include:

- Any students, other than nonimmigrant aliens under 8 U.S. Code Section 1101 subdivision (a)(15), who meet the following requirements:
 - either high school attendance in California for three or more years OR attainment of credits earned in California from a California high school equivalent to three or more years of full-time high school coursework and a total of three or more years of attendance in California elementary schools, California secondary schools, or combination of those schools;
 - graduation from a California high school or attainment of the equivalent thereof;
 - registration or enrollment in a course offered for any term commencing on or after January 1, 2002;
 - ~~completion~~ completion of a questionnaire form prescribed by the ~~State~~ California Community Colleges Chancellor's Office verifying eligibility for this nonresident tuition exemption; and
 - in the case of a student without lawful immigration status, the filing of an affidavit that the student has ~~filed~~ filed an application to legalize ~~his/her~~ their immigration status, or will file an application as soon as ~~he/she is~~ eligible to do so.
 - _____.
- Any students who meet the following requirements:
 - demonstrates financial need;
 - has a parent who has been deported or was permitted to depart voluntarily;
 - moved abroad as a result of that deportation or voluntary departure;
 - lived in California immediately before moving abroad;
 - attended a public or private secondary school in the State for three or more years; and

- Upon enrollment, will be in their first academic year as a matriculated student in California public higher education, will be living in California, and will file an affidavit with the District stating intention to establish residency in California as soon as possible.
- Any nonimmigrant aliens granted “T” or “U” visa status under title 8 U.S. Code Section 1101 subdivision (a)(15)(T)(i) or (ii), or section 1101 subdivision (a)(15)U(i) or (ii), respectively, who meet the following requirements:
 - high school attendance in California for three or more years;
 - graduation from a California high school or attainment of the equivalent thereof;
 - registration or enrollment in a course offered for any term or commencing on or after January 1, 2002; and
 - completion of a questionnaire form prescribed by the California Community Colleges Chancellor’s Office verifying eligibility for this nonresident tuition exemption.
- A special part-time student, other than a nonimmigrant alien under 8 U.S. Code Section 1101(15)(a), participating in a College and Career Access Pathways (CCAP) partnership program and enrolled in no more than 15 units per term.

Further Nonresident Requirements include:

- A requirement that tThe nonresident tuition fee be set not later than February March 1 of each year.
- A requirement that tThe calculation shall reflect the current expense of education calculated according to the Budget and Accounting Manual.
- The need to address eExemptions, if any, due to reciprocity with bordering states.
- The applicable pProcessing fees, if any, for international students.
- A requirement that tThe calculation shall include the expense of education in the preceding fiscal year.
- A requirement that tThe calculation shall reflect fees in contiguous Districts.
- A requirement that tThe calculation shall provide for students enrolled in more or less that 15 units per term.
- The posting of a notice listing persons exempt from paying nonresident tuition on the District’s website.

1. Authority to Determine Residence

The Admissions and Records Office is authorized to evaluate information presented by any applicant for admission and make determinations of residence for the purpose of charging a non-residence fee.

Such authorization includes authorization to establish required procedures including the printing of required residence questionnaires. Said document(s) must ascertain both the act and the intent of a student to establish and maintain California residency.

2. Appeal of Residency Determination

A student may appeal the residency determination to the Chief Student Services Officer. Unique cases may be referred by the Chief Student Services Officer to the legal staff of the Chancellor's Office of the California Community Colleges for consideration.

3. Amount of Nonresident Fee

The tuition fee per credit shall be determined by the Board on or before [February March](#) 1 of each year in accordance with the provisions of the Education Code. This fee will be a per-unit charge.

4. Disposition of Fees Collected

All fees collected shall be deposited to the credit of general fund of the District.

5. Collection of Fees in Advance

Nonresident fees are due and payable on or before the first day of instruction for each semester or term and shall be based upon the number of units for which the student is enrolled.

6. Nonpayment of Fees

Students failing to pay required fees shall be excluded from classes and all activities of the college.

7. Admission in Error

Nonresident students subject to payment of nonresident tuition fees who have been admitted to a class or classes in error without payment of the fee shall be excluded from such class or classes upon notification pending payment of the fee.

8. Admission by Falsification

Nonresident students who have been admitted to a class or classes without payment of the fee because of falsification of information submitted by or for them shall be excluded from such class or classes upon notification.

Students excluded because of falsifications shall not be readmitted during the academic semester or session from which they were excluded, nor shall they be admitted to any following academic semester or session until all previously incurred tuition obligations are paid. Said student may be subject to disciplinary action as determined by the Chief Student Services Officer.

9. Collection of Fees

Following ~~falsification~~, ~~it shall be the policy of~~ the District ~~to shall~~ vigorously pursue collection of nonresident fees, payment of which was avoided by falsification. The Chancellor is authorized to initiate action or to request the County Counsel to initiate action in appropriate courts of law in order to collect fees.

10. Refunds

- a. **Erroneous Determination of Nonresident Status** If a student is erroneously determined to be nonresident and, consequently, a tuition fee is paid, such fee is refundable in full, provided acceptable proof of residence is presented within the academic year for which the fee was paid.
- b. **Official Withdrawal or Reduction of Program** – Nonresident students officially withdrawing from enrollment or reducing their programs may have a portion of their tuition fee refunded in accordance with the following schedule (see Paragraph 11). Refunds shall not exceed the amount of tuition paid and will be processed only when accompanied by the receipt issued at the time of payment.

Approximately two weeks will be required to process requests for refund of tuition.

11. Refund Schedule

Refund of tuition fees by reasons of program reductions or withdrawal from the college will be made in accordance with the schedule indicated below:

Date of Withdrawal or Reduction in Program	Refund
Prior to the first day of instruction in a regular semester or session	90%
During the first week of instruction for a regular semester, session or its equivalent for a session	75%
After NGR period* for a session	None

*First 20% of a session

Also see BP/AP 5010 Admissions and Concurrent Enrollment, AP 5011 Admission and Concurrent Enrollment of High School and Other Young Students, BP/AP 5012 International Students, AP 5013 Students in the Military, BP/AP 5015 Residence Determination, BP 5020 Nonresident Tuition, and BP/AP 5030 Fees.

Approved: March 18, 2014

Revised: ~~Edited~~ November 20, 2017

Revised: _____

Student Services

BP 5070 ATTENDANCE

References: _____

Title 5 Sections 58000 et seq.

Attendance Accounting

The District complies with State attendance accounting regulations as published in the Education Code, in Title 5 (the Administrative Code), and in the Student Attendance Accounting Manual (a ~~State~~ California Community Colleges Chancellor's Office publication). ~~The procedures for this policy are included in the Administrative Procedures.~~

Student Attendance

~~Regular attendance is an obligation assumed by every student at the time of registration. Extenuating circumstances are verified cases of accidents, illnesses, or other circumstances beyond the student's control as defined in law.~~

~~Also see BP/AP 5052 Open Enrollment, BP/AP 5055 Enrollment Priorities, AP 5070 Attendance, and AP 5075 Course Adds and Drops.~~

Adopted: June 17, 2014

Revised: _____

(~~This policy r~~Replaces ~~former~~ CLPCCD Policy 5128)

AP 5070 ATTENDANCE

References: _____

Title 5 Sections 58000 et seq.

The District shall comply with State attendance accounting regulations as published in Education Code, Title 5, and the California Community Colleges Chancellor's Office Student Attendance Accounting Manual. Attendance records shall be maintained by faculty prior to census according to rules and regulations prescribed by the Board of Governors of the California Community Colleges. The only official rosters for all classes are the records stored on the District's student information system. Prior to census, each faculty member shall verify class rosters and drop students who never attended. Daily attendance records for each student shall be maintained by faculty teaching courses designated as positive attendance courses. Additionally, faculty are responsible for maintaining these records and inputting student attendance hours into the District's student information system.

District attendance accounting includes:

- Computation of units of full-time equivalent student (FTES) based on the type of course, the way the course is scheduled, and the length of the course;
- Selection of a single primary term length for credit courses;
- Reporting of FTES during the "first period" (between July 1 and December 31) and "second period" (between July 1 and April 15);
- Compliance with census procedures prescribed by the California Community College Chancellor's Office for all credit courses, including work experience, independent study, and credit courses being reported on an actual attendance basis;
- Preparation of census day procedure tabulations;
- Preparation of actual student contact hours of attendance procedure tabulations;
- Preparation (as applicable) of actual apprentice hours of teaching procedure tabulations;
- Preparation of support documentation regarding all course enrollment, attendance and disenrollment information;
- Computation of FTES that includes only the attendance of students while they are engaged in educational activities required of students and while they are under the immediate supervision and control of an academic employee of the District authorized to render service in the capacity and during the period in which he/she/they served; and

- Maintenance of the colleges in the District for at least 175 days during the fiscal year.

1. Attendance Accounting

- Enrollment Documentation** - The administrator responsible for attendance records will retain enrollment source documents for three years or if audited, until resolution.
- Attendance Documentation**
 - Census Procedure** - Census reports which reflect class enrollments as of the one-fifth (1/5) period of each term are submitted by instructors for those classes so designated.
 - Positive Attendance Procedure** - A record of actual hours of attendance will be submitted by instructors for students attending courses so designated. Forms and directions for complying with these requirements will be initiated by the administrator responsible for attendance records.
- Adds and Drops (Withdrawals)**
 - Adds** - A student may add a course only during the designated add/drop period. The only exceptions to this policy are adds into courses designated as open entry/open exit or short term graded courses.
 - Drops** - Information regarding Withdrawal from a class – The withdrawal data will be retained to verify withdrawal from classes. The date of the student or instructor initiated withdrawal will appear on this document. A drop may be initiated at any point during a semester or session. The student grade record assigned will be in accordance with the parameters set forth in Title 5 based on the time at which the drop was requested. Grade assignment or no grade record (NGR) are assigned based on the parameters set forth in Title 5. Class termination past Title 5 deadlines for assigning a “W” (withdrawal) grade, will be based on extenuating circumstances as also defined in Title 5. The drop periods as described above will be prorated for short-term graded and summer session courses.

2. Faculty Responsibility for Attendance Accounting

- Faculty members will ensure that their census reports reflect enrollments as of twenty percent (20%) of the class meeting. Positive attendance records will reflect actual hours of attendance for each student. All faculty members must follow attendance accounting procedures as reviewed in orientations and in correspondence which accompany attendance documents.

3. Audit Trail Documentation

- All course enrollment, attendance and disenrollment records will be managed and retained in accordance with Education Code and Title 5 regulations.

i. **Required Tabulations** - For each reporting period, the District will submit data for the following attendance categories and subsets thereof:

1. census week procedure courses scheduled during each term;
2. a work experience subset of the census courses;
3. an independent study subset of the census courses;
4. positive attendance procedure courses scheduled during each term;
5. an in-service training (police and fire science) subset of the positive attendance courses;
6. a separate tabulation of apprenticeship contact hours;
7. a separate tabulation of contact hours generated in noncredit courses.
8. daily census procedure courses scheduled during each term.

These reports are produced for each campus college, as well as for the entire District.

ii. **Required Data Elements** - All data elements, as mandated by Title 5 and listed in the California Community Colleges Chancellor's Office Student Attendance Accounting Manual, are contained in the official student attendance records of Chabot College. These are readily available for review as required by law. Census and positive attendance hours and related data elements are reported both by student and by class section.

4. **Computation and Reporting of State Supported FTES**

a. **Computation of FTES** - Two standard formulae are used to compute FTES. These are known as the census and the positive attendance formulae.

Apportionment for apprenticeship courses is calculated by employing a third accounting method which allocates funds on a "per hour" as opposed to an FTES basis. Specific formulae for these procedures are found in both Title 5 and in the revised California Community Colleges Chancellor's Office Student Attendance Accounting Manual.

b. **Reporting of FTES** - FTES is reported to the California Community Colleges Chancellor's Office for each required computation period on the CCFS-320. Apprenticeship hours are reported on the CCFS-321 report.

[Also see BP/AP 5052 Open Enrollment, BP/AP 5055 Enrollment Priorities, BP 5070 Attendance, and AP 5075 Course Adds and Drops.](#)

Approved: March 18, 2014

Revised: _____

| (~~This new procedure r~~Replaces former CLPCCD Administrative Rules and Procedure 5128)

AP 5075 COURSE ADDS AND DROPS

References: _____

Title 5 Sections 55024 and 58004

Adding Courses

Students may add classes through the registration period.

After the registration period concludes, classes may only be added by formal request from the student to the instructor of record.

Withdrawals (Title 5 Section 55024)

-Withdrawals, or drops, are authorized through the last day of the fourteenth week of instruction or 75% of the term, whichever is less. Students who withdraw or drop classes during the first four weeks or 30% prior 20% of the term, whichever is less, will receive no notation on their academic record.

Faculty members shall clear their rolls of inactive students no later than the end of the last business day before the census day for all students.

“Inactive students” include:

- Students identified as no-shows,
- Students who officially withdraw,
- Students who are no longer participating in the courses and are therefore dropped by the instructor.

A student will be permitted to withdraw from a class and receive a “W” no more than three times. In the case of multiple withdrawals, the District offers counseling services as its intervention program.

Students may be permitted to enroll in a class after having received the maximum authorized number of “W” symbols as long as the students will receive a grade or a non-evaluative symbol other than a “W” upon completion of the course, and the official designated approves such after a review of a petition submitted by the student.

~~The District must establish the number of times that a student may withdraw from a class and receive a “W.” Students will not be permitted to withdraw and received a “W” in a class more than three times.~~

A mMilitary withdrawal (“MW”) will not be counted toward the permitted number of withdrawals or counted as an enrollment attempt. A military withdrawal occurs when a student who is a member of an active or reserve United States military service receives orders compelling a withdrawal from courses. Upon verification of such orders, a withdrawal symbol of “MW” may be assigned at any time after the period established by the District during which no notation is made for withdrawals. In no case shall a military withdrawal result in a student being assigned an “FW” grade.

An excused withdrawal (“EW”) will not be counted toward the permitted number of withdrawals or counted as an enrollment attempt, nor will it be counted in progress probation and dismissal calculations. An excused withdrawal occurs when a student is permitted to withdraw from a course(s) due to specific events beyond the control of the student affecting his/her/their ability to complete a course(s) and may include a job transfer outside the geographical region, an illness in the family where the student is the primary caregiver, when the student who is incarcerated in a California state prison or county jail is released from custody or involuntarily transferred before the end of the term, when the student is subject to immigration action, or other extenuating circumstance making completion impracticable. In the case of an incarcerated student, an excused withdrawal cannot be applied if the failure to complete the course(s) was the result of the student’s behavioral violation or if the student requested and was granted a mid-semester transfer. Upon verification of these conditions and consistent with the District’s required documentation substantiating the condition, a withdrawal symbol of “EW” may be assigned at any time after the period established by the District during which no notation is made for withdrawals. In no case shall an excused withdrawal result in a student being assigned an “FW” grade. In the case of multiple withdrawals, the District offers counseling services as its intervention program.

~~Students may be permitted to enroll in a class after having received the maximum authorized number of “W” symbols, as long as the students will receive a grade or a non-evaluative symbol other than a “W” upon completion of the course, if the District policy permits additional withdrawals for which it does not receive apportionment and the official designated in the District’s policy approves such withdrawal after a review of a petition submitted by the student.~~

Approved: March 18, 2014

Revised: ~~Edited~~ August 21, 2018

Revised:

Student Services

BP 5210 COMMUNICABLE DISEASE – STUDENTS

Reference:—

Education Code Section 76403

The Chancellor shall establish procedures necessary to assure cooperation with local public health officials in measures necessary for the prevention and control of communicable diseases in students.

Also see [BP/AP 5200 Student Health Services](#), [BP 5205 Student Accident Insurance](#), [AP 5210 Communicable Disease – Students](#), and [BP/AP 7330 ~~titled~~ Communicable Disease – Employees \(related to employees\)](#)

Adopted: June 17, 2014

Reviewed:

(~~This policy r~~Replaces former CLPCCD Policy 2318)

Student Services

AP 5210 COMMUNICABLE DISEASE – STUDENTS

Reference:—

Education Code Section 76403

The District fully cooperates with county and state health officers in measures deemed necessary for the prevention and control of communicable disease and to comply with any immunization program required by the California Department of Health Services regulations.

Protocols and standardized procedures for the prevention and response to outbreaks of communicable disease are contained in the following documents which are on file and available for review in the Health Services Offices:

- Health Services Standardized Protocols
- Pandemic Response Plan
- Emergency Operations Plan

- ~~Cooperation with local health officers in measures necessary for the prevention and control of communicable diseases in students~~
- ~~Compliance with any immunization program required by State Department of Health Services regulations.~~

Also see BP/AP 5200 Student Health Services, BP 5205 Student Accident Insurance, BP 5210 Communicable Disease – Students, and BP/AP 7330 Communicable Disease – Employees.

Approved: March 18, 2014

Revised:

~~(This new procedure r~~Replaces former CLPCCD Administrative Rules and Procedure 2318)