

Other District Policies and Procedures

The district and college policies in this section were developed to protect your interests while you are a student at Berkeley City College. Read through them carefully to become familiar with your student rights and responsibilities.

The policies in this section are:

Prohibition of Harassment, Discrimination, and Sexual Assault Procedures

AP 3410: Board Policy on Nondiscrimination

AP 3435: Discrimination and Harassment Complaints and Investigations

AP 4231: Grade Changes and Student Grievance Procedure

AP 5500: Student Standards of Conduct, Discipline Procedures and Due Process

AP 5530: Student Rights and Grievance Procedure

AP 5140: Disabled Students Programs and Services

AP 3440: Service Animals

AP 3551: Preserving a Drug Free Environment for Students

AP 3570: Smoking

AP 3530: Weapons on Campus

AP 5052: Open Enrollment

AP 4210: Student Learning Outcomes

Student Right to Know Disclosure—Completion and Transfer Rates

Family Education Rights and Privacy Act of 1974 (Access to Educational Records)

The Clery Act

AP 4250: Probation

AP 4255: Disqualification and Dismissal

AP 2430: Delegation of Authority to Chancellor's Staff

AP 3430: Prohibition of Unlawful Harassment

AP 3540: Sexual and Other Assaults on Campus

AP 3560: Alcoholic Beverages

AP 5013: Students in the Military

AP 5015: Residence Determination

AP 4225: Course Repetition and Repeatable Courses

Board Policy 3410 Nondiscrimination

The District is committed to equal opportunity in educational programs, employment, and all access to institutional programs and activities. The District, and each individual who represents the District, shall provide access to its services, classes, and programs without regard to national origin, religion, age, sex or gender, gender identity, race or ethnicity, color, medical condition, ancestry, sexual orientation, marital status, physical or mental disability, active duty military and veterans, pregnancy, or because he or 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 Chancellor shall establish administrative procedures that ensure all members of the college community or persons using the services of the district can present complaints regarding alleged violations of this policy and have their complaints heard in accordance with the Title 5 regulations and those of other agencies that administer state and federal laws regarding nondiscrimination. No District funds shall ever be used for membership, or for any participation involving financial payment or contribution on behalf of the District or any individual employed by or associated with it, to any private organization whose membership practices are discriminatory on the basis of national origin, religion, age, sex or gender, race, color, medical condition, ancestry, sexual orientation, marital status, physical or mental disability, active duty military and veterans, pregnancy, or because he or she is perceived to have one or more of the foregoing characteristics, or because of his or her association with a person or group with one or more of these actual or perceived characteristics.

Reference: Education Code Sections 66250 et seq., 72010 et seq., and 87100 et seq.; Title 5 Sections 53000 et seq. and 59300 et seq.; Penal Code Section 422.55; Government Code Sections 12926.1 and 12940 et seq. Title 2 Sections 10500 et seq. ACCJC Accreditation Eligibility Requirement 20 and ACCJC Accreditation Standard Catalog Requirements (formerly Accreditation Standard II.B.2.c) California Fair Employment and Housing Act Administrative Procedure 3410

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- I. Educational Programs and other Services The District shall provide access to its services, classes and programs without regard to, national origin, religion, age, sex or gender, gender identification, race or ethnicity, color, medical condition, ancestry, sexual orientation, marital status, physical or mental disability, pregnancy 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.
 - A. All classes, including credit, noncredit and not-for-credit, shall be conducted without regard to the gender of the student enrolled in the classes. As defined in the Penal Code, “gender” means sex, and includes a person’s gender identity and gender-related appearance and behavior whether or not stereotypically associated with the person’s assigned sex at birth.
 - B. The District shall not prohibit any student from enrolling in any class or course on the basis of gender.
 - C. Academic staff, including but not limited to counselors, instructors and administrators shall not offer program guidance to students which differs on the basis of gender.
 - D. Insofar as practicable, the District shall offer opportunities for participation in athletics equally to male and female students.
- II. Employment: The District shall provide equal employment opportunities to all applicants and employees regardless of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, gender identification, age, sexual orientation, or military and veteran status.
 - A. All employment decisions, including but not limited to hiring, retention, assignment, transfer, evaluation, dismissal, compensation, and advancement for all position classifications shall be based on job-related criteria as well as be responsive to the District’s needs.
 - B. The District shall provide timely professional and staff development activities and training to promote understanding of diversity.
 - C. It is unlawful to discriminate against a person who serves in an unpaid internship or any other limited-duration program to provide unpaid work experience in the selection, termination, training, or other terms and treatment of that person on any the basis of their race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status.

References: Nondiscrimination References for Education Programs: Education Code Sections 66250 et seq., 200 et seq., and 72010 et seq.; Penal Code Sections 422.55 et seq.; Title 5 Sections 59300 et seq.; ACCJC Accreditation Eligibility Requirement 20 and ACCJC Accreditation Standard Catalog Requirements.

Updated and approved by the Board of Trustees: March 14, 2017.

ADMINISTRATIVE PROCEDURE 3435 DISCRIMINATION AND HARASSMENT COMPLAINTS AND INVESTIGATIONS

I. Complaints

Any person who has suffered harassment, discrimination, or retaliation may file a formal or informal complaint of harassment, discrimination, or retaliation. A formal complaint is a written and signed statement filed with the District or the State Chancellor's office that alleges harassment, discrimination, or retaliation in violation of the District's Board Policies, Administrative Procedures or in violation of state or federal law. An informal complaint is any of the following: (1) An unwritten allegation of harassment, discrimination, or retaliation; (2) A written allegation of harassment, discrimination, or retaliation that falls outside the timeline for a formal complaint; or (3) A written complaint alleging harassment, discrimination, or retaliation filed by an individual who expressly indicates that he/she does not want to file a formal complaint.

II. Informal Complaints

Any person may submit an informal complaint to the college Vice President of Student Services (students) or the college Vice President of Instruction (employees) or any other District or college administrator. Administrators receiving an informal complaint shall immediately notify the Vice Chancellor of Human Resources and Employee Relations in writing of all pertinent information and facts alleged in the informal complaint. Upon receipt of an informal complaint, the Vice Chancellor of Human Resources and Employee Relations will notify the person bringing the informal complaint of his/her right to file a formal complaint, if the incident falls within the timeline for a formal complaint, and explain the procedure for doing so. The complainant may later decide to file a formal complaint, if within the timeline to do so. If the individual chooses not to file a formal complaint, or if the alleged conduct falls outside the timeline to file a formal complaint, the Vice Chancellor of Human Resources and Employee Relations shall consider the allegations contained in the informal complaint and determine the appropriate course of action. This may include efforts to informally resolve the matter, or a fact-finding investigation. Investigation of an informal complaint will be appropriate if the Vice Chancellor of Human Resources and Employee Relations determines that the allegation(s), if proven true, would constitute a violation of the District policy prohibiting harassment, discrimination, or retaliation. The Vice Chancellor of Human Resources and Employee Relations will explain to any individual bringing an informal complaint that the Vice Chancellor of Human Resources and Employee Relations may decide to initiate an investigation, even if the individual does not wish the District to do so. The Vice Chancellor of Human Resources and Employee Relations shall not disregard any allegations of harassment, discrimination, or retaliation solely on the basis that the alleged conduct falls outside the deadline to file a formal complaint.

III. Formal Complaints

Formal Complaints must be filed with the State Chancellor or the Vice Chancellor of Human Resources and Employee Relations unless the party submitting the Formal Complaint alleges discrimination, harassment, or retaliation against the responsible District Officer, in which case it should be submitted directly to the Chancellor or the State Chancellor.

Peralta Community College District AP 3435

Formal Complaints should be submitted on the form prescribed by the State Chancellor. A copy of the form will be available at the college Office of Student Services, District Office of Human Resources, and the District/college web sites. If any party submits a written allegation of harassment, discrimination, or retaliation not on the form described

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above, the District will seek to have the individual complete and submit the form. However, if the individual chooses not to do so, the District will attach the written allegation(s) to the form and treat it as a Formal Complaint. In no instance will the District reject a written allegation of harassment, discrimination, or retaliation on the basis that it was not submitted on the proper form. A Formal Complaint must meet each of the following criteria:

- It must allege facts with enough specificity to show that the allegations, if true, would constitute a violation of District policies or procedures prohibiting discrimination, harassment, or retaliation;
- The complainant must sign and date the Formal Complaint;
- The complainant must file any Formal Complaint not involving employment within one year of the date of the alleged discriminatory, harassing, or retaliatory conduct or within one year of the date on which the complainant knew or should have known of the facts underlying the allegation(s) of discrimination, harassment, or retaliation.
- The complainant must file any Formal Complaint alleging discrimination, harassment, or retaliation in employment within 180 days of the date of the alleged discriminatory, harassing, or retaliatory conduct, except that this period shall be extended by no more than 90 days following the expiration of the 180 days if the complainant first obtained knowledge of the facts of the alleged violation after the expiration of the 180 days. If the Formal Complaint does not meet the requirements set forth above, the District Office of Employee Relations will promptly return it to the complainant and specify the defect. If the sole defect is that the Formal Complaint was filed outside the applicable proscribed timeline, the Vice Chancellor of Human Resources and Employee Relations will handle the matter as an informal complaint.

IV. Oversight of Complaint Procedure

The Vice Chancellor of Human Resources and Employee Relations is the “responsible District Officer” charged with receiving complaints of discrimination or harassment, and coordinating their investigation. The actual investigation of complaints may be assigned by the Vice Chancellor of Human Resources and Employee Relations to other staff or to outside persons or organizations under contract with the District. This shall occur whenever the Vice Chancellor of Human Resources and Employee Relations is named in the complaint or implicated by the allegations in the complaint.

Who May File a Complaint

Any student, employee, or third party who believes he/she has been discriminated against or harassed by a student, employee, or third party in violation of this procedure and the related policy. Where to File a Complaint: A student, employee, or third party who believes he/she has been discriminated against or harassed in violation of these policy and procedures may make a complaint orally or in writing. If a complainant decides to file a formal written unlawful discrimination or harassment complaint Peralta Community College District AP 3435 against the District, he/she must file the complaint on a form prescribed by the State Chancellor’s Office. These approved forms are available from the District Office of Employee Relations, the District’s Human Resources website, and at the State Chancellor’s website. The completed form must be filed with any of the following:

- The Vice Chancellor of Human Resources and Employee Relations;
- College Vice President of Student Services (students), the College Vice President of Instruction (employees), or the College President; or
- the State Chancellor’s Office.

V. Employment-Related Complaints

Complainants filing employment-related complaints shall be notified that they may file employment discrimination complaints with the U.S. Equal Employment Opportunity Commission (EEOC) or the Department of Fair Em-

ployment and Housing (DFEH). Complaints filed with the EEOC or the DFEH should be forwarded to the State Chancellor's Office. Any District employee who receives a harassment or discrimination complaint shall notify the Vice Chancellor of Human Resources and Employee Relations immediately.

VI. Filing a Timely Complaint

Since failure to report harassment and discrimination impedes the District's ability to stop the behavior, the District strongly encourages anyone who believes they are being harassed or discriminated against, to file a complaint. The District also strongly encourages the filing of such complaints within 30 days of the alleged incident. While all complaints are taken seriously and will be investigated promptly, delay in filing impedes the District's ability to investigate and remediate. All supervisors and managers have a mandatory duty to report incidents of harassment and discrimination; the existence of a hostile, offensive or intimidating work environment, and acts of retaliation. The District will investigate complaints involving acts that occur off campus if they are related to an academic or work activity.

VII. Communicating that the Conduct is Unwelcome

The District further encourages students and staff to let the offending person know immediately and firmly that the conduct or behavior is unwelcome, offensive, in poor taste or inappropriate.

VIII. Intake and Processing of the Complaint

Upon receiving notification of a harassment or discrimination complaint, the Vice Chancellor of Human Resources and Employee Relations shall:

- Undertake efforts to informally resolve the charges, including but not limited to mediation, rearrangement of work/academic schedules; obtaining apologies; providing informal counseling, training, etc.
- Advise the complainant that he/she need not participate in an informal resolution of the complaint, as described above, and has the right to end the informal resolution process at any time. Mediation is not appropriate for resolving incidents involving sexual violence.
- Advise a student complainant that he/she may file a complaint with the Office of Civil Rights of the U.S. Department of Education and employee complainants may file a complaint with the Department of Fair Employment and Housing. All complainants should be advised that they have a right to file a complaint with local law enforcement, if the act complained of is also a criminal act. The District must investigate even if the complainant files a complaint with local law enforcement. In addition, the District should ensure that complainants are aware of any available resources, such as counseling, health, and mental health services. The Vice Chancellor of Human Resources and Employee Relations shall also notify the State Chancellor's Office of the complaint.
- Take interim steps to protect a complainant from coming into contact with an accused individual, especially if the complainant is a victim of sexual violence. The Vice Chancellor of Human Resources and Employee Relations should

notify the complainant of his/her options to avoid contact with the accused individual and allow students to change academic situations as appropriate. For instance, the District may prohibit the accused individual from having any contact with the complainant pending the results of the investigation. When taking steps to separate the complainant and accused individual, the District shall minimize the burden on the complainant. For example, it is not appropriate to remove complainants from classes or housing while allowing accused individuals to remain.

IX. Investigation

The Vice Chancellor of Human Resources and Employee Relations shall:

- Authorize the investigation of the complaint, and supervise or conduct a thorough, prompt and impartial investigation of the complaint, as set forth below. Where complainants opt for informal resolution, the designated officer will determine whether further investigation is necessary to ensure resolution of the matter and utilize the investigation process outlined below as appropriate. In the case of a formal complaint, the investigation will include interviews with the complainant, the accused, and any other persons who may have relevant knowledge concerning the complaint. This may include victims of similar conduct.
- Review the factual information gathered through the investigation to determine whether the alleged conduct constitutes harassment, or other unlawful discriminatory conduct, giving consideration to all factual information and the totality of the circumstances, including the nature of the verbal, physical, visual or sexual conduct, and the context in which the alleged incidents occurred.

X. Investigation of the Complaint

The District shall promptly investigate every complaint of harassment or discrimination. No claim of workplace or academic harassment or discrimination shall remain unexamined. This includes complaints involving activities that occur off campus and 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, on a District bus, or at a class or training program sponsored by the District at another location. As set forth above, where the complainant opts for an informal resolution, the Vice Chancellor of Human Resources and Employee Relations may limit the scope of the investigation, as appropriate. The District will keep the investigation confidential to the extent possible, but cannot guarantee absolute confidentiality because release of some information on a "need-to-know-basis" is essential to a thorough investigation. When determining whether to maintain confidentiality, the District may weigh the request for confidentiality against the following factors: the seriousness of the alleged harassment; the complainant's age; whether there have been other harassment complaints about the same individual; and the accused individual's rights to receive information about the allegations if the information is maintained by the District as an "education record" under the Family Educational Rights and Privacy Act (FERPA), 20 U.S. Code Section 1232g; 34 Code Federal Regulations Part 99.15. The District will inform the complainant if it cannot maintain confidentiality.

XI. Investigation Steps

The District will fairly and objectively investigate harassment and discrimination complaints. Employees designated to serve as investigators under this policy shall have adequate training on what constitutes sexual harassment, including sexual violence, and that they understand how the District's grievance procedures operate. The investigator may not have any real or perceived conflicts of interest and must be able to investigate the allegations impartially. Investigators will use the following steps: interviewing the complainant(s); interviewing the accused individual(s); identifying and

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interviewing witnesses and evidence identified by each party; identifying and interviewing any other witnesses, if needed; reminding all individuals interviewed of the District's no-retaliation policy; considering whether any involved person should be removed from the campus pending completion of the investigation; reviewing personnel/academic files of all involved parties; reach a conclusion as to the allegations and any appropriate disciplinary and remedial action; and see that all recommended action is carried out in a timely fashion. When the District evaluates the complaint, it shall do so using a 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 discrimination or harassment has occurred.

XII. Timeline for Completion

The District will undertake its investigation promptly and swiftly as possible. To that end, the investigator shall complete the above steps, and prepare a written report within 90 days of the District receiving the complaint.

XIII. Cooperation Encouraged

All employees are expected to cooperate with a District investigation into allegations of harassment or discrimination. Lack of cooperation impedes the ability of the District to investigate thoroughly and respond effectively. However, lack of cooperation by a complainant or witnesses does not relieve the District of its obligation to investigate. The District will conduct an investigation if it is discovered that harassment is, or may be occurring, with or without the cooperation of the alleged victim(s) and regardless of whether a complaint is filed.

XIII. Written Report

The results of the investigation of a complaint shall 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 summary of the testimony provided by each witness interviewed by the investigator;
- An analysis of relevant evidence collected during the course of the investigation;
- A specific finding as to whether there is probable cause to believe that discrimination, harassment, or retaliation occurred with respect to each allegation in the complaint; and
- Any other information deemed appropriate by the District.

XV. Confidentiality of the Process

Investigations are best conducted within a confidential climate. Therefore, the District does not reveal information about ongoing investigations except as necessary to fulfill its legal obligations. The District will keep the investigation confidential to the extent possible, but it cannot guarantee absolute confidentiality because release of some information on a "need-to-know-basis" is essential to a thorough investigation and to protect the rights of Accused students and employees during the investigation process and any ensuing discipline.

XVI. Administrative Determination

1. In any case not involving employment discrimination, within 90 days of receiving a complaint, the District shall complete its investigation and forward a copy of the investigative report to the State Chancellor, a copy or summary of the report to the complainant, and written notice setting forth all of the following to both the complainant and the Chancellor: (a) The determination of the Chancellor or his/her designee as to whether there is probable cause to believe discrimination occurred with respect to each allegation in the complaint; (b) A description of actions taken, if any, to prevent similar problems from occurring in the future; (c) The proposed resolution of the complaint; and (d) The complainant's right to appeal to the District governing board and the Chancellor.

2. In any case involving employment discrimination, within 90 days of receiving a complaint, the District shall complete its investigation and forward a copy or summary of the report to the complainant, and written notice setting forth all the following to the complainant: (a) The determination of the Chancellor or his/her designee as to whether there is probable cause to believe discrimination occurred with respect to each allegation in the complaint; (b) A description of actions taken, if any, to prevent similar problems from occurring in the future; (c) The proposed resolution of the complaint; and (d) The complainant's right to appeal to the District governing board and to file a complaint with Department of Fair Employment and Housing or the U.S. Equal Employment Opportunity Commission.

XVII. Discipline and Corrective Action

If harassment, discrimination or retaliation occurred in violation of the policy or procedure, the District shall take disciplinary action against the accused 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:

1. providing an escort to ensure that the complainant can move safely between classes and activities;
2. ensuring that the complainant and alleged perpetrator do not attend the same classes or work in the same work area;
3. preventing offending third parties from entering campus;
4. providing counseling services or a referral to counseling services;
5. providing medical services or a referral to medical services;
6. providing academic support services, such as tutoring;
7. arranging for a student-complainant 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
8. 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 being disciplined. If the District imposes discipline, the nature of the discipline will not be communicated to the complainant. However, the District may disclose information about the sanction imposed on an individual who was found to have engaged in harassment when the sanction directly relates to the complainant; for example, the District may inform the complainant that the

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harasser must stay away from the complainant. Disciplinary actions against faculty, staff, and students will conform to all relevant statutes, regulations, personnel policies and procedures, including the provisions of any applicable collective bargaining agreement.

The District shall also take reasonable steps to protect the complainant from further harassment, or discrimination, and to protect the complainant and witnesses from retaliation as a result of communicating the complaint or assisting in the investigation. The District will ensure that complainants and witnesses know how to report any subsequent problems, and should follow-up with complainants to determine whether any retaliation or new incidents of harassment have occurred. The District shall take reasonable steps to ensure the confidentiality of the investigation and to protect the privacy of all parties to the extent possible without impeding the District's ability to investigate and respond effectively to the complaint. If the District cannot take disciplinary action against the accused individual because the complainant refuses to participate in the investigation, it should pursue other steps to limit the effects of the alleged harassment and prevent its recurrence.

XVIII. Appeals

If the District imposes discipline against a student or employee as a result of the findings in its investigation, the student or employee may appeal the decision using the procedure for appealing a disciplinary decision. If the complainant is not satisfied with the results of the administrative determination, he/she may, within fifteen days, submit a written appeal to the Board of Trustees. The Board shall review the original complaint, the investigative report, the administrative decision, and the appeal. The Board shall issue a final District decision in the matter within 45 days after receiving the appeal. A copy of the decision rendered by the Board shall be forwarded to the complainant and to the State Chancellor's Office. The complainant shall also be notified of his/her right to appeal this decision. If the Board does not act within 45 days the administrative determination shall be deemed approved and shall become the final decision of the District in the matter. In any case not involving workplace discrimination, harassment, or retaliation, the complainant shall have the right to file a written appeal with the State Chancellor's Office within thirty days after the Board issued the final District decision or permitted the administrative decision to become final. Such appeals shall be processed pursuant to the provision of Title 5 Section 59350. In any case involving employment discrimination, including workplace harassment, the complainant may, at any time before or after the issuance of the final decision of the District, file a complaint with the Department of Fair Employment and Housing.

XIX. Extension of Time

Within 150 days of receiving a formal complaint, the District shall forward to the State Chancellor's Office the original complaint, the investigative report, a copy of the written notice to the complainant setting forth the results of the investigation, a copy of the final administrative decision rendered by the Board or indicating the date upon which the decision became final, and a copy of the notification to the complainant of his/her appeal rights. If, due to circumstances beyond its control, the District is unable to comply with the 150-day deadline for submission of materials, it may file a written request for an extension of time no later than ten days prior to the expiration of the deadline.

XX. File Retention

The District will retain on file for a period of at least three years after closing the case copies of: 1. the original complaint; 2. the investigatory report; 3. the summary of the report if one is prepared; 4. the notice provided to the complainant, of the District's administrative determination and his/her right to appeal; 5. any appeal; and 6. the District's final decision. The District will make such documents available to the State Chancellor upon request.

XXI. Dissemination of Policy and Procedures

District Policy and Procedures related to harassment will include information that specifically addresses sexual violence. District policy and procedures will be provided to all students, faculty members, members of the administrative staff and members of the support staff, and will be posted on campus and on the District's website. When hired, employees are required to sign that they have received the policy and procedures, and the signed acknowledgment of receipt is placed in each employee's personnel file. In addition, these policies and procedures are incorporated into the District's course catalogs and orientation materials for new students.

XXII. Training

By January 1, 2006, the District shall provide at least two hours of classroom or other effective interactive training and education regarding sexual harassment to all supervisory employees who are employed as of July 1, 2005. All new supervisory employees must be provided with the training and education within six months of their assumption of a supervisory position. After January 1, 2006, the District shall provide sexual harassment training and education to each supervisory employee once every two years. The training and education required by this procedure shall include information and practical guidance regarding the federal and state statutory provisions concerning the prohibition against and the prevention and correction of sexual harassment and the remedies available to victims of sexual harassment in employment. The training and education shall also include practical examples aimed at instructing supervisors in the prevention of harassment, discrimination, and retaliation, and shall be presented by trainers or educators with knowledge and expertise in the prevention of harassment, discrimination, and retaliation.

Training of all staff will be conducted. This includes counselors, faculty, health personnel, law enforcement officers, coaches, and all staff who regularly interact with students. Training for academic staff should emphasize environmental harassment in the classroom. The District will also provide training to students who lead student organizations. The District should provide copies of the sexual harassment policies and training to all District law enforcement unit employees regarding the grievance procedures and any other procedures used for investigating reports of sexual violence. Participation of faculty in such training is strongly encouraged, but is not mandatory, except when required by law. In years in which a substantive policy or procedural change has occurred, all District employees will attend a training update or receive a copy of the revised policies and procedures. Participants in training programs will be required to sign a statement that they have either understood the policies and procedures, their responsibilities, and their own and the District's potential liability, or that they did not understand the policy and desire further training.

XXIII. Education and Prevention for Students

In order to take proactive measures to prevent sexual harassment and violence toward students, the District will provide preventive education programs and make victim resources, including comprehensive victim services, available. The District will include such programs in their orientation programs for new students, and in training for student athletes and coaches. These programs will include discussion of what constitutes sexual harassment and sexual violence, the District's policies and disciplinary procedures, and the consequences of violating these policies. A training program or informational services will be made available to all students at least once annually. The education programs will also include information aimed at encouraging students to report incidents of sexual violence to the appropriate District and law enforcement authorities. Since victims or third parties may be deterred from reporting incidents if alcohol, drugs, or other violations of District or campus rules were involved, the District will inform students that the primary concern is for student safety and that use of alcohol or drugs never makes the victim at fault for sexual violence. If other rules are violated, the District will address such violations separately from an allegation of sexual violence.

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Reference: Education Code Section 66281.5; Government Code Section 12950.1; Title 5 Sections 59320, 59324, 59326, 59328, and 59300 et seq.; 34 Code of Federal Regulations Section 106.8(b) Approved by the Chancellor: June 14, 2016



Prohibition of Harassment and Discrimination and Sexual Assault Procedures

I. Statement Regarding Discrimination

- A. In keeping with Board Policy 3410: Nondiscrimination, the Peralta Community College District, as a public institution, prohibits discrimination in any and all of its activities, including: employment; procuring of goods and services; availability of its educational offerings; and other programs and activities such as financial aid and special services. In order to accomplish these tasks, the District Office of Equal Opportunity is assigned the responsibilities of overseeing and investigating any charges of discrimination or other complaints. A discrimination complaint log will be maintained as well as complete records of complaints and resolutions. The Office of Equal Opportunity will handle both student and employee complaints by working with the Vice Presidents of Student Services for student complaints and with the Vice President of Instruction for employee complaints.
- B. The Peralta Community College District, in accordance with applicable Federal and State laws and Board Policy, prohibits unlawful discrimination towards students on the basis of race, creed, color, ancestry, religion, sex, national origin, age (40 and over), marital status, medical condition (cancer related), disability, political views and affiliations, sexual orientation/preference, and transgender status at any stage in any and all of its programs and activities, including availability of its educational offerings; and other programs and activities such as financial aid and special services. To that end, the District will take immediate, appropriate steps to investigate complaints of discrimination to eliminate current discrimination and prevent further discrimination. The District prohibits retaliation against any individual who files a complaint or who participates in a discrimination or discriminatory harassment inquiry.
- C. The Peralta District is subject to Title IX of the Educational Amendments of 1972, Titles VI and VII of the Civil Rights Act of 1964 and 1972, Age Discrimination in Employment Act of 1967, Age Discrimination Act of 1975, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990 (ADA).
- D. The Title IX, Section 504 and ADA Coordinator for the Peralta District is the District Equal Opportunity Officer (who is the Vice Chancellor of Human Resources and Employee Relations whose office is located at: 333 E. 8th Street, Oakland, California 94606; telephone (510) 466-7252).
- E. Each college has an ADA Coordinator who can be reached by calling the main number of the college.
- F. Students, faculty, employees, and applicants for employment who believe they have been discriminated against may file a discrimination complaint with the President of the college, Vice President of Student Services (for students), Vice President of Instruction (for faculty or employees) or the District Equal Opportunity Officer. Complaint forms and procedures are available in the offices of the President, Vice Presidents, and Equal Opportunity Officer.
- G. The Peralta Colleges encourage “mainstreaming” students with disabilities into regular classes. The colleges offer support services to make education accessible. Each main campus has a Coordinator who coordinates the Disabled Students Program. Students who find that a class is not accessible should contact the Disabled Students Programs and Services Office for assistance. Services provided include classroom interpreters, note takers, readers, special counseling on disability management, peer counseling groups, and special adaptive equipment.
- H. The lack of English language skills will not be a barrier to admission and participation in the colleges’ vocational education programs.

II. Discrimination Complaint Procedures

- A. To insure that students and employees of the District are aware of the provisions of this procedure, a general statement will be published in each class schedule and a bulletin will be circulated to each District employee.
- B. The following procedures are in compliance with the guidelines of state law:
 1. Student discrimination complaints may be filed with the Office of Student Services at each college.
 2. Employee complaints may be filed with the Office of Instruction at each college.
 3. All complaints should be forwarded to the District Equal Opportunity Officer on the approved District form.
 - a. Upon receipt of a complaint, a copy will be forwarded to the State Chancellor's Office on the appropriate form.
 - b. Defective complaints will be returned to the complainant with an explanation of the deficiencies and how they may be corrected if the complaint is to be considered
 4. Within fourteen (14) days of the complaint, an investigation will commence with notification to the complainant of the initiation of the investigation.
 5. If the complaint proves to be accurate, a resolution of the problem will be proposed and corrective actions taken to ensure that the act is not repeated.
 6. After a proposed resolution is developed and approved, the complainant will be notified of the resolution. Should the complainant not be satisfied, he/she may object to the proposed resolution through the State Chancellor's Office within thirty (30) days. The District Office of Equal Opportunity will furnish the complainant with necessary information regarding where and how to file the objection with the State.
 7. After the resolution proposal is sent to the complainant, the District will forward the complete file of the complaint; findings of

the investigation; the District's proposed resolution; the letter to the complainant informing him/her of the proposal; and any relevant material to the State Chancellor's Office.

III. Procedures Prohibiting Sexual, Racial, and Disability Harassment and Discrimination Toward Students

A. Dissemination

1. The procedures shall be published in all student, faculty and staff handbooks, each college's catalog and schedule of classes, and other printed material deemed appropriate by each college's Vice President of Student Services.
2. The procedures will also be disseminated to students at each college's new student orientation and at periodic workshops to be scheduled by each college's Vice President of Student Services.
3. The procedures will also be disseminated to each faculty member, all members of the administrative staff, and all members of the support staff both at time of hire and at the beginning of each school year.
4. The procedures shall also be displayed in a prominent location at each college along with the other notices regarding the college's procedures and standards of conduct. A copy of the procedures shall be made available to any person expressing a verbal complaint about such matters.

B. Sexual, Racial, and Disability Harassment and Discrimination Defined

1. The Peralta Community College District expressly forbids sexual, racial, and disability harassment of its students by faculty, administrators, supervisors, District employees, other students, vendors or members of the general public. The District also prohibits discrimination of its students by subjecting any student to adverse or differential treatment, or depriving that student of any benefits of the District because of that student's sex,

race, or disability. Furthermore, the District prohibits retaliation against any individual who files a complaint or participates in a discrimination inquiry.

2. Sexual harassment includes, but is not limited to, unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone from or in the educational setting, under any of the following conditions:
 - a. Submission to the conduct is explicitly or implicitly made a term or a condition of a student's academic status, or progress.
 - b. Submission to, or rejection of, the conduct by a student is used as the basis of academic decisions affecting the student.
 - c. The conduct has the purpose or effect of having a negative impact upon a student's academic performance, or of creating an intimidating, hostile, or offensive educational environment.
 - d. Submission to, or rejection of, the conduct by a student is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the educational institution.
 - e. Any other such conduct that may have an effect on a student's learning environment or his or her ability to enjoy any privileges or benefits provided by the District.
3. The prohibition of racial harassment similarly enjoins conduct or incidents based on race that may interfere with or limit the ability of an individual to participate in or benefit from the services, activities, or privileges provided by the District.
4. The prohibition of disability harassment similarly enjoins conduct or incidents based on disability that may exclude an individual from participation in or be denied the

benefit of the services, programs, or activities provided by the District to other non-disabled students.

5. A harassing environment is created if conduct of a sexual or racial nature or conduct based on student's disability is sufficiently severe, persistent, or pervasive to limit a student's ability to participate in or benefit from the education program by the District or to create a hostile or abusive educational environment.

C. Examples of Prohibited Harassment. Sexual, racial, disability harassment includes, but is not limited to, the following examples of conduct that is undertaken because of the sex, race, or disability of the student victim:

1. Unwanted physical touching (beyond normal greetings).
2. Displays of offensive materials, objects, photos, etc., with a sexual, racial, or disabled theme.
3. Situations affecting a student's studying and learning conditions and making the learning environment unpleasant and uncomfortable, whether the actions are purposeful or not.
4. Verbal insults (in reference to gender, race, sexual orientation, or disability).
5. Rumors designed to cause the individual emotional distress or place him or her in a bad light.
6. Physical assault.
7. Unwelcome direct propositions of a sexual nature.
8. Subtle pressures for unwelcome sexual activity, an element of which may be conduct such as repeated and unwanted staring.
9. A pattern of conduct not legitimately related to the subject matter of a course, which is sufficiently severe, persistent, or pervasive to limit a student's ability to participate in or benefit from the education program or to create a hostile or abusive educational environment, that includes one or more of the following:

- a. Comments of a sexual/racial nature or which are demeaning or derogatory based on a disability, or
 - b. Sexually explicit statements, questions, jokes, or anecdotes.
10. Unwanted attempts to establish a personal relationship.
11. A pattern of conduct that would cause discomfort or humiliate, or both, a reasonable person at whom the conduct was directed that may include one or more of the following:
- a. Unnecessary touching, patting, hugging, or brushing against a person's body,
 - b. Remarks of a sexual nature about a person's anatomy or clothing, or
 - c. Remarks about sexual activity or speculations about a previous sexual experience. All persons should be aware that conduct towards a student that is not specifically identified in this procedure may nonetheless constitute impermissible sexual, racial or disability harassment.

D. Academic Freedom and Freedom of Speech

1. As participants in a public institution, the faculty and staff of the Peralta Community College District enjoy significant free speech protections found in the First Amendment of the United States Constitution and Article I Section I of the California Constitution. The right of academic freedom includes a special area of protected speech. Consistent with the principles of academic freedom, course content and teaching methods remain the province of individual faculty members. Academic freedom, however, is not limitless. Academic freedom does not protect classroom speech that is unrelated to the subject matter of the course or in violation of federal or state anti-discrimination laws. Some speech may constitute environmental

sexual harassment, harassment based on another impermissible characteristic or discrimination. If a faculty member engages in unwelcome sexual behavior or other improper behavior based on a characteristic protected by this procedure that has the purpose or effect of unreasonably interfering with an employee's work environment or a student's academic performance or creates a hostile and intimidating work or academic environment, then it may constitute environmental harassment or discrimination, as outlined in Board Policy and these implementing procedures.

2. The District must balance these two significant interests: the right of academic freedom and the right to be free from discrimination and harassment. The First Amendment protections, including those of academic freedom, are not absolute. When a faculty member raises academic freedom as a defense against charges of discrimination or discriminatory harassment, the District must examine the nature and context of the faculty member's behavior. A key to this examination is determining whether the behavior of the faculty member is related to his or her legitimate academic judgments within the context of furthering the institution's legitimate mission.
3. Nothing in the District's Discrimination and Discriminatory Harassment Policy should be construed to prevent faculty members from rigorously challenging fundamental beliefs held by students and society. These challenges should be done in a manner that, in the professional judgment of the faculty member, is most pedagogically advisable. Indeed, this is at the core of academic freedom; however, faculty members may not interject into the academic setting an element of discrimination or discriminatory harassment that is unrelated to any legitimate educational objective.

Nor, may a faculty member create, or allow, the educational setting to be so charged with discrimination or discriminatory harassment, that our students are prevented from effectively participating in the academic environment. As such, faculty members must be aware that the District will investigate and respond to employee or student complaints that involve course content in accordance with its general discrimination and discriminatory harassment policy and faculty members may be subject to discipline for egregious conduct, in the same manner as provided in Board Policy and any implementing procedures for all other District employees.

4. The Peralta Community College District is committed to insuring that the academic freedom rights of our faculty are secure, and to insuring our students an academic environment free of discrimination and harassment. Nothing in this section is intended to abrogate rights of Academic Freedom stated in the collective bargaining agreement with the Peralta Federation of Teachers.

E. Consensual Relationships

1. Definitions:

- a. The terms “instructors” and “faculty member” are defined as any person who teaches in the District, is in an academic position, or by virtue of their position has control or influence on student performance, behavior, or academic career.
- b. A “District employee” is defined as any person who is employed by the Peralta Community College District, or acts as its agent and operates within the District’s control.
The District’s educational mission is promoted by professionalism in faculty/student, as well as supervisor/subordinate, relationships. Professionalism is fostered by an

atmosphere of mutual trust and respect. Actions of faculty members and supervisors that harm this atmosphere undermine professionalism and hinder fulfillment of the educational mission. Trust and respect are diminished when those in positions of authority abuse their power in such a context as to violate their duty to the educational community and undermine the trust placed in the District as a public employer and an educational institution.

2. Rationale:

The District’s educational mission is promoted by professionalism in faculty/student, as well as supervisor/subordinate relationships. Professionalism is fostered by an atmosphere of mutual trust and respect. Actions of faculty members and supervisors that harm this atmosphere undermine professionalism and hinder fulfillment of the educational mission. Trust and respect are diminished when those in positions of authority abuse their power in such a context so as to violate their duty to the educational community and undermine the trust placed in the District as a public employer and an educational institution.

3. Ethical Violation:

Recognizing that the unequal power of adult consenting parties is inherent in consensual relationships between supervisor and employee or student and teacher, the District will view it as unethical behavior if faculty members or supervisors engage in romantic relations with students enrolled in their classes or employees under their supervision even though both parties appear to have consented to the relationship.

4. Presumption of a Policy Violation:

The faculty member or supervisor who contemplates a romantic relationship with a student or employee must realize the complexity of the situation and its potential

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negative consequences. Regardless of consent or mutual attraction, the faculty member or supervisor generally will be judged guilty of sexual harassment if any complaint eventually emerges, either from the partner in the relationship or from his or her fellow students or coworkers. A romantic relationship between any minor employee or student and an adult employee is presumptively deemed not to be a consensual relationship and constitutes sexual harassment.

F. Harassment and Discrimination Complaint Procedures

1. In order to accomplish the task of prohibiting discrimination and harassment, the District's Equal Opportunity Officer is assigned the responsibilities of overseeing and investigating any charges or complaints of discrimination or harassment. The District's Equal Opportunity Officer will maintain a discrimination and harassment complaint log and complete records of complaints, investigations and resolutions.
2. The District's Equal Opportunity Officer will work with the Vice President of Student Services of each college for processing all discrimination and harassment complaints.
3. In compliance with the guidelines established by state and federal law, the following procedures will be implemented to investigate and resolve complaints of unlawful discrimination and harassment:
 - a. Complaints of unlawful discrimination may be filed by a student who has personally suffered discrimination or by a person who has knowledge of such discrimination, within one year of the date of the alleged unlawful discrimination or within one year of the date on which the complainant knew or should have known of the facts underlying the allegation of unlawful discrimination or harassment.
 - b. Student discrimination or harassment complaints may be filed with the District's Equal Opportunity Officer (at 333 East Eighth Street, Oakland, CA 94606; (510) 466-7252).
 - c. Student discrimination and harassment complaints may also be filed with the Vice President of Student Services as follows:
 - Berkeley City College
2050 Center St., Berkeley, 2nd Floor
(510) 981-2820
 - College of Alameda,
Building A, Room 111
(510) 748 2204
 - Laney College
Tower Building Room 412
(510) 464-3162
 - Merritt College
Building P Room 311
(510) 436-2478
 - d. All complaints not filed directly with the District's Equal Opportunity Officer should be immediately forwarded to that Officer on the approved District form.
 - e. Whenever any person brings charges of unlawful discrimination to the District Equal Opportunity Officer's attention, that Officer shall:
 - i. Inform the complainant that he or she may, but is not required to, informally resolve the charges and that s/he has the right to end the informal resolution effort and begin the formal stage at any time;
 - ii. Notify the complainant of the procedures for filing a complaint;
 - iii. Discuss with the complainant what actions he or she is seeking in response to the alleged discrimination; and
 - iv. Advise the complainant that he or she may file a complaint with the Office for Civil Rights of the United States Department of Education.

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- v. Immediately upon receipt of a complaint, the District's Equal Opportunity Officer will forward a copy to the State Chancellor's Office on the appropriate form.
- vi. The District's Equal Opportunity Officer will return defective complaints to the complainant with an explanation of the deficiencies and how they may be corrected if the complaint is to be considered.
- vii. Upon receipt of the complaint, the District Equal Opportunity Officer will review the complaint and determine the need for any interim measures of relief pending completion of the investigation.
- f. Within fourteen (14) days of receiving the complaint, a thorough and impartial investigation will commence with notification to the complainant and the Chancellor of the initiation of the investigation. Complaints will be investigated and resolved in accordance with the District's unlawful discrimination complaint procedures. To ensure a prompt and equitable investigation of complaints, the investigation shall include an opportunity for the complainant and the accused to present witnesses and other evidence on their behalf. Thus, the investigation shall include private interviews with the complainant, the accused individual and each of the witnesses identified by both parties. Sufficient information about the allegations of the complaint shall be disclosed to the accused to provide him/her with an opportunity to respond to the allegations of the complaint and provide additional information. To the extent appropriate, the District will keep the complainant apprised of the progress of the investigation.
- g. Complaints will be handled promptly in an appropriately confidential manner—that is, the District's Equal Opportunity Officer will disclose the identities of the parties only to the extent necessary to carry out an investigation.

The results of the investigation shall be set forth in a written report which shall include at least all of the following:

 - i. Description of the circumstances giving rise to the complaint;
 - ii. A summary of the testimony provided by each witness, including the complainant and any witnesses identified by the complainant;
 - iii. An analysis of any relevant data or other evidence collected during the course of the investigation; and
 - iv. A specific finding as to whether discrimination did or did not occur with respect to each allegation in the complaint.
- h. Within ninety (90) days of receiving a complaint, the District shall complete its investigation and provide the complainant with the following information:

A written notice setting forth:

 - i. A copy or summary of the District's investigative report;
 - ii. The District's determination on the merits of the complaint; the proposed resolution of the complaints, to the extent that disclosure does not invade any person's privacy rights; and
 - iii. The complainant's right to appeal to the District governing board and the Chancellor.

Likewise, the accused individual shall be notified of the outcome of the investigation.
- i. If the allegation of sexual, racial, or disability harassment is substantiated,

the District will take reasonable, timely and effective steps to end the harassment. Depending upon the severity of a given case and/or prior incidents of harassment, a violation of this rule shall lead to disciplinary action including the possibility of expulsion or termination from the District. Remedial measures will be offered if appropriate to correct the discriminatory effects on any individual who has experienced harassment. The District's policy against discriminatory harassment will be interpreted consistently with any federally guaranteed rights involved in a complaint proceeding, including student's First Amendment rights to free speech and the accused individual's right to due process.

- j. Should the Complainant not be satisfied, he or she may appeal the proposed resolution within ten (10) days of the date of the proposed resolution to the Chancellor. The Chancellor may request an additional investigation, sustain the administrative determination, reverse the administrative determination or take any other appropriate action. If the Chancellor makes the administrative determination, the Complainant may appeal directly to the Board of Trustees within the same time periods set forth above. If the Chancellor sustains the administrative determination or the Complainant is not otherwise satisfied with the Chancellor's decision, the Complainant may appeal to the Board of Trustees within fifteen (15) days of the Chancellor's decision. All appeals shall be filed with the Chancellor's Office at 333 East 8th Street, Oakland, CA 94606.

Should the complainant not be satisfied, he or she may appeal the proposed resolution to the District governing board within fifteen (15) days. The District board shall review the original complaint, the investigative report, the determination and the appeal and may issue a final District decision within forty-five (45) days of receiving the appeal. The decision of the Administration will become final if the Board does not act within forty-five (45) days. The student may then appeal the final District decision to the State Chancellor's Office within thirty (30) days. The Office of Equal Opportunity will furnish the complainant with necessary information regarding where and how to file the objection with the State Chancellor's Office.

- k. Within 150 days of receiving the complaint, and after the resolution proposal is sent to the complainant, the District will forward the complete file of the complaint, findings of the investigation, the District's proposed resolution, the letter to the complainant informing him or her of the proposal, and any relevant material to the State Chancellor's Office.

IV. Sexual Assault Procedure (see also AP 3540: Sexual and Other Assaults on Campus)

A. Statement regarding Sexual Assault

1. Unlawful sexual assault is a criminal activity prohibited in all employee and student areas, buildings, properties, facilities, service areas, satellite centers of the PCCD and all non-District areas where Peralta classes/instruction are conducted. It is the policy of the PCCD to ensure, to the extent possible, that students, faculty and staff who are victims of a sexual assault committed at or upon the grounds of or upon off-campus grounds or facilities maintained by the District or its colleges,

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shall receive information, follow-up services, and referrals to local community treatment centers.

2. Each college, through the Office of the Vice President of Student Services, shall make available sexual assault awareness information to students and employees.

B. Definition of Sexual Assault (Education Code 67365)

“Sexual Assault” includes, but is not limited to, rape, forced sodomy, forced oral copulation, rape by a foreign object, sexual battery, or threat of sexual assault. **Procedure**

1. The Office of the Vice President of Student Services shall have full responsibility, except for public information, for the administration and follow-up of the sexual assault program required. This includes:
 - a. Making available to students and staff the District policy on sexual assault.
 - b. Meeting legal reporting requirements.
 - c. Identifying available services for the victim.
 - d. Developing and updating a description of campus resources available to victims as well as appropriate off-campus services.
 - e. Implementing procedures for keeping the victim informed of the status of any student disciplinary proceedings in connection with the sexual assault.
 - f. Providing confidentiality.
2. It shall be the responsibility of the Vice President of Student Services to see to it that victims of sexual assault committed at or upon the grounds of, or upon off-campus grounds or facilities maintained by the District, shall receive information and referral for treatment. Services available include immediate short-term crisis counseling, and long-term counseling referral to agencies in the community. This information shall be provided with sensitivity and in consideration of the personal needs of the victim.
3. Any student, faculty, or staff member who is a victim of sexual assault at a District facility referred to in Section 1.1 of this policy is encouraged to notify the Vice President of Student Services. The Vice President of Student Services, with the consent of the victim, shall notify the Campus/District Police Services.
4. Pursuant to legal requirements, the Campus/District Police will notify the appropriate local law enforcement agency of the reported sexual assault, and obtain an ambulance to transport the victim to the hospital, as necessary.
5. In accordance with the Campus Crime Awareness and Security Act of 1990, the District, on an annual basis, shall notify students and employees of statistics concerning specific types of crime, including sexual assault. This notice shall be made through appropriate publication/mailings. The names of the victims will not be reported in the statistics.
6. In cases of violent crimes considered to be a threat to other students and employees, each college’s President or the Chancellor of the District shall make timely reports, respecting the confidentiality of the victim, to the college community in a manner that will aid in the prevention of similar occurrences.
7. Upon notification of a sexual assault, the Campus/District Police Services will distribute to the victim a description of campus resources and services available to the victim, as well as appropriate off-campus services. Each student or employee should have a copy of this procedure.
8. The listing of resources and services shall be available through the Campus/District Police Services, each college’s Counseling Department, and Health Services Unit.
9. A victim of sexual assault shall be provided with information about pursuing the following remedies or actions against the perpetrator:

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**a. Employees: Criminal Prosecution/
Civil Prosecution:**

District disciplinary process:

Violation of this procedure will cause disciplinary action which may include termination of employment or may require an employee to participate in a rehabilitation program.

**b. Students: Criminal Prosecution/Civil
Prosecution:**

District disciplinary process: Students are required to comply with this policy to remain in good standing and as a condition of continued attendance at any of the District's colleges. Violation of this policy will be cause for disciplinary action against the student, up to and including expulsion, and/or may require the student to participate in a rehabilitation program. Student discipline shall be accomplished in accordance with provisions of Article 3 of the Title 3, Division 7, Part 47, of the California Education Code

**c. Non-Student/Employer: Criminal
Prosecution/Civil Prosecution:**

- i. A victim of sexual assault shall be kept informed by the college President/designee or the Chancellor of the status of and disposition of any District/College disciplinary proceedings in connection with the sexual assault.
- ii. The Counseling Department and Health Services shall assist, upon request, the victim of sexual assault in dealing with academic difficulties that may arise because of the victimization and its impact.
- iii. The identity of a victim of sexual assault shall remain confidential unless otherwise prescribed by law. Requests for information regarding the sexual assault from the press, concerned students, parents, and Peralta employees not involved in the assault or its investigation, will be handled by the college's Public Information Office or the District's

Office of Marketing in accordance with these regulations: the Family Educational Right and Privacy Act, applicable California Education and Administrative Code sections, and Peralta Community College District Policy and Procedures.

C. Dissemination

1. These procedures shall be published in all student, faculty and staff handbooks, each college's catalog and schedule of classes and other printed material deemed appropriate by each college's Vice President of Student Services.
2. These procedures will also be disseminated at each college's orientation and at periodic workshops to be scheduled by each college's Vice President of Student Services.

Note: Volunteers and student workers are included in relevant board policies and their related administrative procedures, including but not limited to BP 3410 (Nondiscrimination), BP 3420 (Equal Employment Opportunity), BP 3430 (Prohibition of Harassment), and BP 7280 (Volunteers).

References:

- Education Code Sections 212.5; 44100; 66281.5;
- 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
- Education Code Sections 66250 et seq., 200 et seq., and 72010 et seq.;
- Penal Code Sections 422.55 et seq.;
- Title 5 Sections 59300 et seq.;
- Accreditation Standard II.B.2.c

POLÍTICA QUE PROHÍBE LA DISCRIMINACIÓN HACIA LOS ESTUDIANTES (INCLUYENDO LA DISCRIMINACIÓN Y EL ACOSO SEXUAL Y RACIAL)

El Distrito de los Colegios Universitarios Comunitarios de Peralta, de conformidad con las leyes federales y estatales pertinentes y con la Política de la Junta, prohíbe que los estudiantes sean sometidos a discriminación y acoso discriminatorio ilícitos basados en la raza, las creencias, el color, la ascendencia, la religión, el sexo, el origen nacional, la edad (40 años de edad o más), el estado civil, los problemas médicos (relacionados con el cáncer), las incapacidades, las afiliaciones y opiniones políticas, la orientación/preferencia sexual o la transmutación de sexo en cualquier etapa, en cualquiera de los programas y actividades del Distrito, incluyendo la disponibilidad de los ofrecimientos educacionales; y en otros programas y actividades como la ayuda financiera y los servicios especiales. Por ello, el Distrito investigará las quejas de discriminación inmediatamente, siguiendo los pasos pertinentes, a fin de eliminar la discriminación actual y evitar discriminación futura. El Distrito prohíbe las represalias contra cualquier individuo que presente una queja o participe en una investigación con relación a discriminación o acoso discriminatorio.

El Distrito de Peralta está sujeto al Título IX de las Enmiendas Educativas de 1972, los Títulos VI y VII del Acta de Derechos Civiles de 1964 y 1972, el Acta de Discriminación por la Edad en Empleo de 1967, el Acta de Discriminación por la Edad de 1975 y la Sección 504 del Acta de Rehabilitación de 1973 y al Acta de 1991 referente a los Americanos incapacitados.

El Coordinador del Título IX y Sección 504 para el Distrito de Peralta es el Funcionario de Oportunidad Igual del Distrito, cuya oficina se encuentra situada en el 333 E. 8th Street, Oakland, CA 94606; teléfono (510) 466-7252.

Los estudiantes, miembros de la facultad, empleados y solicitantes de empleo que crean que hayan sido discriminados pueden presentar una queja de discriminación ante alguno de los siguientes

funcionarios: el Presidente del colegio correspondiente, el Vice Presidente de Servicios Estudiantiles (en el caso de los alumnos), el Vice Presidente de Enseñanza (en el caso de facultad o empleados) o el Funcionario de Oportunidad Igual del Distrito. Los formularios de queja y los procedimientos correspondientes se encuentran a su disposición en las oficinas del Presidente, de los Vice Presidentes y de Oportunidad Igual.

Todos los colegios del Distrito de Peralta fomentan la incorporación de alumnos con incapacidades físicas y mentales a las clases regulares. Los colegios ofrecen servicios de apoyo a fin de brindar una educación accesible. Cada colegio tiene un Coordinador cuya función es administrar el programa para estudiantes incapacitados. Los estudiantes que encuentren que una clase no es accesible deben comunicarse con el Centro de Recursos para Estudiantes Incapacitados a fin de recibir asistencia. Los servicios del Centro incluyen asistencia por medio de intérpretes en el aula, personas que puedan tomar los apuntes, lectores, un servicio de asesoramiento especial para el manejo de las incapacidades y un grupo de asesoramiento constituido por personas con problemas similares. También hay libros de texto en sistema Braille, libros de texto grabados y otros equipos especiales.

La falta de fluidez en el idioma inglés no es un obstáculo para el ingreso y la participación en los programas de educación vocacional de los colegios.

Important Note about Translations in Chinese, Spanish and Other Languages:

Chinese, Spanish and translations in other languages of College and District Policies may be found online at:

<http://web.peralta.edu/translations/>

AP 4231: Grade Changes and Student Grievance Procedure

I. Regulations

- A. The instructor of the course shall determine the grade to be awarded to each student. The determination of the student's grade by the

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instructor is final in the absence of mistake, fraud, bad faith, or incompetency (per Education Code Section 76224). “Mistake” may include, but is not limited to, errors made by an instructor in calculating a student’s grade and clerical errors. “Fraud” may include, but is not limited to, intentional inaccurate recording or the change of a grade by any person who gains access to grade records without authorization.

- B. No grade can be changed without the consent, in writing, by the instructor who assigned the grade except under the conditions of clerical errors, bad faith, fraud, and incompetency.
- C. Grades are not subject to change by reason of a revision of judgment on the instructor’s part.
- D. No grade except “Incomplete” may be revised by the instructor on the basis of a new examination or additional work undertaken or completed after submission of final grades.
- E. No grade will be changed later than two years after the calendar date ending the semester (including intersession and summer session) in which the grade was assigned.
- F. Only the instructor is required to sign grade changes from “I” to a grade.

II. Procedural Steps

- A. Instructor completes the “Request for Record Correction Form” and submits it to the Divisional Dean of Instruction with a copy of the Class Rollbook. The “Request for Record Correction Form” is available online at: <http://web.peralta.edu/admissions/files/2011/06/Request-for-Record-Correction-12-23-2014.pdf> Divisional Dean of Instruction, after discussion with the instructor, makes a recommendation to the Associate Vice Chancellor of Student Services.
- B. The request is then reviewed and approved or denied by the Associate Vice Chancellor of Student Services and processed by the Admissions and Records Office.

III. Student Grievance

If a student alleges mistake, fraud, bad faith, or incompetence in the academic evaluation of the student’s performance, the grievance procedure is as follows:

Both the informal and formal grievance procedure for “Academic (Grade) Grievance” is contained in the “Student Grievance Procedure” (also in AP 5530, Student Rights and Grievances) which was last revised and approved by the Board of Trustees on March 15, 2011.

The purpose of this procedure is to provide a prompt and equitable means of resolving student grievances. This procedure shall be available to any student who reasonably believes an experience or decision has adversely affected his or her status, rights or privileges as a student. A grievance may be initiated by a student against an instructor, an administrator, or a member of the classified staff. A grievance may also be initiated against another student. That procedure (in full) is as follows:

A. Grounds for Filing Student Grievances

The Student Grievance Procedure shall apply only to grievances involving:

- 1. Academic (Grade) Grievance: a complaint alleging mistake, fraud, bad faith or incompetence in the academic (grade) evaluation of student performance.
- 2. Violation of Law, Policy, and Procedures:
 - a. Violation of rights which a student is entitled to by law or District policy, including financial aid, exercise of free expression, rules for student conduct, admission, probation, or suspension or dismissal policies.
 - b. Act or threat of physical aggression.
 - c. Act or threat of intimidation or harassment

B. The Student Grievance Procedure does not apply to:

- 1. **Police citations (i.e. “tickets”).**
Complaints about citations must be directed to the Campus Police in the same way as any traffic violation.
- 2. **Discrimination, Sexual Assault or Sexual Harassment.** Any student who feels he/she has been or is presently an alleged victim of sexual harassment, may first contact the Vice President of Student Services to file a complaint verbally or in writing,

or may directly contact the District's Equal Opportunity Coordinator at 333 East Eighth Street, Oakland, CA 94606, (510) 466-7220. At the time a complaint is made known, a copy of the complaint procedures and a complaint form shall be made available to the complainant. For additional information regarding reporting of discrimination, sexual assault or sexual harassment, please refer to Discrimination Complaint Procedures in this catalog.

C. Definitions

1. **Party.** The student or any persons claimed to have been responsible for the student's alleged grievance, together with their representatives. "Party" shall not include the Grievance Hearing Committee.
2. **Student.** A currently enrolled student, a person who has filed an application for admission to the college, or a former student. A grievance by an applicant shall be limited to a complaint regarding denial of admission. Former students shall be limited to grievances relating to course grades to the extent permitted by Education Code Section 76224(a).
3. **Respondent.** Any person claimed by a grievant to be responsible for the alleged grievance.
4. **Observer.** An individual who is present at a hearing to observe the proceeding, but shall not be allowed to speak and address the committee.
5. **Written Notice/Written Decision.** Notice sent by personal service or by registered or certified mail with return receipt requested via the U.S. Postal Service.
6. **Day.** Unless otherwise provided, day shall mean a day during which the college is in session and regular classes are held, excluding Saturdays, Sundays, and District holidays.

D. Grievance Process

1. Informal Resolution

Within 30 days of the allegation, each student who has a grievance shall make

a reasonable effort to resolve the matter on an informal basis prior to requesting a grievance hearing:

- a. For an academic (grade) grievance, the student shall make an appointment with the faculty against whom he/she has a grievance during the faculty member's posted office hours or at a mutually-agreed-upon time, in order to discuss the student's complaint. Should the faculty against whom the student has an academic complaint fail to meet with the student in a timely manner, the student may meet with the Division Dean of Instruction of the faculty member.
- b. For a grievance based on an alleged violation of law, policy, and procedures, the student shall attempt to solve the problem with the person with whom the student has the grievance, that person's immediate supervisor, or the Vice President of Student Services (or designee).

2. Formal Complaint Procedures

Any student who believes he/she has a grievance must file an approved grievance complaint form with the Vice President of Student Services (or designee). The student may obtain the form from the Office of the Vice President of Student Services.

The student must file within 90 days of the incident on which the grievance is based; or after the student knew or should have known of the basis for the grievance, whichever is later. The grievance complaint must be filed whether or not the student has already initiated efforts at informal resolution, if the student wishes the grievance to become official. Failure to file a formal complaint within such ninety (90) day period constitutes waiver of the student's right to appeal.

- a. **Complaint.** The complaint must include the following:

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- The exact nature of the complaint (grounds).
 - The specific details of the complaint (e.g., chronology of the event and an explicit description of the alleged violation).
 - A description of the informal meeting and attempted resolution, if any.
 - The specific resolution/remedy sought.
- b. *Submission.*** The complaint should be submitted to the Vice President of Student Services.
- c. *Meeting with Vice President of Student Services (or designee).***
The Vice President of Student Services (or designee) shall provide to the person against whom the grievance has been filed a copy of the grievance and a copy of the procedure.
The Vice President of Student Services (or designee) will provide the grievant with a written copy of the policy and procedures and answer all questions regarding the policy including the student's rights and responsibilities in the process of filing a grievance.
For academic (grade) grievance, the Vice President of Student Services (or designee) will inform the student that a grade change may only be made where there is a finding of fraud, mistake, bad faith or incompetence.
The student and Vice President of Student Services (or designee) shall attempt to reach an informal resolution.
- d. *Request for Grievance Hearing***
If an informal resolution cannot be reached, the Vice President of Student Services (or designee) shall make a request for records and documents from the student filing the complaint and forward copies of all documents pertinent to the alleged violation to the Chair of the Grievance Committee and the parties. Documents or accusations

not specifically related to the alleged violations shall not be forwarded to the committee or the parties.

- i. For academic (grade) grievance, the Chair shall request records and documents from the faculty member against whom the complaint has been filed.
- ii. For grievance based on an alleged violation of law, policy, and procedures, the Chair shall request records and documents from the party against whom the complaint has been filed.

The Grievance Hearing timeline may be tolled (postponed) pending a formal investigation of any discrimination claims by or against the student. Such investigation must be concluded no later than 90 calendar days as required by law.

- e. *Grievance Hearing Committee***
Within 90 days following receipt of the grievance complaint form, the Grievance Hearing Committee shall conduct a hearing. The following College Grievance Committee members shall be appointed for a term of one academic year as follows:
- The Vice President of Instruction, who shall Chair the committee;
 - One faculty member (and one alternate) jointly appointed by the PFT and the Faculty Senate;
 - One administrator (and one alternate) appointed by the College President;
 - One student (and one alternate) appointed by the President of the Associated Students.
- Additional committee member:
- For academic (grade) grievances, one faculty member (and one alternate) jointly appointed by the PFT and the Faculty Senate; **or**
 - For other grievances, one classified employee (and one alternate) jointly

appointed by Local 790 and the Classified Senate.

A committee member shall withdraw from participation in the hearing if a conflict of interest is anticipated, in which case the alternate member shall serve.

The members of the Committee shall be provided with a copy of the grievance and any written response provided by the respondent before the hearing begins. Four-fifths of the members of the committee shall be present in order for the committee to act.

f. Hearing Procedure

1. The Vice President of Instruction, as Chair, shall provide written notice, including the date, time and place of the hearing to both parties at least ten days prior to the hearing. The notice shall be hand-delivered or sent by certified mail and shall include a copy of the complaint.
2. The Chair shall provide the involved complainant with a written summary of rights he/she may be entitled to by law or contract at least 10 days before the hearing. For academic (grade) grievance, the Chair of the committee shall provide the involved faculty member with a written summary of rights he/she may be entitled to by law or contract at least 10 days before the hearing. Both parties shall be given adequate time (at least 10 days) to read and review all documents, consistent with privacy laws. This right may be waived by either party. Both parties shall be informed that all relevant evidence presented to the hearing committee, whether written or oral, may be used against them in

this or any other proceeding unless otherwise prohibited by law. The written notice shall inform the parties of this fact. The Chair of the committee shall inform both parties orally of this fact at the commencement of the hearing.

3. The decision of the Chair shall be final on all matters relating to the conduct of the hearing unless there is a vote by a majority of the other members of the panel to the contrary. The Chair may do whatever is necessary, so long as it is legally permissible, to ensure that the hearing is conducted in a fair, dignified and orderly manner.
4. The Chair of the committee may exclude a witness from the hearing when the witness is not giving testimony.
5. Anyone who disrupts the proceeding or interferes shall be excluded from the proceeding.
6. All information derived from the complaint is confidential. Information may not be made public nor discussed with anyone except those with a legitimate need to know.
7. The hearing shall be open only to persons directly involved in the matters to be heard. The bargaining agent representing the respondent may send an observer to any hearing.
8. The committee may call in "expert witnesses" if the subject of the grievance is beyond their expertise.
9. The committee shall inform the witnesses (other than the accused) in writing that they are sought for interview purposes and their participation in the process is requested by the committee.

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- Witnesses shall also be informed as to the purpose of the interview, the general subject of the interview, and their right to request representation by anyone of their choosing prior to and during said interview.
10. Any member of the committee may ask questions of any witness.
 11. The hearing shall be conducted so as to bring all of the relevant information and evidence to the members of the committee in an orderly and intelligible form. Formal rules of evidence shall not apply. Any relevant evidence shall be admitted, if it is the sort of evidence on which responsible persons are accustomed to rely upon in the conduct of serious affairs.
Accusations not specifically related to the alleged violation shall not be considered relevant. The rules of privilege shall apply to the same extent that they are recognized in civil actions.
 12. At all steps of the process, both the student filing and the other party have the right to be accompanied, advised and represented by a person or counsel of their choosing. If either party wishes to be represented by an attorney, a request must be presented not less than 10 days prior to the date of the hearing. If the student is permitted to be represented by an attorney, the college representative may request legal assistance. The hearing committee may also request legal assistance; any legal advisor provided to the panel may sit with it in an advisory capacity to provide legal counsel but shall not be a member of the panel nor vote with it.
 13. If the respondent or his/her representative, or both, are absent from all or a part of the hearing, the committee shall make its recommendations on the basis of whatever evidence is submitted before the hearing and on whatever evidence and testimony is presented to the committee during the hearing.
 14. The committee shall make all evidence, written or oral, part of the record.
 15. The committee shall judge the relevancy and weight of testimony and evidence and make its findings of fact, limiting its investigation to the formal charge. The decision shall be based only on the record of the hearing, and not on matter outside of that record.
 16. The burden shall be on the grievant to prove by a preponderance of the evidence that the facts alleged are true and a grievance has been sufficiently established.
 17. The hearing date may be postponed or continued at the discretion of the Chair of the committee. Both parties shall be given notice of the new or continued hearing date.
 18. The votes of the majority of the members present (at least 3 votes) are necessary in order for the committee to make a recommendation to the Vice President of Student Services.
 19. The Chair of the committee shall notify the Vice President of Student Services of the committee's recommendation within 10 days.
 20. A summary record of the proceedings held in a closed session shall be kept in a confidential file

by the Vice President of Student Services and shall be available at all times to the accused person. The Vice President of Student Services has the responsibility to ensure that a proper record is maintained and available at all times.

g. *Final Decision by Vice President of Student Services*

Based on the grievance hearing committee's recommendations, the Vice President of Student Services (or designee) may accept the recommendation, return it to the committee for further review, or reject it. Within 10 days of receipt of the committee's recommendation, the Vice President of Student Services (or designee) shall send written notification to the parties and committee informing them of:

- i. The committee's recommendation;
 - ii. The final decision by Vice President of Student Services; and
 - iii. Appeals procedure
- Any decision to reject findings of the committee must be supported by a summary finding of fact. The decision to recommend a grade change must be supported by a summary finding of fact, establishing mistake, fraud, bad faith or incompetence.

3. Appeals

a. *President's Decision*

The Vice President of Student Services' (or designee's) decision may be appealed by either party in writing within 10 days of the Vice President of Student Services' (or designee's) decision. The College President shall issue a written decision to the parties and their representatives within ten (10) days of receipt of the appeal. A decision to change a grade must be supported

by a summary finding of fact, establishing mistake, fraud, bad faith or incompetence.

b. *Chancellor's Decision*

The College President's decision may be appealed to the Chancellor in writing within 10 days of receipt of the decision.

The Chancellor, or designee, shall issue a written decision to the parties and the representatives by certified mail within 10 days of the receipt of the decision. A decision to change a grade must be supported by a summary finding of fact, establishing mistake, fraud, bad faith or incompetence.

c. *Board of Trustees' Decision*

The Chancellor's (or designee's), decision may be appealed to the Board of Trustees in writing within 10 days of the receipt of the decision.

The Board will review the documentation of the prior steps of the case and determine whether to confirm the Chancellor's decision or hear the appeal. If the Board confirms the Chancellor's decision, the appellant has exhausted his or her remedies. If the Board decides to consider the appeal, it will do so in closed session subject to Education Code 72122, and will issue a final decision within forty-five (45) days after receipt of the decision.

A decision to change a grade must be supported by a summary finding of fact, establishing mistake, fraud, bad faith or incompetence. Implementation of any grade change shall be held in abeyance until the internal appeal process has been exhausted.

All recommendations, resolutions, and actions taken by the Board of Trustees shall be consistent with the State and Federal law, the Peralta Community College District Policies

and Procedures, and the PFT and Local 790 Collective Bargaining Agreements. (In the event of a conflict between the Collective Bargaining Agreement and the PCCD Policies and Procedures, the Collective Bargaining Agreement shall govern.)

4. Time Limits

Any times specified in these procedures may be shortened or lengthened if there is mutual concurrence by all parties.

Security of Grade Records

The District has implemented security measures for student records that assure no one without proper authorization may obtain access to student grade records. These measures are installed as part of the computerized grade data storage system in the enterprise management system, PeopleSoft.

The measures implemented by the District include, but are not necessarily limited to, password protection for all student grade data bases, locking mechanisms for computer stations from which grade data bases can be viewed, and strict limits on the number of persons who are authorized to change student grades.

Persons authorized to change grades shall be designated by the Vice Chancellor of Educational Services. No more than six (6) [one at each college in A&R and two at district office A&R] District employees may be authorized to change student grades. Only full-time employees of the District may be authorized to change grades. Student workers shall not have access to or change grades at any time.

Any person who discovers that grades have been changed by someone other than the persons authorized to do so shall notify the Vice Chancellor of Educational Services immediately. The Vice Chancellor of Educational Services immediately shall take steps to lock the grade storage system entirely while an investigation is conducted.

If any student's grade record is found to have been changed without proper authorization, the District will notify (1) the student; (2) the instructor who originally awarded the grade; (3) any known educational

institution to which the student has transferred; (4) the accrediting agency; and (5) local law enforcement authorities.

Whenever a grade is changed for any reason, corrected transcripts will be sent to any known educational institution to which the student has transferred.

Any student or employee who is found to have gained access to grade recording systems without proper authorization or who is found to have changed any grade without proper authority to do so, shall be subject to discipline in accordance with the District's policies and procedures.

Any person who is found to have gained access to grade recording systems without proper authorization or who is found to have changed any grade without proper authority to do so, shall be reported to the appropriate law enforcement agency.

The correction of an awarded grade shall only be allowed for a student-initiated request brought under the provisions of this procedure.

AP 5500: Student Standards of Conduct, Discipline Procedures and Due Process

- I. The purpose of this procedure is to provide a prompt and equitable means to address violations of the Student Standards of Conduct, which ensures to the student or students involved the due process rights guaranteed them by state and federal constitutional protections. This procedure will be used in a fair and equitable manner, and not for purposes of retaliation. It is not intended to substitute for criminal or civil proceedings that may be initiated by other agencies.
- II. These procedures are specifically not intended to infringe in any way on the rights of students to engage in free expression as protected by the state and federal constitutions, Education Code Section 76120, and will not be used to punish expression that is protected.
- III. A student excluded for disciplinary reasons from one college in the Peralta Community College District

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may be denied enrollment into other colleges in the District, depending on the specific form of discipline. The President of a college may also deny admission to a student suspended or excluded for disciplinary reasons from other colleges or universities.

IV. Standards of Conduct. Students are responsible for complying with all laws and college regulations and for maintaining appropriate course requirements as established by the instructors.

- A. Disciplinary action may be imposed on a student for violation of college rules and regulations, the California Education Code, California Penal Code, and the California Administrative Code. Student misconduct may result in disciplinary action by the college and prosecution by civil authorities. Student misconduct may also result in disciplinary action that is applicable to other college campuses and central administrative offices at the Peralta Community College District. The college may require restitution as part of the discipline to ensure the return of items or compensation for any loss to the college or district. Misconduct that may result in disciplinary action includes, but is not limited to, the following violations:
1. Violation of District policies or regulations including parking and traffic regulations (subject to Education Code Section 76036), policies regulating student organizations, and time, place and manner regulations in regard to public expression.
 2. Willful misconduct which results in injury or death of any person on college-owned or -controlled property, or college-sponsored or supervised functions; or causing, attempting to cause, or threatening to cause physical injury to another person.
 3. Conduct which results in cutting, defacing, damaging, or other injury to any real or personal property owned by the college or to private property on campus.
 4. Stealing or attempting to steal college property or private property on campus; or

- knowingly receiving stolen college property or private property on campus.
5. Unauthorized entry to or use of college facilities.
 6. Committing or attempting to commit robbery or extortion.
 7. Dishonesty such as cheating, plagiarism (including plagiarism in a student publication), forgery, alteration or misuse of college documents, records, or identification documents, or furnishing false information to the college.
 8. The use, sale, or possession on campus of, or presence on campus under the influence of, any controlled substance, or any poison classified as such by Schedule D in Section 4160 of the Business and Professions Code or any controlled substance listed in California Health and Safety Code Section 11053 et seq., an alcoholic beverage, or an intoxicant of any kind; or unlawful possession of, or offering, arranging or negotiating the sale of any drug paraphernalia, as defined in California Health and Safety Code Section 11014.5.
 9. Possession, sale or otherwise furnishing any firearm, knife, explosive or other dangerous object, including but not limited to any facsimile firearm, knife or explosive, unless, in the case of possession of any object of this type, the student has obtained written permission to possess the item from an authorized college employee.
 10. Willful or persistent smoking in any area where smoking has been prohibited by law or by regulation of the governing board.
 11. Lewd, indecent, or obscene conduct or expression on college-owned or controlled property, or at college sponsored or supervised functions; or engaging in libelous or slanderous expression; or expression or conduct which so incites students as to create a clear and present danger of the commission of unlawful acts on college premises, or substantial

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disruption of the orderly operation of the college.

12. Disruptive or insulting behavior, willful disobedience, habitual profanity or vulgarity; or the open and persistent defiance of the authority of, refusal to comply with directions of, or persistent abuse of, college employees in the performance of their duty on or near the school premises or public sidewalks adjacent to school premises.
13. Obstruction or disruption of teaching, research, administrative procedures or other college activities.
14. Committing sexual harassment as defined by law or by college policies and procedures; or engaging in harassing or discriminatory behavior based on race, sex, religion, age, national origin, disability, or any other status protected by law.
15. Persistent, serious misconduct where other means of correction have failed to bring about proper conduct.

- B. In accordance with Education Code Section 76234, the results of any disciplinary action or appeal in connection with any alleged sexual assault, physical abuse or threat of the same shall be made available within 3 school days of the results, to the alleged victim, who shall keep such information confidential.

V. Forms of Discipline

Students facing disciplinary action are subject to any of the following actions:

A. Written or verbal reprimand.

An admonition to the student to cease and desist from conduct determined to violate the Code of Student Conduct. Written reprimands may become part of a student's permanent record at the college. A record of the fact that a verbal reprimand has been given may become part of a student's record at the college for a period of up to one year.

B. Probation.

A period of time specified for observing and

evaluating a student's conduct, with or without special conditions. Probation will be imposed for a specific period of time; the student is considered removed from probation when the period expires. Violation of any conditions during the period of probation may be cause for further disciplinary action.

C. Loss of Privileges and Exclusion from Activities.

Exclusion from participation in designated privileges and extracurricular activities for a specified period of time. Violation of any conditions or Code of Student Conduct during the period of sanction may be cause for further disciplinary action.

D. Educational Sanction.

Work, research projects, counseling, or community service projects may be assigned. Violation of any requirements of assignment or Code of Student Conduct during the period of sanction may be cause for further disciplinary action.

E. Treatment Requirement.

Require enrollment in anger management, drug and alcohol rehabilitation treatment. Such requirement must receive prior approval from the Vice President of Student Services (or designee).

F. Group Sanction.

Sanctions for the misconduct of groups or organizations may include temporary or permanent revocation or denial of group registration as well as other appropriate sanctions.

G. Removal from Class.

Exclusion of the student by an instructor for the day of the removal and the next class meeting. Instructor must immediately report the removal to the Vice President of Student Services (or designee).

H. Exclusion from Areas of the College.

Exclusion of a student from specified areas of the campus. Violation of the conditions of exclusion or Code of Student Conduct during the period of exclusion may be cause for further disciplinary action.

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I. **Withdrawal of Consent to Remain on Campus.**

Withdrawal of consent by the Campus Police for any person to remain on campus in accordance with California Penal Code Section 626.4/626.6 where the Campus Police has reasonable cause to believe that such person has willfully disrupted the orderly operation of the campus. Any person as to whom consent to remain on campus has been withdrawn who knowingly reenters the campus during the period in which consent has been withdrawn, except to come for a meeting or hearing, is subject to arrest.

J. **Short-term Suspension.**

Exclusion of the student by the President (or designee) for good cause from one or more classes for a period of up to ten consecutive days of instruction.

K. **Long-term Suspension.**

Exclusion of the student by the President (or designee) for good cause from one or more classes for the remainder of the school term or school year, or from all classes and activities of the college and District for one or more terms.

L. **Expulsion.**

Exclusion of the student by the Board of Trustees from attending all colleges in the District.

VI. **Disciplinary action may be imposed on a student by:**

- A. A college faculty member who may place a student on probation or remove the student from class and/or a college activity for the remainder of that class/activity period.
- B. The President (or designee) who may impose any form of discipline, including summarily suspending a student when deemed necessary for the welfare and safety of the college community.
- C. The President who may recommend "expulsion" to the Chancellor.
- D. The Board of Trustees who may terminate a student's privilege to attend any college of the District.

VII. **Due Process for Discipline, Suspensions Expulsions**

A. **Definitions:**

1. **Student.** Any person currently enrolled as a student at any college or in any program offered by Peralta Community College District.
2. **Faculty Member.** Any instructor (an academic employee of the District in whose class a student subject to discipline is enrolled), counselor, librarian, or any academic employee who is providing services to the student.
3. **Day.** A day during which the District is in session and regular classes are held, excluding Saturdays, Sundays, and District holidays.
4. **Written Notice/Written Decision.** Notice sent by personal service or by registered or certified mail with return receipt requested via the United States Postal Service.

B. **Procedure.**

Before any disciplinary action to suspend or expel is taken against a student, the following procedures will apply:

1. **Notice.**

The Vice President of Student Services (or designee) will provide the student with written notice of the conduct warranting the discipline. The written notice will include the following:

- a. The specific section of the Code of Student Conduct that the student is accused of violating.
- b. A short statement of the facts (such as the date, time, and location) supporting the accusation.
- c. The right of the student to meet with the Vice President of Student Services (or designee) to discuss the accusation, or to respond in writing.
- d. The nature of the discipline that is being considered.

2. **Time limits.**

The notice must be provided to the student within 5 days of the date on which the

conduct took place or became known to the Vice President of Student Services (or designee); in the case of continuous, repeated or ongoing conduct, the notice must be provided within 5 days of the date on which conduct occurred or became known to the Vice President of Student Services (or designee) which led to the decision to take disciplinary action.

3. Conference Meeting.

A student charged with misconduct must meet with the Vice President of Student Services (or designee) for a conference regarding the basis of the charge and the possible disciplinary action that may arise as a consequence. If the student fails to respond within 5 days after receipt of the written notice, the Vice President may proceed on the assumption that the charge(s) is (are) valid.

The conference with the Vice President of Student Services (or designee) will be for the purpose of:

- a. Reviewing the written statement of the charge(s) as presented to the student;
- b. Providing a reasonable opportunity at the meeting for the student to answer the charge(s) verbally or in writing to the accusation;
- c. Informing the student in writing of possible disciplinary action that might be taken;
- d. Presenting to the student the College Due Process Procedures.

4. Meeting Results.

One of the following scenarios will occur:

- a. The matter is dismissed, in which case no public record of this incident shall be retained; however, an annual confidential report is required to be submitted to the Peralta Board of Trustees.
- b. A disciplinary action is imposed, and the student accepts the disciplinary action.

- c. A disciplinary action is imposed, and the decision of the Vice President of Student Services (or designee) is final due to the form of the discipline.
- d. A disciplinary action of a long-term suspension is imposed and the student does not accept the long-term suspension. The student must file at the Office of the President a written notice of intent to appeal to the Student Disciplinary Hearing Panel within 5 days of the written decision from the Vice President of Student Services (or designee).
- e. A recommendation for expulsion is made by the Vice President of Student Services (or designee) to the College President.

5. Short-term Suspension.

Within 5 days after the meeting described above, the Vice President of Student Services (or designee) shall decide whether to impose a short-term suspension, whether to impose some lesser disciplinary action, or whether to end the matter. Written notice of the Vice President of Student Services' (or designee's) decision shall be provided to the student. The written notice will include the length of time of the suspension, or the nature of the lesser disciplinary action. The Vice President of Student Services' (or designee) decision on a short-term suspension shall be final.

6. Long-term Suspension.

Within 5 days after the meeting described above, the Vice President of Student Services (or designee) may decide to impose a long-term suspension. Written notice of the Vice President of Student Services' (or designee) decision shall be provided to the student. The written notice will include the right of the student to request a formal hearing and a copy of the College Student Discipline (Due Process) Procedures describing the procedures for a hearing

7. Expulsion.

Within 5 days after the meeting described above, the Vice President of Student Services (or designee) may decide to recommend expulsion to the President. The Student Disciplinary Hearing Panel shall be convened to provide a recommendation to the President. The President shall then decide whether to make a recommendation of expulsion to the Chancellor and Board of Trustees. Written notice of the President's (or designee) decision to recommend expulsion shall be provided to the student. The written notice will include the right of the student to a formal hearing with the Board of Trustees before expulsion is imposed, and a copy of the College Student Discipline (Due Process) Procedures describing the procedures for a hearing.

VIII. Hearing Procedures:

A. Request for Hearing.

Within 5 days after receipt of the Vice President of Student Services' (or designee's) decision regarding a long-term suspension, the student may request a formal hearing. The request must be made in writing to the President (or designee). Any charge(s) to which the student does not respond shall be deemed valid. Any recommendation for expulsion by the Vice President of Student Services (or designee) shall be automatically reviewed by the Student Disciplinary Hearing Panel.

B. Schedule of Hearing.

The formal hearing shall be held within 10 days after a written request for hearing is received. Student's failure to confirm attendance at hearing or failure to appear at the hearing without reasonable cause constitutes waiver of the student's right to appeal. The formal hearing timeline may be tolled (postponed) pending a formal investigation of any discrimination claims by or against the student. Such investigation must be concluded no later than 90 calendar days as required by law.

C. Student Disciplinary Hearing Panel.

The hearing panel for any disciplinary action shall be composed of one faculty (selected by the President of the Faculty Senate), one classified (selected by the President of the Classified Senate), one administrator (selected by the President of the College) and one student (selected by the Associated Students).

The President (or designee), at the beginning of the academic year, will establish the panel, along with alternates. The chair of the committee will be appointed by the President.

D. Hearing Panel Chair.

The President (or designee) shall appoint one member of the panel to serve as the chair. The decision of the hearing panel chair shall be final on all matters relating to the conduct of the hearing unless there is a vote by two other members of the panel to the contrary.

E. Conduct of the Hearing.

1. The members of the hearing panel shall be provided with a copy of the accusation against the student and any written response provided by the student before the hearing begins.
2. The facts supporting the accusation shall be presented by a college representative who shall be the Vice President of Student Services.
3. The college representative and the student may call witnesses and introduce oral and written testimony relevant to the issues of the matter.
4. Formal rules of evidence shall not apply. Any relevant evidence shall be admitted.
5. Unless the hearing panel determines to proceed otherwise, the college representative and the student shall each be permitted to make an opening statement. Thereafter, the college representative shall make the first presentation, followed by the student. The college representative may present rebuttal evidence after the student completes his or her evidence. The burden shall be on the college representative to prove by substantial evidence that the facts alleged are true.

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6. The student may represent himself or herself, and may also have the right to be represented by a person of his or her choice, except that the student shall not be represented by an attorney unless, in the judgment of the hearing panel, complex legal issues are involved. If the student wishes to be represented by an attorney, a request must be presented not less than 5 days prior to the date of the hearing. If the student is permitted to be represented by an attorney, the college representative may request legal assistance. The hearing panel may also request legal assistance; any legal advisor provided to the panel may sit with it in an advisory capacity to provide legal counsel but shall not be a member of the panel nor vote with it.
7. Hearings shall be closed and confidential unless the student requests that it be open to the public. Any such request must be made no less than 5 days prior to the date of the hearing.
8. In a closed hearing, witnesses shall not be present at the hearing when not testifying, unless all parties and the panel agree to the contrary.
9. The hearing shall be recorded by the District either by tape recording or stenographic recording, and shall be the only recording made. No witness who refuses to be recorded may be permitted to give testimony. In the event the recording is by tape recording, the hearing panel chair shall, at the beginning of the hearing, ask each person present to identify himself or herself by name, and thereafter shall ask witnesses to identify themselves by name. Tape recording shall remain in the custody of the District at all times, unless released to a professional transcribing service. The student may request a copy of the tape recording.
10. All testimony shall be taken under oath; the oath shall be administered by the hearing panel chair. Written statements of witnesses under penalty of perjury shall not be used unless the witness is unavailable to testify. A witness who refuses to be tape-recorded is not unavailable.
11. Within 10 days following the close of the hearing, the hearing panel shall prepare and send to the President (or designee) a written recommendation regarding the disciplinary action to be imposed, if any. The recommendation shall include specific factual findings regarding the accusation, and shall include specific conclusions regarding whether any specific section of the Standards of Student Conduct were violated. The decision shall be based only on the record of the hearing, and not on matter outside of that record. The record consists of the original accusation, the written response, if any, of the student, and the oral and written evidence produced at the hearing.

IX. President's (or Designee's) Decision

A. Long-term suspension.

Within 5 days following receipt of the hearing panel's recommendation, the President (or designee) shall render a final written decision based on the recommendations of the hearing panel and the Vice President of Student Services (or designee). If the President (or designee) modifies or rejects the hearing panel's recommendation, the President shall review the record of the hearing, and shall prepare a written decision that contains specific factual findings and conclusions. The decision of the President (or designee) shall be final.

B. Expulsion.

Within 5 days following receipt of the hearing panel's recommendation, the President (or designee) shall render a written decision either to recommend expulsion or to impose a lesser form of discipline. If the President (or designee) modifies or rejects the hearing panel's decision, he or she shall review the record of the hearing, and shall prepare a written decision that contains specific factual

findings and conclusions. If the President (or designee) decides to recommend expulsion, such recommendation shall be forwarded to the Chancellor and Board of Trustees.

X. Chancellor's Decision

A student may, within 10 days of the President's decision to impose long-term suspension or to recommend expulsion, appeal the decision in writing to the Chancellor. For long-term suspensions, the Chancellor (or designee) shall issue a written decision to the parties and the representatives within ten days of the receipt of the President's decision. For expulsions, the Chancellor shall forward the President's recommendation to the Board of Trustees within 10 days and provide an independent opinion as to whether he or she also recommends expulsion.

XI. Board of Trustees' Decision

A. Long-Term Suspension Appeal.

The Chancellor's (or designee's) decision regarding long-term suspension may be appealed to the Board of Trustees within 10 days of receipt of the Chancellor's decision. The Board will consider the appeal request, along with the Chancellor's decision, at the next regularly scheduled meeting. The Board may reject the appeal request and uphold the Chancellor's decision, or accept the appeal and conduct a hearing. The Board's procedures for hearing of long-term suspension will be similar to the procedures required for expulsion hearings.

B. Expulsion.

1. The Board of Trustees shall consider any recommendation from the President for expulsion at the next regularly scheduled meeting of the Board after receipt of the recommended decision.
2. The Board shall consider an expulsion recommendation in closed session, unless the student has requested that the matter be considered in a public meeting in accordance with these procedures. (Education Code Section 72122)

3. The student shall receive written notice at least three days prior to the meeting of the date, time, and place of the Board's meeting.
4. The student may, within 48 hours after receipt of the notice, request that the hearing be held as a public meeting.
5. Even if a student has requested that the Board consider an expulsion recommendation in a public meeting, the Board will hold any discussion that might be in conflict with the right to privacy of any student other than the student requesting the public meeting in closed session.
6. The Board may accept, modify or reject the findings, decisions and recommendations of the President (or designee) and Chancellor (or designee). If the Board modifies or rejects the decision, the Board shall review the record of the hearing, and shall prepare a written decision that contains specific factual findings and conclusions. The decision of the Board shall be final.
7. The final action of the Board on the expulsion shall be taken at a public meeting, and the result of the action shall be a public record of the District.

XII. Time Limits

Any times specified in these procedures may be shortened or lengthened if there is mutual concurrence by all parties.

XIII. Student Grievance

- A. Students who believe that they have been improperly subjected to any of the disciplinary measures stated in this policy may file a Student Grievance with the Vice President of Student Services in accordance with Board Policy 5530 Student Rights and Grievance.
- B. Students in Allied Health Programs: Board Policy 5531 (Allied Health: Student Appeal of Dismissal for Clinical Performance) may apply in lieu of this Board Policy to students who are enrolled in the Allied Health program for clinical performances.

AP 5530: Student Rights and Grievance Procedure

The purpose of this procedure is to provide a prompt and equitable means of resolving student grievances. This procedure shall be available to any student who reasonably believes an experience or decision has adversely affected his or her status, rights or privileges as a student. A grievance may be initiated by a student against an instructor, an administrator, or a member of the classified staff. A grievance may also be initiated against another student.

I. Grounds for Filing Student Grievances

The Student Grievance Procedure shall apply only to grievances involving:

- A. Academic (Grade) Grievance:**
A complaint alleging mistake, fraud, bad faith or incompetence in the academic (grade) evaluation of student performance.
- B. Violation of Law, Policy, and Procedures:**
 - 1. Violation of rights which a student is entitled to by law or District policy, including financial aid, exercise of free expression, rules for student conduct, admission, probation, or suspension or dismissal policies.
 - 2. Act or threat of physical aggression.
 - 3. Act or threat of intimidation or harassment.
- C. This Student Grievance Procedure does not apply to:**
 - 1. **Police Citations (i.e. "Tickets").**
Complaints about citations must be directed to the Campus Police in the same way as any traffic violation.
 - 2. **Discrimination, Sexual Assault or Sexual Harassment.**
Any student who feels he/she has been or is presently an alleged victim of sexual harassment, may first contact the Vice President of Student Services to file a complaint verbally or in writing, or may directly contact the District's Equal Opportunity Coordinator at 333 East Eighth Street, Oakland, CA

94606, (510) 466-7220. At the time a complaint is made known, a copy of the complaint procedures and a complaint form shall be made available to the complainant. For additional information regarding reporting of discrimination, sexual assault or sexual harassment, please refer to Discrimination Complaint Procedures in this catalog.

II. Definitions

- A. Party:** The student or any persons claimed to have been responsible for the student's alleged grievance, together with their representatives. "Party" shall not include the Grievance Hearing Committee.
- B. Student:** A currently enrolled student, a person who has filed an application for admission to the college, or a former student. A grievance by an applicant shall be limited to a complaint regarding denial of admission. Former students shall be limited to grievances relating to course grades to the extent permitted by Education Code Section 76224(a).
- C. Respondent:** Any person claimed by a grievant to be responsible for the alleged grievance.
- D. Observer:** An individual who is present at a hearing to observe the proceeding, but shall not be allowed to speak and address the committee.
- E. Written Notice/Written Decision:** Notice sent by personal service or by registered or certified mail with return receipt requested via the U.S. Postal Service.
- F. Day.** Unless otherwise provided, day shall mean a day during which the college is in session and regular classes are held, excluding Saturdays, Sundays, and District holidays.

III. Grievance Process

- A. Informal Resolution**
Within 30 days of the allegation, each student who has a grievance shall make

a reasonable effort to resolve the matter on an informal basis prior to requesting a grievance hearing:

1. For an academic (grade) grievance, the student shall make an appointment with the faculty against whom he/she has a grievance during the faculty member's posted office hours or at a mutually-agreed-upon time, in order to discuss the student's complaint. Should the faculty against whom the student has an academic complaint fail to meet with the student in a timely manner, the student may meet with the Division Dean of Instruction of the faculty member.
2. For a grievance based on an alleged violation of law, policy, and procedures, the student shall attempt to solve the problem with the person with whom the student has the grievance, that person's immediate supervisor, or the Vice President of Student Services (or designee).

B. Formal Complaint Procedures

Any student who believes he/she has a grievance must file an approved grievance complaint form with the Vice President of Student Services (or designee). The student may obtain the form from the Office of the Vice President of Student Services.

The student must file within 90 days of the incident on which the grievance is based; or after the student knew or should have known of the basis for the grievance, whichever is later. The grievance complaint must be filed whether or not the student has already initiated efforts at informal resolution, if the student wishes the grievance to become official. Failure to file a formal complaint within such ninety (90) day period constitutes waiver of the student's right to appeal.

1. Filing Complaint

The complaint must include the following:

- a. The exact nature of the complaint (grounds)
 - b. The specific details of the complaint (e.g., chronology of the event and an explicit description of the alleged violation)
 - c. A description of the informal meeting and attempted resolution, if any
 - d. The specific resolution/remedy sought
- Complaint should be filed with Vice President of Student Services.

2. Meeting with Vice President of Student Services (or Designee)

The Vice President of Student Services (or designee) shall provide to the person against whom the grievance has been filed a copy of the grievance and a copy of the procedure.

The Vice President of Student Services (or designee) will provide the grievant with a written copy of the policy and procedures and answer all questions regarding the policy including the student's rights and responsibilities in the process of filing a grievance. For academic (grade) grievance, the Vice President of Student Services (or designee) will inform the student that a grade change may only be made where there is a finding of fraud, mistake, bad faith or incompetence.

The student and Vice President of Student Services (or designee) shall attempt to reach an informal resolution

3. Request for Grievance Hearing

If an informal resolution cannot be reached, the Vice President of Student Services (or designee) shall make a request for records and documents from the student filing the complaint and forward copies of all documents pertinent to the alleged violation to the Chair of the Grievance Committee and

the parties. Documents or accusations not specifically related to the alleged violations shall not be forwarded to the committee or the parties.

- a. For academic (grade) grievance, the Chair shall request records and documents from the faculty member against whom the complaint has been filed.
- b. For grievance based on an alleged violation of law, policy, and procedures, the Chair shall request records and documents from the party against whom the complaint has been filed.

The Grievance Hearing timeline may be tolled (postponed) pending a formal investigation of any discrimination claims by or against the student. Such investigation must be concluded no later than 90 calendar days as required by law.

4. Grievance Hearing Committee

Within 90 days following receipt of the grievance complaint form, the Grievance Hearing Committee shall conduct a hearing. The following College Grievance Committee members shall be appointed for a term of one academic year as follows:

- a. The Vice President of Instruction, who shall Chair the committee;
- b. One faculty member (and one alternate) jointly appointed by the PFT and the Faculty Senate;
- c. One administrator (and one alternate) appointed by the College President;
- d. One student (and one alternate) appointed by the President of the Associated Students

Additional committee member:

- e. For academic (grade) grievances, one faculty member (and one alternate) jointly appointed by the PFT and the Faculty Senate; or

- f. For other grievances, one classified employee (and one alternate) jointly appointed by Local 790 and the Classified Senate. A committee member shall withdraw from participation in the hearing if a conflict of interest is anticipated, in which case the alternate member shall serve. The members of the Committee shall be provided with a copy of the grievance and any written response provided by the respondent before the hearing begins. Four-fifths of the members of the committee shall be present in order for the committee to act.

5. Hearing Procedure

- a. The Vice President of Instruction, as Chair, shall provide written notice, including the date, time and place of the hearing to both parties at least ten days prior to the hearing. The notice shall be hand-delivered or sent by certified mail and shall include a copy of the complaint.
- b. The Chair shall provide the involved complainant with a written summary of rights he/she may be entitled to by law or contract at least 10 days before the hearing. For academic (grade) grievance, the Chair of the committee shall provide the involved faculty member with a written summary of rights he/she may be entitled to by law or contract at least 10 days before the hearing. Both parties shall be given adequate time (at least 10 days) to read and review all documents, consistent with privacy laws. This right may be waived by either party. Both parties shall be informed that all relevant

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- evidence presented to the hearing committee, whether written or oral, may be used against them in this or any other proceeding unless otherwise prohibited by law. The written notice shall inform the parties of this fact. The Chair of the committee shall inform both parties orally of this fact at the commencement of the hearing.
- c. The decision of the Chair shall be final on all matters relating to the conduct of the hearing unless there is a vote by a majority of the other members of the panel to the contrary. The Chair may do whatever is necessary, so long as it is legally permissible, to ensure that the hearing is conducted in a fair, dignified and orderly manner.
 - d. The Chair of the committee may exclude a witness from the hearing when the witness is not giving testimony.
 - e. Anyone who disrupts the proceeding or interferes shall be excluded from the proceeding.
 - f. All information derived from the complaint is confidential. Information may not be made public nor discussed with anyone except those with a legitimate need to know.
 - g. The hearing shall be open only to persons directly involved in the matters to be heard. The bargaining agent representing the respondent may send an observer to any hearing.
 - h. The committee may call in “expert witnesses” if the subject of the grievance is beyond their expertise.
 - i. The committee shall inform the witnesses (other than the accused) in writing that they are sought for interview purposes and their participation in the process is requested by the committee. Witnesses shall also be informed as to the purpose of the interview, the general subject of the interview, and their right to request representation by anyone of their choosing prior to and during said interview.
 - j. Any member of the committee may ask questions of any witness.
 - k. The hearing shall be conducted so as to bring all of the relevant information and evidence to the members of the committee in an orderly and intelligible form. Formal rules of evidence shall not apply. Any relevant evidence shall be admitted, if it is the sort of evidence on which responsible persons are accustomed to rely upon in the conduct of serious affairs. Accusations not specifically related to the alleged violation shall not be considered relevant. The rules of privilege shall apply to the same extent that they are recognized in civil actions.
 - l. At all steps of the process, both the student filing and the other party have the right to be accompanied, advised and represented by a person or counsel of their choosing. If either party wishes to be represented by an attorney, a request must be presented not less than 10 days prior to the date of the hearing. If the student is permitted to be represented by an attorney, the college representative may request legal assistance. The hearing committee may also request legal assistance; any legal advisor provided to the panel may

sit with it in an advisory capacity to provide legal counsel but shall not be a member of the panel nor vote with it.

- m. If the respondent or his/her representative, or both, are absent from all or a part of the hearing, the committee shall make its recommendations on the basis of whatever evidence is submitted before the hearing and on whatever evidence and testimony is presented to the committee during the hearing.
- n. The committee shall make all evidence, written or oral, part of the record.
- o. The committee shall judge the relevancy and weight of testimony and evidence and make its findings of fact, limiting its investigation to the formal charge. The decision shall be based only on the record of the hearing, and not on matter outside of that record.
- p. The burden shall be on the grievant to prove by a preponderance of the evidence that the facts alleged are true and a grievance has been sufficiently established.
- q. The hearing date may be postponed or continued at the discretion of the Chair of the committee. Both parties shall be given notice of the new or continued hearing date.
- r. The votes of the majority of the members present (at least 3 votes) are necessary in order for the committee to make a recommendation to the Vice President of Student Services.
- s. The Chair of the committee shall notify the Vice President of Student Services of the committee's recommendation within 10 days.
- t. A summary record of the

proceedings held in a closed session shall be kept in a confidential file by the Vice President of Student Services and shall be available at all times to the accused person. The Vice President of Student Services has the responsibility to ensure that a proper record is maintained and available at all times.

6. Final Decision by Vice President of Student Services

Based on the grievance hearing committee's recommendations, the Vice President of Student Services (or designee) may accept the recommendation, return it to the committee for further review, or reject it. Within 10 days of receipt of the committee's recommendation, the Vice President of Student Services (or designee) shall send written notification to the parties and committee informing them of:

- a. The committee's recommendation;
- b. The final decision by Vice President of Student Services; and
- c. Appeals procedure
Any decision to reject findings of the committee must be supported by a summary finding of fact. The decision to recommend a grade change must be supported by a summary finding of fact, establishing mistake, fraud, bad faith or incompetence.

7. Appeals

a. President's Decision

The Vice President of Student Services' (or designee's) decision may be appealed by either party in writing within 10 days of the Vice President of Student Services' (or designee's) decision.

The College President shall issue a written decision to the parties and their representatives within ten

(10) days of receipt of the appeal. A decision to change a grade must be supported by a summary finding of fact, establishing mistake, fraud, bad faith or incompetence.

b. Chancellor's Decision

The College President's decision may be appealed to the Chancellor in writing within 10 days of receipt of the decision.

The Chancellor, or designee, shall issue a written decision to the parties and the representatives by certified mail within 10 days of the receipt of the decision. A decision to change a grade must be supported by a summary finding of fact, establishing mistake, fraud, bad faith or incompetence.

c. Board of Trustees' Decision

The Chancellor's (or designee's), decision may be appealed to the Board of Trustees in writing within 10 days of the receipt of the decision.

The Board will review the documentation of the prior steps of the case and determine whether to confirm the Chancellor's decision or hear the appeal. If the Board confirms the Chancellor's decision, the appellant has exhausted his or her remedies. If the Board decides to consider the appeal, it will do so in closed session subject to Education Code 72122, and will issue a final decision within forty-five (45) days after receipt of the decision.

A decision to change a grade must be supported by a summary finding of fact, establishing mistake, fraud, bad faith or incompetence. Implementation of any grade change shall be held in abeyance

until the internal appeal process has been exhausted.

All recommendations, resolutions, and actions taken by the Board of Trustees shall be consistent with the State and Federal law, the Peralta Community College District Policies and Procedures, and the PFT and Local 790 Collective Bargaining Agreements. (In the event of a conflict between the Collective Bargaining Agreement and the PCCD Policies and Procedures, the Collective Bargaining Agreement shall govern.)

8. Time Limits

Any times specified in these procedures may be shortened or lengthened if there is mutual concurrence by all parties.

AP 5140: Disabled Students Programs and Services

Under federal and State laws, the District and Colleges are required to ensure that academic requirements and practices, facilities, electronic information technology, printed materials, and College services and activities are accessible to individuals with disabilities. The College will make modifications as necessary in order to provide equal access.

I. Role of Disabled Students Programs and Services

The role of the Disabled Students Programs and Services (DSP&S) program is to assist the colleges in meeting federal and state obligations to students with disabilities. DSP & S is the primary provider for support programs and services that facilitate equal educational opportunities for students with disabilities who can benefit from instruction as required by federal and State laws.

A. No student with disabilities is required to participate in the DSP&S program. If a student requests accommodations and does not want to register with DSP&S, he/she will need to

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submit documentation to the College 504/ADA Coordinator. DSP&S will evaluate the disability documentation and discuss the request for accommodations with the student.

- B. Each College maintains a plan for the provision of programs and services to students with disabilities designed to assure that they have equal access to College classes and programs. The yearly DSP&S Plan, as required by the State Chancellor's Office, describes the processes, procedures, and requirements, as well as a full description of the program. Other information regarding the goals and objectives of DSP&S can be found in the DSP&S Program Review document.

II. Academic Accommodations Procedures for Students with Disabilities

- A. Pursuant to Section 504 of the Rehabilitation Act of 1973, Title 5, Section 56027, and Board Policy 5.24, the Peralta Community College District has developed the following procedures to respond in a timely manner to requests by students with disabilities for academic accommodations. Pursuant to Title 5, Sections 56000-56088 the District has developed DSP&S at each college to assist students with disabilities in accessing appropriate instruction, programs, academic accommodations and auxiliary aids.
- B. The goal of all academic accommodations and auxiliary aids is to minimize the effects of the disability on the educational process. The student with a disability shall be given the opportunity both to acquire information and to be evaluated in a way that allows the student to fully demonstrate his/her knowledge of the subject. The goal is to maintain academic standards by giving the student assignments that are comparable in content, complexity, and quantity.
 - 1. When a student requests disability-related services, the student's disability is verified by the DSP&S professional, according to state-mandated criteria. If the student is deemed

ineligible for services, DSP&S shall provide the student with written notice of the denial stating both the reasons for the denial and that the student has a right to appeal the denial through the District Discrimination and Complaint Procedures. Pending the resolution of any dispute regarding an accommodation, the accommodation will be provided.

- 2. The DSP&S professional (as defined in Title 5 Section 56006, 56048, 56060, 56064 and 56066), in consultation with the student, determines educational limitations based on documentation of the disability and functional limitations and authorizes the use of any appropriate auxiliary aids and/or academic accommodations. These may include but are not limited to:
 - a. Auxiliary aids such as a tape recorder, assistive listening device, calculator, computer, taped text or spelling checker used in the classroom and/or in completing class assignments;
 - b. The use in the classroom of a reader, American Sign Language interpreter, note taker, or scribe, or real-time captioner for students who are deaf or hard of hearing or the presence of service animals, mobility assistants, or attendants in the classroom;
 - c. Testing accommodations such as extended time for test taking and distraction-reduced test setting;
 - d. Extending the length of time permitted for course or degree requirements and flexibility in the manner in which specific course content is accessed, based on individual disability;
 - e. Substitution for specific courses required for the completion of general education degree requirements, or substitutions or waivers of major or certificate requirements.
 - f. Access to Alternate Media such as Braille, large print, and electronic text (e-text).

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3. With the consent of the student, instructors are informed of authorized auxiliary aids and academic accommodations. It is the responsibility of the instructor to allow auxiliary aids to be used in the classroom or to coordinate with the DSP&S professional for the delivery of academic accommodations. It is the responsibility of the DSP&S professional to make arrangements for and facilitate the delivery of academic accommodations with the disabled student in coordination with faculty, as appropriate. The DSP&S professional will assist with providing the appropriate accommodations and appropriate follow up for DSP&S students. An example of appropriate follow up might be a DSP&S Counselor contacting an instructor and DSP&S student to inquire about the effectiveness of an accommodation.
4. Instructors cannot unilaterally deny approved accommodations and students may not be asked or required to negotiate with instructors or staff about the provisions of adjustments or aids that have been approved by the DSP&S. If an instructor receives an accommodation form and does not understand it or disagrees with the accommodation, it is the instructor's responsibility to contact DSP&S to discuss the issue.

III. Grievance Procedures

If a student is denied academic accommodations or the use of auxiliary aids by an instructor and wishes to appeal, she/he should contact the DSP&S professional who will schedule a meeting with the instructor to discuss and resolve the issue. The student may invite the DSP&S professional (i.e., a DSP&S Coordinator, Counselor, Instructor, Acquired Brain Injury (ABI) Specialist, Learning Disability (LD) Specialist etc.) to attend this meeting. In the case where an unresolved issue becomes a dispute (i.e., an issue that is not resolved informally between the student and the instructor with the assistance of the DSP&S professional), the student

may file a complaint through the District's Harassment and Discrimination Complaint Procedures. Pending the resolution of any dispute regarding an accommodation, the accommodation will be provided.

IV. Meeting General Education Degree Requirements

When the severity of the disability of an otherwise qualified student precludes successful completion of a course required for graduation from a college within the Peralta Community College District, despite an earnest effort on the part of the student to complete the course or its prerequisite--if appropriate for the disability as determined by a qualified DSP&S Specialist--and despite the provision of academic adjustments and/or auxiliary aids, the student may request a substitution of the course as an alternative method of meeting general education degree requirements.

- A. The Evaluation Team will consist of the DSP&S Coordinator, the Department chair or instructor from the discipline of the course or major for which a substitution is being requested, and the appropriate Dean of Instruction.
- B. The team may consult, as appropriate, with DSP&S professionals, Associate Vice Chancellor for Admissions and Records and Student Services, and the College Vice President of Instruction in order to make a decision.
- C. In assessing requests, the Evaluation Team should consider the anticipated exit skills from the course that can be substituted for comparable exit skills in another course. These comparable skills may be found in a discipline different from the discipline of the original course.

V. Meeting Major or Certificate Requirements

The process for evaluating requests for major or certificate requirements is the same as stated in the section (IV) above except that the student may request a substitution or a waiver of the course as an alternative method of meeting major or certificate requirements.

- A. A course substitution maintains the standards of academic rigor of degree programs because the student is required to demonstrate comparable skills (when a student completes a comparable

course as established by an Evaluation Team). Therefore, requesting a course substitution is the preferred option to meet general education degree requirements. For major or certificate course requirements, course substitutions and/or waivers may be considered.

- B. Course substitutions are applicable for Peralta Community College District and may not be recognized by a transfer college.

VI. Evaluation of Substitution/Waiver Request

A. Documentation

The student will complete the Request for Change of Graduation Requirements Form (available in the DSP&S office) and submit it to the DSP&S professional with the following attachments:

1. Petition for Substitution/Waiver (obtained from the Admissions Office).
2. Letter (written by the student) addressing the criteria listed in Part B.
3. Evidence from the DSP&S Professional (DSP&S Coordinator, Counselor, Instructor, Acquired Brain Injury (ABI) Specialist, Learning Disability (LD) Specialist, etc.) verifying the disability and how it relates to the student's request.
4. Documentation of the student's academic record, the degree requirements for graduation and information about the course in question regarding whether or not it is essential to the student's course of study, major, transfer goals and/or employment goals as appropriate.
5. Additional Supporting Documentation can be provided by students.

B. Evaluation of Request

1. The DSP&S professional will review all documents, outline evidence of the use of all appropriate and available services and academic adjustments and indicate that, according to CRITERIA listed below, that the request is appropriate. The DSP&S professional then signs the *Request for Change of Graduation Requirements Form* and forwards the packet to the

DSP&S Coordinator, who will convene an Evaluation Team.

2. The Evaluation Team consists of the DSP&S Coordinator, the Department Chair (or an Instructor) from the discipline of the course or major for which a substitution is being requested and the Dean of Instruction with responsibility for the Division, which includes the discipline of the course substitution. The Evaluation Team meeting is to be chaired by the Dean of Instruction and should consult with the Associate Vice Chancellor for Admissions and Records and Student Services, DSP&S professionals, and the College Vice President of Instruction as appropriate.
3. The Evaluation Team will assess student requests based on the following criteria:
 - a. Documentation of the student's disability with specific test scores, when appropriate, and a description of educationally related functional limitations in the academic area under discussion.
 - b. Evidence of the student's earnest efforts to meet the graduation requirement, which may include:
 - i. Consistent and persistent efforts in attempting to meet all graduation requirements.
 - ii. Evidence that the student has attempted to take the course in question or its prerequisite with accommodations and has been unable to successfully complete course requirements.
 - iii. Regular attendance (i.e., meeting the attendance requirements of the course);
 - iv. Completion of all course assignments;
 - v. Use of all appropriate and available services such as tutorial assistance or instructional support classes;
 - vi. Use of all appropriate and available academic accommodations such as test accommodations.

- vii. Agreement among the student, DSP&S Counselor and the appropriate Disabilities Specialist that, due to the severity of the disability, the student would not be able to successfully complete the course requirements, even with accommodations.
- c. Evidence that the student is otherwise qualified such as:
 - i. The student's success in completing other course work requirements for the degree/certificate as indicated by a grade point average of 2.0 or greater in degree applicable classes.
- d. Information about the course in question regarding whether or not it is essential to the student's Course of Study, Major, Transfer Goals or Employment Goals.
- e. Information about alternatives to the course in question based on the learning/academic goals of that course.

VII. Decision Process

- A. Meeting General Education Degree Requirements
The Evaluation Team's decision will be made by majority vote. If the Team recommends a course substitution, the Team will request the department in which the student is asking for course substitution to provide a list of previously identified appropriate course substitutions. If the department cannot identify an appropriate course substitution or if the Team concludes that a substitute course is inappropriate due to the severity of the disability, as documented by the Verification of Disability and Educational Limitations Form, then the College Vice President of Instruction and the Associate Vice Chancellor for Admissions and Records and Student Services shall be included in the evaluation process to assist with the identification of an appropriate course substitution.
To approve recommendations for course substitutions, the Evaluation Team will forward

its recommendation to the Vice President of Instruction and then to the Associate Vice Chancellor for Admissions and Records and Student Services. The District Office of Admissions and Records will verify, implement and notify the student.

- B. Meeting Major/Certificate Requirements
The process for evaluating request for major/certificate requirement is the same as those stated above except that the student may request a substitution or a waiver of a course as an alternative method of meeting major or certificate requirement.

VIII. Complaint Procedure

If the student is dissatisfied with the decision of the Evaluation Team, she/he may follow the District's Harassment and Discrimination Complaint Procedures. The finding may be appealed directly to the District Affirmative Action Officer. Students can obtain the assistance of the District Affirmative Action Office at any point during this process.

IX. Equal Access to Electronic and Information Technology

Federal and State laws require that all electronic and information technology purchased or used by federal agencies must be accessible for use by persons with disabilities. This regulation applies to the development, procurement, maintenance and/or use of all electronic and information technologies.

- A. The Information Technology Department will ensure that College employees who purchase or request recommendations about information technology products are informed of the accessibility requirements of Section 508.
- B. Grant recipients will be informed of their obligations under Section 508 requirements.
- C. The Purchasing Department will ensure that vendors and other contract recipients are informed of their obligations under section 508 requirements.
- D. The Colleges and District will ensure that web pages and related links are accessible to individuals with disabilities as defined by World Wide Web Consortium (W3C).

- E. The Colleges will ensure that video and multimedia products developed by the College and/or housed at the College are equally accessible to individuals with disabilities and comply with Section 508.
- F. The Colleges will ensure that faculty who develop web pages, online learning, and other distance learning options for students are informed of their obligations under section 508.
- G. The College will ensure that faculty and staff are informed of their obligations under Section 508 requirements as they pertain to enrolled and prospective students.
- H. The Colleges will ensure that all staff members are informed of their obligations under Section 508 requirements as they pertain to visitors and events on campus.
- I. The Office of Instruction will ensure that all library staff members are informed of their obligations under Section 508 as they pertain to library patrons.

AP 3440: Service Animals

The District will allow an individual with a disability to use a service animal in District facilities and on District campuses in compliance with state and federal law.

The District will allow an individual with a disability to be accompanied by his/her service animal in all areas of the District's facilities where members of the public, or participants in services, programs or activities, are allowed to go.

These procedures shall also be applicable to any individual who is training a service animal.

I. Service Animal Defined

- A. A "service animal" for purposes of this procedure means any dog (or miniature horse, as provided herein) that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.
- B. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition.

- C. The work or tasks performed by a service animal must be directly related to the handler's disability. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition.

II. Exceptions

- A. The District may ask an individual with a disability to remove a service animal from the premises if:
 - 1. It is not controlled;
 - 2. It is not housebroken; and/or
 - 3. It is a threat to the health and safety of others
- B. If a service animal is excluded under one of these exceptions, the District will give the individual with a disability the opportunity to obtain goods, services, and accommodations or to participate in the service, program, or activity without having the service animal on the premises.

III. Assessment Factors for Miniature Horses

The District shall consider the following factors:

- A. The type, size, and weight of the miniature horse and whether the facility can accommodate these features;
- B. Whether the handler has sufficient control of the miniature horse;
- C. Whether the miniature horse is housebroken; and
- D. Whether the miniature horse's presence in a specific facility compromises legitimate safety requirements that are necessary for safe operation.

IV. Control

The service animal must have a harness, leash, or other tether, unless either the handler is unable because of a disability to use a harness, leash, or other tether, or the use of a harness, leash, or other tether would interfere with the service animal's safe, effective performance of work or tasks, in which case the service animal must be otherwise under the handler's control (e.g., voice control, signals, or other effective means).

V. Care or Supervision

The District is not responsible for the care or supervision of the animal.

VI. Inquiries by the District

- A. The District may make two inquiries to determine whether an animal qualifies as a service animal:
 1. Whether the animal is required because of a disability; and
 2. What work or task the animal has been trained to perform.
- B. The District will not make either of these inquiries when it is readily apparent that an animal is trained to do work or perform tasks for an individual with a disability (e.g., the dog is observed guiding an individual who is blind or has low vision, pulling a person's wheelchair, or providing assistance with stability or balance to an individual with an observable mobility disability).
- C. An individual may choose to produce a county service dog license or identification tag as proof that the animal is a service animal. Licensure or certification is not required in order to meet the definition of service animal under this procedure. There are no licensing or certification requirements for miniature horses.

VII. No Surcharge

The District will not ask or require an individual with a disability to pay a surcharge, even if people accompanied by pets are required to pay fees, or to comply with other requirements generally not applicable to people without pets. If the District normally charges individuals for damage caused by pets, an individual with a disability may be charged for damaged caused by his or her service animal.

VIII. Employees

Notwithstanding the above, for employees of the District, service animals shall be treated as a reasonable accommodation of a physical or mental disability in accordance with Administrative Procedure AP 3410.

AP 3551: Preserving A Drug Free Environment for Students

Board Policy 3550 requires the Peralta Community College District to maintain campuses where students are prohibited from the unlawful manufacture, distribution, dispensing, possession, or use of controlled substances and from the use of alcohol.

- A. For purposes of this administrative procedure, campus shall mean those places where a student is engaged in an authorized college activity. The campus includes property owned or leased by the District; property used by the District for student participation in field trips, field study, athletic competition, or study travel programs; and District or private vehicles while being used for official District business.
- B. All students are required to comply with this procedure to remain in good standing and as a condition of continued attendance in any of the District's colleges. Any violation of this procedure will be cause for disciplinary action against the student, up to and including expulsion, and/or may require the student to participate satisfactorily in a substance abuse assistance or rehabilitation program. Student discipline shall be accomplished in accordance with the provisions of AP 5520 Student Discipline Procedures.
- C. Any student who needs information about substance abuse treatment may consult a counselor, who can provide the student with information about available treatment resources. The District does not provide substance abuse treatment.
- D. The District shall provide annual notice to its students in the "Standards of Student Conduct" document of the prohibitions stated in this policy, including a description of the health risks associated with drug or alcohol abuse and of the District and community resources available for counseling and rehabilitation of those persons with alcohol or drug-related problems. The District shall also provide notice of the consequences of campus illicit drug and

alcohol abuse violations, including possible criminal sanctions and student disciplinary action up to and including expulsion pursuant to applicable state law and District policy and administrative regulations. The purpose of such sanctions and discipline is to urge the students to begin the personal process of rehabilitation.

AP 3570: Smoking

I. Applicability

Smoking is prohibited in all indoor and outdoor Peralta Community College District's ("PCCD") campus locations and District Administrative Centers, except for the following areas:

A. Berkeley City College:

No exceptions designated.

B. College of Alameda:

1. The area immediately outside the southwest corner of parking lot B;
2. The grass area immediately to the east of the southernmost parking lot which is near buildings A and L.

C. Laney College:

No exceptions designated.

D. Merritt College:

All parking lots, except parking lots adjacent to the child care center, between buildings A & D, and the faculty and staff parking lot behind the A Building.

E. District Administrative Center Offices:

50 feet away from all buildings in the parking lot behind the main Administrative Office building.

II. Penalties

- A. Violations of the smoking procedures of PCCD are subject to a fine equal to the current fee for parking violations. However, smoking fines shall be limited to a maximum fine of \$100. Persistent offenders, 3 offenses or more, shall be fined \$100.
- B. If payment is not received within 21 calendar days the offenders will be notified of the consequences of failure to pay.
- C. Payment must be sent to: Parking Enforcement

Center, PO Box 6010, Inglewood, CA 90312.
Check or money order shall be made payable to the "Peralta Community College District".

III. Enforcement Procedure

A. Citation Enforcement

1. Peralta Police Services and other security entities (collectively, "Security Personnel") shall have authority to issue citations for violations of PCCD's smoking policy using the procedures established herein.
2. Citations shall be issued using the Peralta Police Services Notice of Parking Violations.
3. All Security Personnel who issue smoking citations shall complete all sections of the citation and shall include personally identifiable information, based on information required and available.
4. Security Personnel will leave a copy of the citation with the individual being cited.

B. Voiding Citations

1. A citation shall only be voided if it is determined that the citation was written in error, prior to the citation being issued. Once the citation has been issued, the citation may only be dismissed through the administrative review process.
2. Security Personnel voiding smoking citations shall:
 - a. Write void on all copies of the citation; and
 - b. Submit all voided copies to the Peralta Police Services office.
3. All copies of each voided citation will be filed and maintained for one year.

C. Citation Correction Notice

1. If an error was written on a smoking citation, but the citation is valid on its face, the Security Personnel who issued the citation shall complete a Citation Correction Notice.
2. If the error is discovered by a person other than the issuing Security Personnel, the citation will be returned to the issuing Security Personnel.

Other District Policies and Procedures

3. Once the error is confirmed, the issuing Security Personnel will complete a Notice of Correction and forward it to Peralta Police Services Administrative Sergeant for review.
4. Once the Notice of Correction has been reviewed, it will be mailed to the individual cited on the citation.
5. A copy of the Notice of Correction will be attached to the original citation and filed.

IV. Appeals (3 Levels)

A. Request for Citation Cancellation (Level 1)

1. An individual may request a Citation Cancellation within 21 calendar days of the citation issuance date.
2. Requests for cancellation must be done in writing, on the Citation Cancellation form. Forms are located at the Peralta Police Services Office, 333 E. 8th Street, Oakland, CA 94606.
3. Upon submittal of the Citation Cancellation form, the validity of the appeal shall be evaluated. Any decision made shall be based on the facts as represented on the face of the citation, the review request, and applicable laws and regulations.
 - a. For citations issued by Peralta Police Services, their Administrative Sergeant shall evaluate the validity of the appeal.
 - b. For citations issued by Security Personnel other than Peralta Police Services, the Vice Chancellor of General Services shall evaluate the validity of the appeal.
4. The evaluating officer can:
 - a. Dismiss the violation and request PCCD to remit any payment made;
 - b. Find no grounds for dismissal;
 - c. Determine that an individual is not a persistent offender; or
 - d. Reduce any late fees.
5. Decisions will be mailed to the individual who requested the Citation Cancellation. A copy of the decision will be kept on file until one year after the appeals process has been finalized.

B. Administrative Hearing (Level 2)

1. Individuals dissatisfied with the findings of the Level 1 hearing may request an "Administrative Hearing" (Level 2 hearing).
2. A request for an Administrative Hearing must be made to Peralta Police Services in writing **within 21 calendar days** from the date that the Level 1 hearing results were mailed.
3. The individual requesting a hearing may provide the information for his/her Administrative Hearing in writing. Forms are located at Peralta Police Services office, 333 E. 8th Street, Oakland, CA 94606. At the time of his/her request, the individual must provide a check or money order made payable to the "Peralta Community College District" for the full amount of the smoking fine. At that time, a formal hearing will be scheduled.
4. The Vice President, Student Services at the appropriate campus and a Peralta Police Services' hearing Officer will conduct an Administrative Hearing with the contesting party. Once a decision has been reached, the decision will be mailed to the individual.

C. Superior Court (Level 3)

Within 20 days after service of the Level 2, Administrative Hearing decision, an individual may request review by filing an appeal to be heard by the superior court of competent jurisdiction.

V. Allocation of Proceeds from Fines

Funds shall be allocated to the PCCD and its colleges. Allocation shall include, but not be limited to, enforcement, education and promotion of this policy, and tobacco cessation treatment options.

VI. Initial Implementation

Upon the initial implementation of this policy, PCCD shall observe a six month grace period before any fine is distributed. Warnings shall be issued at the discretion of Security Personnel. During this grace period, PCCD shall inform employees and students of the tobacco use policy and of enforcement measures.

AP 3530: Weapons on Campus

Firearms, knives, explosives or other dangerous objects, including but not limited to any facsimile firearm, knife or explosive, are prohibited on any District campus or in any facility of the District except as detailed below.

Any person who believes that he/she may properly possess a firearm or other weapon on campus or other facility of the District must promptly notify the Peralta Police Services. Kitchen knives are restricted to food services use under the direct supervision of employees and shall remain in food services facilities or with a food service event.

Bringing or possessing any firearms, ammunition, explosives, air guns, slingshots, firecrackers, fireworks, cherry bombs, metal knuckles, billy clubs, dirks, daggers, ice picks, or knife having blade longer than 5 inches upon the grounds is prohibited, unless the person is authorized to possess such a weapon in the course of his/her employment, has been authorized by a District employee, or is a duly appointed peace officer, who is engaged in the performance of his/her duties.

Weapons are prohibited on any District campus or in any facility of the District, unless the person is authorized to possess such a weapon in the course of his/her employment, has been authorized by District Personnel, or is a duly appointed peace officer, who is engaged in the performance of his/her duties.

I. Applicability

- A. These procedures apply to all employees and students of the Peralta Community College District; associates of the District; respective contractors; and guests.
- B. These procedures apply to any and all District property, including all campuses, administrative facilities, parking areas, grounds and other publicly-accessible areas, and at all events and activities occurring on District property.
- C. These procedures are not applicable to online students unless such a student possesses or uses a weapon (1) while [s]he is physically present on a District campus or at a District-located event or, (2) in violation of federal, state or local law.

II. Definitions

- A. “District” may include all colleges within the District, and all administrative, maintenance and other District-owned and/or controlled facilities, lots or open spaces.
- B. “Weapon” is any instrument or device designed primarily for use in inflicting death or injury upon a human being or animal, and which is capable of inflicting death upon a human being when used in the manner for which it was designed.
 1. Weapons may include, but are not limited to any offensive weapon; firearms of any kind such as pistols, revolvers, or other guns; BB or pellet guns, knives such as daggers, razors, stilettos, switchblade knives or knives with a blade exceeding five inches in length, tasers, stun guns, or other portable devices directing an electric current that are designed to immobilize a person; explosives or incendiaries such as bombs, grenades, or fireworks, poison gas; or simulations of any such items (devices that appear to be real such as a realistic toy, replica, paint-ball gun, etc.).
 2. A weapon may also include an object of any sort whatsoever which is used in such a manner as to indicate that the person using the object intends to inflict death or serious injury upon another person, or which is threatened to be used in such a manner, and which, when so used, is capable of inflicting death upon a human being.
 3. “Possession” means that the person has actual physical control of the weapon because it is on or in the person’s body, or in an item of personal property belonging to the person (including, but not limited to, a book bag, backpack, briefcase, or purse), or in a space individually assigned to the person. “Possession” also means that the person knows, or should know, of the presence of a weapon within a vehicle which the person owns or operates and that the person has the ability or right, either

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alone or with any other person, to maintain control of the weapon.

III. Personnel

- A. The Vice Chancellor of General Services is responsible for implementing and overseeing these procedures. Peralta Police Services, under contract to the Peralta Community College District, is responsible for the management and enforcement of these procedures.
- B. Authorized Personnel for all approvals noted herein are:
 - 1. Chancellor
 - 2. Vice Chancellor of General Services
 - 3. The Captain of Peralta Police Services
 - 4. The Lieutenant of Peralta Police Services
- C. College President of an impacted campus will participate in decision-making as appropriate.

IV. Operating Procedures

- A. District Authorized Personnel designated in section III.B above shall work together to develop and implement operating procedures for the safe use, storage and control of firearms and other weapons that may be necessary and appropriate for instructional aids in relevant educational programs and to further the implementation of this policy through more specific procedures.

V. Incident Response

- A. Any person who observes a student, faculty, staff, or visitor violating this Policy shall immediately inform any or all of the College President's office, if on a campus, Peralta Police, Chancellor's office and Vice Chancellor for General Services.
- B. Alleged violations of this policy will be promptly investigated.
- C. Policy violations will result in appropriate disciplinary action and may result in referral to law enforcement.

VI. Violations

- A. Any person who violates this Administrative Procedure may be subject to:
 - 1. An order to leave the immediate premises or property owned or controlled by the District.

- 2. Arrest for criminal trespass if a previous order to leave the immediate premises or property owned or controlled by the District is refused or disobeyed;
 - 3. Disciplinary proceedings, up to and including expulsion or termination, if the person is a student, employee, faculty member, or administrator.
 - 4. Prosecution by local, state, or federal authorities if the person is suspected of and/or in violation of local, state or federal law.
- B. Any vendor or contractor who violates the provisions of this policy shall be subject to the termination of his/her business relationship with the System Office and/or affected technical college, as well as possible criminal prosecution.
 - C. If an individual believes he/she is not responsible for an alleged violation of the Weapons on Campus policy, appeal may be made to the chancellor or designee within ten (10) business days of receipt of the violation notification from the District.
 - D. Failure to appeal in writing within the scheduled time period will result in ratification of the violation.

VII. Notification

- A. Signage shall be publicly posted at each site that firearms, weapons, and unlawful explosive compounds are prohibited at each college campus, administrative building and other District-owned and controlled property or site.
- B. All employees, students, volunteers, visitors, vendors, and contractors must be informed of the following:
 - 1. Legal implications of prohibiting firearms, weapons, and unlawful explosive compounds on District property or at District sanctioned functions.
 - 2. Possible penalties associated with violations of this policy.
 - 3. Reporting procedures to notify appropriate law enforcement agencies of a potential violation.

VIII. Exceptions

- A. All requests for exception to this Policy must be made in writing to chancellor or designee prior to the requesting individual entering a District property in possession of a weapon.
- B. Statements must substantiate that requesting individual:
 - 1. Is a current federal, state or local law enforcement officer or other person who is required by law to carry a weapon, member of the armed forces, campus public safety officer, or person required to carry a weapon by law or official rules of conduct applicable to such person.
 - 2. Agrees to abide by all policies, procedures and instructions of the District with respect to the possession or use of weapons.
- C. Statement shall identify the specific weapon(s) to be carried.
- D. Authorizing Official, after verifying that request includes required information and gathering any additional information deemed appropriate, shall determine whether (and if so, to what extent) to grant the request.
- E. Determination shall be communicated in writing and considered final.
- F. Permission granted under this Policy shall be confirmed through a written and signed Agreement stating that grantee has read and understands this Policy; understands that the weapon is not to be visible or used, except to the extent required by applicable laws, regulations or rules of conduct; agrees to (a) follow all applicable laws, (b) take all appropriate precautions to secure the weapon, avoid injury or disruption to members of the District community, affiliated entities or unaffiliated third parties, and (c) unconditionally agrees to indemnify and hold harmless the District, its affiliates, respective trustees, employees, agents and representatives against any losses, liabilities and related expenses (including, but not limited to, reasonable attorney fees) that may be incurred in connection with such person's possession or use of a weapon, whether or not such possession or use is determined to

be negligent or in violation of this Policy or any applicable law, regulation or rule of conduct.

- G. A person receiving such authorization, which shall only apply to the specific weapon(s) identified in the granted request, shall promptly notify chancellor or designee in writing of (a) any loss or theft of the weapon or (b) any material change in the facts or circumstances upon which permission was granted.
- H. Upon granting or revoking permission under this Policy, grantee shall immediately furnish written notice to the appropriate District Personnel for the campus or site at which the person to whom permission has been granted will be located.
- I. Except as otherwise set forth in writing by this procedure, permission granted under this Policy:
 - 1. Shall be effective only for the specific time period for which it is granted unless renewed in writing.
 - 2. May be revoked at any time, in writing.
 - 3. Shall terminate automatically when the person to whom permission has been granted leaves the District, College or is suspended for any reason.
- J. Granting of permission applicable to a stated term does not guarantee that this Policy shall not be revised or that permission will remain in effect for the remainder of that term or for any subsequent terms.

IX. Violations

- A. Any student or employee found to be in possession of a firearm or other weapon in violation of this policy is subject to immediate dismissal, termination, and/or prosecution in accordance with applicable statutes.
- B. Any other person in violation of this policy is, in addition to being subject to criminal prosecution under applicable statutes, subject to immediate expulsion from institutional facilities and prohibition against reentry.

AP 5052: Open Enrollment

- I. All courses of the Peralta Community College District shall be open to enrollment in accordance with Board Policy 5052 and a district priority registration system consistent with AP 5055, Enrollment Priorities. Enrollment may be limited to students meeting properly validated prerequisites and corequisites.
- II. No student is required to confer or consult with or required to receive permission to enroll in any class offered by the District, except as provided for in enrollment priorities and college programs which have restrictive enrollment (e.g. allied health programs.)
- III. Students are required to meet prerequisites, corequisites, and advisories on recommended preparation. Students have the option of challenging such prerequisites, corequisite, and advisories on recommended preparation. Challenge forms are available upon request. Prerequisites, corequisite, and advisories on recommend preparation are addressed in Board Policy 4260 and Administrative Procedure 4260.
- IV. Students can challenge prerequisites and corequisite for one of the following six (6) reasons:
 - A. The student has acquired through work or life experiences the skills and knowledge that are represented by the prerequisite.
 - B. The student has not been allowed to enroll due to a limitation on enrollment established for a course that involves intercollegiate competition or public performance or where enrollment has been limited to a cohort of students. However, the student would be delayed by a semester or more in attaining the degree or certificate specified in the Student Educational Plan.
 - C. The student can demonstrate that he/she does not pose a threat to others of the student's self in a course with a prerequisite established to protect health and safety.
 - D. The student does not believe that the prerequisite is necessary for success in the course or that it has been established in accordance with District policies and procedures.
 - E. The student believes that the prerequisite or corequisite is either unlawfully discriminatory or is being applied in an unlawfully discriminatory manner.
 - F. The student will be subject to undue delay in attaining the goal in the student's educational plan because the prerequisite or corequisite course has not been made reasonably available.
- V. Students are not required to participate in any pre-registration activities not uniformly required, and no registration procedures are used that result in restricting enrollment to a specialized clientele, except for programs that permit restricted enrollment, e.g. allied health programs.
- VI. A student may challenge an enrollment limitation on any of the following grounds:
 - A. The limitation is unlawfully discriminatory or is being applied in an unlawfully discriminatory manner;
 - B. The District is not following its enrollment procedures; or
 - C. The basis for the limitation does not in fact exist.

AP 4210: Student Learning Outcomes

Each College President is delegated responsibility from the Chancellor to have a college-wide process for developing student learning outcomes and service area outcomes, and in an ongoing manner to have outcomes assessment in every course, program, student services program, and administrative unit for his or her college.

The process should include the following components:

- A. Evidence from the outcomes assessment is included in program review and annual unit plan updates in order to drive institutional planning, resource allocation, and budgeting decisions, address student needs, improve student services, and help students, administration, faculty, and staff to seek sustainable continuous quality improvement.
- B. The application or implementation of Student Learning Outcomes should not abrogate academic freedom.

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- C. Outcomes and assessment, that benefit student learning, shall focus on the dynamic roles of faculty and on the teaching-learning interface, emphasizing pedagogical techniques and observable student learning using assessment as a tool to improve teaching and learning.
- D. Faculty, as discipline experts, shall be the primary participants in the assessment process.
- E. Student Learning Outcomes (SLO's) and assessment design and development are a responsibility for the college faculty and academic senates.
- F. Each college shall appoint a Student Learning Outcomes and Assessment Coordinator using a standard job description.
- G. Each college shall prepare documentation and evidence of progress in the establishment and assessment of student learning outcomes at the course, program, and institutional level in both the accreditation institutional self-evaluation and annual reports.
- H. Each college shall meet the requirement to be at "Proficiency Level" as of March 15, 2013 and to work toward a "Sustainable Continuous Quality Improvement Level" as defined below:
 - 1. "Proficiency Level", per the Accrediting Commission for Community and Junior Colleges rubric, means:
 - a. Student learning outcomes and authentic assessment are in place for courses, programs, support services, certificates, and degrees.
 - b. There is widespread institutional dialogue about the results of assessment and identification of gaps.
 - c. Decision-making includes dialogue on the results of assessment and is purposefully directed toward aligning institution-wide practices to support and improve student learning.
 - d. Appropriate resources continue to be allocated and fine-tuned.
 - e. Comprehensive assessment reports exist and are completed and updated on a regular basis.
 - 2. "Sustainable Continuous Quality Improvement Level", per the Accrediting Commission for Community and Junior Colleges rubric, means:
 - a. Student learning outcomes and assessment are ongoing, systematic, and used for continuous quality improvement.
 - b. Dialogue about student learning is ongoing, pervasive, and robust.
 - c. Evaluation of student learning outcomes processes.
 - d. Evaluation and fine-tuning of organizational structures to support student learning is ongoing.
 - e. Student learning improvement is a visible priority in all practices and structures across the college.
 - f. Learning outcomes are specifically linked to program reviews.

Student Right-to-Know Disclosure (Completion and Transfer Rates)

In compliance with the Higher Education Act of 1965, as amended, completion and transfer rates for students attending Berkeley City College can be found on the Peralta Community Colleges web site at:

<http://web.peralta.edu/indev/fact-books/>

Information can also be found at:

<http://nces.ed.gov/collegenavigator/>

Family Education Rights and Privacy Act of 1974 (Access to Educational Records)

In compliance with requirements established by the Family Educational Rights and Privacy Act of 1974 (Public Law 93-380, as amended) and regulations in Title 5 of the California Administrative Code Chapter 6, Article 6, Berkeley City College hereby provides notice of procedures and policies regarding student access to education records maintained by and at the college. The college's procedures and policies must, of course, remain subject to any further modification made necessary or appropriate as a result of subsequent legislation or regulations.

Questions regarding the legislation and Berkeley City College's guidelines should be addressed to the Vice President of Student Services. Copies of the act and the regulations are available for review in that office.

The purpose of the Act, as it applies to Berkeley City College is two-fold:

1. To give presently or formerly enrolled Berkeley City College students access to their individual education records maintained at the college;
2. To protect such students' rights to privacy by limiting the transfer of their records without their consent.

The legislation states that an institution is not required to grant students access to certain materials which includes the following:

1. Information provided by a student's parents relating to applications for financial aid or scholarships;
2. Information related to a student compiled by a Berkeley City College employee;
 - a. that is appropriate for such officer or employee's performance of his or her responsibility,
 - b. that remains in the sole possession of the maker thereof.
 - c. that cites medical, psychiatric, or similar reports which are used solely in connection with treatment purposes

and only available to recognized professionals or paraprofessionals in connection with such treatment (provided, however, that a physician or other professional of the student's choice may review such records),

- d. that is maintained by a law enforcement unit; that is necessary and appropriate to enable such law enforcement unit to carry out its duties and responsibilities as required by law or which may be assigned by the district, and that such law enforcement unit personnel do not have access to other student records, and that such information is kept apart from other student records, and that it is maintained solely for law enforcement purposes, and that is available only to other law enforcement officials of the same jurisdiction.

As required by the Act, the college reserves the right to publish at its discretion the following categories of information with respect to each student who is presently or has previously attended the college: the student's name, address, telephone listings, date and birth place, field of study, class schedule, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational agency or institution attended by the student. Students have a right to inform the college within a reasonable period of time that any or all of this so-called "directory information" should not be released without their prior consent. Berkeley City College has not published an "Information Directory" and should one be compiled in the future, a public notice of intent will be provided.

The legislation further identifies exceptions to the written consent of release of records. "Access" shall be permitted to the following:

1. School officials with legitimate educational interest to inspect a record;
2. Schools to which a student is transferring in connection with a student's application for, or receipt of, financial aid;
3. Specified officials for audit or evaluation purposes;

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4. Appropriate parties in connection with financial aid to a student;
5. Organizations conducting certain studies for or on behalf of the school provided;
 - a. such studies are conducted in such a manner as will not permit personal identification of students or their parents by persons other than representatives of such organizations;
and
 - b. Such information will be destroyed when no longer needed for the purpose for which it is conducted.
6. Accrediting organizations carrying out accrediting functions;
7. To comply with a judicial order or lawfully issued subpoena;
8. Appropriate officials in cases of health and safety emergencies if the knowledge of such information is necessary to protect the health or safety of a student or other persons;
9. State and local authorities, within a juvenile justice system, pursuant to specific State law.

Finally, it should be noted that the scope of records maintained for students may vary greatly depending on individual circumstances. In some cases, student files do not contain many of the types of records listed above.

Clery Act

The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act or Clery Act, codified at USC 1092(f) as part of Higher Education Act of 1965, is a federal law that requires all colleges and universities to keep and disclose information timely and annually about certain crime on and near their respective campuses.

These crime statistics can be found in the Peralta Community College Personal Safety Handbook, on the Peralta Community College District website: <http://peralta.edu>, and on the Alameda County Sheriff's Office website: <http://alamedacountysheriff.org>.

Berkeley City College complies with Title IX policies and regulations. To view a full transcript of Title IX,

visit <http://berkeleycitycollege.edu> and enter Title IX into the search engine located in the upper right hand corner of the web page. For more information, contact the Dean of Student Services at (510) 981-2830.

AP 4250: Probation

I. Standards for Probation

- A. Academic Probation:** A Peralta student who has attempted at least 12 semester units as shown by the academic record shall be placed on academic probation. The student shall be placed on academic probation during the following term of attendance and shall remain on probation until his/her cumulative grade point average is 2.0 or higher (in accordance with provisions of Title 5).
- B. Progress Probation:** A Peralta student who has enrolled in a total of at least 12 semester or 18 quarter units as indicated on the academic record shall be placed on progress probation when the percentage of all units in which a student has enrolled and for which entries of "W," "I," and "NP" are recorded reaches at least 50% of the grades.

II. Removal from Probation

- A. Academic Probation:** A student on Academic Probation for a grade point deficiency shall be removed from academic probation when the student's cumulative grade point average is 2.0 or higher.
- B. Progress Probation:** A student on Progress Probation shall be removed from probation when the percentage of units with entries of "W," "I," and "NP" drops below 50% of all grades.

III. Units Attempted

For purposes of standards for academic probation and dismissal (1) "all units attempted" means all units of credit for which a student earns a symbol of "A," "B," "C," "D," "F," or "FW" from any college or combination of; (2) "enrolled units" means all units attempted as defined above, and all units for which the student earns a symbol of "W," "I," "P" and "NP" from any college or combination thereof.

IV. Notification of Probation and Dismissal

Each student will be notified about Probation or Dismissal through their Peralta e-mail. Further, each Peralta College, through the Office of the Vice President of Student Services, shall make every reasonable effort to notify a student of academic probation or dismissal at or near the beginning of the semester in which the status is in effect. Students on probation must meet with a counselor and complete the “Academic Success Contract.” Students on dismissal shall complete the “Student Petition for Reinstatement from Dismissal” and follow the steps as stated on the petition. Probation and dismissal policies shall be published in each Peralta College catalog.

Reference:

Title 5 Section 55030, 55031, 55032, 55033, and 55034
Approved by the Chancellor: April 12, 2012

AP 4255: Disqualification and Dismissal

I. Standards for Dismissal

For purposes of probation and dismissal, semester shall be considered consecutive on the basis of the Peralta student’s enrollment. Summer sessions (regular intersessions) shall be considered a semester.

- A. **Academic Dismissal:** A Peralta student on academic probation shall be subject to dismissal after three consecutive semesters in which such student has earned a cumulative grade point average of less than 1.75 in all units attempted.
- B. **Progress Dismissal:** A Peralta student who is on progress probation is subject to dismissal after the third consecutive semester or progress probation unless the current semester percentage of completed units exceeds 50% of enrolled units.
- C. **Reinstatement from Dismissal:** A Peralta student may appeal for reinstatement if unusual circumstances prevailed. Such circumstances will be evaluated by petition and could be, but are not limited to, health or financial strain. Re-admission will be conditioned on a semester review basis with the Peralta student subject to the continued probation dismissal policy.

II. Units Attempted

For purposes of standards for academic probation and dismissal (1) “all units attempted” means all units of credit for which a student earns a symbol of “A,” “B,” “C,” “D,” “F,” or “FW” from any college or combination of; (2) “enrolled units” means all units attempted as defined above, and all units for which the student earns a symbol of “W,” “I,” “P” and “NP” from any college or combination thereof.

III. Notification of Probation and Dismissal

Each student will be notified about Probation or Dismissal through their Peralta e-mail. Further, each Peralta College, through the Office of the Vice President of Student Services, shall make every reasonable effort to notify a student of academic probation or dismissal at or near the beginning of the semester in which the status is in effect. Students on probation must meet with a counselor and complete the “Academic Success Contract.” Students on dismissal shall complete the “Student Petition for Reinstatement from Dismissal” and follow the steps as stated on the petition. Probation and dismissal policies shall be published in each Peralta College catalog.

IV. Course Disclaimer

Courses and programs are being approved the State Chancellor’s Office daily. Please check the following link for the most current information on new courses, degrees and certificates.

V. Attendance Policies

Instructors may drop students who do not attend class by Census Day if the student has not contacted the instructor with an explanation satisfactory to the instructor as to why he/she has not attended. All drops must be recorded on the Census Rosters and Instructor’s Class Records.

AP 2430: Delegation of Authority to the Chancellor’s Staff

A. Delegation of Authority

The Chancellor delegates the overall administration of the district to the following positions listed. The employees assigned are

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responsible to the Chancellor for successful performance. With respect to the Board of Trustees Policies and the Chancellor's Administrative Procedures, the following specific assignments apply:

B. Presidents

Administer compliance of all their assigned college personnel with all Board Policies and Administrative Procedures. The Presidents shall provide leadership to their campus community shared governance process in a systematic annual review of Board of Trustees Policies, District Administrative Procedures, and college operating procedures with the expectation that recommendations for improvement will be made.

C. Deputy Chancellor

The Deputy Chancellor serves as the principal management support to the Chancellor in handling a range of operational matters related the district service centers, and faculty, staff, students and public affairs issues; directly handles matters of institutional importance on behalf of the Chancellor, as appropriate; oversees all facets of the daily operations of the District, and develop findings and makes recommendations to the Chancellor to ensure compliance with all relevant national, state, and local policies and regulations; coordinates and integrates the activities of the Chancellor's Cabinet in the development and implementation of established core initiatives for the Office of the Chancellor. Directly oversees the Vice Chancellor of Finance and Administration, the Vice Chancellor of General Services, the Vice Chancellor of Human Resources and Employee Relations, the Associate Vice Chancellor of Information Technology, General Counsel and Risk Management.

D. Vice Chancellor, Finance and Administration

Represent the Chancellor and the Deputy Chancellor for the financial affairs of the district. Administers compliance with all financial laws, regulations, and chapter 6 board policies and administrative procedures. Supervises the Bond Legal Counsel contract(s)

and administers the appropriate financial controls over the bond construction funds and the OPEB bond funds .Responsible for the following General Institution policies and procedure: Gifts, Foundation and Information Technology.

E. Vice-Chancellor, Educational Services

Represent the Chancellor for the academic affairs and student affairs of the district.

For academic affairs administer compliance with all academic laws, regulations, and chapter 4 board policies and administrative procedures. Responsible for the following General Institution policies and procedures; Accreditation, Admissions and Records, Institutional Planning, and Grants

For student affairs administer compliance with all student services laws, regulations, and chapter 5 board policies and administrative procedures including: financial aid, international and out-of-state students (residency), concurrent-enrollment, student grievances, health services, student discipline, and district-wide student government.

F. Vice-Chancellor, Human Resources

Represent the Chancellor and the Deputy Chancellor for the human resources function of the district. Administer compliance with all human resources laws, regulations, and chapter 7 board policies and administrative procedures. Serves as Chief Negotiator.

Supervise the Human Resources Legal Counsel contract(s).a Responsible for the following General Institution policies and procedures: Nondiscrimination, Equal Employment Opportunity, and Prohibition of Harassment.

G. Vice-Chancellor, General Services

Represent the Chancellor and the Deputy Chancellor for the general services function of the district. Administer compliance with all general services and construction laws, regulations, board policies and administrative procedures. Administer the safety, security, construction and maintenance of facilities. Responsible for the following General Institution policies and procedures: Capital

Construction Planning, Citizens Oversight Committee, Use of Facilities, Campus Safety, Campus Security and Access, Emergency Response Plan, Workplace Violence Plan, Reporting of Crimes, Child Abuse Reporting, Local Law Enforcement, Weapons on Campus, Sexual and other Assaults on Campus, Drug Free Environment and Drug Prevention Program, and Alcoholic Beverages.

H. General Counsel

Within the parameters of California Rules of Professional Conduct, including but not limited to, Rule 3-600, represent the Chancellor for the legal services function of the district. Advises the Chancellor with respect to the legal issues. Responsible for the following General Institution policies and procedures: District Records Access and Conflict of Interest.

I. Other Policies and Administrative Procedures

The Chancellor will administer the other policies and administrative procedures not enumerated above.

AP 3430: Prohibition of Unlawful Harassment

The District is committed to providing an academic and work environment free of unlawful harassment. This procedure defines sexual harassment and other forms of harassment on campus, and sets forth a procedure for the investigation and resolution of complaints of harassment by or against any staff or faculty member or student within the District.

I. Definitions

A. General Harassment

Harassment based on race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex, age, or sexual orientation of any person, or military or veteran status, or the perception that a person has one or more of these characteristics is illegal and violates District policy. Harassment shall be found where, in aggregate, the incidents are sufficiently

pervasive, persistent, or severe that a reasonable person with the same characteristics as the victim of the harassing conduct would be adversely affected to a degree that interferes with his or her ability to participate in or to realize the intended benefits of an institutional activity, employment or resource.

Gender-based harassment does not necessarily involve conduct that is sexual. Any hostile or offensive conduct based on gender can constitute prohibited harassment if it meets the definition above. For example, repeated derisive comments about a person's competency to do the job, when based on that person's gender, could constitute gender-based harassment. Harassment comes in many forms, including but not limited to the following conduct that could, depending on the circumstances, meet the definition above, or could contribute to a set of circumstances that meets the definition:

B. Verbal

Inappropriate or offensive remarks, slurs, jokes or innuendo based on a person's race, gender, sexual orientation, or other protected status. This may include, but is not limited to, inappropriate comments regarding an individual's body, physical appearance, attire, sexual prowess, marital status or sexual orientation; unwelcome flirting or propositions; demands for sexual favors; verbal abuse, threats or intimidation; or sexist, patronizing or ridiculing statements that convey derogatory attitudes based on gender, race, nationality, sexual orientation or other protected status.

C. Physical

Inappropriate or offensive touching, assault, or physical interference with free movement. This may include, but is not limited to, kissing, patting, lingering or intimate touches, grabbing, pinching, leering, staring, unnecessarily brushing against or blocking another person, whistling or sexual gestures. It also includes any physical assault or intimidation directed at an individual due to that person's gender, race, national origin, sexual orientation or other protected status.

D. Visual or Written

The display or circulation of visual or written material that degrades an individual or group based on gender, race, nationality, sexual orientation or other protected status. This may include, but is not limited to, posters, cartoons, drawings, graffiti, reading materials, computer graphics or electronic media transmissions.

E. Environmental

A hostile academic or work environment may exist where it is permeated by sexual innuendo; insults or abusive comments directed at an individual or group based on gender, race, nationality, sexual orientation or other protected status; or gratuitous comments regarding gender, race, sexual orientation, or other protected status that are not relevant to the subject matter of the class or activities on the job. A hostile environment can arise from an unwarranted focus on sexual topics or sexually suggestive statements in the classroom or work environment. It can also be created by an unwarranted focus on, or stereotyping of, particular racial or ethnic groups, sexual orientations, genders or other protected statuses. An environment may also be hostile toward anyone who merely witnesses unlawful harassment in his/her immediate surroundings, although the conduct is directed at others. The determination of whether an environment is hostile is based on the totality of the circumstances, including such factors as the frequency of the conduct, the severity of the conduct, whether the conduct is humiliating or physically threatening, and whether the conduct unreasonably interferes with an individual's learning or work.

F. Sexual Harassment

In addition to the above, sexual harassment consists of unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature made by someone from, or in, the work or educational setting when:

1. submission to the conduct is explicitly or implicitly made a term or condition of an individual's employment, academic status, or progress;
2. submission to, or rejection of, the conduct by the individual is used as a basis of employment or academic decisions affecting the individual;
3. the conduct has the purpose or effect of having a negative impact upon the individual's work or academic performance, or of creating an intimidating, hostile or offensive work or educational environment (as more fully described below); or
4. submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the community college.
5. This definition encompasses two kinds of sexual harassment:
 - a. "Quid pro quo" sexual harassment occurs when a person in a position of authority makes educational or employment benefits conditional upon an individual's willingness to engage in or tolerate unwanted sexual conduct.
 - b. "Hostile environment" sexual harassment occurs when unwelcome conduct based on a person's gender is sufficiently severe or pervasive so as to alter the conditions of an individual's learning or work environment, unreasonably interfere with an individual's academic or work performance, or create an intimidating, hostile, or abusive learning or work environment. The victim must subjectively perceive the environment as hostile, and the harassment must be such that a reasonable person of the same gender would perceive the environment as hostile. Sexually harassing conduct can occur

between people of the same or different genders. The standard for determining whether conduct constitutes sexual harassment is whether a reasonable person of the same gender as the victim would perceive the conduct as harassment based on sex.

II. Consensual Relationships

Romantic or sexual relationships between supervisors and employees, or between administrators, faculty or staff members and students are discouraged. There is an inherent imbalance of power and potential for exploitation in such relationships. A conflict of interest may arise if the administrator, faculty or staff member must evaluate the student's or employee's work or make decisions affecting the employee or student. The relationship may create an appearance of impropriety and lead to charges of favoritism by other students or employees.

A consensual sexual relationship may change, with the result that sexual conduct that was once welcome becomes unwelcome and harassing. In the event that such relationships do occur, the District has the authority to transfer any involved employee to eliminate or attenuate the supervisory authority of one over the other, or of a teacher over a student. Such action by the District is a proactive and preventive measure to avoid possible charges of harassment and does not constitute discipline against any affected employee.

III. Academic Freedom

No provision of this Administrative Procedure shall be interpreted to prohibit conduct that is legitimately related to the course content, teaching methods, scholarship, or public commentary of an individual faculty member or the educational, political, artistic, or literary expression of students in classrooms and public forums. Freedom of speech and academic freedom are, however, not limitless and this procedure will not protect speech or expressive conduct that violates federal or California anti-discrimination laws.

AP 3540: Sexual and Other Assaults on Campus

- A. Peralta Police Services shall make available sexual assault awareness information to students and employees.
- B. Any sexual assault or physical abuse, including, but not limited to, rape, as defined by California law, whether committed by an employee, student, or member of the public, occurring on District property, 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 or at another location, or on an off-campus site or facility maintained by the District, or on grounds or facilities maintained by a student organization, is a violation of District policies and regulations, and is subject to all applicable punishment, including criminal procedures and employee or student discipline procedures.
- C. "Sexual assault" includes but is not limited to, rape, forced sodomy, forced oral copulation, rape by a foreign object, sexual battery, or threat of sexual assault.
- D. "Dating violence" means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of a romantic or intimate relationship will be determined based on the length of the relationship, the type of relationship and the frequency of interaction between the persons involved in the relationship.
- E. "Domestic violence" includes felony or misdemeanor crimes of violence committed by:
 - 1. a current or former spouse of the victim;
 - 2. a person with whom the victim shares a child in common;
 - 3. a person who is cohabitating with or has cohabitated with the victim as a spouse;
 - 4. a person similarly situated to a spouse of the victim under California law; or

5. any other person against an adult or youth victim who is protected from that person's acts under California law.
- F. "Stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or to suffer substantial emotional distress.
- G. It is the responsibility of each person involved in sexual activity to ensure that he or she has the affirmative consent of the other or others to engage in the sexual activity. Lack of protest or resistance does not mean consent, nor does silence mean consent. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of consent. "Affirmative consent" means affirmative, conscious, and voluntary agreement to engage in sexual activity.
- H. These written procedures and protocols are designed to ensure victims of domestic violence, dating violence, sexual assault, or stalking receive treatment and information.
- I. All students, faculty members or staff members who allege they are the victims of domestic violence, dating violence, sexual assault, or stalking on District property shall be provided with information regarding options and assistance available to them. Information shall be available from the Peralta Police Services, which shall maintain the identity and other information about alleged sexual assault victims as confidential unless and until Peralta Police Services is authorized to release such information.
- J. Peralta Police Services shall provide all alleged victims of domestic violence, dating violence, sexual assault, or stalking with a copy of the District's policy and administrative procedure regarding domestic violence, dating violence, sexual assault, or stalking upon request, and

the importance of preserving evidence and the identification and location of witnesses.

AP 3560: Alcoholic Beverages

- A. The possession, sale or the furnishing of alcohol on campus is governed by California state law and these procedures. The possession, sale, consumption or furnishing of alcohol is controlled by the California Department of Alcohol and Beverage Control. However, the enforcement of alcohol laws on-campus is the primary responsibility of the District's campus police or responsible security officers. The campus has been designated "Drug free" and only under certain circumstances is the consumption of alcohol permitted. The possession, sale, manufacture or distribution of any controlled substance is illegal under both state and federal laws. Such laws are strictly enforced by the District's campus police or responsible security officers. Violators are subject to disciplinary action, criminal prosecution, fine and imprisonment. It is unlawful to sell, furnish or provide alcohol to a person under the age of 21. The possession of alcohol by anyone under 21 years of age in a public place or a place open to the public is illegal.
It is also a violation of this policy for anyone to consume or possess alcohol in any public or private area of campus without prior District approval. Organizations or groups violating alcohol or substance policies or laws may be subject to sanctions by the District.
- B. Alcoholic beverages on campus are permitted if:
 1. The alcoholic beverage is beer or wine for use in connection with a course of instruction, sponsored dinner, or meal demonstration given as part of a culinary arts program at a community college campus, and the instructor or individual has been authorized to acquire, possess, use, sell, or consume it by the College President.
 2. A student of at least 18 years of age tastes, but does not swallow or consume, beer or wine for educational purposes as part of the

- instruction in an enology or brewing degree program, and the beer or wine remains in the control of the instructor.
3. The alcoholic beverage is for use during a non-college event at a performing arts facility built on District property and leased to a nonprofit public benefit corporation.
 4. The alcoholic beverage is wine produced by a bonded winery owned or operated as part of an instructional program in viticulture and enology.
 5. The alcoholic beverage is wine that is for use during an event sponsored by the District or the Peralta Colleges Foundation in connection with the District's instructional program in viticulture or the District's instructional program in enology.
 6. The alcoholic beverage is possessed, consumed, or sold, pursuant to a license or permit obtained for special events held at the facilities of a public community college during the special event. "Special event" means events that are held with the permission of the governing board of the community college district as delegated for approval by the College President (if the special event is held at the college) or by the Chancellor (if the special event is held at the district office) that are festivals, shows, private parties, concerts, theatrical productions, and other events held on the premises of the public community college and for which the principal attendees are members of the general public or invited guests and not students of the public community college.
 7. The alcoholic beverage is acquired, possessed, or used during an event sponsored by the District or the Peralta Colleges Foundation at a community college-owned facility in which any grade from kindergarten to grade 12, inclusive, is taught, if the event is held at a time when students in any grades from kindergarten to grade 12, inclusive, are not present at the facility.
- C. The alcoholic beverage is for use during a fundraiser held to benefit a nonprofit organization that has obtained a license under the Business and Professions Code to do so provided that no alcoholic beverage can be acquired, possessed or used at a football game or other athletic contest sponsored by the District.

AP 5013: Students in the Military

A. Residence Determinations for Military Personnel and Dependents

1. A student who is a member of the armed forces of the United States stationed in California on active duty, except a member of the armed forces assigned for educational purposes to a state-supported institution of higher education, is entitled to resident classification. Such student shall retain resident classification in the event that the member of the armed forces is thereafter transferred on military orders to a place outside of California or thereafter retires from active duty, so long as the student remains continuously enrolled in the District.
2. An undergraduate 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 state on active duty shall be entitled to resident classification. Such student shall retain resident classification if he/she is thereafter transferred on military orders to a place outside of California, so long as the student remains continuously enrolled in the District.
3. 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 his/her dependents, regardless of the veteran's state of residence is entitled to resident classification.
4. A parent who is a federal civil service employee and his/her natural or adopted dependent children are entitled to resident

classification if the parent has moved to this 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.

5. A student claiming the residence classifications provided for in this procedure must provide a statement from the student's commanding officer or personnel officer providing evidence of the date of the assignment to California, and that the assignment to active duty in California is not for educational purposes. A student claiming the residence classifications provided for here for the dependent of military personnel shall provide a statement from the military person's commanding officer or personnel officer that the military person's duty station is in California on active duty as of the residence determination date, or has been transferred outside of California on active duty after the residence determination date, or that the military person has retired from active duty after the residence determination date. (Title 5 Sections 54041 and 54042)

B. Withdrawal Procedure for Members of the Military

A student who is a member of an active or reserve United States military service and who receives orders compelling a withdrawal from courses shall be permitted to withdraw upon verification of such orders. A withdrawal symbol may be assigned which may be a "W" or a "MW." Military withdrawal shall not be counted in progress probation, dismissal calculations, or in calculating the permitted number of withdrawals.

In no case may a military withdrawal result in a student being assigned an "FW" grade. In no case may a college require a student who is

required to report for military duty to withdraw from a course by a specified date in order to receive a full refund of the tuition and fees the student paid to the college for the academic term in which the student was required to report for military service.

AP 5015: Residence Determination

- A. 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:
 1. A residence determination date is that day immediately preceding the opening day of instruction for any session during which the student proposes to attend.
 2. Residence classification is the responsibility of the District Office of Student Services. Initial residence classification is determined by the District Office of Admissions and Records through a student's self-reporting in CCCApply (online application).
- B. Definition of Residence.**
 1. A student who has resided in the state for more than one year immediately preceding the residence determination date is a resident.
 2. A student who has not resided in the state for more than one year immediately preceding the residence determination date is a nonresident.
- C. Rules Determining Residence.** 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:
 1. Every person who is married or eighteen years of age, or older, and under no legal disability to do so, may establish residence.

2. A person may have only one residence.
3. 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.
4. A residence cannot be lost until another is gained.
5. The residence can be changed only by the union of act and intent.
6. A man or a woman may establish his or her residence. A woman's residence shall not be derivative from that of her husband.
7. The residence of the parent with whom an unmarried minor child maintains his/her place of dwelling is the residence of the unmarried minor child. When the minor lives with neither parent, the minor's residence is that of the parent with whom the last place of dwelling was maintained, provided the minor may establish his/her residence when both parents are deceased and a legal guardian has not been appointed.
8. 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.

D. Determination of Resident Status. A resident is a student who has been a bona fide resident of the state 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:

1. 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 state the minimum time necessary to become a resident, so long as continuous attendance is maintained at an institution.
2. 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 in the state the minimum time necessary to become a resident.

3. 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.
4. A student holding a valid credential authorizing service in the public schools of this state, 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:
 - a. He/she holds a provisional credential and is enrolled in courses necessary to obtain another type of credential authorizing service in the public schools.
 - b. He/she holds a credential issued pursuant to Education Code Section 44250 and is enrolled in courses necessary to fulfill credential requirements.
 - c. He/she is enrolled in courses necessary to fulfill the requirements for a fifth year of education prescribed by subdivision (b) of Education Code Section 44259.
 - d. A student holding a valid emergency permit authorizing service in the public schools of this state, 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

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- 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.
5. A student who is a full-time employee of the California State University, the University of California or a community college, or of any state 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 state agency may be entitled to resident classification, until the student has resided in the state the minimum time necessary to become a resident.
 6. 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 state on active duty shall be entitled to resident classification. If the member of the armed forces of the United States later transferred on military orders to a place outside this state, or retires as an active member of the armed forces of the United States, the student dependent shall not lose his or her resident classification so long he/she remains continuously enrolled in the District.
 7. A student who is a member of the armed forces of the United States stationed in this state on active duty, except a member of the Armed Forces assigned for educational purposes to a state-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 state, the student shall not lose his or her resident classification, so long as he or she remains continuously enrolled in the District.
 8. 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 his/her dependents, regardless of the veteran's state of residence is entitled to resident classification.
 9. A student who is a minor and resides with his or her 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.
 10. 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.
 11. A student who is a federal civil service employee and his or her natural or adopted dependent children are entitled to resident classification if the parent has moved to this 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.
 12. 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 in the state the minimum time necessary to become a resident.

13. 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 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 state or federal personal income tax return if he/she has sufficient income to have personal income tax liability shall be entitled to resident classification.
14. Students who attended high school in California for three or more years and graduated from a California high school or attained the equivalent thereof. In the case of a person without lawful immigration status, the student must file an affidavit with the institution of higher education stating that the student has filed an application to legalize his or her immigration status, or will file an application as soon as he or she is eligible to do so. (Education Code 68130.5).
15. A student 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 his or her 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 saying that he or she intends to establish residency in California as soon as possible.

E. Right To Appeal. Students who have been classified as non-residents have the right to a review of their classification (Title 5 Section 54010 (a)). Any student, following a final decision of residence classification by the Office of Admissions and Records, may make written

appeal to the Vice Chancellor of Student Services within 30 calendar days of notification of final decision by the college regarding classification.

F. Appeal Procedure.

1. The appeal is to be submitted to the District Office of Student Services. 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.
2. The appeal will be forwarded to the Vice Chancellor of Student Services within five working days of receipt by the office.
3. The Vice Chancellor of Student Services shall review all the records and have the right to request additional information from either the student or the District Office of Admissions and Records.
4. Within 30 calendar days of receipt, the Vice Chancellor of Student Services shall send a written determination to the student. The determination shall state specific facts on which the appeal decision was made.

G. 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.

1. Petitions for reclassification are to be submitted to the District Office of Student Services.
2. 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.

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3. Written documentation may be required of the student in support of the reclassification request.
 4. 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).
 5. A student shall be considered financially independent for purposes of residence reclassification if the applicant meets all of the following requirements:
 - a. 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;
 - b. 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.
 6. 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.
 7. 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.
 8. 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.
 9. The Vice Chancellor of Student Services will make a determination, based on the evidence and notify the student not later than 14 days of receipt of the petition for reclassification.
 10. Students have the right to appeal according to the procedures above.
- H. 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.
1. 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 to live permanently in the United States and she or he meets the California residency requirements, the student can be classified as a resident.
 2. Any students who are US citizens, permanent residents of the US, and aliens who are not non-immigrants (including those who are undocumented) may be exempt from paying nonresident tuition if they meet the following requirements:
 - a. high school attendance in California for three or more years;
 - b. graduation from a California high school or attainment of the equivalent thereof;
 - c. registration or enrollment in a course offered by any college in the district for any term commencing on or after January 1, 2002;
 - d. completion of a questionnaire form prescribed by the Chancellor and furnished by the District of enrollment, verifying eligibility for this nonresident tuition exemption; and

- e. 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 immigration status, or will file an application as soon as he or she is eligible to do so.
3. 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 Vice Chancellor of Student Services. Students may appeal the decision.

AP 4225: Course Repetition and Repeatable Courses

This procedure addresses all options per Title 5 regarding course repetition and repeatable courses, including:

- student repetition when a satisfactory grade was received;
- student repetition when a satisfactory grade was not received;
- courses per Title 5 which are determined to be repeatable; and
- active participatory credit courses in physical education and visual or performing arts that are related in content.

A. Alleviate Substandard Academic Work [55040(b)(2), 55042]

1. A student may petition for approval to repeat a course when a student was awarded a substandard grade (less than “C”, and including “FW”) or received a “W”. Per Title 5 regulations, the student can only repeat the course twice (thus can only take the course three times).
2. When a student repeats a course to alleviate substandard academic work, the previous grade and credit will be disregarded in the computation of the grade point average.

3. Courses that are repeated shall be recorded on the student’s permanent academic record using the appropriate symbol.
4. Annotating the permanent academic record shall be done in a manner that all work remains legible, insuring a true and complete academic history.
5. Nothing can conflict with Education Code Section 76224 pertaining to the finality of grades assigned by instructors, or with Title 5 or district procedures relating to retention and destruction of records.

B. Withdrawal (55024)

1. As noted above in section A, when a student withdrew from a course and received a “W” the student may petition to enroll again in the credit course. The maximum a student can repeat a course when a “W” or when a substandard grade was received is twice (thus a student can only take the course three times)
2. The “W” shall not be used in calculating GPA, but must be used in determining probation and dismissal.
3. Military withdrawal, withdrawals due to extraordinary conditions (58509), and withdrawals where the district determines discriminatory treatment has occurred do not count toward these enrollment limits.

C. Significant lapse of time [55040(b)(3), 55043]

1. A student may petition to repeat a course when the student received a satisfactory grade the last time the student took the course but where there has been a “significant lapse of time” of no less than 36 months.
2. However, repetition of a course for “significant lapse of time” can occur only if there is a properly established recency prerequisite for the course or program pursuant to Title 5 section 55003, or
3. Another institution of higher education to which the student seeks to transfer has established a recency requirement which the student will not be able to satisfy without

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repeating a specific course. Repetition is allowed even where less than 36 months has elapsed, if the student provides documentation that repetition is necessary for the student to transfer to the institution of higher education.

4. The previous grade and credit will be disregarded in computing the student's GPA.

D. Recency Requirement at an Institution of Higher Education [55040(b)(3), 55043]

1. As noted above in section C, a student may petition to repeat a course when "another institution of higher education to which the student seeks to transfer has established a recency requirement which the student will not be able to satisfy without repeating the course in question."
2. The student must provide documentation that repetition is necessary for the student to transfer to the institution of higher education.
3. The previous grade and credit will be disregarded in computing the student's GPA.

E. Legally Mandated [55040(b)(8)]

1. A student may petition to repeat a course not marked as repeatable "in instances when such repetition is necessary for the student to meet a legally mandated training requirement as a condition of continued paid or volunteer employment."
2. Such courses may be repeated for credit any number of times as legally required.
3. Students must certify or provide documentation that course repetition is legally mandated.
4. The grade received each time shall be included for purposes of calculating the student's grade point average.

F. Significant Change in Industry or Licensure Standards [55040(b)(9)]

1. A student may petition to repeat a course "as a result of a significant change in industry or licensure standards such that

repetition of the course is necessary for the student's employment or licensure."

2. The student must certify or provide documentation that there has been a significant change in industry or licensure necessitating course repetition.
3. The grade received each time shall be included for purposes of calculating the student's grade point average.

G. Extenuating Circumstances [55040(b)(5), 55045]

1. A student who has earned a satisfactory or substandard grade may petition to repeat a course due to an extenuating circumstance—verified cases of accidents, illness, or other circumstances beyond the student's control.
2. The previous grade and credit will be disregarded in the computing of the student's grade point average.
3. This does not apply to courses designated as repeatable.

H. Occupational Work Experience [55040(b)(6), 55253]

1. Students may repeat all types of Cooperative Work Experience Education, but shall not exceed 16 semester units, subject to the following limitations:
 - a. General Work Experience Education: a maximum of 6 semester credit hours may be earned during one enrollment period in general work experience education.
 - b. Occupational Work Experience Education: a maximum of 8 semester credit hours during one enrollment period in occupational work experience education.
2. The grade each time shall be included for the purpose of calculating the student's grade point average.

I. Variable Unit Open-Entry/Open-Exit Courses [55040(b)(4), 55044]

1. A student is permitted to enroll in a variable unit open-entry/open-exit course as many times as necessary to complete the entire curriculum of the course once.
2. A student may petition to repeat a portion of such a course if the student has received a substandard grade. See section A above.
3. Under no circumstances may a portion of a physical education course be repeated.

J. Special Classes for Students with Disabilities [55040(b)(7)]

1. A student with a disability may repeat a special class for students with disabilities any number of times based on an individualized determination that such repetition is required as a disability-related accommodation for that particular student for one of the reasons specified in Title 5 section 56029.
2. The previous grade and credit may be disregarded in computing the student's grade point average each time the course is repeated. All prior work must remain legible on the student's academic record to ensure a true and complete academic history.

K. Courses Required by CSU or UC for Completion of a Bachelor's Degree [55040(b)(1), 55041(a)(1)]

1. A course may be designated as repeatable if repetition of that course is required by CSU and/or UC for completion of a bachelor's degree.
2. The district must retain supporting documentation that verifies that the repetition is necessary to meet the major requirements of CSU or UC for completion of the bachelor's degree. The supporting documentation must be retained by the district as a Class 3 record basic to audit as required by Title 5, 59020 et sq.
3. In most cases, the limit will be four (4) semesters.

4. The grade received each time shall be included for calculating the student's grade point average.

L. Intercollegiate athletics [55040(b)(1), 55041(a)(2)]

1. A student may repeat a course in which student athletes enroll to participate in an organized competitive sport sponsored by the district or a conditioning course which supports the organized competitive sport.
2. There is a limit of 350 contact hours per year per sport (of the 350 hours, up to 175 contact hours in courses dedicated to the sport and 175 contact hours in courses that focus on conditioning or skill development for the sport) or the participation of a student for up to four.
3. Semester enrollments in the course [58161(d), 58162].
4. The grade received each time shall be included for calculating the student's grade point average.

M. Intercollegiate Academic or Vocational Competition [55040(b)(1), 55041(a)(3)]

1. A student may repeat courses that are designed specifically for participation in non-athletic competitive events between students from different colleges.
2. The outcomes of the course must be tied to the student's participation in the competition.
3. The event must be sanctioned by a formal collegiate or industry governing board.
4. A student is permitted four (4) semesters of enrollment in one single course or a combination of courses that are related in content.
5. The enrollment limits apply even if the student receives a substandard grade or a "W" during one of the enrollments or petitions due to extenuating circumstances as provide in Title 5, 55045.
6. The grade each time shall be included for calculating the student's grade point average.

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N. Active Participatory Courses in Physical Education, and Visual or Performing Arts That Are Related in Content [55040(c)]

1. A student is not permitted to enroll in active participatory courses (those courses where individual study or group assignments are the basic means by which learning objectives are obtained) in physical education, visual or performing arts that are related in content more than four (4) times [four courses].
2. A course related in content includes any course with similar primary educational activities in which skill levels or variation are separated into distinct courses with different student learning outcomes for each level or variation.
3. The limitation on enrollment applies even if a student receives a substandard grade or “W” during one or more of the enrollments in such a course or petitions for repetition due to extenuating circumstance.
4. All grades and credits received count in calculating the student’s grade point average.

