



## District Consultation Council Meeting

August 28, 2023

2:00 p.m.

Anaheim Campus Room 105

Videoconferencing participation available from the Cypress College President's Conference Room and the Fullerton College President's Conference Room B

### AGENDA

#### MEETING SUMMARY

- |                         |               |
|-------------------------|---------------|
| 1. May 22, 2023 Summary | <b>Action</b> |
|-------------------------|---------------|

#### STRATEGIC GOALS & PLANNING

- |                                                              |                    |
|--------------------------------------------------------------|--------------------|
| 1. District Consultation Council 2023-24                     | <b>Discussion</b>  |
| • Meeting Schedule                                           |                    |
| • Membership Listing                                         |                    |
| 2. Budget Update – Year End Closing                          | <b>Information</b> |
| 3. One-Time Funding Request Update: Follett Equitable Access | <b>Information</b> |

#### OPERATIONAL REVIEW

- 1.

#### POLICY

- |                                                                                               |                    |
|-----------------------------------------------------------------------------------------------|--------------------|
| 1. Revised AP 3434, Responding to Harassment Based on Sex Under Title IX (Interim Procedures) | <b>Information</b> |
| 2. Revised 7240-3, Management Employees – Vacation Plan                                       | <b>Action</b>      |
| 3. New BP 3830, Flying of National, State, and Commemorative Flags                            | <b>Discussion</b>  |

#### OTHER ITEMS

- 1.

**DISTRICT CONSULTATION COUNCIL**  
**May 22, 2023**

**SUMMARY**

**MEMBERS PRESENT:** Jim Bunker, Byron D. Clift Breland, Jennifer Carey, Treisa Cassens, Jennifer Combs, Christie Diep, Jean Foster, Geoff Hurst, Cherry Li-Bugg, Kathleen McAlister, Cynthia Olivo, Jeremy Peters, Valentina Purtell, JoAnna Schilling, Melissa Serrato, Pamela Spence, and Kai Stearns.

**VISITORS:** Danielle Davy, Gabrielle Stanco, and Bryan Ventura.

Chancellor Byron D. Clift Breland called the meeting to order at 2:03 p.m. and led a round of introductions.

**MEETING SUMMARY**

**Summary:** The summary of the April 24, 2023 meeting was approved as submitted.

**STRATEGIC GOALS & PLANNING**

**IT Optimization Plan:** Cherry Li-Bugg, Vice Chancellor, Educational Services & Technology, shared that the District Network Refresh Project has discovered several areas where changes have been deployed without adequate resources or clearly defined roles and responsibilities. Last year's data security breach highlighted the importance of ensuring that there is not just visibility into enterprise level infrastructure, but that control and oversight is needed to enforce policies and procedures that improve our threat response and posture. While incremental changes have been put in place, attempts at optimization have also been met with some fundamental structural hurdles. The Districtwide IT organizational structure needs to be revamped to contribute to cohesive district-wide planning and operations and the Job Families work currently underway will attempt to remediate some of these problems by providing a clear progression of increased responsibilities. To address the allocation of staff, changes will need to be made to the organizational structure itself along with other considerations including resource allocation, roles and responsibilities, and other factors. By optimizing IT resources, centralizing management of key infrastructure responsibilities, and reorganizing existing job descriptions and roles to align with a modern, agile technology environment, the District can reduce system failures and improve the quality of the services it offers.

In multi-college districts of similar size, shared services are consolidated by service where the District maintains and has responsibility for "everything to the wall" including network, security, and infrastructure services up to the endpoint and the campuses managing services beyond that point like devices, lab computers, AV, multimedia, etc. In this resource configuration District assigned staff may have a responsibility for a campus but are supervised by a District manager who can coordinate and be responsible for ensuring that campus changes do not adversely impact the enterprise environment. In the event of a major problem at an individual campus, the manager can respond and reallocate resources and expertise quickly from other campuses to resolve issues. The centralization of core IT services in network management, security operations and enterprise applications support and development does mean re-organizing the current IT staffing structure and moving employees from the campuses to the District.

Chancellor Cliff Breland stated that the concept has been discussed in previous circles and while the security component of IT would be centralized, academic computing would remain with the campuses. He noted the issues in the past, efficiency matters, and the recommendation from ASCIP to take action to prevent ransom issues again and to shore up our data as reasons for centralizing which has his support. He emphasized that no layoffs are on the table.

During the discussion, members stated the following:

- CSEA stated that items need to be negotiated and that it is not appropriate to tell classified members that it is a done deal. Dr. Cliff Breland clarified that DCC is a venue to inform people since the matter is being discussed and one that he uses as an advisory group. He stated that processes will be respected.
- United Faculty expressed concern that technology support could be moved away from the campuses where it is heavily relied upon.
- CSEA and United Faculty have submitted a demand to bargain on the matter and have not received a response.
- Chancellor Cliff Breland emphasized that the District needs to do everything it can to prevent future breaches and noted that most multi-college districts have centralized IT functions and it's a move that the Board supports.
- Senate members are receiving questions and do not have any answers to provide.
- Concern about ensuring that the campuses are staffed appropriately to serve the needs of faculty and students.
- Vice Chancellor Li-Bugg clarified that email addresses across the District will not change.

Chancellor Cliff Breland proposed the development of a chart that easily explains the list of services to help people better understand the concepts of centralization and network. He urged members to contact Vice Chancellor Li-Bugg with questions as they arise for clarification.

**One-Time Funding Request: Follett Equitable Access & Foundations:** At its May 8 meeting, the Council on Budget and Facilities discussed and approved one-time funding allocations—contingent upon campus approval—of \$5,000,000 for the Follett Equitable Access Program and \$900,000 for the College Foundations.

The Follett Equitable Access Program funding was requested to pilot a digital book program with a fixed charge for books with the District supplementing the full cost of the pilot program. Currently, the pilot is in the assessment and approval phase, but for planning purposes the funding was requested so that it be set aside for use during the 2023-24 fiscal year to offset student costs and allow for additional discussion at the campuses on implementation.

The foundation funding was requested to support operations for the Fullerton College and Cypress College Foundations to provide \$150,000 \$150,000 in annual funding for each campus for a three-year period, for a total of \$900,000. As part of the agreement both foundations will be required to fund a permanent Foundation position and raise sustainable ongoing funding to support the positions after the three-year period.

Chancellor Cliff Breland noted that the impetus for the Follet Program was a desire to find a way to lower the cost of textbooks, and that program was one that was found that we could be mitigated for a one-time subscription service.

During the discussion, members voiced the following:

- The Follett Program was approved by Cypress College, but not by Fullerton College. NOCE did not have a chance to agendaize the item for discussion, but did request an NOCE book program be included in the funding so that they can be included for their CTE program.
- Fullerton College is excited to help students and faculty are invested in finding ways to do it, but Follett was not the best way for them due to student opposition.
- Fullerton College presented an alternative proposal. In response to how students would get the funding in the Fullerton College proposal, President Cynthia Olivo noted that the proposal would help faculty adopt Open Educational Resources (OER).
- President JoAnna Schilling cautioned that the Senates were presented with the Follett Program, not textbook assistance, which would have led to a different conversation. She stressed that the goal was to be able to gather data on the impact on student success.
- Cypress College voted to approve the program as a pilot, but also had conversations about OER, and they want to promote both.
- Concerns about pricing issues if one campus does not adopt.
- CBF discussions included the need to move the discussion to DCC with the potential for other options, but with the understanding that there was an urgency to develop alternatives.
- What other options are available to use the funding for that are outside of what is already being done on the campuses?
- The intent of the funding was to use it towards textbook assistance to reduce costs for students and the dollar amount was based on how many students with 9+ units would opt in.
- President Valentina Purtell stated that the allocation included a portion for NOCE and wanted to ensure that NOCE would be included with Cypress College as part of the Follett Program, but if there is a different plan for allocation, then she would like to discuss with her campus to see if they want to stay with Follett or pursue an alternative.
- The need to be able to monitor the return on investment and have measurable items/data in order to develop a long-term solution.
- Members expressed the need to see the Fullerton College proposal to see how all of the points will be addressed before dividing the allocation among the campuses.
- Clarification on how book vouchers would work or be beneficial if they have to be used at the campus bookstores.
- Fullerton College suggested purchasing books for the library and also offering an OER incentive program for faculty.
- The issue with specialized programs where faculty cannot put a textbook together and how the Follett Program offers a solution to that.

Chancellor Clift Breland stated that everyone agrees that textbook costs are high and shared his desire to work on the allocations so that the campuses can move forward with planning even if they don't move forward in the same way. He reiterated that CBF approved \$5 million for the Follett Pilot Program, but suggested changing the recommendation to a textbook assistance program and accepting the funding with Chancellor's Staff determining how the split should be allocated. After calling for a vote, **there was consensus to approve the \$5,000,000 in one-time funding for the textbook assistance program with two noted objections.**

Chancellor Clift Breland then called for a vote on the \$900,000 allocation for staffing at both college foundations staffing, noting that he asked that the foundations become more self-sustaining in order to continue in the future. **There was consensus to approve the \$900,000 in one-time funding for the College Foundations.**

**Budget Update:** Chancellor Clift Breland referred members to the budget update information included in the agenda materials provided by Fred Williams, Vice Chancellor, Finance & Facilities, highlighting the following which was recently shared by the State Chancellor's Office:

- \$31.5 billion statewide deficit.
- 8.22% COLA on apportionment and numerous categorical programs.
- District flexibility for eligible categorical programs.
- Student Equity and Achievement, Student Financial Aid Administration, and student mental health resources.
- \$100 million one-time dollars in funding to continue supporting community colleges with enrollment strategies but also a big reduction from the 22-23 allocations for deferred maintenance and COVID-19 Block Grant.
- The decrease to the deferred maintenance was even more than the January budget and the COVID Block Grant was new and is significant; approximately \$12.5 million for scheduled maintenance/instruction equipment and \$9.5 million for COVID-19 for the District.

**Analysis of FTES at P-2:** Chancellor Clift Breland reported that the District's P-2 attendance report was submitted to the State Chancellor's Office in April. While the District is making progress with a 1.38% increase, there is still a long way to go (over 20%) to reach pre-pandemic numbers, and the focus will need to continue to be on increasing enrollment.

## **OPERATIONAL REVIEW**

**NOCCCD Decision Making Resource Manual 2022 Updates:** DCC received a third reading of the proposed updates to the NOCCCD Decision Making Resource Manual. In addition to the major updates previously reviewed by DCC, additional revisions proposed at the April 24, 2023 DCC meeting included: 1) revised language reflecting CSEA appointments; 2) removing DEMAC and adding DAC to the listing of meetings; 3) updating the District EEO Committee composition; 4) update the document title to remove the year and instead list the year to the last update; updating the membership to some committees; 5) updating the calendar to reflect that DAC will meet twice a month; and 6) further revisions to the DCC approval threshold and voting.

During the discussion, members stated the following:

- Correct the District EEO Committee to reflect: the District Director, Diversity, Culture, & Inclusion serving as the Chair; add the District Director, EEO & Compliance to the membership; and add the Chancellor to the first bullet item under purpose.
- Agreed to delete "The Chancellor may appoint an interim member when a position is vacant." from the duties of members for DCC.
- After discussing consensus, the voting threshold, the proposed percentages, and the addition of a "minority report" for approval of items at DCC, it was ultimately agreed to incorporate language that states that if consensus is not reached, a roll call vote would be conducted which would outline who voted against, what group they represent, and a statement why they were dissenting.

Subsequent to Chancellor Clift Breland stating his intent to ensure that constituencies are represented, especially with what is presented to the Board, **there was consensus to approve the NOCCCD Decision Making Resource Manual 2022 updates.**

**NOCCCD Integrated Planning Manual 2022-23 Updates:** DCC received a second reading of the proposed updates to the NOCCCD Integrated Planning Manual proposed by the Institutional Effectiveness Coordinating Council to reflect changes to the districtwide strategic planning process. Gabrielle Stanco, District Director, Research, Planning, and Data Management, led a broad stroke overview of the revisions that include 1) updating the mission statement and strategic directions; 2) updating all accreditation standard references to reflect latest ACCJC/WASC standards; 3) revising the Districtwide Strategic Plan focus to be a synthesis of campus and District Services plans that will aggregate the commonalities in the work being performed districtwide to achieve the District Strategic Directions; 4) revising the frequency of assessment of strategic plan progress to be “regular” (at least once in three years) instead of annual; 5) updating the District Services Administrative Review process from an annual to a 3-year timeframe with an optional annual update; and 6) revising the budget allocation section to reflect updates made in the Budget Handbook, 2021 Update.

Subsequent to Dr. Stanco noting that the WASC/ACS standards and links in the document were reviewed to ensure they were correct, and members praising the manual, **there was consensus to approve the NOCCCD Integrated Planning Manual 2022-23 updates.**

## **POLICY**

**Revised AP 3740, Web Sites; Revised AP 4105, Distance and Correspondence Education; and AP 5030, Fees:** DCC received a first reading of the proposed revisions to AP 3740, Web Sites; AP 4105, Distance and Correspondence Education; and AP 5030, Fees which were revised to update legal language requirements and/or current District practice.

AP 3740, Websites: Revised to reflect consultation with the Director of Campus Communications for web page changes and update the title of the District Director of Public & Governmental Affairs.

AP 4105, Distance and Correspondence Education: Updated and revised based on CCLC recommendations including a title change, to align with the updated ACCJC Distance Education Policy, and updated Title 5 provisions.

AP 5030, Fees: Updated based on CCLC recommendations and to provide students with a longer grace period to pay their outstanding balance as well as a payment plan option.

**There was consensus to approve AP 3740, AP 4105, and AP 5030 and post them on the District website.**

**Suspension of Program Discontinuance Pending Revision of BP/AP 4021, Educational Program Discontinuance:** Kathleen McAlister and Jennifer Combs presented a proposal to suspend the District program discontinuance policy pending revisions of BP/AP 4021. They cited a directive from the Cypress College Academic Senate including concerns about how the process is invoked and interpreted, and the need for more faculty representation for the special review committee that requires a comprehensive look from a United Faculty perspective.

During the discussion, members clarified that the policy was developed in response to accreditation violations and requires updating, while others noted that pausing a process or nullifying a policy before it's revisited was problematic.

Chancellor Clift Breland agreed to form a review committee, but noted the need to respect the current policy in order to not have unintended accreditation issues. Jennifer Combs requested that if program discontinuance was not going to be paused, that the United Faculty President and the three campus academic/faculty senates be notified of any program changes.

This item will return to a future DCC meeting.

## **OTHER**

**Winter Intersession Opportunity:** The District is exploring a winter intersession in order to provide students the opportunity to learn throughout the year, because online learning is growing across the District with all three campuses joining CVC/OEI, and to be able to serve more students while also positively contributing to enrollment and completion figures. The recent PRT visit included discussions on incorporating a 4 or 5-week winter intersession with a recommendation from the group to pilot a fully online intersession in January 2024.

Chancellor Clift Breland stated that the addition of a winter intersession would impact the academic calendar, scheduling, and the budget, but would also generate different pathways for students and provide opportunities for the District.

Gabrielle Stanco, District Director, Research, Planning, & Data Management, presented comparative data on winter intersessions in California community colleges that highlighted the number of students that the District loses by not providing an intersession, the median enrollment per intersession, median success rate, and the number of leaver students who do not return after attending another college for intersession.

Members inquired if information is available for the students who do not return in the spring after attending during the fall semester; whether a fully online intersession is possible while still ending the spring semester before the Memorial Day holiday; the possibility of starting the winter intersession term in December; the need to have a five week intersession for in-person classes; the possibility of incorporating an intersession by not having a spring break; the need to factor in the impact on staffing and services (Bursar's Office, registration, verification of prerequisites, etc.); the ability to offer creative scheduling with the CVCs; clarification on what the compensation and unit load would be for faculty; and also noted the ability to attract students.

The discussion concluded with Dr. Clift Breland noting that there appeared to be support, and he would facilitate further discussion to gather input and address questions.

**ADJOURNMENT:** Chancellor Clift Breland thanked members for the dialogue, noting the importance of hearing all voices, and adjourned the meeting at 4:27 p.m.



NORTH ORANGE COUNTY  
COMMUNITY COLLEGE DISTRICT

## District Consultation Council 2023-24 Meeting Schedule

Fourth Mondays of the month @ 2:00 p.m.  
Anaheim Campus Room 105

*Videoconferencing available from the Cypress College President's Conference Room  
and the Fullerton College President's Conference Room B*

### Fall Semester

August 28

September 25

October 23

November 27

December (TBD)\*

### Spring Semester

January 22

February 26

March 25

April 22

May 20\*\*

June 24 (if needed)

\* Determine whether or not a December meeting is needed.

\*\* This is the third Monday because the fourth Monday is Memorial Day.



### District Consultation Council 2023-24 Membership

Member	Affiliation
Byron Cliff Breland	Chancellor – Chair
JoAnna Schilling	President, Cypress College
Cynthia Olivo	President, Fullerton College
Valentina Purtell	President, North Orange Continuing Education
Fred Williams	Vice Chancellor, Finance & Facilities
Irma Ramos	Vice Chancellor, Human Resources
Cherry Li-Bugg	Vice Chancellor, Educational Services & Technology
Kai Stearns	District Director, Public & Governmental Affairs
Geoff Hurst	District Director, Enterprise IT Applications Support & Development
Yasmine Andrawis	District Director, EEO & Compliance
Kathleen McAlister	President, Cypress College Academic Senate
Damon De La Cruz	Representative, Cypress College Academic Senate
Jeanette Rodriguez	President, Fullerton College Academic Senate
Jennifer Combs	Representative, Fullerton College Academic Senate
Jennifer Oo	President, North Orange Continuing Education Academic Senate
Jennifer Carey	Representative, North Orange Continuing Education Academic Senate
Christie Diep	President, United Faculty
Jeremy Peters	Representative, United Faculty
Jim Bunker	Representative, Adjunct Faculty United
Pamela Spence	President, California School Employees Association
Melissa Serrato	Representative, California School Employees Association
Jean Foster	Representative, Confidentials Group
Treisa Cassens	President, District Management Association
Vacant	Associated Students Representative, Cypress College
Vacant	Associated Students Representative, Fullerton College
Vacant	Student Representative, NOCE

# DISTRICT CONSULTATION COUNCIL

Agenda Item Submittal Form

Date: August 23, 2023

From: Fred Williams, Vice Chancellor, Finance and Facilities

Re: Agenda Item for District Consultation Council Meeting of August 28, 2023

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1. AGENDA ITEM NAME

**Budget Update – Year End Closing**

2. AGENDA ITEM ACTION (Please check all that apply.)

Information Only	<input checked="" type="checkbox"/>	Second Reading	<input type="checkbox"/>
Review/Discussion	<input type="checkbox"/>	Action	<input type="checkbox"/>
First Reading	<input type="checkbox"/>	Consent Agenda Item	<input type="checkbox"/>

3. ESTIMATED TIME REQUIRED FOR PRESENTATION/DISCUSSION: **5 minutes**

4. BRIEF NARRATIVE SUMMARY OF AGENDA ITEM:

**Provide a brief update on year-end closing and the proposed budget for 2023-24. Also included is a copy of the draft Analysis of Ending Fund Balance as of June 30, 2023, a link to the California Community Colleges Compendium of Allocations and Resources, and the California Community Colleges Joint Analysis of the Enacted 2023-24 Budget.**

5. RECOMMENDATION:

6. OTHER PEOPLE CONSULTED, INFORMED OR ATTENDING MEETING ABOUT THIS ITEM:

**North Orange County CCD  
Analysis of Ending Fund Balances  
June 30, 2023**

Updated 8/24/2023

	<u>Districtwide</u>	<u>DS</u>	<u>CC</u>	<u>FC</u>	<u>NOCE</u>	<u>Total</u>
<b>Nonspendable Fund Balance</b>						
<b>Reserved Fund Balance</b>						
Revolving Cash	150,000.00					150,000.00
Inventory	50,134.20					50,134.20
Total	<u>\$ 200,134.20</u>	-	-	-	-	<u>\$ 200,134.20</u>
<b>Restricted Fund Balance</b>						
<b>Restricted Programs</b>						
Health Services			102,733.73	387,944.92		490,678.65
Instructional Equipment			1,513,172.42	1,818,084.60	163,381.36	3,494,638.38
Parking			(633.15)	(1,647,215.06)	385,282.86	(1,262,565.35)
Lottery			1,819,336.80	4,350,006.66	2,003,585.43	8,172,928.89
Veterans Services			22,855.58	20,085.81		42,941.39
Admin Allowance			355,837.09	(168,754.53)		187,082.56
Total	<u>\$ -</u>	<u>\$ -</u>	<u>\$ 3,813,302.47</u>	<u>\$ 4,760,152.40</u>	<u>\$ 2,552,249.65</u>	<u>\$ 11,125,704.52</u>
<b>Committed Fund Balance</b>						
STRS & PERS Cost - Released	-					-
Total	<u>\$ -</u>	-	-	-	-	<u>\$ -</u>
<b>Assigned Fund Balance</b>						
Legal Expenses	100,000.00					100,000.00
Facility Emergency	130,000.00					130,000.00
Elections Expense	150,000.00					150,000.00
Safety Budget		15,915.38				15,915.38
Activities Assigned by Center *		8,795,953.00	21,385,306.00	12,815,346.00	16,875,896.00	59,872,501.00
One-Time Funds to be Allocated **	5,000,000.00	1,000,000.00	578,155.00	644,175.00	77,670.00	7,300,000.00
One-Time Funds Allocated **	648,028.05	2,844,397.52	3,877,010.29	6,419,846.92	988,897.08	14,778,179.86
Total	<u>\$ 6,028,028.05</u>	<u>\$ 12,656,265.90</u>	<u>\$ 25,840,471.29</u>	<u>\$ 19,879,367.92</u>	<u>\$ 17,942,463.08</u>	<u>\$ 82,346,596.24</u>
<b>Uncommitted Fund Balance</b>						
Board Policy	32,112,440.00					32,112,440.00
Unallocated Resources	15,263,722.40					15,263,722.40
21-22 SCFF HH						-
Budget Center:						-
PY Apportionment Adj's	733,494.00					733,494.00
11100 Fund		6,530,506.40	15,520,537.37	4,169,081.89	12,233,036.63	38,453,162.29
11100 Settle-Up of Hospitality		(45,000.00)	15,000.00	15,000.00	15,000.00	-
Settle-up of RAM		2,395,840.00	2,296,396.00	3,528,435.00	(3,304,360.00)	4,916,311.00
Emergency Conditions Funding		2,687,217.00	7,360,470.00	10,038,586.00	8,964,722.00	29,050,995.00
Pull back to increase Reserves		(1,043,722.00)	(3,801,561.00)	(4,913,082.00)	(1,146,347.00)	(10,904,712.00)
CY Settle-Up of Categoricals		7,297.54	(5,535.95)	(22,674.74)	113,844.29	92,931.14
Assigned by Center		(8,795,953.00)	(21,385,306.00)	(12,815,346.00)	(16,875,896.00)	(59,872,501.00)
Total	<u>\$ 48,109,656.40</u>	<u>\$ 1,736,185.94</u>	<u>\$ 0.42</u>	<u>\$ 0.15</u>	<u>\$ (0.08)</u>	<u>\$ 49,845,842.83</u>
<b>Total Ending Fund Balance</b>	<u>\$ 54,337,818.65</u>	<u>\$ 14,392,451.84</u>	<u>\$ 29,653,774.18</u>	<u>\$ 24,639,520.47</u>	<u>\$ 20,494,712.65</u>	<u>\$ 143,518,277.79</u>

\*\* : See following page for details of allocations of one-time funds.

\* : Activities assigned by campus are listed in the discussion in this section.

**North Orange County CCD**  
**Detail of Allocations of One-Time Funds (Part of Assigned Fund Balance)**  
**June 30, 2023**

	<u>Districtwide</u>	<u>DS</u>	<u>CC</u>	<u>FC</u>	<u>NOCE</u>	<u>Total</u>
<b>Balance of Allocated of One-Time Funds P/Ys:</b>						
Assist with Fraudulent Student Investigation activities			87,898.91	15,496.15		103,395.06
Campus Enrollment Support			3,108,380.93	4,006,588.87	579,667.01	7,694,636.81
Capital Expenses						
ADA			175,827.00		247,771.69	423,598.69
Campus Priorities					24,476.81	24,476.81
CC Pilot Internship Program: Legacy/Puente			5,985.78			5,985.78
Diversity Programs	2,070.09					2,070.09
Equipment		316,030.36				316,030.36
Foundations				-		-
HR Banner Projects		27,977.10				27,977.10
Hunger Initiative			100,000.00		3,630.87	103,630.87
Institutional Capacity	23,264.00					23,264.00
Professional Development Program	192,542.18			6,890.31		199,432.49
Safety	300,000.00					300,000.00
Business Process Analysis	130,151.78					130,151.78
Campus Priorities			188,808.02	923,736.04		1,112,544.06
Local Funding Requests		383,826.98		773,610.60	4,424.99	1,161,862.57
Outreach/Recruitment/Onboarding/Advertising			-			-
Pathways Support				121,002.73		121,002.73
Strategic Plan Allocation for DEIA			140,368.65	145,000.00	39,898.76	325,267.41
Student Success Funds - Online Education			69,741.00			69,741.00
Student Success Funds - Supplemental Instruction				409,658.51		409,658.51
Student Success Funds - Universal Design					89,026.95	89,026.95
Technology - Microsoft 365 Collaboration		198,118.75				198,118.75
Title IX		97,432.51				97,432.51
Website Modifications				17,863.71		17,863.71
5-Yr Cyber Security Plan		1,821,011.82				1,821,011.82
<b>Funds already allocated</b>	<b>648,028.05</b>	<b>2,844,397.52</b>	<b>3,877,010.29</b>	<b>6,419,846.92</b>	<b>988,897.08</b>	<b>14,778,179.86</b>
<b>Add'l One-Time Funds to be Allocated</b>						
Book Program Pilot Supplement	5,000,000.00					5,000,000.00
Foundation to supplement initial cost of new position			450,000.00	450,000.00		900,000.00
Part-Time Faculty Office Hours - Fall Semester			128,155.00	194,175.00	77,670.00	400,000.00
Sustainability Plan		1,000,000.00				1,000,000.00
<b>Subtotal Additional Allocations</b>	<b>5,000,000.00</b>	<b>1,000,000.00</b>	<b>578,155.00</b>	<b>644,175.00</b>	<b>77,670.00</b>	<b>7,300,000.00</b>
<b>Total</b>	<b>\$ 5,648,028.05</b>	<b>\$ 3,844,397.52</b>	<b>\$ 4,455,165.29</b>	<b>\$ 7,064,021.92</b>	<b>\$ 1,066,567.08</b>	<b>\$ 22,078,179.86</b>



**2023-24 EDITION**

# California Community Colleges Compendium of Allocations and Resources

California Community Colleges Chancellor's Office | Sonya Christian, Chancellor

# *Joint Analysis*

## Enacted 2023-24 Budget

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July 10, 2023



California Community Colleges



ACBO.ORG  
ASSOCIATION OF CHIEF BUSINESS OFFICIALS



ASSOCIATION OF CALIFORNIA  
COMMUNITY COLLEGE ADMINISTRATORS



COMMUNITY COLLEGE  
LEAGUE OF CALIFORNIA

# DISTRICT CONSULTATION COUNCIL

Agenda Item Submittal Form

Date: August 23, 2023

From: Fred Williams, Vice Chancellor, Finance and Facilities

Re: Agenda Item for District Consultation Council Meeting of August 28, 2023

1. AGENDA ITEM NAME

**One-Time Funding Request Update: Follett Equitable Access**

2. AGENDA ITEM ACTION (Please check all that apply.)

Information Only	X	Second Reading	
Review/Discussion		Action	
First Reading		Consent Agenda Item	

3. ESTIMATED TIME REQUIRED FOR PRESENTATION/DISCUSSION: 10 minutes

4. BRIEF NARRATIVE SUMMARY OF AGENDA ITEM:

At its May 22, 2023 meeting, DCC approved funding for up to \$5,000,000 to pilot a digital book program with Follett. As part of the program, students would pay a fixed fee per unit/hour for students that take an agreed upon number of hours. At the time of the DCC meeting, the concept was in the assessment and approval stage, and campus administration was working through their senates for support for the program. DCC approved the \$5 million allocation but requested that campus administration receive support from the senates.

During the summer, campus administration continued discussions at their respective campuses and various ideas emerged. In summary, Cypress college approved the Follett digital book program and Fullerton and NOCE proposed alternatives to the program.

- Cypress College – The original program was estimated at \$19 per unit/hour, assuming that all three (3) campuses would participate. Without Fullerton and NOCE participation, the unit/hour rate increased to \$21 per unit. The approved allocation was \$2.5 million.
- Fullerton College – Through their constituent process, a proposal was developed and recommended an Open Educational Resources (OER) Incentive Program, along with texts on reserve, and a textbook voucher program. The overall cost was \$2.4 million.
- NOCE – A proposal for one-time funds in the amount of \$100,000 was received for a CTE Textbook program and OER support.

These proposals were discussed at Chancellor’s Staff and the Chancellor approved the \$5 million dollars for inclusion in the District’s 2023-24 Budget. Information is being brought to DCC to close the loop on the funding proposals.

*NOTE: Please forward this form by required dates with all backup material to the Chancellor's Office.*

5. RECOMMENDATION:

**Members are asked to review the Follett Equitable Access information.**

6. OTHER PEOPLE CONSULTED, INFORMED OR ATTENDING MEETING ABOUT THIS ITEM:

**Campus Presidents**



Based on preliminary numbers (through yesterday August 8) we believe that Cypress will need \$2.5M of the \$5M set aside by the District for the Pilot Book program. With nearly 2 weeks to go before classes start August 21, we have 12,390 students enrolled in more than 116,313 units. At \$21 per unit, this amounts to roughly \$2.44M in costs before student offsets (at \$100 maximum per student). The ability to more accurately estimate the total costs for the year at this early stage of the program is not possible due to the multitude of variables involved.

We will be budgeting funds in the Cypress College budget as a contingency for this program so as not to exceed the \$2.5M allocation from the District if that is the amount distributed to Cypress.

*Stephen*

Dr. Stephen Schoonmaker (*Pronouns: he, him, his*)  
Vice President, Administrative Services (Interim)  
714-484-7321

**Textbook Cost Reduction Proposal  
Fullerton College 2023 & 2024**

**OER Incentive Program**

**Faculty who are existing OER users who meet with leaders to share ideas and expand efforts:**

\$500.00 stipend

**Faculty adopting OER for Spring 2024**

\$1,000 stipend

**Faculty adopting OER with major changes and DEIA pedagogy**

\$2,000 stipend

**Faculty who creates new OER course content for others to adopt in Fall 2024:**

\$4,000 stipend

**Total Needed: \$700,000**

**Textbook Voucher for Students**

6,634 Students x \$100.00

Total Needed: \$663,400 x 2= \$1,326,800 (Fall & Spring)

**Texts on Reserve**

Total Needed: \$300,000

**Grand Total: \$ 2,326,800**

**Rationale:**

The FC faculty are highly committed to reducing textbook costs for students. These stipends are for additional work done off contract. This investment will lead to real long-term solutions because OER textbooks will be used for years; there is no price increase for students after the pilot. Our Faculty Senate OER Workgroup, Guided Pathways, and Enrollment & Retention Committee could contribute to the coordination of this work and integrate it in shared governance. Inviting Part-Time Faculty to access these stipends will allow smaller departments with only a few full-time faculty and long-term adjuncts to collaborate. Utilize existing canvas course and conduct workshops (require participation) for faculty by faculty on how to reduce textbook costs for students (where they can get books for less, use of older editions, etc.).

**Reducing Textbook Costs for Students ASAP - in Fall 2023:**

**Provide bookstore vouchers for students in 12 units linked to their student IDs.** Bookstore will monitor purchases for texts only.

**Purchase textbooks to put on reserve in the Library.** Librarians curate lists of texts in demand. Identify expensive texts (>\$100) that can be used for years (unless/until OER are adopted).

**Produce a guide for students on how they can get lower cost books.**



## Textbook Purchase Assistance

### Proposal for the NOCCCD One-Time Funds

Having met with the Follett representatives and reviewed their proposal for the NOCE Equitable Access Program, we determined that the proposal would not be beneficial for the participating students. Specifically, of the 6,815 students enrolled in the courses requiring textbook purchase, less than 10% purchase their textbooks at Follett's. Furthermore, the proposed flat fee of \$155.00 per regular term and \$107 for summer intersession, is cost-prohibitive if not subsidized and, therefore, not sustainable.

NOCE is grateful for the District's support with lowering the cost of learning materials. For the reasons mentioned above, we are proposing an alternative plan and requesting \$100,000 of one-time funds to be spent as follows:

1. To subsidize the Book Award Program and CTE Textbook Loan Program: \$60,000

The Book Award Program program was created for students enrolled in any of the NOCE noncredit programs that require books. The award is given in the form of a credit at the Fullerton Bookstore for assistance in purchasing required books, access codes, and any other instructional material as deemed necessary for the course and by the instructor and available at the bookstore. Criteria used to determine award amounts include the number of courses in which the student is enrolled, the cost of the required textbooks and materials listed by the bookstore, and book funds available. Students who need financial assistance with purchasing their books and meet the eligibility criteria listed below may apply:

- Student Educational Plan (SEP) completed (valid from 2022 Fall, to the present)
- Provide book needs/book expenses for the 2023 Fall
- Written response in the application: Your educational and career goals
- Answer income question on the application

For more information on the Book Award Program, visit: <https://noce.edu/student-services/aid/book-award/>

For more information on the CTE Textbook Loan Program, visit: <https://noce.edu/student-services/aid/cte-textbook-loan/>

2. To support OER work: \$40,000

Because NOCE is not eligible for the State OER grant, this would be the only funding source specifically dedicated to establishing OER for the courses offered at NOCE. The requested funds will be used to compensate faculty for the activities related to the research and development of open-source materials for noncredit disciplines, including:

- Research of available resources
- Accessibility review
- Content development
- Curriculum mapping

# DISTRICT CONSULTATION COUNCIL

Agenda Item Submittal Form

Date: August 9, 2023

From: Byron D. Clift Breland, Chancellor

Re: Agenda Item for District Consultation Council Meeting of August 28, 2023

1. AGENDA ITEM NAME

**Revised AP 3434, Responding to Harassment Based on Sex Under Title IX (Interim Procedures)**

2. AGENDA ITEM ACTION (Please check all that apply.)

Information Only	X	Second Reading	
Review/Discussion		Action	
First Reading	X	Consent Agenda Item	

3. ESTIMATED TIME REQUIRED FOR PRESENTATION/DISCUSSION: **5 minutes**

4. BRIEF NARRATIVE SUMMARY OF AGENDA ITEM:

**AP 3434 was revised to reflect updated contact information for the District Title IX Coordinator.**

5. RECOMMENDATION:

**To inform DCC of the necessary correction that has been made to AP 3434.**

6. OTHER PEOPLE CONSULTED, INFORMED OR ATTENDING MEETING ABOUT THIS ITEM:

**District Director, EEO & Compliance; Vice Chancellor, Human Resources; and the Chancellor's Office.**

## **AP 3434 Responding to Harassment Based on Sex Under Title IX (Interim Procedures)**

Reference:

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

### **1.0 Introduction**

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

### **2.0 Title IX Coordinators**

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

Name: Yasmine Andrawis  
Position: District Director, EEO & Compliance  
Address: 1830 W. Romneya Drive  
Anaheim, CA 92801-1819  
Telephone: 714-808-4820  
Email: [yandrawis@nocccd.edu](mailto:yandrawis@nocccd.edu)

2.2 Questions concerning Title IX may also be referred to the college/school Title IX Coordinators whose contact information is below.

Name: Paul de Dios  
Position: Cypress College Title IX Coordinator/Vice President, Student Services  
Telephone: 714-484-7335  
Email: [pdedios@cypresscollege.edu](mailto:pdedios@cypresscollege.edu)

Name: Elaine Lipiz-Gonzalez  
Position: Fullerton College Title IX Coordinator/Dean of Student Support Services  
Telephone: 714-992-7088  
Email: [elipizgonzalez@fullcoll.edu](mailto:elipizgonzalez@fullcoll.edu)

Name: Martha Gutierrez  
Position: North Orange Continuing Education Title IX Coordinator/Vice President, Student Services  
Telephone: 714-808-4660  
Email: [mgutierrez@noce.edu](mailto:mgutierrez@noce.edu)

## **AP 3434 Responding to Harassment Based on Sex Under Title IX (Interim Procedures)**

- 2.3 The Title IX Coordinator is required to respond to reports of sexual harassment or misconduct. The Title IX Coordinator will treat information received with the utmost discretion and will share information with others on a need-to-know basis. For example, the Title IX Coordinator may need to address public safety concerns on campus, comply with state and federal legal requirements, or share information to implement supportive measures.
- 2.4 A report of sexual harassment to the Title IX Coordinator does not necessarily result in a full investigation, as discussed more fully below. However, the Title IX Coordinator will make an assessment to determine if there is a safety risk to the campus. If the Title IX Coordinator finds there is a continued risk, the Title IX Coordinator will file the formal complaint without the Complainant's consent or cooperation.
- 3.0 **Title IX Harassment Complaints, Investigations, and Hearings:** These Title IX sexual harassment procedures and the related policy protects students, employees, applicants for employment, and applicants for admission.
- 3.1 Jurisdictional Requirements – Application of Procedures: These procedures apply if the conduct meets the following three jurisdictional requirements:
- 3.1.1 The conduct took place in the United States;
- 3.1.2 The conduct took place in a District “education program or activity.” This includes locations, events, or circumstances over which the District exercised substantial control over both the Respondent and the context in which the harassment occurred, including on-campus and off-campus property and buildings the District owns or controls or student organizations officially recognized by the District own or control;
- 3.1.3 The conduct meets the definition of Title IX “sexual harassment.”
- 4.0 **Definitions**
- 4.1 Advisor: Throughout the grievance process, both the Complainant and Respondent have a right to an Advisor of their choice. The Advisor may be any person, except an Advisor may not be the Title IX Coordinator, investigator, or Decision-Maker. If a Party does not have an Advisor at the time of the hearing, the District must provide the Party an Advisor of its choice, free of charge. The District may establish restrictions regarding the extent to which the Advisor may participate in the proceedings as long as the restrictions apply equally to both Parties.
- 4.2 Complainant: A Complainant is an individual who alleges he/she/they is the victim of conduct that could constitute sexual harassment.
- 4.3 Consent: Consent means affirmative, conscious, and voluntary agreement to engage in sexual activity. Both Parties must give affirmative consent to sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that he/she/they has the affirmative consent of the other or others to

## **AP 3434 Responding to Harassment Based on Sex Under Title IX (Interim Procedures)**

engage in the sexual activity. Lack of protest, lack of resistance, or silence do not indicate consent. Affirmative consent must be ongoing throughout a sexual activity and one can revoke his/her/their consent at any time. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, is not an indicator of consent.

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

- 4.3.1 The Respondent's belief arose from the Respondent's own intoxication or recklessness;
- 4.3.2 The Respondent did not take reasonable steps to ascertain whether the Complainant affirmatively consented; or
- 4.3.3 The Respondent knew or a reasonable person should have known that the Complainant was unable to consent because the Complainant was incapacitated, in that the Complainant was:
  - 4.3.3.1 asleep or unconscious;
  - 4.3.3.2 unable to understand the fact, nature, or extent of the sexual activity due to the influence of drugs, alcohol, or medication;
  - 4.3.3.3 unable to communicate due to a mental or physical condition.
- 4.4 Decision-Maker: The person who will oversee the live hearing and make a determination of responsibility. The Decision-Maker cannot be the Title IX Coordinator or the investigator.
- 4.5 Formal Complaint: A written complaint signed by the Complainant or Title IX Coordinator, alleging sexual harassment and requesting an investigation. If the Title IX Coordinator signs the formal complaint, he/she/they will not become a Party to the complaint.
- 4.6 Parties: As used in this procedure, this means the Complainant and Respondent.
- 4.7 Respondent: A Respondent is an individual reported to be the perpetrator of conduct that could constitute sexual harassment.
- 4.8 Sexual Harassment Under Title IX: Conduct that satisfies one or more of the following:
  - 4.8.1 A District employee conditions the provision of an aid, benefit, or service of the District on an individual's participation in unwelcome sexual conduct (quid pro quo harassment);

## **AP 3434 Responding to Harassment Based on Sex Under Title IX (Interim Procedures)**

- 4.8.2 Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the District's education program or activity;
- 4.8.3 Sexual assault, including the following:
  - 4.8.3.1 Sex Offenses: Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.
  - 4.8.3.2 Rape (except Statutory Rape): The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity. There is carnal knowledge if there is the slightest penetration of the genital or anal opening of the body of another person.
  - 4.8.3.3 Sodomy: Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental, cognitive, or physical incapacity.
  - 4.8.3.4 Sexual Assault with an Object: To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental or physical incapacity. An "object" or "instrument" is anything the offender uses other than the offender's genitalia, e.g., a finger, bottle, handgun, stick.
  - 4.8.3.5 Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her/their age or because of his/her/their temporary or permanent mental, cognitive or physical incapacity.
  - 4.8.3.6 Sex Offenses, Non-Forcible Unlawful, Non-Forcible Sexual Intercourse:
    - 4.8.3.6.1 Incest: Non-Forcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.

## **AP 3434 Responding to Harassment Based on Sex Under Title IX (Interim Procedures)**

- 4.8.3.6.2 Statutory Rape – Non-Forcible: Sexual intercourse with a person who is under the statutory age of consent. There is no force or coercion used in Statutory Rape; the act is not an attack.
- 4.8.3.7 Dating Violence: Violence against a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of a relationship will be determined based on a consideration of the following factors: the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.
- 4.8.3.8 Domestic Violence: Violence committed:
- 4.8.3.8.1 By a current or former spouse or intimate partner of the victim;
  - 4.8.3.8.2 By a person with whom the victim shares a child in common;
  - 4.8.3.8.3 By a person who is cohabitating with, or has cohabitated with, the victim as a spouse or intimate partner;
  - 4.8.3.8.4 By a person similarly situated to a spouse of the victim under the domestic or family violence laws of California; or
  - 4.8.3.8.5 By any other person against an adult or youth victim protected from that person's acts under the domestic or family violence laws of California.
- 4.8.3.9 Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his/her/their safety or the safety of others or suffer substantial emotional distress.

### **5.0 Reporting Outcomes**

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

## **AP 3434 Responding to Harassment Based on Sex Under Title IX (Interim Procedures)**

- 5.3 Individuals have the opportunity to decide whether they want to pursue a formal Title IX complaint. Reporting sexual harassment to the Title IX Coordinator does not automatically initiate an investigation under these procedures. A report allows the District to provide a wide variety of support and resources to impacted individuals and to prevent the reoccurrence of the conduct. A Complainant or the Title IX Coordinator filing a formal complaint will initiate an investigation.
- 5.4 If there are parallel criminal and Title IX investigations, the District will cooperate with the external law enforcement agency and will coordinate to ensure that the Title IX process does not hinder legal process or proceedings.
- 5.5 The District will document reports of sexual harassment in compliance with the Clery Act, a federal law requiring data collection of crime within the campus geography. Under the Clery Act, the District does not document personal information; the District reports the type of conduct, time, date, and location. (See, also BP/AP 3540, Sexual Assaults and Other Sexual Misconduct.)

### **6.0 District Employees and Officials with Authority**

- 6.1 District Officials with Authority are not confidential resources and are required to report allegations of sexual harassment to the Title IX Coordinator promptly. All other employees are encouraged to report allegations to the Title IX Coordinator but are not required to do so.
- 6.2 The District has designated the following employees as Officials with Authority:
  - 6.2.1 All supervisory employees
  - 6.2.2 All Special Project Administrators
- 6.3 Officials with Authority are required to report all relevant information they know about sexual harassment including the name of the Respondent, the Complainant, any other witnesses, and the date, time, and location of the alleged incident.

### **7.0 Intake and Processing of Reporting**

- 7.1 Receipt of Report: After receiving a report of sexual harassment, the Title IX Officer will contact the Complainant and reporting party to explain rights under this policy and procedure and invite the Complainant to an in-person meeting. The Title IX Officer will discuss supportive measures with the Parties.
- 7.2 Timeframe for Reporting: To promote timely and effective review, the District strongly encourages individuals to report sexual harassment as soon possible because a delay in reporting may affect the ability to collect relevant evidence and may affect remedies the District can offer.
- 7.3 Supportive Measures: Supportive measures are non-disciplinary, non-punitive individualized services offered free of charge to the Complainant or the Respondent regardless of whether a formal complaint has been filed. The District

## **AP 3434 Responding to Harassment Based on Sex Under Title IX (Interim Procedures)**

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

- 7.4 Removal of Respondent Pending Final Determination: Upon receiving a report regarding sexual harassment, the Title IX Coordinator will make an immediate assessment concerning the health and safety of the Complainant and campus community as a whole. The District has the right to order emergency removal of a Respondent, or if the Respondent is an employee, place the employee on administrative leave.
- 7.5 Emergency Removal: The District may remove a non-employee Respondent from the District's education program or activity on an emergency basis after it conducts an individualized safety and risk analysis and determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal.
- 7.5.1 The District may not use emergency removal to address a Respondent's threat of obstructing the sexual harassment investigation or destroying relevant evidence. Emergency removal is only available to address health or safety risks against individuals arising out of sexual harassment allegations, not to address other forms of misconduct that a Respondent might commit pending the processing of a complaint.
- 7.5.2 At Cypress College, Fullerton College, and North Orange Continuing Education, the Vice President of Student Services will conduct the individualized safety and risk analysis.
- 7.5.3 If the individual designated above determines emergency removal is appropriate, he/she/they or designee will provide the person the District is removing from campus on an emergency basis with a notice and opportunity to attend a meeting and challenge the basis of his/her/their removal. The college/school Vice President of Instruction or designee will determine whether the emergency removal from campus order is warranted after considering information provided by the Respondent challenging the emergency removal.
- 7.6 Administrative Leave: The District may place a non-student employee Respondent on administrative leave during the pendency of a grievance process described in the formal complaint process below. The District will follow any relevant policies,

## **AP 3434 Responding to Harassment Based on Sex Under Title IX (Interim Procedures)**

procedures, collective bargaining agreements, or state law in placing an employee on administrative leave.

### **8.0 Formal Complaint Grievance Process**

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

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

### **8.2 Dismissal of Formal Complaint**

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

- 8.2.1.1 If the conduct alleged in the formal complaint would not constitute Title IX sexual harassment as defined in this procedure;

## **AP 3434 Responding to Harassment Based on Sex Under Title IX (Interim Procedures)**

- 8.2.1.2 If the conduct alleged did not occur in the District's education program or activity;
- 8.2.1.3 If the conduct alleged did not occur against a person in the United States.
- 8.2.2 The District has discretion to dismiss a formal complaint or any allegation under the following circumstances:
  - 8.2.2.1 If at any time during the investigation or hearing: a Complainant notifies the Title IX Coordinator in writing that the Complainant would like to withdraw the formal complaint or any allegations;
  - 8.2.2.2 If the Respondent is no longer enrolled or employed by the District; or
  - 8.2.2.3 If there are specific circumstances that prevent the District from gathering evidence sufficient to reach a determination regarding responsibility as to the formal complaint or allegations.
- 8.2.3 If the District dismissed the formal complaint or any allegations, the Title IX Coordinator shall simultaneously provide the Parties with written notice of the dismissal and reason. The District will also notify the Parties of their right to appeal.
- 8.2.4 The District may commence proceedings under other policies and procedures after dismissing a formal complaint.
- 8.3 Consolidation of Formal Complaints: The District may, but is not required to, consolidate formal complaints as to allegations of sexual harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one Party against the other Party, where the allegations of sexual harassment arise out of the same facts or circumstances.
- 8.4 Equitable Treatment of Parties: The District's determination of responsibility is a neutral, fact-finding process. The District will treat Complainants and Respondents equitably. The procedures will apply equally to both Parties. The District will not discipline a Respondent unless it determines the Respondent was responsible for sexual harassment at the conclusion of the grievance process.
- 8.5 Statement of Non-Responsibility: The investigation is a neutral, fact-finding process. The District presumes all reports are in good faith. Further, the District presumes the Respondent is not responsible for the alleged conduct. The District makes its determination regarding responsibility at the conclusion of the grievance process.

## **AP 3434 Responding to Harassment Based on Sex Under Title IX (Interim Procedures)**

- 8.6 Bias or Conflict of Interest: The District's Title IX Coordinator, investigator, Decision-Maker, or any person designated by the District to facilitate an informal resolution process, will not have potential actual bias or conflict of interest in the investigatory, hearing, sanctioning, or appeal process or bias for or against Complainants or Respondents generally. Actual bias is an articulated prejudice in favor of or against one Party or position; it is not generalized concern about the personal or professional backgrounds, positions, beliefs, or interests of the decision-maker in the process. The District will provide training to the Title IX Coordinator, investigator, Decision-Maker, and facilitator on bias, conflict of interest, and how to serve impartially without prejudging the facts.
- 8.7 Timeline for Completion: The District will undertake its grievance process promptly and as swiftly as possible. The District will complete the investigation and its determination regarding responsibility or the informal resolution process within 180 calendar days.
- 8.7.1 When appropriate, the Title IX Coordinator may determine that good cause exists to extend the 180-calendar day period to conduct a fair and complete investigation, to accommodate an investigation by law enforcement, to accommodate the unavailability of witnesses or delays by the Parties, to account for District breaks or vacations, or due to the complexity of the investigation. The District will provide notice of this extension to the Complainant and Respondent in writing and include the reason for the delay and anticipated timing of completion.
- 8.7.2 A Party may request an extension from the Title IX Coordinator in writing by explaining the reason for the delay and the length of the continuance requested. The Title IX Coordinator will notify the Parties and document the grant or denial of a request for extension or delay as part of the case recordkeeping.
- 8.8 Role of Advisor: The role of the Advisor is to provide support and assistance in understanding and navigating the investigation process.
- 8.8.1 The Advisor may not testify in or obstruct an interview, or disrupt the process. The Title IX Coordinator has the right to determine what constitutes appropriate behavior of an Advisor and take reasonable steps to ensure compliance with this procedure.
- 8.8.2 A Party does not have a right to self-representation at the hearing; an Advisor must conduct any cross-examination. The District must provide an Advisor of its choice, free of charge to any Party without an Advisor in order to conduct cross-examination. If an Advisor fails to appear at the hearing, the District will provide an Advisor to appear on behalf of the non-appearing Advisor. To limit the number of individuals with confidential information about the issues, each Party may identify one Advisor.

## **AP 3434 Responding to Harassment Based on Sex Under Title IX (Interim Procedures)**

- 8.9 Confidentiality Agreements: To protect the privacy of those involved, the Parties and Advisors are required to sign a confidentiality agreement prior to attending an interview or otherwise participating in the District's grievance process. The confidentiality agreement restricts dissemination of any of the evidence subject to inspection and review or use of this evidence for any purpose unrelated to the Title IX grievance process. The confidentiality agreement will not restrict the ability of either Party to discuss the allegations under investigation.
- 8.10 Use of Privileged Information: The District's formal complaint procedure does not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally-recognized privilege (e.g., attorney-client privilege, doctor-patient privilege, spousal privilege, etc.), unless the person holding the privilege provides voluntary, written consent to waive the privilege.
- 8.11 Investigations: The Title IX Coordinator is responsible to oversee investigations to ensure timely resolution and compliance with Title IX and this procedure.
- 8.11.1 Both Parties have the right to have an Advisor present at every meeting described in this section.
- 8.12 Trained Investigators: The District will investigate Title IX formal complaints fairly and objectively. Individuals serving as investigators under this procedure will have adequate training on what constitutes sexual harassment and how the District's grievance procedures operate. The District will also ensure that investigators receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence and complies with this procedure.
- 8.13 Gathering Evidence and Burden of Proof: The District, not the Parties, has the responsibility to gather information and interview witnesses. When the investigator evaluates the evidence, he/she/they will do so using the preponderance of the evidence standard. After considering all the evidence gathered, the investigator will decide whether it is more likely than not that the reported conduct occurred.
- 8.14 Notice of Investigative Interview: The District will provide written notice of the date, time, location, participants, and purpose of all investigative interviews to a Party whose participation is invited or expected, with sufficient time for the Party to prepare to participate.
- 8.15 Evidence Review: Both Parties have an equal opportunity to inspect and review any evidence obtained as part of the investigation that is directly related to the allegations raised in the formal complaint, including the evidence upon which the District does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a Party or other source.
- 8.15.1 Prior to the investigator preparing an investigative report, the District will send to each Party and the Party's Advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy. The

## **AP 3434 Responding to Harassment Based on Sex Under Title IX (Interim Procedures)**

Parties will have at least 10 days to submit a written response. The investigator must consider this written response prior to completing the investigative report.

### **8.16 Investigative Report:**

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

8.16.1.1 A description of the circumstances giving rise to the formal complaint;

8.16.1.2 A description of the procedural steps taken during the investigation, including all individuals contacted and interviewed;

8.16.1.3 A summary of the testimony of each witness the investigator interviewed;

8.16.1.4 An analysis of relevant evidence collected during the investigation, including a list of relevant documents;

8.16.1.5 A specific finding as to whether the allegations occurred using a preponderance of the evidence standard;

8.16.1.6 A table of contents if the report exceeds ten pages; and

8.16.1.7 Any other information deemed appropriate by the District.

8.16.2 The investigator will not make a determination regarding responsibility.

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

8.16.4 At least 10 days prior to a hearing or other time of determination regarding responsibility, the District will send the investigative report to each Party and their Advisors, if any, the investigative report in an electronic format or a hard copy, for review and written response. The Parties will have at least 10 days to submit a written response.

8.17 Hearing: After completing an investigation and prior to completing a determination regarding responsibility, the District will hold a live hearing to provide the Complainant and Respondent an opportunity to respond to the evidence gathered before a Decision-Maker. Neither Party may choose to waive the right to a live

## **AP 3434 Responding to Harassment Based on Sex Under Title IX (Interim Procedures)**

hearing, but the Parties can choose whether to participate in the hearing or answer some or all cross-examination questions.

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

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

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

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

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

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

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

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

8.20 Cross Examination: The District will permit each Party's Advisor to ask the other Party and any witnesses all relevant questions and follow-up questions, including those questions challenging credibility. The Party's Advisor must conduct cross-

## **AP 3434 Responding to Harassment Based on Sex Under Title IX (Interim Procedures)**

examination directly, orally, and in real time. A Party may never personally conduct cross-examination.

- 8.20.1 Advisors may only ask relevant cross-examination and other questions of a Party or witness. Before a Complainant, Respondent, or witness answers a cross-examination or other question, the Decision-Maker must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. The Decision-Maker need not provide a lengthy or complicated explanation in support of a relevance determination. If a Party or witness disagrees with a relevance determination, that individual has the choice of either (1) abiding by the Decision-Maker's determination and answering the question or (2) refusing to answer the question.
- 8.20.2 If a Party or witness does not submit to cross-examination at the live hearing, the Decision-Maker will not rely on any statement of that Party or witness in reaching a determination regarding responsibility. A Party or witness may also decline to answer a question, and the Decision-Maker cannot rely on any statement on which that Party or witness has declined to answer cross-examination questions. A Decision-Maker cannot draw an inference about the determination regarding responsibility based solely on a Party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.
- 8.21 Determinations of Responsibility: When the Decision-Maker makes a determination of responsibility or non-responsibility, the Decision-Maker will issue a written determination regarding responsibility, no later than 30 business days after the date that the hearing ends.
  - 8.21.1 When making a determination regarding responsibility, a Decision-Maker will objectively evaluate all relevant evidence, including both inculpatory and exculpatory evidence. A Decision-Maker may not make credibility determinations based on an individual's status as a Complainant, Respondent, or witness. In evaluating the evidence, the Decision-Maker will use the preponderance of the evidence standard. Thus, after considering all the evidence it has gathered, the District will decide whether it is more likely than not that sexual harassment occurred.
  - 8.21.2 The written determination will include:
    - 8.21.2.1 Identification of the allegations potentially constituting Title IX sexual harassment as defined in these procedures.
    - 8.21.2.2 A description of the procedural steps taken from the receipt of the formal complaint through the determination, including who conducted the investigation and gave notifications to the Parties. The determination will also state when, where, and the date the investigator interviewed the Parties and witnesses, conducted site visits, the methods used to gather

## **AP 3434 Responding to Harassment Based on Sex Under Title IX (Interim Procedures)**

other evidence. The procedural section should also discuss the dates and how the Parties were provided the opportunity to review and inspect evidence and the date of any hearings held and who attended the hearing.

8.21.2.3 Findings of fact supporting the determination. In making these findings, the Decision-Maker will focus on analyzing the findings of fact that support the determination of responsibility or non-responsibility.

8.21.2.4 Conclusions regarding the application of the District's code of conduct to the facts.

8.21.2.5 A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility.

8.21.2.6 A statement of, and rationale for, any disciplinary sanctions the District imposes on the Respondent.

8.21.2.7 A statement of whether the District will provide the Complainant with remedies designed to restore or preserve equal access to the District's education program or activity.

8.21.2.8 The District need not disclose to the Respondent remedies that do not affect him/her/them as part of the written determination. The District can inform the Respondent that it will provide remedies to the Complainant. However, the District will inform the Complainant of the sanctions against the Respondent.

8.21.2.9 The District's procedures and permissible bases for the Complainant and Respondent to appeal.

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

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

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

## **AP 3434 Responding to Harassment Based on Sex Under Title IX (Interim Procedures)**

- 9.1.1 Providing an escort to ensure that the Complainant can move safely between classes and activities;
  - 9.1.2 Ensuring that the Complainant and Respondent do not attend the same classes or work in the same work area;
  - 9.1.3 Providing counseling services or a referral to counseling services;
  - 9.1.4 Providing medical services or a referral to medical services;
  - 9.1.5 Providing academic support services, such as tutoring;
  - 9.1.6 Arranging for a Complainant, if a student, to re-take a course or withdraw from a class without penalty, including ensuring that any changes do not adversely affect the Complainant's academic record; and
  - 9.1.7 Reviewing any disciplinary actions taken against the Complainant to see if there is a causal connection between the harassment and the misconduct that may have resulted in the Complainant's discipline.
- 9.2 Possible disciplinary sanctions for student Respondents include written or verbal reprimand, required training or counseling, non-academic probation, suspension, and expulsion. Possible disciplinary sanctions for employee Respondents include written or verbal reprimand, required training or counseling, demotion, suspension, or discharge.
- 10.0 **Appeal of Dismissal of a Formal Complaint or of the Determination of Responsibility:** A Complainant or Respondent may appeal the District's determination regarding responsibility or the dismissal of a formal complaint or any allegations. A Complainant or Respondent must submit a written appeal within ten business days from the date of the notice of determination regarding responsibility or from the date of the District's notice of dismissal of a formal complaint or any allegations.
- 11.0 **Grounds for Appeal**
- 11.1 The North Orange County Community College District Board of Trustees will serve as the Decision-Maker on Appeal. In filing an appeal of the District's determination regarding responsibility or the District's dismissal of a formal complaint, the Party must state the grounds for appeal and a statement of facts supporting those grounds. The grounds for appeal are as follows:
    - 11.1.1 A procedural irregularity affected the outcome;
    - 11.1.2 New evidence was not reasonably available at the time the District's determination regarding responsibility or dismissal was made, and this new evidence could affect the outcome; or

## **AP 3434 Responding to Harassment Based on Sex Under Title IX (Interim Procedures)**

- 11.1.3 The District's Title IX Coordinator, investigator, or Decision-Maker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome.

### **12.0 Appeal Procedure**

- 12.1 If the Complainant or Respondent submit an appeal to the District, the District will:
  - 12.1.1 Notify the other Party in writing within five business days of receiving a Party's appeal.
  - 12.1.2 Allow the non-appealing Parties at least ten business days from the date of receipt of the appeal to submit a written statement in support of, or challenging, the outcome.
- 12.2 The appeal Decision-Maker will issue a written decision on whether to grant or deny the appeal, and the rationale for the decision, within 45 business days after the Decision-Maker on appeal receives the response to the appeal or the last day to provide a response. The District will provide the written decision simultaneously to both Parties.
- 12.3 The Decision-Maker on appeal may extend or otherwise modify the deadlines provided above. Either Party may seek an extension by submitting a written request to the appeal Decision-Maker explaining the need for the extension and the proposed length of the extension. The Decision-Maker will respond to the request within 48 hours in writing and will inform the Parties simultaneously whether the extension is granted.

### **13.0 Informal Resolution**

- 13.1 If the District determines that a formal complaint is appropriate for informal resolution, it may provide the Parties with the opportunity to participate in an informal resolution process, including mediation, at any time prior to reaching a determination regarding responsibility.
- 13.2 The District will provide the Complainant and Respondent written disclosure of the allegations, the requirements of the informal resolution process including the circumstances under which it precludes the Parties from resuming a formal complaint arising from the same allegations, and any consequences resulting from participating in the informal resolution process, including the records that will be maintained or could be shared.
- 13.3 The District must obtain the Parties' voluntary, written consent to the informal resolution process. If the Parties reach an agreement, the District does not have to complete a full investigation and adjudication of a report of sexual harassment. At any time prior to agreeing to a resolution, any Party has the right to withdraw from the informal resolution process and resume the grievance process with respect to the formal complaint.

## **AP 3434 Responding to Harassment Based on Sex Under Title IX (Interim Procedures)**

- 13.4 The informal resolution process is not available to resolve allegations that an employee sexually harassed a student.
- 14.0 **Retaliation Prohibited:** The District prohibits any intimidation, threats, coercion, or discrimination against any individual who made a report or complaint of sexual harassment, testified, assisted, or participated or refused to participate in any manner in a Title IX investigation, proceeding, or hearing. Individuals who experience retaliation may file a complaint using the formal complaint process described above.
- 15.0 **Dissemination of Policy and Procedures**
- 15.1 The District will provide its policy and procedures related to Title IX on its website and in each handbook or catalog provided to applicants for admission and employment, students, employees, and all unions or professional organizations holding collective bargaining with the District.
- 15.2 When hired, employees are required to sign acknowledging that they have received the policy and procedures. The District will place the signed acknowledgment of receipt in each employee's personnel file.
- 16.0 **Training:** The District will provide training to Title IX Coordinators, investigators, Decision-Makers, and any individual who facilitates an informal resolution process, on the definition of sexual harassment, the scope of the District's education program or activities, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including avoiding prejudgment of the facts at issue, conflicts of interest, and bias. Any materials used to train the District's Title IX Coordinator, investigators, Decision-Makers, and any person who facilitates an informal resolution process, will not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment.
- 17.0 **File Retention**
- 17.1 The District will retain on file for a period of at least seven years after closing the case copies of:
- 17.1.1 The original report or complaint;
  - 17.1.2 Any actions taken in response to the complaint, including supportive measures;
  - 17.1.3 The investigative report including all evidence gathered and any responses from the Parties;
  - 17.1.4 The District's determination regarding responsibility;
  - 17.1.5 Audio or audiovisual recording or transcript from a hearing;
  - 17.1.6 Records of any disciplinary sanctions imposed on the Respondent;

**AP 3434 Responding to Harassment Based on Sex Under Title IX (Interim Procedures)**

- 17.1.7 Records of any remedies provided to the Complainant;
  - 17.1.8 Any appeal and the result;
  - 17.1.9 Any informal resolution and the result; and
  - 17.1.10 All materials used to train Title IX Coordinators, investigators, Decision-Makers, and any person who facilitates an informal resolution process. The District will make these training materials publicly available on its website.
- 17.2 The District will make these documents available to the U.S. Department of Education Office for Civil Rights upon request.

See Board Policy 3410, Unlawful Discrimination, Board Policy 3430, Prohibition of Harassment, Board Policy 3540, Sexual Assaults and Other Sexual Misconduct, and Administrative Procedure 3540, Sexual Assaults and Other Sexual Misconduct

**Date of Adoption:** TBD

**Date of Implementation:** August 14, 2020 – To comply with new Title IX regulations that were implemented August 14, 2020; reviewed by the District Consultation Council on August 24, 2020.

# DISTRICT CONSULTATION COUNCIL

Agenda Item Submittal Form

Date: August 23, 2023

From: Byron D. Clift Breland, Chancellor

Re: Agenda Item for District Consultation Council Meeting of August 28, 2023

1. AGENDA ITEM NAME

**Revised AP 7240-3, Management Employees – Vacation Plan**

2. AGENDA ITEM ACTION (Please check all that apply.)

Information Only		Second Reading	
Review/Discussion		Action	X
First Reading	X	Consent Agenda Item	

3. ESTIMATED TIME REQUIRED FOR PRESENTATION/DISCUSSION: **10 minutes**

4. BRIEF NARRATIVE SUMMARY OF AGENDA ITEM:

The current AP 7240-3 Management Employee – Vacation Plan allows managers to convert vacation leave balances in excess of 44 days to sick leave. A manager would earn and accrue additional sick leave in the same manner as vacation days. The District is revising AP 7240-3 to comply with CalPERS requirements. Government Code Section 20963.5 specifies that only those days of unused sick leave that were accrued by an employee during the normal course of employment should be reported and shall not include any additional days of sick leave “for the purpose of increasing the member’s retirement benefit.” This includes incentive sick leave hours beyond the normal accrued amount. Therefore, under the revised AP, once a manager reaches 44 vacation days, they will no longer accrue vacation hours and will not be allowed to convert those excess hours to sick leave.

5. RECOMMENDATION:

It is recommended that upon DCC consensus, revised AP 7240-3 be posted on the District website.

6. OTHER PEOPLE CONSULTED, INFORMED OR ATTENDING MEETING ABOUT THIS ITEM:

**Chancellor’s Staff**

## **AP 7240-3 Management Employees – Vacation Plan**

### **1.0 Regular Management Employees:**

#### **1.1 Eligibility**

1.1.1 Vacations with pay will be granted to academic management employees who are employed twelve (12) months per year and to classified management employees.

1.1.2 Academic management employees who are employed fewer than twelve (12) months per year do not earn vacation leave, but shall receive an increased daily salary rate that includes pro rata vacation pay in lieu thereof.

1.2 Management employees who are employed full-time (100%) shall earn vacation leave at the rate of two and sixteen hundredths (2.16) days for each calendar month (26 days per fiscal year) in which the employee is in paid status for more than one-half (1/2) of the working days in the month. Management employees who are employed less than full-time shall earn a proportionate share of vacation leave, prorated by the percentage of employment.

1.3 Vacation leave must be earned before it can be used. A management employee may not elect to be paid in lieu of taking vacation leave.

1.4 Requests for vacation leave must normally be submitted in writing and the use of vacation leave must be approved in advance by the employee's immediate management supervisor.

1.5 Vacation Carryover: Earned vacation leave which is not used in a fiscal year may be carried over to the next fiscal year, but in no event will a management employee be allowed to accumulate more than 44 vacation days. When a management employee's accumulated vacation balance is at the maximum allowable amount, the employee will not earn and accrue additional vacation leave. ~~However, for the period of time the vacation balance remains at the maximum limit, the employee will earn and be credited with additional regular sick leave days in the same manner as vacation days would have been earned in accordance with the provisions of section 1.2.~~ **Once the vacation balance falls below 44 days, the employee will continue to earn vacation days until the maximum allowable amount.**

1.6 Illness During Vacation: A management employee who becomes ill during the employee's prescribed vacation period may use sick leave days in lieu of vacation days where the illness is of a nature that would preclude the effective use of vacation leave and would prevent the performance of the employee's normal duties if the employee were scheduled for duty. The management employee must furnish the District with a medical statement from a licensed physician verifying the illness and the period of disability. The medical statement and a request to use sick leave days in lieu of vacation days must be submitted to the District Office of Human Resources within five (5) working days of the employee's return to duty. The District shall have no obligation to extend the vacation period beyond the

## **AP 7240-3 Management Employees – Vacation Plan**

schedule as originally approved.

1.7 Holidays During Vacation: When a holiday falls during the scheduled vacation of a management employee, the holiday will not be charged against the employee's earned vacation leave.

1.8 Vacation Pay Upon Termination

1.8.1 A management employee will be compensated for any vacation leave earned and accumulated through the last day in paid status. Payment will be made in a lump-sum at the employee's current regular rate of pay.

1.8.2 At the time of separation from employment, any vacation leave taken and not earned by the date of termination of employment will be deducted from the employee's final paycheck.

2.0 **Temporary Management Employees:**

Temporary management employees may be granted vacations with pay in accordance with the terms of an applicable contract for employment and subject to the provisions of Administrative Procedure 7120-9.

**Date of Adoption:** May 27, 2008

**Date of Last Revision:** May 24, 2021 District Consultation Council

# DISTRICT CONSULTATION COUNCIL

Agenda Item Submittal Form

Date: August 23, 2023

From: Byron D. Clift Breland, Chancellor

Re: Agenda Item for District Consultation Council Meeting of August 28, 2023

1. AGENDA ITEM NAME

**New BP 3830, Flying of National, State, and Commemorative Flags**

2. AGENDA ITEM ACTION (Please check all that apply.)

Information Only		Second Reading	
Review/Discussion	X	Action	
First Reading	X	Consent Agenda Item	

3. ESTIMATED TIME REQUIRED FOR PRESENTATION/DISCUSSION: **30 minutes**

4. BRIEF NARRATIVE SUMMARY OF AGENDA ITEM:

The District does not currently have a Board policy governing the flying of commemorative flags. Recent events have demonstrated an interest on the part of campus communities in flying flags for certain observances.

An important point to establish in a flag policy is that the District's flagpoles are not public forums. In *Shurtleff v. City of Boston (2022)*, the U.S. Supreme Court ruled that, by allowing local groups to fly their chosen flags on a city flagpole, the City had made its flagpole a public forum, and having done so, city officials could not exclude flags representing viewpoints they didn't like. However, the Court added that if a city makes clear that it is speaking for itself in its choice of flags, it need not ensure that all viewpoints are represented. On that point, the Court cited with approval the flag policy of the City of San Jose which says that its "flagpoles are not intended to serve as a forum for free expression by the public" and lists approved flags that may be flown "as an expression of the City's official sentiments."

Proposed BP 3830—initiated by the Board of Trustees—takes the approach of the policy of the City of San Jose.

5. RECOMMENDATION:

**It is recommended that upon DCC review and discuss the proposed draft of BP 3830.**

6. OTHER PEOPLE CONSULTED, INFORMED OR ATTENDING MEETING ABOUT THIS ITEM:

**Board of Trustees**

*NOTE: Please forward this form by required dates with all backup material to the Chancellor's Office.*

North Orange County Community College District  
**BOARD POLICY**  
Chapter 3  
General Institution

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**BP 3830 Flying of National, State, and Commemorative Flags**

Reference:

**4 U.S.C. Sections 5 et seq.;**  
**Government Code Section 436**

- 1.0 Outdoor flags shall be flown at District campuses in the following order of precedence: 1. United States flag; 2. State of California flag; and 3. commemorative flags.
  - 1.1 The POW/MIA flag shall be flown on Memorial Day and Veterans Day directly below the United States flag.
- 2.0 The flags of the United States and the State of California shall be displayed in conformance with federal and state laws and policies.
- 3.0 Commemorative flags:
  - 3.1 The District's flagpoles do not serve as a forum for free expression by the public. Only those commemorative flags listed in this policy or otherwise approved by the Board of Trustees may be exhibited.
  - 3.2 Flags that commemorate Black History Month, Women's History Month, Asian/Pacific American Heritage Month, Pride Month, National Hispanic Heritage Month, and Native American Heritage Month may be flown on campus flagpoles during their designated month as expressions of the official sentiments of the District.
  - 3.3 The Chancellor may recommend for approval by the Board of Trustees other commemorative flags consistent with the mission and values of the District.
- 4.0 The Chancellor is responsible for the proper execution of this policy.

**Date of Adoption:** TBD