

WEST VALLEY-MISSION COMMUNITY COLLEGE DISTRICT
Administrative Procedures
Chapter 3– General Institution

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AP 3050 INSTITUTIONAL CODE OF ETHICS

Reference:

ACCJC Accreditation Standard III.A.13

Expectations for Ethical Behavior

Employees shall be committed to the principles of honesty and equity.

Employees shall exercise judgments that are dispassionate, fair, consistent, and equitable. They shall exhibit openness and reliability in what they say and do as educational leaders. They shall confront issues and people without prejudice. They shall do everything they can to demonstrate a commitment to excellence in education and without compromise to the principles of ethical behavior.

Similarly, students are expected to abide by ethical behavior and decision-making in their treatment of District employees, other students, and members of the public.

Employee Responsibilities

The following statements of responsibilities are intended as guidelines:

- To provide and protect student access to the educational resources of the District;
- To protect human dignity and individual freedom, and assure that students are respected as individuals, as learners, and as independent decision-makers;
- To protect students from disparagement, embarrassment, or capricious judgment;
- To keep foremost in mind at all times that the District exists to serve students on behalf of the public;
- To develop a climate of trust and mutual support;
- To foster openness by encouraging and maintaining two-way communication;
- To encourage, support, and abide by the written Board Policies and Administrative Procedures of the District and the laws and statutes of the State of California; and
- To challenge unethical behavior in a timely manner.

Violations of the Code of Ethics

The District will promptly address any violation by an employee of the Code of Ethics in the following manner:

- The Chancellor is authorized to consult with legal counsel when s/he becomes aware of or is informed about actual or perceived violations of pertinent laws and regulations, including but not limited to conflict of interest, open and public meetings, confidentiality, and use of public resources. Violations of law may be referred to the District Attorney or Attorney General as provided for in law.
- Violations of the Code of Ethics (Policy 3050) will be addressed by the Chancellor or designee, who will first discuss the violation with the employee to reach a resolution. If resolution is not achieved and further action is deemed necessary, the Chancellor or designee may consult with others and recommend further courses of action to the Board.

Date Approved: January 18, 2012

Date Revised: April 11, 2016

*(This is **new** procedural language
recommended by the Policy and Procedure
Service)*

General Institution

AP 3100 ORGANIZATIONAL STRUCTURE

References:

Education Code Section 72400;
Title 5 Section 53200

The District is a multi-college system of cooperating institutions. Coordination and support services are provided by Administrative Services located on both campuses and in the District Offices. Each institution is to be a comprehensive college endeavoring to fulfill the mission of the District. Unique occupational and economic development programs, as well as traditional academic programs, are assigned to the respective colleges, and duplication of existing programs is to be determined on a case-by-case basis following a careful assessment of needs in the District. Mutual support and respect should characterize the relationships between College and District offices and personnel.

The services provided by the District Offices include, but are not necessarily limited to, the following.

- Support for Board activities, including monthly meetings, Strategic Conversations, trustee orientation, and on-going board development.
- Support for college instructional and student development activities, including research, strategic planning, professional development, budgeting, and evaluation in cooperation with the College Presidents.
- Financial planning and accounting.
- Human Resources and coordination of equal employment opportunity/nondiscrimination employment activities.
- Facility planning, development, modification, and maintenance.
- Government/Legislative relationships.
- Information Services.
- Purchasing and material management.
- Maintenance of physical assets.

- Public Information.
- Foundation/Grants activities.
- Safety and security.

Current organizational charts that delineate lines of responsibility and authority within the District shall be maintained by the Chancellor.

The Associate Vice Chancellor of Human Resources will ensure the maintenance of an overall organizational chart of the West Valley – Mission Community College District.

The President of each College will ensure that the College's organizational chart is maintained and updated regularly, and will ensure that the Associate Vice Chancellor of Human Resources is periodically provided with the College's updated chart for inclusion in the overall District chart.

The Executive Assistant to the Vice Chancellor will ensure that the organizational chart of Administrative Services is maintained and updated regularly.

Date Approved: January 18, 2012
*(Replaces current WVMCCD Policies 1.4.10
and 2.1.5 and Procedure 2.1.5)*

AP 3200 ACCREDITATION**References:**

ACCJC Accreditation Eligibility Requirement 21 and ACCJC Accreditation Standards I.C.12 and 13
Title 5 Section 51016

In accordance with the standards of the Accrediting Commission for Community and Junior Colleges, the colleges shall conduct a comprehensive self-evaluation (study) every six years and host a visit by an accreditation team. Mandatory midterm reports are prepared and submitted to the Accrediting Commission in the third year of each six-year cycle.

Accreditation is an institutional responsibility and requires the full engagement of all constituencies. Active participation of faculty, classified staff, administrators, and students is necessary in the cyclical self-evaluation process to ensure a comprehensive and inclusive assessment process.

The process for producing the written document that is the comprehensive Self Evaluation of Educational Quality and Institutional Effectiveness Report must include:

- Accreditation Liaison Officer, appointed by the President;
- Active, campus-wide involvement of administrators, faculty, classified staff, and students;
- Participation by District representatives, especially through the District Joint Accreditation Steering Committee; and
- A college Steering Committee.

When the Self Evaluation is completed, it must be reviewed by the Board of Trustees prior to submission to the Accrediting Commission (which must be completed a minimum of 45 days prior to the team visit).

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AP 3250 INSTITUTIONAL PLANNING**References:**

ACCJC Accreditation Standards I.B.9, III.B.4, III.C.2, III.D.2, IV.B.3, and IV.D.5
Title 5 Sections 51008, 51010, 51027, 53003, 54220, 55080, 55190, 55510, and 56270
et seq.

Integrated Planning

Each College and the District shall have documented processes for developing, reviewing, updating and implementing plans as part of a broad-based, comprehensive, and integrated system of planning and institutional effectiveness evaluation. The system shall include all plans required by law as well as academic master plans, long range master plans for facilities, and shorter-term strategic planning. Each College and the District shall have a documented summary of how elements of the planning system are integrated.

These processes shall include identified committees charged with the responsibility of overseeing the development, implementation and assessment of plans within the planning system. These processes shall further identify the timeframe or cycle on which each of the plans within the system is developed, assessed, and revised.

All elements of the planning system shall be developed as part of a participatory decision-making process, including appropriate consultation with all proper constituent representatives. The Chancellor shall submit those plans for which Board approval is required by Title 5 to the Board. Further, any plan for which approval or submission to an outside entity is required, including, but not limited to, the State Chancellor's Office, will be submitted as required.

Assessment and Continuous Improvement Activities

Each College and the District shall conduct assessments of institutional effectiveness on a regular basis. These assessments shall be guided by the principles reflected in the District Mission Statement, Values Statements, and Vision Statement as well as expectations of accreditation established by WASC/ACCJC. Assessments of planning systems and progress toward goals shall be conducted as part of a documented cycle of assessment and improvement.

Further, student learning outcomes assessments, academic program reviews, and administrative/student service unit reviews shall be conducted and separate sets of documentation shall be maintained for each. The data and assessment gathered through these reviews shall provide evidence of institutional effectiveness relating to how well the Colleges and the District fulfill their respective missions, achieve their goals, and use the results to improve student learning, improve services and programs, and inform planning and resource

allocation processes. The results of such reports shall be shared broadly and used as a basis for improvement.

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*(This is **new** procedural language
recommended by the Policy and Procedure
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AP 3280 GRANTS

Reference:

Education Code Section 70902

Grant Applications

Applications shall be developed only for projects and programs which clearly are advantageous and appropriate in terms of:

- Consistency with District or College goals and objectives.
- Amount of reimbursement and value to students, in comparison with the degree of external control and the requirements of reports and supervision.

Application activity shall be coordinated by the Chancellor or his/her designee. Every effort shall be made to count already budgeted District funds as part of any matching contribution required.

External Funding

The Chancellor is authorized to approve transmittal of applications for external funds. The Chancellor is authorized to accept external funds that:

- Are renewals, or
- Support current programs and services within the District and require a District dollar match (not in kind) of \$50,000 or less, or
- Support student programs and services within the District and require an in-kind match only.

The Chancellor will inform the Board about all such external funds accepted. Except as noted above, the Board's approval of projects and programs shall be obtained prior to the Chancellor's acceptance of external funding.

Personnel

Any new faculty, classified staff, or manager to be employed in positions funded from external sources shall be advised that they are not guaranteed employment beyond the expiration date of the grant.

Review

All projects and programs which are externally funded in whole or in part and which are included in the Colleges' educational programs shall be subject to annual review.

Accountability

The Chancellor or designee shall be responsible for the development of procedures to ensure that all terms of externally funded grants, projects, and programs are satisfied.

Date Approved: January 18, 2012

(Replaces current WVMCCD Policy 4.7 and Procedure 4.7)

AP 3300 PUBLIC RECORDS**References:**

Education Code Section 76243;
Government Code Sections 6250 et seq.

Members of the public may request to inspect or copy public records. A request by a member of the public may be delivered by mail or in person to the Chancellor's Office. Any request shall identify with reasonable specificity the records that are sought. If additional information is needed, the Chancellor's Office may request it be provided in writing.

Any request to inspect records shall be made sufficiently in advance of the date of inspection to allow staff members' time to assemble the records and identify any records that may be exempt from disclosure. Records that are exempt from disclosure under the Public Records Act or any other provision of law may not be inspected or copied by members of the public. Social security numbers must be redacted from records before they are disclosed to the public.

Members of the public shall be assisted in identifying records or information that may respond to their request. Assistance that will be provided includes: the information technology and physical location in which the records exist; practical suggestions for overcoming denial of access to the records or information; and the estimated date and time when the records will be made available.

The most common records exemptions for community colleges include:

- Student records (Education Code Section 76243).
- Preliminary drafts, notes, or interagency or intra-agency memoranda that are not retained by the public agency in the ordinary course of business, provided that the public interest in withholding the records clearly outweighs the public interest in disclosure (Government Code Section 6254(a)).
- Records pertaining to pending litigation or to claims until the pending litigation or claim has been finally adjudicated or otherwise settled (Government Code Section 6254(b)).
- Personnel, medical, or similar files, the disclosure of which would constitute an unwarranted invasion of personal privacy (Government Code Section 6254(c)).
- Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment, or academic examination [except for standardized tests provided for by Education Code Sections 99150 et seq.] (Government Code Section 6254(g)).

- The contents of real estate appraisals or engineering or feasibility estimates and construction contracts, until all of the property has been acquired or all of the contract agreement obtained (Government Code Section 6254(h)).
- Internet posting of home address or telephone numbers of local elected officials (Government Code Section 6254.21).
- Home addresses and home telephone number of employees of a school district or county office of education (other than to an agent or family member of the employee, to an officer of another school district when necessary, to an employee organization, or to an agency or employee of a health benefit plan) (Government Code Section 6254.3).
- Records regarding alternative investments (i.e. an investment in a private equity fund, venture fund, hedge fund, or absolute return fund; limited partnership, limited liability company, or similar legal structure) involving public investment funds, unless already publicly released by the keeper of the information.
- Information security records, if disclosure of that record would reveal vulnerabilities to, or otherwise increase the potential for an attack on, the District's information technology system.

The District reserves the right to request a copying fee for each page of a public record requested by members of the public. Requests for copies of public records and payment of fees shall be directed to the Chancellor.

Date Approved: January 18, 2012
*(Replaces current WVMCCD Policies 2.5.2,
2.5.3, and 2.5.4 and Procedure 2.5)*

General Institution**AP 3310 RECORDS RETENTION AND DESTRUCTION****References:**

Title 5 Sections 59020 et seq.;

Federal Rules of Civil Procedure, Rules 16, 26, 33, 34, 37, and 45

“Records” means all records, maps, books, papers, data processing output, and documents of the District required by Title 5 to be retained, including but not limited to records created originally by computer and “Electronically Stored Information” (ESI), as that term is defined by the Federal Rules of Civil Procedure.

The Director of General Services shall supervise the classification and destruction of records and ESI. The District must preserve ESI and ESI that is relevant to actual or potential litigation pursuant to the Federal Rules of Civil Procedure. The District shall comply with the Federal Rules of Civil Procedure and produce relevant ESI in the form in which it is ordinarily maintained or readily usable. An annual report shall be made to the Board of Trustees regarding the classification and destruction of records and ESI.

Records shall be classified as required by Title 5 and other applicable statutes, federal and state regulations. Records shall annually be reviewed to determine whether they should be classified as Class 1 – Permanent, Class 2 – Optional, or Class 3 – Disposable (as defined in Title 5).

Class 3 – disposable records shall be maintained for the period required by applicable law or regulation, but in any event shall be retained for at least three college years after the year in which they were originally created.

Destruction is by any method that assures the record is permanently destroyed, e.g. shredding, burning, pulping.

Destruction of records shall require the approval of the Board, unless otherwise provided for or authorized by law. Annually, a report of obsolete records to be destroyed shall be presented to the Board for approval prior to destruction.

Microfilm or photographic copies of any records may be made and the original of any records so copied may be destroyed upon authorization of the Board.

Date Approved: January 18, 2012

*(Replaces current WVMCCD Policies 6.12.2
and 6.12.3 and Procedure 6.12)*

AP 3410 NONDISCRIMINATION

Nondiscrimination References for Education Programs:

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

Education Programs

The District shall provide access to its services, classes, and programs without regard to national origin, religion, age, gender, gender identity, gender expression, sex, race or ethnicity, color, medical condition, genetic information, ancestry, sexual orientation, marital status, physical or mental disability, pregnancy, or military and veteran status, or because he/she is perceived to have one or more of the foregoing characteristics, or based on association with a person or group with one or more of these actual or perceived characteristics.

All courses, including noncredit classes, shall be conducted without regard to the gender of the student enrolled in the classes. As defined in the Penal Code, “gender” means sex, and includes a person’s gender identity and gender expression. “Gender expression” means a person’s gender-related appearance and behavior whether or not stereotypically associated with the person’s assigned sex at birth.

The District shall not prohibit any student from enrolling in any class or course on the basis of gender.

Academic staff, including but not limited to counselors, instructors, and administrators shall not offer program guidance to students which differs on the basis of gender.

Insofar as practicable, the District shall offer opportunities for participation in athletics equally to male and female students.

Nondiscrimination References for Employment:

- Education Code Sections 87100 et seq.;
- Title 5 Sections 53000 et seq.;
- Government Code Sections 11135 et seq., and 12940 et seq.

Employment

The District shall provide equal employment opportunities to all applicants and employees regardless of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status.

All employment decisions, including but not limited to hiring, retention, assignment, transfer, evaluation, dismissal, compensation, and advancement for all position classifications shall be based on job-related criteria as well as be responsive to the District's needs.

The District shall from time to time as necessary provide professional and staff development activities and training to promote understanding of diversity.

The Chancellor is charged with the responsibility of implementing this general policy statement through the development and administration of specific component plans including, but not limited to, administrative regulations, data collection methods, analysis, reporting procedures, compliance procedures, grievance mechanisms, and delegation of responsibilities. Further, that there shall be one such component plan for each of the following areas: employment, curriculum, student enrollment, District resources, facilities, and services.

A copy of the policy on non-discrimination and unlawful discrimination will be displayed in a prominent location in the main administrative building or other area where notices regarding the District's rules, regulations, procedures, and standards of conduct are posted.

Also see AP 3435 titled Discrimination and Harassment Investigations

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Date Revised: April 11, 2016

*(Replaces current WVMCCD Policies 2.6.4
and 2.6.5)*

AP 3420 EQUAL EMPLOYMENT OPPORTUNITY**References:**

Education Code Sections 87100 et seq.;
Title 5 Sections 53000 et seq. and Sections 59300 et seq.

The EEO Plan should be a District-wide, written plan that implements the District's EEO Program, includes the definitions contained in Title 5 Section 53001 and addresses the following:

- Submission of plans and revisions to the State Chancellor's Office for review as required;
- The designation of the District employee or employees who have been delegated responsibility and authority for implementing the plan and assuring compliance with the requirements of this Procedure;
- The procedure for filing complaints and the person with whom such complaints are to be filed;
- A process for notifying all District employees of the provisions of the plan and the policy statement required;
- A process for ensuring that District employees who participate on screening or selection committees receive, prior to their participation, training on the requirements of the applicable Title 5 regulations and of state and federal nondiscrimination laws, the educational benefits of workforce diversity, the elimination of bias in hiring decisions, and best practices in serving on a screening or selection committee;
- A process for providing annual written notice to appropriate community-based and professional organizations concerning the District's plan and the need for assistance from such organizations in identifying qualified applicants for openings within the District;
- A process for gathering information and periodic, longitudinal analysis of the District's employees and applicants, broken down by number of persons from "monitored groups," as defined by Title 5 Section 53001(i), who are employed in the District's work force and those who have applied for employment in each of the job categories listed below;
- To the extent data regarding potential job applicants is provided by the State Chancellor, an analysis of the degree to which monitored groups are underrepresented in comparison to their representation in the field or job category in numbers of persons from such groups whom the California Community Colleges Chancellor's Office determines to be available and qualified to perform the work required for each such job category and whether or not the underrepresentation is significant;

- The steps the District will take to promote diversity in its work force;
- Methods for addressing any discrimination that is detected in the District's hiring practices, and;

The Plan shall be a public record.

The District shall make a continuous good faith effort to comply with the requirements of the Plan.

Annual Evaluation

The District shall annually collect the demographic data of its employees and applicants for employment in order to evaluate progress in implementing the EEO Plan and to provide data needed for required analyses.

An annual report of this demographic data will be provided to the State Chancellor's Office of the California Community Colleges. The report shall identify each employee as belonging to one of the following seven job categories:

- executive/administrative/managerial
- faculty and other instructional staff
- professional non-faculty
- secretarial/clerical
- technical and paraprofessional
- skilled crafts; and
- service and maintenance.

The opportunity for each employee to identify his/her gender, ethnicity and, if applicable, disability. This opportunity allows for a person to designate multiple ethnic groups with which he/she identifies. However, the person may only be counted in one group for reporting purposes.

Districts shall review the annually collected demographic data to determine if significant underrepresentation of a monitored group may be the result of non-job-related factors in the employment process. For the purposes of this subdivision, the phases of the employment process include but are not limited to recruitment, hiring, retention and promotion. The information to be reviewed shall include, but need not be limited to:

- longitudinal analysis of data regarding job applicants to identify whether over multiple job searches, a monitored group is disproportionately failing to move from the initial applicant pool, to the qualified applicant pool; and
- analysis of data regarding potential job applicants, to the extent provided by the State Chancellor, which may indicate significant underrepresentation of a monitored group.

EEO Advisory Committee

The District shall establish an EEO Advisory Committee and the advisory committee shall include a diverse membership whenever possible. The advisory committee shall receive training in all of the following:

- applicable Title 5 regulations and of state and federal nondiscrimination laws;
- the educational benefits of workforce diversity, the identification and elimination of bias in hiring decisions; and,
- the role of the advisory committee in carrying out of the District's EEO Plan.

The responsibilities of the Committee shall include but not be limited to the following:

- review and advise on recruitment efforts; job announcements, interview protocols, retention efforts and other aspects of the hiring, retention, and promotion processes that impact the District's ability to attract and retain a diverse faculty and staff;
- advise on implementing the District's obligation to hire faculty and administrators with a demonstrated sensitivity to, and understanding of, the diverse academic, socioeconomic, cultural, disability and ethnic backgrounds of community college students;
- promote communication with community groups and organizations for people with disabilities;
- promote hiring of faculty who have, themselves, graduated from a community college;
- develop communications among departments to foster understandings of the Plan;
- to advise the Chancellor regarding special training or staff development needs;
- review the Plan and monitor its progress; and
- recommend changes needed in the Plan, and review and approve the annual written report to the Chancellor, the Board of Trustees, and the California Community Colleges Chancellor's Office.

Employment Procedures

Job Analysis and Validation: The Associate Vice Chancellor for Human Resources shall assure that a proper job analysis is performed for every job filled by the District to determine and validate the constitution of the "qualified applicant pool," the knowledge, skills, abilities and characteristics an employee must possess to perform the job satisfactorily.

A statement of bona fide essential functions and minimum qualifications shall be developed for all positions.

Job Description: Every job description shall provide a general statement of job duties and responsibilities.

Job specifications shall include functions and tasks; knowledge; skills; ability; and job related personal characteristics, including but not limited to sensitivity to and understanding of the diverse academic, socioeconomic, cultural, linguistic, disability, and ethnic backgrounds of community college students.

Recruitment: Recruitment must be conducted actively within and outside of the District work force.

Open recruitment is mandated for all new full-time and part-time positions, except under limited circumstances.

Recruitment must utilize outreach strategies designed to ensure that all qualified individuals, from all monitored groups, are provided the opportunity to seek employment with the District.

Recruitment for administrative and faculty positions (full and part-time) may include advertisement in appropriate professional journals, job registries and newspapers of general circulation; distribution of job announcements to the EEO Registry, K-12 districts, two and four year colleges, and graduate schools where appropriate candidates might be enrolled; recruitment at conferences, fairs, and professional meetings; notices to institutions and professional organizations that primarily serve members of monitored groups that are underrepresented in the District.

Recruitment for classified positions shall include notice to all District personnel; notice to Employment Development Department; and advertising in other area venues as appropriate.

Applicant Pools: The application for employment shall afford each applicant an opportunity to identify himself/herself voluntarily as to gender, ethnicity and, if applicable, his/her disability. This information shall be maintained in confidence and shall be used only for research, validation, monitoring, evaluation of the effectiveness of the Plan, or as authorized by law.

After the application deadline has passed, the initial applicant pool shall be recorded and reviewed by the Associate Vice Chancellor of Human Resources or designee. All initial applications shall be screened to determine which candidates satisfy job specifications set forth in the job announcement. The group of candidates who meet the job specifications shall constitute the "qualified applicant pool."

Once the qualified applicant pool is formed, the pool must again be analyzed. If the Associate Vice Chancellor of Human Resources or designee finds that the composition of the qualified applicant pool may have been influenced by factors which are not job related, the District may immediately, and before the selection process continues, consult with legal counsel to determine what, if any, corrective action is required by law.

Screening and Selection: Screening, selecting and interviewing candidates for all positions shall include thorough and fair procedures that are sensitive to issues of diversity. Procedures to be used must address or include that:

- Hiring procedures will be provided to the California Community Colleges Chancellor's Office on request.
- All tests conform to generally applicable legal standards for uniformity.
- A reasonable number of candidates are identified for interview.

- Screening and selection committees are developed that are representative of the District community and campus; include administrators, faculty, and classified staff members; include a diverse membership when possible; do not include applicants or persons who have written letters of recommendation.
- Every screening and selection committee includes an individual trained to monitor conformance with EEO requirements. The Associate Vice Chancellor for Human Resources assures that the screening and selection process conforms to accepted principles and practices, including preparation of job related questions in advance; maintains records of screening checklists and rating scales, which shall be signed and kept on file; maintains notes for all interviews and record relevant factual reasons stating why a candidate was not hired or was not invited to interview; and monitors the hiring process for adverse impact.
- Selection shall be based solely on the stated job criteria.
- For faculty and administrative positions, candidates shall be required to demonstrate sensitivity to diversity in ways relevant to the specific position.

If the District determines that a particular monitored group is significantly underrepresented with respect to one or more job categories, the District shall take the following additional steps:

- review its recruitment procedures;
- consult with counsel to determine whether there are other, additional measures that may be undertaken that are required and/or permitted by law;
- consider various other means of reducing the underrepresentation which do not involve taking monitored group status into account and implement any such techniques that are feasible.

If significant underrepresentation persists, the District shall:

- review each locally-established job qualification to determine if it is job related and consistent with business necessity;
- discontinue the use of any non job related local qualification;
- continue using job-related local qualifications only if no alternative standard is reasonably available; and
- consider the implementation of additional measures designed to promote diversity.

Delegation of Authority

The Associate Vice Chancellor of Human Resources shall act as the District “EEO Officer” charged with overseeing the day-to-day implementation of the EEO Plan and programs. If the EEO Officer is named in a complaint or implicated by the allegations in a complaint, appropriate

responsibilities may be assigned to other staff or to outside persons or organizations under contract with the District.

Complaint Procedure

The District must identify to the public and to the California Community Colleges Chancellor's Office an individual described in Title 5 as the "responsible District officer," responsible for receiving complaints. Informal charges of unlawful discrimination should be brought to the attention of the responsible District officer. The responsible District officer shall oversee the informal resolution process. The actual investigation of complaints may be assigned by the Associate Vice Chancellor of Human Resources to other staff or to outside persons or organizations under contract. This shall occur whenever the Associate Vice Chancellor of Human Resources is named in the complaint or implicated by the allegations in the complaint.

When a person brings charges of unlawful discrimination the officer must:

- Undertake efforts to resolve the charge informally;
- Advise the complainant that he/she need not participate in an informal resolution of the complaint;
- Notify the complainant of the procedures for filing a formal complaint;
- Notify the complainant that he/she may file a complaint with the Office of Civil Rights of the U.S. Department of Education;
- If the complainant, a student or an employee, files a formal complaint, the responsible District officer must also forward a copy of the complaint to the California Community Colleges Chancellor's Office.

A formal complaint not involving employment, must be processed if it is filed within one year of the date of the alleged unlawful discrimination or within one year of the date on which the complainant knew or should have known of the facts underlying the allegation.

A formal complaint alleging discrimination in employment must be filed within 180 days of the date of the alleged unlawful discrimination, unless the complainant first obtained knowledge of the facts of the alleged violation after the expiration of the initial 180 days.

The complaint must be filed by someone who alleges that he/she has personally suffered unlawful discrimination, or by someone who has learned about unlawful discrimination in his/her official capacity.

When a proper complaint is received, the District will begin an impartial fact-finding investigation, and notify the complainant and the California Community Colleges Chancellor's Office that it is doing so.

When the investigation is done, the results must be set forth in a written report. The written report must include a description of the circumstances giving rise to the complaint, a summary of the testimony of each witness, an analysis of any relevant data or other evidence collected during

the investigation, a specific finding as to whether discrimination did or did not occur with respect to each allegation in the complaint, and any other appropriate information.

In any case that does not involve employment discrimination, the District must provide the California Community Colleges Chancellor's Office with a copy of the investigative report within ninety days from the date the District received the complaint. The District must also provide the complainant with a copy or summary of the investigative report within ninety days from the date the District received the complaint. The California Community Colleges Chancellor's Office and the complainant must also be provided with a written notice setting forth the determination of the Associate Vice Chancellor of Human Resources as to whether discrimination did or did not occur with respect to each allegation in the complaint; a description of action taken, if any, to prevent similar problems from occurring in the future; the proposed resolution of the complaint; and notice of the complainant's right to appeal to the District's Governing Board and the California Community Colleges Chancellor's Office.

In any case that involves employment discrimination, the District must provide the complainant with a copy or summary of the report, and with written notice setting forth the determination of the Associate Vice Chancellor of Human Resources as to whether discrimination did or did not occur with respect to each allegation in the complaint; a description of action taken, if any, to prevent similar problems from occurring in the future; the proposed resolution of the complaint; and the complainant's right to appeal to the District's Board of Trustees and to file a complaint with the Department of Fair Employment and Housing.

If the complainant is not satisfied with the results of the administrative determination, the complainant must be given the opportunity to submit a written appeal to the governing board within fifteen days from the date of the notice of the administrative determination. The Board of Trustees must review the original complaint, the investigative report, the administrative determination, and the appeal and must issue a final District decision within forty-five days of receiving the appeal.

In any case not involving employment discrimination, a copy of the final District decision must be promptly forwarded to the complainant and the California Community Colleges Chancellor's Office. The complainant must be notified of his/her right to appeal. In any case involving employment discrimination, a copy of the final District decision must be promptly forwarded to the complainant. The complainant must be notified of his/her right to file a complaint with the Department of Fair Employment and Housing.

Where the Board of Trustees does not act within forty-five days the administrative determination must be deemed approved and must become the final District decision. The District shall promptly notify the complainant and in cases not involving employment discrimination, the California Community Colleges Chancellor's Office, that the Board of Trustees took no action and the administrative determination becomes the final District decision. In cases not involving employment discrimination, the complainant must be informed of his/her right to appeal the District's decision to the California Community Colleges Chancellor's Office. In cases involving employment discrimination, the complainant shall be notified of his/her right to file a complaint with the Department of Fair Employment and Housing.

In cases not involving employment discrimination, the complainant must be given the right to file a written appeal with the California Community Colleges Chancellor's Office within 30 days after the Board issues the final District decision, permits the administrative decision to become final or from the date that notice of the District's final decision was provided to the complainant pursuant to Section 59338(b) or (d), whichever is later.

The District should retain and make available the original complaint, and copies of the final decision or a statement indicating the date on which the administrative determination became final, the notice given to complainant, the complainant's appeal of the District's administrative determination, the investigative report and any other information the California Community Colleges Chancellor's Office may require.

Job Announcements

All job announcements shall contain a statement in substantially the following form: The District is an equal opportunity employer. The policy of the District is to encourage applications from ethnic and racial minorities, women, persons with disabilities, and Vietnam-era veterans. No person shall be denied employment because of national origin, religion, age, gender, gender identity, gender expression, sex, race or ethnicity, color, medical condition, genetic information, ancestry, sexual orientation, marital status, physical or mental disability, pregnancy, or military and veteran status, or political or organizational affiliation, or because he/she is perceived to have one or more of the foregoing characteristics, or based on association with a person or group with one or more of these actual or perceived characteristics.

Dissemination and Revision of the Plan

All managers and supervisors shall be given copies of the plan as revised from time to time and any guidelines for implementing the plan. Copies of the plan shall be provided to the Academic Senate and the exclusive representatives of any units of employees.

Statements of nondiscrimination shall be posted at locations where applications for employment are distributed.

Such plans shall be reviewed at least every three years and, if necessary, revised and submitted to the California Community Colleges Chancellor's Office within 90 days of the effective date of the revision or amendment(s). If the California Community Colleges Chancellor's Office determines that the District's policies are not in compliance with Title 5 Sections 59300 et seq., the California Community Colleges Chancellor's Office may require the District to modify its policies.

Accountability and Corrective Action

The District shall certify annually to the California Community Colleges Chancellor's Office that they have timely:

- Recorded, reviewed and reported the data required regarding qualified applicant pools;
- Reviewed and updated, as needed, the Strategies Component of the District's EEO Plan; and
- Investigated and appropriately responded to formal harassment or discrimination complaints filed pursuant to subchapter 5 (commencing with section 59300) of chapter 10 of this division.

Accommodation Procedures for Job Applicants:

1. A job applicant who is an individual with a disability may request a reasonable accommodation in order to participate in the application and selection process for available District positions.
2. The applicant requesting accommodation must first put the request in writing by completing the District's form entitled, "Request for Reasonable Accommodation — Job Applicant." These forms are available from the District Human Resources Department. The form must be returned to the Human Resources Department.
3. An applicant requesting reasonable accommodation must submit with his/her request the District's "Disability Certification Form" which has been completed by an appropriate licensed medical professional. The District reserves the right to require that the applicant's need for accommodation in the application process be verified by a District-approved physician at the District's expense.
4. Upon receiving the required paperwork from the applicant, the Associate Vice Chancellor of Human Resources will make a determination as to whether the applicant is entitled to reasonable accommodation. If the applicant qualifies for reasonable accommodation, the Associate Vice Chancellor of Human Resources, in consultation with other appropriate management personnel, shall consider the applicant's request in the following manner:
 - a. Analyze the application and selection process;
 - b. Consider the accommodation requested by applicant and assess its cost and effectiveness; and
 - c. Identify potential alternate accommodations and assess the cost-effectiveness of each.
5. The Associate Vice Chancellor of Human Resources will consult with the applicant and may consult with state and local rehabilitation agencies, and disability constituent organizations in order to make a determination regarding a reasonable accommodation.
6. The applicant will be notified in writing by the Associate Vice Chancellor of Human Resources, or designee, of the District's final decision regarding his/ or her request for reasonable accommodation in the application or selection process.

Accommodation Procedures for Employees:

1. An employee who is a qualified individual with a disability may request a reasonable accommodation in order to perform the essential job duties of his/ or her position or in order to enjoy the benefits of employment equivalent to those available to nondisabled employees.

2. The employee must first put the request in writing by completing the District form entitled, "Request for Reasonable Accommodation — Employee." These forms are available from the District Human Resources Department. The form must be returned to the Human Resources Department.
3. An employee requesting reasonable accommodation must submit with his/ or her request, the District's "Disability Certification Form" which has been completed by an appropriate licensed medical professional. The District reserves the right to require that the employee's need for accommodation be verified by a District-approved occupational physician at the District's expense.
4. Upon receiving the required paperwork from the employee, the Associate Vice Chancellor of Human Resources will make a determination as to whether the employee is entitled to reasonable accommodation. If the employee qualifies for reasonable accommodation, the Associate Vice Chancellor of Human Resources in consultation with other appropriate management personnel, shall consider the employee's request in the following manner: Analyze the particular job involved and determine its essential functions and/or analyze the benefits of employment allegedly made unavailable because of employee's disability;
 - a. Arrange a meeting between the employee and the Associate Vice Chancellor of Human Resources to discuss the employee's functional limitations and how those limitations may be overcome with a reasonable accommodation;
 - b. Consider the employee's requested accommodation and identify other potential accommodations, assessing their cost and effectiveness. Rehabilitation agencies, disability constituent organizations and employee representatives may be consulted for assistance in this process;
 - c. Arrange a meeting between the employee and appropriate management personnel in an effort to reach consensus on an acceptable accommodation;
 - d. If consensus is reached, the accommodation will be memorialized in writing and sent to the employee and appropriate management personnel. A copy of the agreed-upon accommodation will be placed with the employee's medical records in a separate envelope within the employee's personnel file;
 - e. If consensus is not reached, the Associate Vice Chancellor of Human Resources will notify the employee in writing of the District's final decision regarding his/her request for reasonable accommodation.
5. Failure of the employee to cooperate with the reasonable accommodation process shall suspend the District's efforts to process the employee's Request for Accommodation.

6. An employee who is dissatisfied with the District's decision may file a Complaint of Unlawful Discrimination with the Associate Vice Chancellor of Human Resources.

Also see BP/AP 3410 titled Nondiscrimination and BP/AP 7120 titled Recruitment and Hiring

Date Approved: January 18, 2012
Date Revised: April 11, 2016
(Replaces current WVMCCD Procedure 3.13)

AP 3430 PROHIBITION OF HARASSMENT**References:**

Education Code Sections 212.5; 44100; 66281.5;
Title IX, Education Amendments of 1972; Title 5 Sections 59320 et seq.;
Title VII of the Civil Rights Act of 1964, 42 U.S. Code Annotated
Section 2000e

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

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

Definitions

General Harassment – Harassment based on race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, or sexual orientation of any person, or military and veteran status, or the perception that a person has one or more of these characteristics is illegal and violates District policy.

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

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

Verbal – Inappropriate or offensive remarks, slurs, jokes, or innuendoes based on a person's race gender, sexual orientation, or other protected status. This may include, but is not limited to, inappropriate comments regarding an individual's body, physical

appearance, attire, sexual prowess, marital status, or sexual orientation; unwelcome flirting or propositions; demands for sexual favors; verbal abuse, threats, or intimidation; or sexist, patronizing, or ridiculing statements that convey derogatory attitudes based on gender, race, nationality, sexual orientation, or other protected status.

Physical – Inappropriate or offensive touching, assault, or physical interference with free movement. This may include, but is not limited to, kissing, patting, lingering or intimate touches, grabbing, pinching, leering, staring, unnecessarily brushing against or blocking another person, whistling, or sexual gestures. It also includes any physical assault or intimidation directed at an individual due to that person's gender, race, national origin, sexual orientation, or other protected status. Physical sexual harassment includes acts of sexual violence, such as rape, sexual assault, sexual battery, and sexual coercion. Sexual violence refers to physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol. An individual also may be unable to give consent due to an intellectual or other disability.

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

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

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

- submission to the conduct is explicitly or implicitly made a term or condition of an individual's employment, academic status, or progress;
- submission to, or rejection of, the conduct by the individual is used as a basis of employment or academic decisions affecting the individual;
- the conduct has the purpose or effect of having a negative impact upon the individual's

work or academic performance, or of creating an intimidating, hostile or offensive work or educational environment (as more fully described below); or

- submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the community college.

This definition encompasses two kinds of sexual harassment:

"Quid pro quo" sexual harassment occurs when a person in a position of authority makes educational or employment benefits conditional upon an individual's willingness to engage in or tolerate unwanted sexual conduct.

"Hostile environment" sexual harassment occurs when unwelcome conduct based on a person's gender is sufficiently severe or pervasive so as to alter the conditions of an individual's learning or work environment, unreasonably interfere with an individual's academic or work performance, or create an intimidating, hostile, or abusive learning or work environment. The victim must subjectively perceive the environment as hostile, and the harassment must be such that a reasonable person of the same gender would perceive the environment as hostile. A single or isolated incident of sexual harassment may be sufficient to create a hostile environment if it is severe, i.e., a sexual assault.

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

Consensual Relationships

Romantic or sexual relationships between supervisors and employees, or between administrators, faculty or staff members and students are discouraged. There is an inherent imbalance of power and potential for exploitation in such relationships. A conflict of interest may arise if the administrator, faculty or staff member must evaluate the student's or employee's work or make decisions affecting the employee or student. The relationship may create an appearance of impropriety and lead to charges of favoritism by other students or employees. A consensual sexual relationship may change, with the result that sexual conduct that was once welcome becomes unwelcome and harassing. In the event that such relationships do occur, the District has the authority to transfer any involved employee to eliminate or attenuate the supervisory authority of one over the other, or of a teacher over a student. Such action by the District is a proactive and preventive measure to avoid possible charges of harassment and does not constitute discipline against any affected employee.

Academic Freedom

No provision of this Administrative Procedure shall be interpreted to prohibit conduct that is legitimately related to the course content, teaching methods, scholarship, or public commentary of an individual faculty member or the educational, political, artistic, or literary expression of students in classrooms and public forums. Freedom of speech and academic freedom are,

however, not limitless and this procedure will not protect speech or expressive conduct that violates federal or California anti-discrimination laws.

Date Approved: January 18, 2012

Date Revised: April 11, 2016

*(This is **new** procedural language
recommended by the Policy and Procedure
Service)*

General Institution

AP 3435 DISCRIMINATION AND HARASSMENT INVESTIGATIONS

References:

- Education Code Section 66281.5;
- Government Code Section 12950.1;
- Title 5 Sections 59320, 59324, 59326, 59328, and 59300 et seq.;
- 34 Code of Federal Regulations Section 106.8(b)

Filing a Timely Complaint: Since failure to report harassment and discrimination impedes the District’s ability to stop the behavior, the District strongly encourages anyone who believes they are being harassed or discriminated against, to file a complaint. The District also strongly encourages the filing of such complaints within 30 days of the alleged incident. While all complaints are taken seriously and will be investigated promptly, delay in filing impedes the District’s ability to investigate and remediate.

All supervisors and managers have a mandatory duty to report incidents of harassment and discrimination; the existence of a hostile, offensive, or intimidating work environment, and acts of retaliation.

The District will investigate complaints involving acts that occur off campus if they are related to an academic or work activity.

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

Oversight of Complaint Procedure: The Associate Vice Chancellor of Human Resources is the "responsible District officer" charged with receiving complaints of discrimination or harassment, and coordinating their investigation.

The actual investigation of complaints may be assigned by the Associate Vice Chancellor of Human Resources to other staff or to outside persons or organizations under contract with the District. This shall occur whenever the Associate Vice Chancellor of Human Resources is named in the complaint or implicated by the allegations in the complaint.

Who May File a Complaint: Any student, employee, or third party who believes he/she has been discriminated against or harassed by a student, employee or third party in violation of these policies and procedures.

Where to File a Complaint: A student, employee, or third party who believes he/she has been discriminated against or harassed in violation of these policy and procedures may make a complaint orally or in writing, within one year of the date of the alleged harassment or the date on which the complainant knew or should have known of the facts underlying the complaint.

If a complainant decides to file a formal written unlawful discrimination or harassment complaint against the District, he/she must file the complaint on a form prescribed by the State Chancellor's Office. These approved forms are available from the Associate Vice Chancellor of Human Resources and at the State Chancellor's Office website.

The completed form must be filed with any of the following:

- The Associate Vice Chancellor of Human Resources
- Vice President of Student Services, Chancellor, and/or
- The State Chancellor's Office.

Employee complainants shall be notified that they may file employment discrimination complaints with the U.S. Equal Employment Opportunity Commission (EEOC) or the Department of Fair Employment and Housing (DFEH).

Complaints filed with the EEOC and/or the DFEH should be forwarded to the State Chancellor's Office.

Any District employee who receives a harassment or discrimination complaint shall notify the Associate Vice Chancellor of Human Resources immediately.

When investigating unlawful discrimination complaints containing issues of academic freedom, the District will consult with a faculty member appointed by the Academic Senate with respect to contemporary practices and standards for course content and delivery.

Intake and Processing of the Complaint: Upon receiving notification of a harassment or discrimination complaint, the Associate Vice Chancellor of Human Resources shall:

- Undertake efforts to informally resolve the charges, including but not limited to mediation, rearrangement of work/academic schedules; obtaining apologies; providing informal counseling and/or training, etc.
- Advise the complainant that he/she need not participate in an informal resolution of the complaint, as described above, and has the right to end the informal resolution process at any time. Mediation is not appropriate for resolving incidents involving sexual violence.
- Advise complainant that he/she may file a complaint with the Office of Civil Rights of the U.S. Department of Education and employee complainants may file a complaint with the Department of Fair Employment and Housing. All complainants should be advised that they have a right to file a complaint with local law enforcement. The District must investigate even if the complainant files a complaint with local law enforcement. In addition, the District should ensure that complainants are aware of any available

resources, such as counseling, health, and mental health services. The Associate Vice Chancellor of Human Resources shall also notify the State Chancellor's Office of the complaint.

- The Associate Vice Chancellor of Human Resources should notify the complainant of his/her options to avoid contact with the accused individual and allow students to change academic situations as appropriate. For instance, the District may prohibit the accused individual from having any contact with the complainant pending the results of the investigation. When taking steps to separate the complainant and accused individual, the District shall minimize the burden on the complainant. For example, it is not appropriate to remove complainants from classes or housing while allowing accused individuals to remain.
- Authorize the investigation of the complaint, and supervise and/or conduct a thorough, prompt and impartial investigation of the complaint, as set forth below. Where complainants opt for informal resolution, the designated officer will determine whether further investigation is necessary to ensure resolution of the matter and utilize the investigation process outlined below as appropriate. In the case of a formal complaint, the investigation will include interviews with the complainant, the accused, and any other persons who may have relevant knowledge concerning the complaint. This may include victims of similar conduct.
- Review the factual information gathered through the investigation to determine whether the alleged conduct constitutes harassment, or other unlawful discriminatory conduct, giving consideration to all factual information and the totality of the circumstances, including the nature of the verbal, physical, visual or sexual conduct, and the context in which the alleged incidents occurred.
- Set forth the results of the investigation in a written report. The written report shall include a description of the circumstances giving rise to the complaint, a summary of the testimony of each witness, an analysis of any relevant data or other evidence collected during the investigation, a specific finding as to whether there is probable cause to believe that discrimination did or did not occur with respect to each allegation in the complaint, a description of actions the District will take to prevent similar conduct, the proposed resolution of the complaint, the complainant's right to appeal to the District's governing board, and if the complaint involves employment discrimination, the report shall include the right to file an administrative complaint with the Department of Fair Employment and Housing. The report may contain any other appropriate information.
- Provide the complainant and accused with a copy or summary of the investigative report within ninety days from the date the District received the complaint. The complainant and accused shall also be provided with a written notice setting forth the determination of the Chancellor as to whether harassment or other discriminatory conduct did or did not occur with respect to each allegation in the complaint; a description of action taken, if any, to prevent similar problems from occurring in the future; the proposed resolution of the complaint; and notice of the parties' rights to appeal to the District's Board of Trustees and the State Chancellor's Office. If the complaint involves allegations of employment discrimination, the complainant will be notified of his/her right to file a complaint with the

California Department of Fair Employment and Housing, or the U.S. Equal Employment Opportunity Commission. The results of the investigation and the determination as to whether harassment or other discriminatory conduct occurred shall also be reported to the accused, and the appropriate academic or administrative official(s). Reports to the complainant shall be prepared so as not to violate any applicable privacy rights of the accused.

Employees designated to serve as investigators under this policy shall have adequate training on what constitutes sexual harassment, including sexual violence, and that they understand how the District's grievance procedures operate.

The investigator shall disclose any real or perceived conflicts of interest and may be required to delegate the responsibility to investigate to an impartial investigator.

Investigation of the Complaint: The District shall promptly investigate every complaint of harassment or discrimination. No claim of workplace or academic harassment or discrimination shall remain unexamined. This includes complaints involving activities that occur off campus and in connection with all the academic, educational, extracurricular, athletic, and other programs of the District, whether those programs take place in the District's facilities, on a District bus, or at a class or training program sponsored by the District at another location.

As set forth above, where the complainant opts for an informal resolution, the Associate Vice Chancellor for Human Resources may limit the scope of the investigation, as appropriate. The District will keep the investigation confidential to the extent possible, but cannot guarantee absolute confidentiality because release of some information on a "need-to-know-basis" is essential to a thorough investigation. When determining whether to maintain confidentiality, the District may weigh the request for confidentiality against the following factors: the seriousness of the alleged harassment, the complainant's age; whether there have been other harassment complaints about the same individual; and the accused individual's rights to receive information about the allegations if the information is maintained by the District as an "education record" under the Family Educational Rights and Privacy Act (FERPA), 20 U.S. Code Section 1232g; 34 Code of Federal Regulations Part 99.15. The District will inform the complainant if it cannot maintain confidentiality.

Investigation Steps: The District will fairly and objectively investigate harassment and discrimination complaints. Investigators will use the following steps: interviewing the complainant(s); interviewing the accused individual(s); identifying and interviewing witnesses, and evidence identified by each party; identifying and interviewing any other witnesses, if needed; reminding all individuals interviewed of the District's no-retaliation policy; considering whether any involved person should be removed from the campus pending completion of the investigation; reviewing personnel/academic files of all involved parties; reach a conclusion as to the allegations and any appropriate disciplinary and remedial action; and see that all recommended action is carried out in a timely fashion. When the District evaluates the complaint, it shall do so using a preponderance of the evidence standard. Thus, after considering all the evidence it has gathered, the District will decide whether it is more likely than not that discrimination or harassment has occurred.

Timeline for Completion: The District will undertake its investigation promptly and swiftly as possible. To that end, the investigator shall complete the above steps, and prepare a written

report within ninety (90) days of the District receiving the complaint.

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

Discipline and Corrective Action

If harassment, discrimination and/or retaliation occurred in violation of the policy or procedure, the District shall take disciplinary action against the accused and any other remedial action it determines to be appropriate. The action will be prompt, effective, and commensurate with the severity of the offense. If discipline is imposed, the nature of the discipline will not be communicated to the complainant. However, the District may disclose information about the sanction imposed on an individual who was found to have engaged in harassment when the sanction directly relates to the complainant; for example, the District may inform the complainant that the harasser must stay away from the complainant.

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

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

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

The District shall also take reasonable steps to protect the complainant from further harassment, and/or discrimination, and to protect the complainant and witnesses from retaliation as a result of communicating the complaint and/or assisting in the investigation. The District will ensure that complainants and witnesses know how to report any subsequent problems, and should follow-up with complainants to determine whether any retaliation or new incidents of harassment have occurred. The District shall take reasonable steps to ensure the

confidentiality of the investigation and to protect the privacy of all parties to the extent possible without impeding the District's ability to investigate and respond effectively to the complaint.

If the District cannot take disciplinary action against the accused individual because the complainant refuses to participate in the investigation, it should pursue other steps to limit the effects of the alleged harassment and prevent its recurrence.

Appeals

If the District imposes discipline against a student or employee as a result of the findings in its investigation, the student or employee may appeal the decision using the procedure for appealing a disciplinary decision.

If the complainant is not satisfied with the results of the administrative determination, he/she may, within fifteen days, submit a written appeal to the Board of Trustees. The Board shall review the original complaint, the investigative report, the administrative decision, and the appeal. The Board shall issue a final District decision in the matter within 45 days after receiving the appeal. A copy of the decision rendered by the Board shall be forwarded to the complainant and to the State Chancellor's Office. The complainant shall also be notified of his/her right to appeal this decision.

If the Board does not act within forty-five (45) days the administrative determination shall be deemed approved and shall become the final decision of the District in the matter.

The complainant shall have the right to file a written appeal with the State Chancellor's Office within thirty days after the Board issued the final District decision or permitted the administrative decision to become final. Such appeals shall be processed pursuant to the provision of Title 5 Section 59350.

In any case involving employment discrimination, including workplace harassment, the complainant may, at any time before or after the issuance of the final decision of the District, file a complaint with the Department of Fair Employment and Housing. In such cases, the complainant may also file a petition for review with the State Chancellor's Office within thirty days after the Board issues the final decision or permits the administrative decision to become final.

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

Dissemination of Policy and Procedures

District Policy and Procedures related to harassment will include information that specifically addresses sexual violence. District policy and procedures will be provided to all students, faculty members, members of the administrative staff, and members of the support staff, and will be posted on campus and on the District's website.

When hired, employees are required to sign that they have received the policy and procedures, and the signed acknowledgment of receipt is placed in each employee's personnel file. In addition, these policies and procedures are incorporated into the District's course catalogs and orientation materials for new students.

Training

The District shall provide sexual harassment training and education to each supervisory employee once every two years.

The training and education required by this procedure shall include information and practical guidance regarding the federal and state statutory provisions concerning the prohibition against and the prevention and correction of sexual harassment and the remedies available to victims of sexual harassment in employment. The training and education shall also include practical examples aimed at instructing supervisors in the prevention of harassment, discrimination, and retaliation, and shall be presented by trainers or educators with knowledge and expertise in the prevention of harassment, discrimination, and retaliation.

Training of all staff will be conducted. This includes counselors, faculty, health personnel, law enforcement officers, coaches, and all staff who regularly interact with students.

The Associate Vice Chancellor of Human Resources or designee shall make arrangements for or provide training to employees on the District's non-discrimination and unlawful discrimination policy and procedures. Faculty members, members of the administrative staff, and all members of the support staff will be provided with a copy of the District's written policy on non-discrimination and unlawful discrimination at the beginning of the first semester of the school year after the policy is adopted. Training for academic staff should emphasize environmental harassment in the classroom.

All District employees will be provided this training and a copy of the non-discrimination and unlawful discrimination policy and procedures during the first year of their employment. Thereafter, in years in which a substantive policy or procedural change has occurred; all District employees will attend a training update and/or receive a copy of the revised policies and procedures. The District should provide copies of the sexual harassment policies and training to all District law enforcement unit employees regarding the grievance procedures and any other procedures used for investigation reports of sexual violence.

Participants in training programs will be required to sign a statement that they have either understood the policies and procedures, their responsibilities, and their own and the District's potential liability, or that they did not understand the policy and desire further training.

Education and Prevention for Students

In order to take proactive measures to prevent sexual harassment and violence toward students, the District will provide preventive education programs and make victim resources, including comprehensive victim services, available. The District will include such programs in its orientation programs for new students, and in training for student athletes and coaches. These programs will include discussion of what constitutes sexual harassment and sexual violence, the District's policies and disciplinary procedures, how it works, how to file a complaint, and the consequences of violating these policies. In addition, a copy of the District's written policy on non-discrimination and unlawful discrimination, as it pertains to students, will be provided as part of any orientation

program conducted for new students at the beginning of each semester or summer session, as applicable.

The education programs will also include information aimed at encouraging students to report incidents of sexual violence to the appropriate District and law enforcement authorities. Since victims or third parties may be deterred from reporting incidents if alcohol, drugs, or other violations of District or campus rules were involved, the District will inform students that the primary concern is for student safety and that use of alcohol or drugs never makes the victim at fault for sexual violence. If other rules are violated, the District will address such violations separately from an allegation of sexual violence.

Participants in training programs will be required to sign a statement that they have either understood the policies and procedures, their responsibilities, and their own and the district's potential liability, or that they did not understand the policy and desire further training.

It is unlawful for anyone to retaliate against someone who files an unlawful discrimination complaint, who refers a matter for investigation or complaint, who participates in an investigation of a complaint, who represents or serves as an advocate for an alleged victim or alleged offender, or who otherwise furthers the principles of unlawful discrimination.

Also see BP/AP 3410 titled Nondiscrimination and BP/AP 3430 titled Prohibition of Harassment.

Date Approved: January 18, 2012

Date Updated: April 11, 2016

*(Replaces current WVMCCD Policies 2.6.6
and 2.6.7)*

AP 3440 SERVICE ANIMALS

References:

- Civil Code Sections 54 et seq.;
- Penal Code Section 365.5;
- The Americans with Disabilities Act of 1990 -- 42 United States Code Sections 12101 et seq.;
- 28 Code of Federal Regulations Part 35;
- 28 Code of Federal Regulations Part 36;
- 34 Code of Federal Regulations Part 104.44(b)

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

The District will allow an individual with a disability to use a miniature horse as a service animal in District facilities and on District campuses if the miniature horse has been individually trained to do work or perform tasks for the benefit of the individual with a disability and the District has determined, based on the assessment factors provided in this procedure, that a reasonable accommodation can be made.

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

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

Service Animal Defined

A "service animal" for purposes of this procedure means any dog (or miniature horse, as provided herein) that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability.

Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition.

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

Exceptions

The District may ask an individual with a disability to remove a service animal from the premises if:

- The animal is out of control and the animal's handler does not take effective action to control it; or
- The animal is not housebroken.

If a service animal is excluded under one of these exceptions, the District will give the individual with a disability the opportunity to obtain goods, services, and accommodations or to participate in the service, program, or activity without having the service animal on the premises.

Assessment Factors for Miniature Horses

The District shall consider the following factors:

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

Control

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

Care or Supervision

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

Inquiries by the District

The District may make two inquiries to determine whether an animal qualifies as a service animal:

- Whether the animal is required because of a disability; and
- What work or task the animal has been trained to perform.

The District will not make either of these inquiries when it is readily apparent that an animal is trained to do work or perform tasks for an individual with a disability (e.g., the dog is observed guiding an individual who is blind or has low vision, pulling a person's wheelchair, or providing assistance with stability or balance to an individual with an observable mobility disability).

An individual may choose to produce a county service dog license or identification tag as proof that the animal is a service animal. Licensure or certification is not required in order to meet the definition of service animal under this procedure. There are no licensing or certification requirements for miniature horses.

No Surcharge

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

Date Approved: January 18, 2012
*(This is **new** procedural language
recommended by the Policy and Procedure
Service)*

AP 3500 CAMPUS SAFETY**References:**

Education Code Sections 212, 67380, and 87014;
Penal Code Section 245;
20 U.S. Code Sections 1092(f) and 1232g;
34 Code of Federal Regulations 668.46;
34 Code of Federal Regulations 99.31(a)(13), (14);
Campus Security Act of 1990

A campus safety plan shall be developed and provided to students and employees. Information is available in the printed schedule of classes and on the District's web-site.

The Chief of Police is responsible for the preparation and annual updates of a report of all occurrences reported to the District Police Department of arrests for crimes that are committed on campus and that involve violence, hate violence, theft or destruction of property, illegal drugs, or alcohol intoxication, and of all occurrences of noncriminal acts of hate violence reported to campus authorities. A written report will be submitted to the Board.

Written records of noncriminal acts of hate violence shall include at least a description of the act of hate violence, the victim characteristics, and offender characteristics, if known.

The Chancellor or Vice Chancellor shall ensure that the District is in compliance with State requirements for workplace safety and requirements of Federal Right-to-Know legislation. Required reports will be shared with the Board.

In all aspects of plant operations and maintenance, the safety of employees, students, staff, and visitors will be a primary consideration. Safeguards against hazards, through avoidance of risks, through training of personnel (employees and students) and through practices and use of safety procedures will be observed.

Also see BP/AP 3505 Emergency Response Plan and BP/AP 6800 Safety – Occupation- Related.

Note: Education Code Section 67380 defines "hate violence" as: "any act of intimidation or physical harassment, physical force or physical violence, or the threat of physical force or physical violence, that is directed against any person or group of persons or the property of any person or group of persons because of the ethnicity, race, national origin, sex, sexual orientation, gender identity, gender expression, disability, or political or religious beliefs of that person or group." Section 67380 requires reporting of both occurrences reported to campus police or safety

authorities of and arrests for crimes that involve hate violence (Section 67380(a)(1)(A)) and of “non-criminal acts of hate violence” (Education Code Section 67380(a)(1)(B)).

For purposes of reporting under the Clery Act, “hate crimes” include domestic violence, dating violence, and stalking.

Date Approved: January 18, 2012
Date Updated: April 11, 2016
*(Replaces current WVMCCD Policies 6.20.1
and 6.20.2)*

General Institution**AP 3501 CAMPUS SECURITY AND ACCESS****Reference:**

34 Code of Federal Regulations Section 668.46(b)(3)

During business hours (generally 6 AM to 11 PM), the District will be open to the public. During non-business hours access to all District facilities is by key and or access card. In the case of periods of extended closing, the District will determine access controls. Some facilities may have individual hours, which may vary at different times of the year. Examples include, Physical Education facilities, Theater, and Hospitality Management. In these cases, the facilities will be secured according to schedules developed by the department responsible for the facility. Notification of extended or adjusted hours should be directed to District Facilities and District Police.

During the academic year, the Facilities Safety Committee on each campus will meet to discuss campus security, safety and access issues of pressing concern such as: general safety issues, alarms, locks, landscaping, lighting, and communications. Additionally, the District's Facilities Department and Police Department also meet and discuss these issues. Areas or issues that are revealed as problematic will be reviewed and addressed as needed.

Safety and Security Video Cameras and Recording

The District Chief of Police will work collaboratively with the colleges and District departments to determine locations and to approve all security / public safety video recording equipment on property owned and operated by the District. The Chief of Police or his designee will have the final approval of any safety and security video recording devices installed on District property and will ensure that the placement and operation of safety and security video equipment intended for security or public safety does not violate local, state or Federal ordinances.

The District Police will determine the standard for retention of any safety and security video recordings made on District property. All video recording made for the purpose of security or safety will be retained for a period not less than 30 days. All safety and security video recordings made by any stand-alone (independently owned and operated) safety and security video recording systems on District property will be made available to the District Police upon request as a condition of approval to operate safety and security video equipment on District property.

The District Police will collaborate with the Executive Director of Facilities, Construction and Maintenance or his/her designee for all new construction on District property prior to the

installation of any new safety and security video recording or security-related equipment. The District Police will be consulted prior to the final approval of any new security-related equipment that is purchased or installed in any new or retrofitted construction of District-owned buildings.

The District Police will coordinate with the Executive Director of Facilities, Construction and Maintenance or his/her designee to design and implement a District-wide security / safety and security video system as part of the master plan. The District Police Chief will have the ability and authorization to utilize the designated bond funds for District security and safety to enhance and maintain existing security systems and to develop, install and maintain new district-wide security and safety systems. The Executive Director of Facilities, Construction and Maintenance will provide input and support for access control systems, including safety and security video security systems for the District.

The District Police, and the Director of Information Systems and staff will coordinate and collaborate with the designated vendor to fully integrate any new safety and security systems. The designated vendor will work with the Information Systems staff and with the District Police to ensure support for new security systems is provided for any new applications related to safety and security video or electronic security systems or programs.

Date Approved: January 18, 2012

Date Revised: April 11, 2016

*(This is **new** procedural language recommended by the Policy and Procedure Service)*

AP 3505 EMERGENCY OPERATIONS PLAN

References:

Education Code Section-71095;
Government Code Sections 3100 to 3109 and 8607(a);
Homeland Security Act of 2002;
National Fire Protection Association (NFPA) 1600;
Homeland Security Presidential Directive-5;
Executive Order S-2-05;
National Incident Management System (NIMS);
Standardized Emergency Management System (SEMS);
Clery Act;
California Code of Regulations Title 19, Sections 2400-2450;
34 Code of Federal Regulations Section 668.46(b)(13) and (g)

RESPONSIBILITY

Government Code Sections 3100-3109 and 8607(a) state that all employees of the District are disaster service workers during emergencies, subject to such emergency response activities as may be assigned to them. Federal and state guidelines further state that all employees of the District must be trained and qualified in specified courses depending on an employee's emergency response role. Employees subscribe to the California Disaster Service Worker oath when they are hired and they are reminded of their role during disaster drills and training.

EMERGENCY RESPONSE AND EVACUATION PROCEDURES

The District Emergency Response and Evacuation procedures and emergency contact numbers are reviewed, annually, and updated, as needed, by the District Police Department and the Facilities and Safety Committees for both campuses. Information about the emergency response and evacuation procedures for the District are publicized each year as part of the District's Clery Act compliance efforts. The information is posted in offices and classrooms and on the District website. Reminders to review the information are sent to all District employees at the beginning of each semester.

Faculty members must know evacuation routes and procedures and communicate them to students each semester. The District Police Department publicizes a list of assembly areas; however, actual assembly areas may be affected by time of day, location of the building being evacuated, the availability of the various assembly area locations on campus, and other factors such as the location and nature of the threat. The District Police Department and District staff on the scene will communicate information to students, staff, faculty and other stakeholders regarding the developing situation or any evacuation status changes.

HEALTH & SAFETY

All members of the campus community are notified on an annual basis that they are required to

notify the District Police Department of any situation or incident on campus that involves a significant emergency or dangerous situation that may involve an immediate or ongoing threat to the health and safety of students and employees on campus. The District Police Department has the responsibility of responding to, and summoning the necessary resources, to mitigate, investigate, and document any situation that may cause a significant emergency or dangerous situation. In addition, the District Police Department has a responsibility to respond to such incidents to determine if the situation does in fact, pose a threat to the community. If that is the case, federal law requires that the institution immediately notify the campus community or the appropriate segments of the community that may be affected by the situation.

ALERT & WARNING EMERGENCY NOTIFICATION SYSTEM - WVM ALERT

The District maintains an automated emergency notification system for campus emergencies. All fulltime students, **fulltime** staff and **all** faculty are automatically uploaded into the system. Depending on the type of emergency, messages are sent to email, cellular telephone (voice & and/or text) and classroom phones.

Fulltime students, fulltime staff and all faculty may Opt Out of all methods of notification except email. All other individuals or groups on campus may Opt In or completely Opt Out of the system at any time.

Upon confirmation or verification by District staff that an emergency or dangerous situation involving an immediate threat to the health or safety of students, staff or faculty occurring on campus. The District Police will, without delay, and taking into account the safety of the community, determine the content and recipients of the notification and activate the notification system(s) to communicate the threat, unless issuing a notification will, in the professional judgment of the first responders (including, but not limited to: the District Police Department), compromise efforts to assist a victim or to contain, respond to, or otherwise mitigate the emergency.

The District maintains various systems for communicating information quickly. Some or all of these methods of communication may be activated in the event of an immediate threat to the campus community. These methods of communication include:

- ☐ District maintained emergency notification software system (WVM Alert) **that may send to**
 - Classroom and office emergency phones
 - District email
 - District website (www.wvm.edu/emergency)
 - Social Media (Facebook, Twitter)
 - In addition, the District has access to the Santa Clara County automated telephone notification system (Alert SCC) – which would require us to give them our data at the time of impact and/or send an ALL COUNTY message
- Bullhorns
- Telephone trees and text groups
- Two-way radios
- Police sirens and public address systems
- Video and LED displays

The District's Public Information Officer Team consisting of representatives of the District and both campuses) will be responsible for the dissemination of emergency information to the larger community through radio, television and County Alert System messages prepared in coordination with other jurisdictions affected by the emergency.

EMERGENCY OPERATIONS PLAN

The Emergency Operations Plan (EOP) provides direction in the event of an emergency. It is the goal and purpose of this plan to protect the safety and security of those associated with the District should an emergency occur. The effective use of this plan will help:

- ☐ Reduce the impact to lives,
 - Reduce property and environmental damage,
 - Provide emergency public information, alert and warning
 - Meet the immediate needs of victims (rescue, medical care, food, shelter, clothing)
 - Address the needs of people with disabilities
 - Preserve/restore campus and District government
 - Restore facilities and services essential to the health, safety and welfare of individuals (sanitation, water, electricity, roads, classes)
 - Minimize disruption and economic losses-
 - Shorten the recovery period, and
 - Return the District to a pre-disaster state

The District Chancellor and Campus Presidents will designate an emergency planning team with responsibilities of reviewing and updating plans and participating in training for emergency management. The planning team is made up of identified internal and external stakeholders who have key responsibilities in the District's emergency response.

The EOP is reviewed annually and updated, as needed. It complies with National Incident Management System (NIMS) and Standardized Emergency Management System (SEMS). The plan outlines emergency response including:

- Plan activation
- Chain of Command that establishes decision-making authority
- Roles and Responsibilities of staff, faculty and students
- EOC Function responsibilities
- Personnel training requirements
- Continuity of government
- ☐ Integration and coordination with city, county, state and federal agencies, non-profits and the private sector.

- Alert, warning and public information strategies

☐ Documentation requirements

- Disaster recovery strategies

TRAINING

The District uses a combination of online and classroom training to prepare employees and students for actual events. Participant rosters and a master file of training delivered are maintained by the District Emergency Manager. Specific training requirements are determined by District administration and campus Presidents based on identified response roles

EXERCISES

The District Police, campus Presidents and District Emergency Manager coordinate evacuation drills at least once a year for all facilities. These drills test the emergency response and evacuation procedures. Drills may be announced or unannounced.

The District uses tabletop, functional and full scale exercises to test its plans. Each exercise includes:

- Exercise Plan (ExPlan) outlining the objectives of the exercise and the details of its implementation;
- "Hot Wash" (debrief) to capture immediate feedback from participants about changes to procedures and plans as well as equipment deficiencies;
- Improvement Plan that includes all participant feedback and a summary of activities performed; and
- Corrective Action Plan that identifies what needs to be changed or improved, and sets assignments and deadlines to complete the changes.

EMERGENCY MANAGEMENT RESPONSE STRUCTURE

In the event of an emergency, any person who has knowledge of the event will notify police. Based on the severity of the emergency, the Chancellor, President, or designee will be notified and may choose to activate the Emergency Plan and set up a Command Post or Emergency Operations Center using the Incident Command System.

CAMPUS EMERGENCY RESPONSE TEAM RESPONSIBILITIES

To ensure effective implementation of this plan, all personnel designated to carry out specific responsibilities are expected to know and understand the policies and procedures outlined in this document and other associated supporting documents. In addition, they may develop agreements and partnerships, as needed, with internal and external entities to speed coordination and recovery.

Specific details related to emergency response procedures are included in the District's Emergency Operations Plan.

Date Approved: January 18, 2012
Dates Revised: April 11, 2016; February 11, 2019
*(This is **new** procedural language
recommended by the Policy and Procedure
Service*

AP 3510 WORKPLACE VIOLENCE PLAN

References:

Cal/OSHA; Labor Code Sections 6300 et seq.;
Title 8 Section 3203;
Code of Civil Procedure Section 527.8;
Penal Code Sections 273.6, 626.9, 626.10, and 12021

The District is committed to providing a safe work environment that is free of violence and the threat of violence.

Responding to Threats of Violence

The top priority in this process is effectively handling critical workplace incidents, especially those dealing with actual or potential violence.

Violence or the threat of violence against or by any employee of the District or any other person is unacceptable.

Should a non-employee on District property demonstrate or threaten violent behavior, he/she may be subject to criminal prosecution.

Should an employee, during working hours, demonstrate or threaten violent behavior he/she may be subject to disciplinary action.

The following actions are considered violent acts:

- Striking, punching, slapping or assaulting another person.
- Fighting or challenging another person to fight.
- Grabbing, pinching or touching another person in an unwanted way whether sexually or otherwise.
- Engaging in dangerous, threatening or unwanted horseplay.
- Possession, use, or threat of use, of a firearm, knife, explosive or other dangerous object, including but not limited to any facsimile firearm, knife or explosive, on District property, including parking lots, other exterior premises, District vehicles, or while engaged in activities for the District in other locations, unless such possession or use is a requirement of the job.

- Threatening harm or harming another person, or any other action or conduct that implies the threat of bodily harm.
- Bringing or possessing any dirk, dagger, ice pick, or knife having a fixed blade longer than 2½ inches upon the grounds, unless the person is authorized to possess such a weapon in the course of his/her employment, has been authorized by a District employee to have the knife, or is a duly appointed peace officer who is engaged in the performance of his/her duties.

Any employee who is the victim of any violent threatening or harassing conduct, any witness to such conduct, or anyone receiving a report of such conduct, whether the perpetrator is a District employee or a non-employee, shall immediately report the incident to his/her supervisor, the Director of Human Resources, and the District Police Department.

The District Police Department can be contacted by calling 9-1-1 or (408)299-3233 from a cell phone.

No one, acting in good faith, who initiates a complaint or reports an incident under this policy will be subject to retaliation or harassment.

Any employee reported to be a perpetrator will be provided both due process and representation before disciplinary action is taken.

In the event the District fears for the safety of the perpetrator or the safety of others at the scene of the violent act, the District police and other appropriate law enforcement personnel will be called.

Date Approved: January 18, 2012

*(This is **new** procedural language recommended by the Policy and Procedure Service)*

AP 3515 REPORTING OF CRIMES**References:**

Education Code Sections 212 and 87014;
Penal Code Section 245;
Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act of 1998;
20 United States Code Section 1232g;
34 Code of Federal Regulations Parts 99.31(a)(13), (14) and 668.46;
Campus Security Act of 1990

Members of the West Valley-Mission Community College District who are witnesses or victims of a crime should immediately report the crime to appropriate law enforcement authorities.

In the event an employee is assaulted, attacked, or menaced by a student, the employee shall notify his/her supervisor as soon as practical after the incident. The supervisor of any employee who is attacked, assaulted or menaced shall assist the employee to promptly report the attack or assault to the District Police Department. The supervisor himself/herself shall make the report if the employee is unable or unwilling to do so. Reporting a complaint to local law enforcement will not relieve the District of its obligation to investigate all complaints of harassment.

The District will instruct members of the District Police Department to notify students and employees complaining of sexual violence of their right to file a sex discrimination complaint with the District in addition to filing a criminal complaint, and to report incidents of sexual violence to the Associate Vice Chancellor of Human Resources if the complainant consents.

The District shall publish warnings to the campus community about the following crimes when they are considered to represent a serious or continuing threat:

- Criminal homicide – murder and non-negligent manslaughter;
- Criminal homicide – negligent manslaughter;
- Sex offenses – forcible and non-forcible sex offenses;
- Domestic violence, dating violence and stalking;
- Robbery;
- Aggravated assault;
- Burglary;

- Motor vehicle theft;
- Arson;
- Arrests for liquor law violations, drug law violations, and illegal weapons possession; and
- Persons who were not arrested for liquor law violations, drug law violations and illegal weapons possession, but who were referred for campus disciplinary action for same;
- Crimes that manifest evidence that the victim was intentionally selected because of the victim's actual or perceived race, gender, religion, sexual orientation, ethnicity, or disability and involve larceny-theft, simple assault, intimidation, destruction/damage/vandalism of property, or any other crime involving bodily injury.
- Those reported to law enforcement authorities; and
- Those that are considered to represent a continuing threat to other students and employees.

In the event that a situation arises, either on or off campus, that, in the judgment of the District Police Department, constitutes an ongoing or continuing threat, a campus wide "timely warning" will be issued. The warning will be issued in such a manner that it is reasonably likely to reach the entire campus community. This may include but is not limited to: use of college e-mail system to students, faculty and staff; campus web-sites; and flyers. The information shall be disseminated by the District Police Department in a manner that aids the prevention of similar crimes.

Depending on the particular circumstances of the crime, especially in all situations that could pose an immediate threat to the community and individuals, an emergency notification will be sent out via the District's WVM Alert. Information may also be posted on the campus-wide electronic bulletin board on the website at: <http://www.westvalley.edu/> (West Valley College) or <http://www.missioncollege.org/> (Mission College), providing the community with more immediate notification. The electronic bulletin board is immediately accessible via computer by all faculty, staff and students. Anyone with information warranting a timely warning should report the circumstances to the District Police Department by phone (408) 299-3233 or in person at 14000 Fruitvale Ave. Saratoga, CA. 95070.

The District shall not be required to provide a timely warning with respect to crimes reported to a pastoral or professional counselor.

If there is an immediate threat to the health or safety of students or employees occurring on campus, the District shall follow its emergency notification procedures.

The District shall annually collect and distribute statistics concerning crimes on campus. All college staff with significant responsibility for student and campus activities shall report crimes

about which they receive information.

The District shall publish an Annual Security Report every year by October 1 that contains statistics regarding crimes committed on campus and at affiliated locations for the previous three years. The Annual Security Report shall also include policies pertaining to campus security, alcohol and drug use, crime prevention, the reporting of crimes, sexual assault, victims' assistance program, student discipline, campus resources and other matters. The District shall make the report available to all current students and employees. The District will also provide perspective students and employees with a copy of the Annual Security Report upon request. A copy of the Annual Security Report can be obtained by contacting the District Police business office, 14000 Fruitvale Ave. Saratoga, CA. 95070 or at the website address published in the schedule of classes for each campus www.wvm.edu/police/.

To Report a Crime

Contact the District Police Department by calling County Communications (408) 299-2311(non-emergencies) and ask to speak with a District police officer. In cases of emergency involving threats to life and or property, dial 9-1-1 or when using a cell phone, call (408)299-3233. Any suspicious activity or person seen on or near campus, including in the parking lots or loitering around vehicles or inside buildings should be reported to the police department. In addition you may report a crime (non-emergency) to the following areas:

- Vice President of Student Services for each campus
- Associate Vice Chancellor of Human Resources

If you are the victim of a crime and do not want to pursue action within the District's System or through the criminal justice system, you may still want to consider making a confidential report. With your permission, the Human Resources Department (employees) or the Vice President of Student Services (students) can file a report on the details of the incident without revealing your identity. The purpose of a confidential report is to comply with your wish to keep the matter confidential, while taking steps to ensure the future safety of yourself and others. With such information, the District can keep an accurate record of the number of incidents involving students, determine where there is a pattern of crime with regard to a particular location, method, or assailant, and alert the campus community to potential danger. As required by law, reports filed in this manner are counted and disclosed in the annual crimes statistics for the institution.

The District Police Department encourages anyone who is the victim or witness to any crime to promptly report the incident to the police. Because police reports are public records under state law, the District Police Department cannot hold every crime report in confidence. The identity of victim information involving particular crimes such as sexual assault can be protected upon request of the victim. Confidential reports for purposes of inclusion in the annual disclosure of

crime statistics can generally be made to other campus security authorities as identified below. Confidential reports of crime may also be made to the District Human Resources Department (employees), Vice President of Student Services (students) or Health Services on either campus.

Date Approved: January 18, 2012

Date Revised: April 11, 2016

*(This is **new** procedural language
recommended by the Policy and Procedure
Service)*

General Institution**AP 3516 REGISTERED SEX OFFENDER INFORMATION****References:**

Penal Code Sections 290, 290.01, and 290.95;
34 Code of Federal Regulations Part 668;
42 U.S. Code Section 14071j;
20 U.S. Code Sections 1092(f)(1)(I) and 1232g(b)(7)(A) (Campus Sex Crimes Prevention Act)

The District shall include in its Annual Security Report a statement advising the campus community where information pertaining to registered sex offenders may be obtained.

Sex offenders are required to register with the police in the jurisdiction in which they reside and at institutions of higher learning if they are students there or if they work there as employees, contractors, or volunteers. A sex offender who is an employee or volunteer in the District must disclose his/her status as a registrant upon his/her application or acceptance of the position and register with the District Police Department as required by law.

A sex offender who must register for committing a crime against a minor victim under the age of sixteen (16) is prohibited from serving as an employer, employee, contractor, or volunteer in any capacity in which the sex offender would be working directly and in an unaccompanied setting with minor children on more than an incidental and occasional basis or involving having supervision or disciplinary power over minor children.

Sex offenders who are required to register should do so by contacting the District Police Department, 14000 Fruitvale Ave. Saratoga, CA. 95070.

Information concerning registered sex offenders can be obtained from the public Megan's Law web-site: <http://www.meganslaw.ca.gov/>. General questions regarding campus sex offender registration should be directed to the District Police Department, 14000 Fruitvale Ave. Saratoga, CA 95070.

The District Police Department shall not release information regarding a sex offender, unless the release of information is allowed by law and, the person seeking the information has signed a statement, on a form provided by the Department of Justice, stating that he/she is not a registered sex offender, that he/she understands the purpose of the release of information is to allow members of the campus community to protect themselves and their children from sex offenders, and that he/she understands it is unlawful to use the information received to commit a crime against any registered sex offender or to engage in illegal discrimination or harassment of a registered sex offender. The department will maintain the signed statement in its records for a period of five years.

The District Police Department will release the following information regarding a registered sex offender:

- full name;
- known aliases;
- gender;
- race;
- physical description;
- photograph;
- date of birth;
- crimes resulting in registration; and
- The date of last registration or re-registration.

Date Approved: January 18, 2012

*(This is **new** procedural language recommended by the Policy and Procedure Service)*

AP 3518 CHILD ABUSE REPORTING**References:**

Penal Code Sections 261, 264.1, 273a, 273d, 285, 286, 288, 288a, 289, 647a, and 11164-11174.3;

Welfare and Institutions Code Sections 300, 318, and 601;

Family Code Sections 7802, 7807, 7808, 7820-7829, 7890, and 7892

The District recognizes the responsibility of its staff to report to the appropriate agency when there is a reasonable suspicion that an abuse or neglect of a child may have occurred. Mandated reporters include faculty, educational administrators and classified staff. Volunteers are not mandated reporters, but are encouraged to report suspected abuse or neglect of a child.

Child abuse is defined as physical abuse, neglect, sexual abuse, and/or emotional maltreatment. This procedure addresses the sexual assault, sexual exploitation, and/or sexual abuse of a child; the willful cruelty or unjustifiable punishment of a child; incidents of corporal punishment or injury against a child; abuse in out-of-home care; and the severe and/or general neglect of a child (definitions contained in Penal Code Section 11165).

“Reasonable suspicion” occurs when “it is objectively reasonable for a person to entertain such a suspicion, based upon facts that could cause a reasonable person in a like position drawing when appropriate on his/her training and experience, to suspect child abuse” (Penal Code Section 11166(a)).

A child protective agency is a police or sheriff’s department, a county probation department, or a county welfare department. School district police or security departments are not child protective agencies (Penal Code Section 11165.9).

Any person not mandated by law to report suspected child abuse has immunity unless the report is proven to be false and the person reporting knows it is false, or the report is made with reckless disregard of the truth or falsity of the incident (Penal Code Section 11172(a)). Reporting is an individual responsibility. An employee making a report cannot be required to disclose his/her identity to the employer (Penal Code Section 11166(h)). However, a person who fails to make a required report is guilty of a misdemeanor punishable by up to six months in jail and/or up to a \$1,000 fine (Penal Code Section 11172(e)).

Mandated reporters must report immediately any reasonable suspicion of child abuse to a local child protective agency and follow up with a written report within 36 hours to the Santa Clara County Child Protective Services (408) 299-2071. In cases involving on campus emergencies, contact the District Police Department for law enforcement intervention. The written report may be mailed or submitted by facsimile or electronic transmission.

Child abuse reporting forms are available in the District Police business office on each campus.

No mandated reporter who reports a known or suspected instance of child abuse shall be civilly or criminally liable for any report required or authorized by the Penal Code. Any person other than a child care custodian reporting a known or suspected instance of child abuse shall not incur any liability as a result of making any report of child abuse, unless it can be proven that a false report was made and the person knew that the report was false. (Penal Code Section 11172(a))

When college administrators release a minor pupil to a peace officer for the purpose of removing the minor from the campus, the District official shall take immediate steps to notify the parent or guardian regarding the release of the minor to the officer, and regarding the place to which the minor is reportedly being taken (Education Code Section 87044), except when a minor has been taken into custody as a victim of suspected child abuse, as defined in Penal Code Section 11165 or pursuant to Welfare and Institutions Code Section 305. In those cases, the official shall provide the peace officer with the address and telephone number of the minor's parent or guardian.

Non-accidental physical injury is considered to be a health and safety emergency; and parental consent is not required for release of student information under the Family Education Rights and Privacy Act, or the California Student Records Act (Education Code Sections 76200 et seq.).

Information relevant to the incident of child abuse may be given to an investigator from a child protective agency who is investigating the known or suspected cause of child abuse (Penal Code Section 11167(b)).

The District shall provide a mandated reporter with a statement informing the employee that he/she is a mandated reporter and inform the employee of his/her reporting obligations under Penal Code Section 11166 and of his/her confidentiality rights under subdivision (d) of Penal Code Section 11167. The District shall provide a copy of Penal Code Sections 11165.7, 11166, and 11167 to the employee. Prior to commencing his/her employment and as a prerequisite to that employment, the employee shall sign and return the statement to the District. The signed statements shall be retained by the District (Penal Code Section 11166.5).

The District will distribute this procedure to all employees.

Date Approved: January 18, 2012
*(This is new procedural language
recommended by the Policy and Procedure
Service)*

AP 3520 LOCAL LAW ENFORCEMENT**References:**

Education Code Section 67381;
34 Code of Federal Regulations Section 668.46

The District, on behalf of each college, has a written agreement with local law enforcement agencies. The agreement clarifies operational responsibilities for investigations of Part I violent crimes, defined by law as willful homicide, forcible rape, robbery, and aggravated assault, occurring at each location.

The written agreement designates which law enforcement agency has operational responsibility for violent crimes and delineates the specific geographical boundaries of each agency's operational responsibility, including maps as necessary.

In response to a call, the District Police Department will take the required action; dispatching an officer, investigating incidents, or asking the victim to file an incident report. The District Police Department will investigate a report when it is required and or deemed appropriate.

The written agreements required by the Board policy are public records and are made available for inspection by members of the public upon request to the District Police Department.

The District Police Department maintains a close working relationship with local law enforcement authorities, including the Santa Clara County Sheriff's Office and the City of Santa Clara Police Department. Meetings may be held between the leaders of these agencies on both a formal and informal basis. The District Police Department, the Santa Clara County Sheriff's Office, and the City of Santa Clara Police Department communicate regularly on the scene of incidents that occur in and around the campus area. When incidents arise that require joint investigative efforts, resources, crime related reports and exchanges of information, the District Police Department will work closely with other local agencies. There is a written memorandum of understanding between the District Police Department, the Santa Clara County Sheriff's Office and the City of Santa Clara Police Department.

In response to a call, the District Police Department will take the required action; dispatching an officer, investigating incidents, or asking the victim to file an incident report. The District Police Department will investigate a report when it is required and or deemed appropriate.

Crimes should be reported to the District Police Department to ensure inclusion in the annual crime statistics and to aid in providing timely warning notices to the community, when appropriate.

Community members, students, faculty, staff, and guests are encouraged to report all crimes and public safety related incidents to the District Police Department in a timely manner. To

report a crime or an emergency on either campus, call 9-1-1 or from a cell phone by calling (408) 299-3233. To report a non-emergency security or public safety related matter, call the District Police Department business office.

The District Police Department has complete police authority to apprehend and arrest anyone involved in illegal acts on or near the campus. If minor offenses involving District rules and regulations are committed by a student, the District police may also refer the individual to the Vice President of Student Services of the respective college. Major offenses such as murder, attempted murder, and kidnapping are cross-reported to the local law enforcement and the District Police Department and local law enforcement work together to solve these serious felony crimes. District Police personnel work closely with local, state, and federal police agencies.

Campus "Pastoral Counselors" and Campus "Professional Counselors," when acting as such, are not considered to be a campus security authorities (CSA) and are not required to report crimes for inclusion into the annual disclosure of crime statistics. As a matter of policy, they are encouraged, if and when they deem it appropriate, to inform persons being counseled of the procedures to report crimes on a voluntary basis for inclusion into the annual crime statistics.

A Pastoral Counselor is a person who is associated with a religious order or denomination, recognized by that religious order or denomination as someone who provides confidential counseling and who is functioning within the scope of that recognition as a pastoral counselor.

A Professional Counselor is an employee of a District whose official responsibilities include providing psychological counseling to members of the District's community and who is functioning within the scope of his or her license or certification.

All reports will be investigated. The District does not have procedures for voluntary, confidential reporting of crime statistics. Violations of the law will be referred to law enforcement agencies and when appropriate, to the District's Disciplinary Committee for review. When a potentially dangerous threat to the District's community arises, timely reports or warnings will be issued through e-mail announcements, the posting of flyers at local campuses, in-class announcements, or other appropriate means.

Date Approved: January 18, 2012

Date Revised; April 11, 2016

(This is new procedural language recommended by the Policy and Procedure Service)

General Institution**AP 3530 WEAPONS ON CAMPUS****References:**

Penal Code Sections 626.9, 626.10, 16780 and 17230

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

Activities involving firearms or other weapons conducted under the direction of District officials must be authorized by the District Police Department before taking place.

Guns of any type are not allowed on the campus, unless an individual is a duly appointed peace officer or honorably retired peace officer. Knives with a fixed blade length of more than 2 ½ inches are not allowed on campus. Employees of the District or college who are engaged in official duties are exempt from the knives with fixed blades of 2 ½ inches while on District property.

Any person who believes that he/she may properly possess a firearm or other weapon on campus or in a District center or other facility of the District must promptly notify the District Police prior to bringing the item to campus.

Any person who, without the written permission of the college president or Chancellor or his/her designee, brings or possesses a less lethal weapon, as defined in Section 16780, or a stun gun, as defined in Section 17230, upon the grounds of, or within, a public or private college campus is guilty of a misdemeanor.

Date Approved: January 18, 2012

Date Revised: April 11, 2016

*(This is new procedural language
recommended by the Policy and Procedure
Service)*

AP 3540 SEXUAL AND OTHER ASSAULTS**References:**

Education Code Section 67385 and 67386;
20 U.S. Code Section 1092(f);
34 Code of Federal Regulations Section 668.46(b)(11)

Any sexual assault or physical abuse, including, but not limited to, rape, domestic violence, dating violence, sexual assault, or stalking, as defined by California law, whether committed by an employee, student, or member of the public, occurring on District property, in connection with all the academic, educational, extracurricular, athletic, and other programs of the District, whether those programs take place in the District's facilities or at another location, or on an off-campus site or facility maintained by the District, or on grounds or facilities maintained by a student organization, is a violation of District policies and regulations, and is subject to all applicable punishment, including criminal procedures and employee or student discipline procedures. (Also see AP 5500 titled Standards of Student Conduct)

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

"Dating violence" means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of a romantic or intimate relationship will be determined based on the length of the relationship, the type of relationship and the frequency of interaction between the persons involved in the relationship.

"Domestic violence" includes felony or misdemeanor crimes of violence committed by:

- a current or former spouse of the victim;
- by a person with whom the victim shares a child in common;
- by a person who is cohabitating with or has cohabitated with the victim as a spouse;
- by a person similarly situated to a spouse of the victim under California law; or
- by any other person against an adult or youth victim who is protected from that person's acts under California law.

"Stalking" means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his/her safety or the safety of others, or to suffer substantial emotional distress.

It is the responsibility of each person involved in the sexual activity to ensure that he or she has the affirmative consent of the other or others to engage in the sexual activity. Lack of protest or resistance does not mean consent, nor does silence mean consent.

Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of consent.

“Affirmative consent” means affirmative, conscious, and voluntary agreement to engage in sexual activity.

These written procedures and protocols are designed to ensure victims of domestic violence, dating violence, sexual assault, or stalking receive treatment and information. (For physical assaults/violence, also see AP 3500, 3510, and 3515)

All students, faculty members or staff members who allege they are the victims of domestic violence, dating violence, sexual assault, or stalking on District property shall be provided with information regarding options and assistance available to them. Information shall be available from the District Human Resources Office, the District Police Department, and/or Health Services on each campus, which shall maintain the identity and other information about alleged sexual assault victims as confidential unless and until the Associate Vice Chancellor of Human Resources is authorized to release such information.

The Associate Vice Chancellor of Human Resources shall provide all alleged victims of domestic violence, dating violence, sexual assault or stalking with the following:

- A copy of the District's policy and procedure regarding domestic violence, dating violence, sexual assault, or stalking;
- A list of personnel on campus who should be notified and procedures for such notification, if the alleged victim consents; The District Police Department, the Associate Vice Chancellor of Human Resources (employees), and the Vice President of Student Services (students);
- Information about the importance of preserving evidence, and the identification and location of witnesses;
- A description of available services, and the persons on campus available to provide those services if requested. Services and those responsible for providing or arranging them include:
 - Transportation to a hospital, if necessary (Student Services, Human Resources or the Police Department);
 - Counseling by Health Services or referral to a counseling Center (Student Services, Human Resources or the Police Department);
 - Notice to the police, if desired (Student Services or Human Resources);
 - A list of other available campus resources or appropriate off-

campus resources (Student Services, Human Resources or the Police Department);

- A description of each of the following procedures:
 - criminal prosecution;
 - civil prosecution (i.e., lawsuit);
 - District disciplinary procedures, both student and employee;
 - modification of class schedules;
 - tutoring, if necessary.

The Associate Vice Chancellor of Human Resources should be available to provide assistance to District law enforcement to employees regarding how to respond appropriately to reports of sexual violence.

The District will investigate all complaints alleging sexual assault under the procedures for sexual harassment investigations described in AP 3435, regardless of whether a complaint is filed with local law enforcement.

All alleged victims of domestic violence, dating violence, sexual assault or stalking on District property shall be kept informed, through the Human Resources Department (employees), and/or Vice President of Student Services (students) of any ongoing investigation. Information shall include the status of any student or employee disciplinary proceedings or appeal; alleged victims of domestic violence, dating violence, sexual assault or stalking are required to maintain any such information in confidence, unless the alleged assailant has waived rights to confidentiality.

A complainant or witness who participates in an investigation of sexual assault, domestic violence, dating violence, or stalking will not be subject to disciplinary sanctions for a violation of the District's student conduct policy at or near the time of the incident, unless the District determines that the violation was egregious, including but not limited to, an action that places the health or safety of any other person at risk or involves plagiarism, cheating, or academic honesty.

In the evaluation of complaints in any disciplinary process, it shall not be a valid excuse to alleged lack of affirmative consent that the accused believed that the complainant consented to the sexual activity under either of the following circumstances:

- The accused's belief in affirmative consent arose from the intoxication or recklessness of the accused.
- The accused did not take reasonable steps, in the circumstances known to the accused at the time, to ascertain whether the complainant affirmatively consented.

In the evaluation of complaints in the disciplinary process, it shall not be a valid excuse that the accused believed that the complainant affirmatively consented to the sexual

activity if the accused knew or reasonably should have known that the complainant was unable to consent to the sexual activity under any of the following circumstances:

- The complainant was asleep or unconscious.
- The complainant was incapacitated due to the influence of drugs, alcohol, or medication, so that the complainant could not understand the fact, nature, or extent of the sexual activity.
- The complainant was unable to communicate due to a mental or physical condition.

The District shall maintain the identity of any alleged victim or witness, or third-party reporter of domestic violence, dating violence, sexual assault or stalking on District property, as defined above, in confidence unless the alleged victim, or witness, or third-party reporter specifically waives that right to confidentiality. All inquiries from reporters or other media representatives about alleged domestic violence, dating violence, sexual assaults or stalking on District property shall be referred to the Associate Vice Chancellor, who shall work with the Vice President of Student Services appropriate campus officials to assure that all confidentiality rights are maintained.

Additionally, the Annual Security Report will include a statement regarding the District's programs to prevent sex offenses and procedures that should be followed after a sex offense occurs. The statement must include the following:

- A description of educational programs to promote the awareness of rape, acquaintance rape, other forcible and non-forcible sex offenses, domestic violence, dating violence, or stalking;
- Procedures to follow if a domestic violence, dating violence, sex offense or stalking occurs, including who should be contacted, the importance of preserving evidence to prove a criminal offense, and to whom the alleged offense should be reported;
- Information on a student's option to notify appropriate law enforcement authorities, including on-campus and local police, and a statement that campus personnel will assist the student in notifying these authorities, if the student so requests;
- Information for students about existing on- and off-campus counseling, mental health, or other student services for victims of sex offenses;
- Notice to students that the campus will change a victim's academic situation after an alleged domestic violence, dating violence, sex offense or stalking and of the options for those changes, if those changes are requested by the victim and are reasonably available;
- Procedures for campus disciplinary action in cases of an alleged domestic violence, dating violence, sex offense or stalking, including a clear statement that:
 - The accuser and the accused are entitled to the same opportunities to have others present during a disciplinary proceeding; and

- Both the accuser and the accused must be informed of the outcome of any institutional disciplinary proceeding resulting from an alleged sex offense. Compliance with this paragraph does not violate the Family Educational Rights and Privacy Act. For the purposes of this paragraph, the outcome of a disciplinary proceeding means the final determination with respect to the alleged domestic violence, dating violence, sex offense, or stalking and any sanction that is imposed against the accused.
- A description of the sanctions the campus may impose following a final determination by a campus disciplinary proceeding regarding rape, acquaintance rape, or other forcible or non-forcible sex offenses, domestic violence, dating violence, or stalking.

Education and Prevention Information

The Health Services Program shall:

- Provide, as part of each campus' established on-campus orientation program, education and prevention information about domestic violence, dating violence, sexual assault, and stalking. The information shall be developed in collaboration with District Police Department, and campus-based and community-based victim advocacy organizations, and shall include the District's sexual assault policy and prevention strategies, including empowerment programming for victim prevention, awareness raising campaigns, primary prevention, bystander intervention, and risk reduction.
- Post sexual violence prevention and education information on the campus internet website regarding domestic violence, dating violence, sexual assault and stalking.

Date Approved: January 18, 2012

Date Revised: April 11, 2016

*(This is new procedural language
recommended by the Policy and Procedure
Service)*

General Institution**AP 3550 DRUG FREE ENVIRONMENT AND DRUG PREVENTION PROGRAM****References:**

Drug Free Schools and Communities Act Amendment of 1989;
20 U.S. Code Section 1145g;
34 Code of Federal Regulations 86.1 et seq.;
Federal Drug-Free Workplace Act of 1988;
41 U.S. Code Section 702

Pursuant to the requirement of the Drug-Free Workplace Act of 1988 (Public Law 100-690, Title 5, Subtitle D), the District is committed to providing its employees and students with a drug-free workplace and campus environment. It emphasizes prevention and intervention through education.

Prohibition of Drugs

The unlawful manufacture, distribution, dispensing, possession, or use of alcohol or any controlled substance is prohibited on District property, during District-sponsored field trips, activities or workshops, and in any facility or vehicle operated by the District.

Violation of this prohibition will result in appropriate action up to and including termination of employment, expulsion, and referral for prosecution, or, as permitted by law, may require satisfactory participation in an alcohol or drug abuse assistance or rehabilitation program.

As a condition of employment, employees must notify the District within five days of any conviction for violating a criminal drug statute while in the workplace. The District is required to inform any agencies that require this drug-free policy within ten days after receiving notice of a workplace drug conviction.

Date Approved: January 18, 2012

(Replaces current WVMCCD Policies 2.8.1 and 2.8.2)

General Institution**AP 3560 ALCOHOLIC BEVERAGES****References:**

Business and Professions Code Sections 24045.4, 24045.6, 25608 and 25658;
34 Code of Federal Regulations Section 668.46(b)

The possession, sale or the furnishing of alcohol on campus is governed by California state law and these procedures. The possession, sale, consumption or furnishing of alcohol is controlled by the California Department of Alcohol and Beverage Control. However, the enforcement of alcohol laws on-campus is the primary responsibility of the District Police Department. The campus has been designated "Drug free" and only under certain circumstances is the consumption of alcohol permitted. The possession, sale, manufacture or distribution of any controlled substance is illegal under both state and federal laws. Such laws are strictly enforced by the District Police Department. Violators are subject to disciplinary action, criminal prosecution, fine and imprisonment. It is unlawful to sell, furnish or provide alcohol to a person under the age of 21. The possession of alcohol by anyone under 21 years of age in a public place or a place open to the public is illegal. It is also a violation of this policy for anyone to consume or possess alcohol in any public or private area of campus without prior District approval. Organizations or groups violating alcohol or substance policies or laws may be subject to sanctions by the District.

Alcoholic beverages on campus are permitted if:

- The alcoholic beverage is beer or wine for use in connection with a course of instruction, sponsored dinner, or meal demonstration given as part of a culinary arts program at a community college campus, and the instructor or individual has been authorized to acquire, possess, use, sell, or consume it by each College president.
- A student at least 18 years of age tastes, but does not swallow or consume, beer or wine for educational purposes as part of the instruction in an enology or brewing degree program, and the beer or wine remains in the control of the instructor.
- The alcoholic beverage is for use during a non-college event at a performing arts facility built on District property and leased to a nonprofit public benefit corporation.
- The alcoholic beverage is wine produced by a bonded winery owned or operated as part of an instructional program in viticulture and enology.
- The alcoholic beverage is wine that is for use during an event sponsored by the District or an organization operated for the benefit of the District in connection with the District's instructional program in viticulture or the District's instructional program in enology.
- The alcoholic beverage is possessed, consumed, or sold, pursuant to a license or permit

obtained for special events held at the facilities of a public community college during the special event. "Special event" means events that are held with the permission of the governing board of the community college district that are festivals, shows, private parties, concerts, theatrical productions, and other events held on the premises of the public community college and for which the principal attendees are members of the general public or invited guests and not students of the public community college.

- The alcoholic beverage is acquired, possessed, or used during an event sponsored by the District or an organization operated for the benefit of the District at a community college-owned facility in which any grade from kindergarten to grade 12, inclusive, is taught, if the event is held at a time when students in any grades from kindergarten to grade 12, inclusive, are not present at the facility.
- The alcoholic beverage is for use during a fundraiser held to benefit a nonprofit corporation that has obtained written approval from the District Police and a license under the Business and Professions Code to do so provided that no alcoholic beverage can be acquired, possessed or used at a football game or other athletic contest sponsored by the District.

Date Approved: January 12, 2012

Date Revised: April 11, 2016

*(This is **new** procedural language recommended by the Policy and Procedure Service)*

General Institution

**AP 3570 SMOKING AND THE USE OF E-CIGARETTE DEVICES
ON CAMPUS**

References:

Government Code Sections 7596, 7597, 7597.1, 7598;
Labor Code Section 6404.5;
Title 8 Section 5148

To the extent that the District shall provide a safe learning and working environment for students and employees, it is the intent of the District to provide a smoke-free, tobacco-free and vapor-free environment to the greatest extent possible.

Definitions:

“Smoke” means the gases, particles, or vapors released into the air as a result of combustion, electrical ignition or vaporization, when the apparent or usual purpose of the combustion, electrical ignition or vaporization is human inhalation of the byproducts, except when the combusting material contains no tobacco or nicotine and the purpose of inhalation is solely olfactory, such as, for example, smoke from incense. The term “smoke” includes, but is not limited to, tobacco smoke, electronic cigarette vapors, and marijuana smoke.

“Smoking” means engaging in an act that generates smoke, such as, for example: possessing a lighted pipe, a lighted hookah pipe, an operating electronic cigarette, a lighted cigar, or a lighted cigarette of any kind; or lighting or igniting a pipe, a hookah pipe, a cigar, or a cigarette of any kind.

“Tobacco Product” means any substance containing tobacco leaf, and any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into a human body, but does not include any cessation product specifically approved by the United States Food and Drug Administration for use in treating nicotine or tobacco dependence.

“Vaping” means the process of smoking an e-cigarette.

“E-cigarette” means electronic cigarette or an electronic smoking device.

The procedure for providing a smoke-free, tobacco-free and vapor-free environment applies to, without limitation, tobacco-based products, such as cigarettes, cigars, and pipe tobacco, and smokeless tobacco and to electronic devices, such as e-cigarettes, e-pipes, and e-hookahs that deliver vapor for inhalation. Excluded are any FDA-approved cessation products such as nicotine replacement gum or patches.

Smoking, the use of smokeless tobacco and the use of e-cigarette devices are prohibited in all indoor locations within the District.

Smoking and the use of e-cigarette devices are prohibited in any enclosed place of employment

on campus, including lobbies, lounges, waiting areas, stairwells, and restrooms that are a structural part of any building that is a place of employment.

Smoking, the use of smokeless tobacco and the use of e-cigarette devices are prohibited in all areas of the Mission and West Valley campuses except in parking lot areas that are at least twenty-five (25) feet away from buildings and pathways.

Smoking, the use of smokeless tobacco and the use of e-cigarette devices are prohibited in all District-owned vehicles.

Traditional tobacco-based products, including cigarettes, cigars, pipe tobacco and smokeless tobacco, and electronic devices that deliver vapor for inhalation, such as e-cigarettes, e-pipes, and e-hookahs, shall not be sold on campus, i.e., bookstores or vending machines.

District administrators are responsible for publicizing the Non-smoking and Non-vaping policy to students, employees and visitors, and for the posting of signs. Signs will be posted stating the District policies on smoking, tobacco, and use of e-cigarette devices policy on campus, as follows:

- the locations at which smoking, tobacco, or e-cigarette device use is prohibited on campus
- the locations at which smoking, tobacco, or e-cigarette device use is permitted on campus

Notification about the Non-smoking and Non-vaping policy will be included in employee and student publications and in other written materials as appropriate. Non-smoking and Non-vaping messaging will be disseminated via colleges' LCD displays, electronic mail system, and colleges' social media sites. In addition, materials that are used to publicize District public events will include policy notification to the general public.

To assist in the implementation of this policy, the District will provide education about the harmful effects of smoking, smokeless tobacco and vaping.

The respective colleges will offer information and available resources to the campus community regarding the effects of tobacco use, nicotine delivery systems, prevention and smoking cessation.

Students, employees and visitors who willfully violate the Non-smoking and Non-vaping policy will be given verbal notice of the Non-smoking and Non-vaping policy. District Policy 3570 should be referenced during intervention, if appropriate and necessary.

Failure to comply with the Non-smoking and Non-vaping policy will be treated in the same manner as other violations of District policy and may result in disciplinary action.

Students will be referred to the Standards of Conduct (WVMCCD Board Policy – BP5500).

Repeated non-smoking and/or non-vaping infractions will incur an administrative citation. First fine citation will be \$35; second fine will be \$70; third and subsequent fines will be \$100. Maximum fine per citation will be \$100.

Students who are delinquent in paying the fine will have the fine amount posted on their student account and an "academic hold" will be placed on their record until the fine is paid.

Monies that are generated from the fines will be used to financially support the citation process operated by the District Police. Monies collected beyond the need to support the citation process will be given to the college student health services to financially support educational materials used to promote smoking cessation.

Students, employees and visitors who violate the Non-smoking and Non-vaping policy more than 3 times will be referred to the Vice-President of Student Services and/or Human Resources, if appropriate and necessary.

Date Approved: April 11, 2016

*(This is **new** procedural language recommended by the Policy and Procedure Service)*

General Institution

AP 3600 AUXILIARY ORGANIZATIONS

References:

Education Code Sections 72670 et seq.;
Government Code Sections 12580 et seq.;
Title 5 Sections 59250 et seq.

Definitions

Board of Directors: The term board of directors as used herein means the governing board of an auxiliary organization.

Board of Trustees: The term Board of Trustees as used herein means the Board of Trustees of the District.

Board of Governors: The term Board of Governors as used herein means the Board of Governors of the California Community Colleges.

CEO: The term CEO (chief executive officer) as used herein means the Chancellor of the District or designee.

District: The term District as used herein means the West Valley-Mission Community College District.

Associated Student Body: The terms Associated Student Body, Associated Student Organization, Student Association, Student Organization, or ASB as used herein means an organization formed by any group of students from a College of the District in accordance with the provisions of Education Code Section 76060. All clubs and organizations recognized by an Associated Student Body or Organization shall be included in any auxiliary organization established by the Student Body or Organization.

Recognition and Establishment of Auxiliary Organizations

The Chancellor shall submit a recommendation to the Board of Trustees to establish an auxiliary organization when the organization will serve the District. The recommendation includes, but is not limited to, the following:

The purpose(s) for which the auxiliary organization is to be established;

Whether the proposed auxiliary organization will primarily serve the District or a particular District;

The functions which the auxiliary organization is intended to perform;

The proposed bylaws and articles of incorporation for the auxiliary organization, including the size and composition of the board of directors; and

The proposed written agreement between the auxiliary organization and the District, as required in Title 5 Section 59259.

The process of recognition shall be as follows:

When the Chancellor receives a request to establish an auxiliary organization, the Chancellor shall submit a recommendation concerning the establishment of said organization to the Board of Trustees within three months.

The Board of Trustees shall hold a public hearing on each recommendation concerning the establishment of an auxiliary organization.

At a subsequent scheduled meeting after the public hearing, the Board shall announce its decision concerning the establishment of the organization, and, if approved, authorize the functions it may perform, identify the number and category or categories of the board of directors and approve contractual arrangements.

At such time as the District recognizes an auxiliary organization, it shall submit to the State Chancellor's Office any written agreements with the auxiliary organization, as well as the articles of incorporation, bylaws, or other governing instruments.

Recognized Services, Programs and Functions

Auxiliary organizations may be recognized and established by the Board of Trustees to perform the following services, programs and functions, which are an integral part of the community college educational programs. The following supportive services and specified programs have been determined to be appropriate:

Student association or organization activities;

Bookstores;

Food and campus services;

Student union programs;

Facilities and equipment, including parking;

Loans, scholarships, grants-in-aid;

Workshops, conferences, institutes and federal and specially funded projects;
Alumni activities;

Supplementary health services;

Gifts, bequests, devises, endowments and trusts; and

Public relations programs.

This section shall not be construed to prohibit an auxiliary organization from taking actions essential to satisfy the non-profit corporation or tax laws of the State of California or the federal tax laws.

Operations of commercial services on a campus shall be self supporting when operated by an auxiliary organization.

Authority and Responsibility of Auxiliary Organizations

Participation in workshops, conferences, or institutes offered by auxiliary organizations shall not be included in reports to the state for the purpose of receiving apportionment funding.

All services, programs and activities that may be undertaken by an auxiliary organization shall be maintained for the general benefit of the educational program of the District. Upon Board of Trustees approval, an auxiliary organization may assume any of the services, programs and activities listed in these procedures in order to:

- Provide the fiscal means and the management procedures that allow the District to carry on educationally related activities not normally funded by State apportionment;
- Eliminate the undue difficulty that would otherwise arise under the usual governmental budgetary, purchasing and other fiscal controls except as expressly prohibited by the Education Code, Title 5, or the District's procedures; or
- Provide fiscal procedures and management systems that allow effective coordination of the auxiliary activities with the District in accordance with sound business practices.

Composition of Boards of Directors

The board of directors of each auxiliary organization shall have the following composition:

Student Associations or Organizations: The board of directors shall consist primarily of students. The student activities directors may attend and participate in meetings of the board of directors in order to advise on policy and to provide for the control and regulation required by Education Code Section 76060.

Other Auxiliary Organizations: Any other District approved auxiliary organization that is established pursuant to Education Code Sections 72670 et seq. shall have a board of directors appointed in accordance with the organization's articles of incorporation or bylaws and consisting of voting membership from one or more of the following categories: administration, staff, members of the community, students.

The size of the board of directors of an auxiliary organization shall be at least large enough to accommodate the one or more categories from which board members are selected.

The board of directors shall have the advice and counsel of at least one attorney admitted to practice in California and at least one certified public accountant. Upon being notified of the certified public accountant selected by an auxiliary organization, the district shall forward the applicable auditing and reporting procedures to the selected certified public accountant.

Conduct of Boards of Directors

No member of the board of directors of an auxiliary organization shall be financially interested in any contract or other transaction entered into by the board of which he/she is a member. Any contract or transaction entered into in violation of this section is void.

No contract or other transaction entered into by the board of directors of an auxiliary organization is void under the provisions of Education Code Section 72677; nor shall any member of such board be disqualified or deemed guilty of misconduct in office under such provisions, if pursuant to Education Code Section 72678 both of the following conditions are met:

- The fact of such financial interest is disclosed or known to the board of directors and noted in the minutes, and the board thereafter authorizes, approves, or ratifies the contract or transaction in good faith by a vote sufficient for the purpose without counting the vote or votes of such financially interested member or members.
- The contract or transaction is just and reasonable as to the auxiliary organization at the time it is authorized or approved.

The provisions of Education Code Section 72678 above shall not be applicable if any of the following conditions are met:

- The contract or transaction is between an auxiliary organization and a member of the board of directors of that auxiliary organization.
- The contract or transaction is between an auxiliary organization and a partnership or unincorporated association of which any member of the governing board of that auxiliary organization is a partner or in which he/she is the owner or holder, directly or indirectly, of a proprietorship interest.
- The contract or transaction is between an auxiliary organization and a corporation in which any member of the board of directors of that auxiliary organization is the owner or holder, directly or indirectly, of five percent or more of the outstanding common stock.

- A member of the board of directors of an auxiliary organization is interested in a contract or transaction within the meaning of Education Code Section 72677 and without first disclosing such interest to the governing board at a public meeting of the board, influences or attempts to influence another member or members of the board to enter into the contract or transaction.

It is unlawful for any person to utilize any information, not a matter of public record, which is received by the person by reason of his/her membership on the board of directors of an auxiliary organization, for personal pecuniary gain, regardless of whether he/she is or is not a member of the board at the time such gain is realized.

Bylaws

The bylaws of an auxiliary organization shall include, but not be limited to, specifying:

- The number of members of the board of directors, the categories from which members shall be selected and the method by which they shall be selected.
- The size of the board of directors.
- That at least one public business meeting will be held each quarter.
- The time table for the preparation and adoption of its program and annual budget and the submission of both for review to the Chancellor.
- That an attorney admitted to practice in this state and a licensed certified public accountant shall be selected to provide advice and counsel to the board of directors. Each shall have experience appropriate to the responsibility and shall have no financial interest in any contract or other transaction entered into by the board which he/she serves. Neither the attorney nor the certified public accountant needs to be a member of the board of directors.
- The procedures for approving expenditures.
- The procedures for accepting gifts, donations, bequests, trusts, specially funded grants, and other income.

Master Agreement between District and Auxiliary Organizations

In the recognition and establishment of an auxiliary organization, there shall be a written agreement between the District and the auxiliary organization which sets forth the purposes of the auxiliary organization as permitted under this procedure and Title 5 Section 59259.

Should an auxiliary organization provide more than one service, program or function, such service, program or function may be authorized in one of more written contracts with the District. Such services, programs and functions thereby performed by an auxiliary organization may also be part of a joint powers agreement in accordance with Education

Code Section 72671 and Government Code Sections 6500 et seq.

An auxiliary organization shall provide only those services, programs or functions authorized by a written agreement. No other service, program or function shall be permitted or performed unless a written agreement between the District and the auxiliary organization is amended to provide otherwise.

The agreement shall include, but is not limited to, the following provisions:

- The services, programs, or functions the auxiliary organization is to manage, operate or administer.
- A statement of the reasons for administration of the functions by the auxiliary organization instead of by the District under usual District procedures.
- The areas of authority and responsibility of the auxiliary organization and the District or College.
- The facilities and services to be made available by the District to permit the auxiliary organization to perform the services, programs or functions specified in the written agreement.
- The charge or rental to be paid to the District by the auxiliary organization for the facilities used or services provided in connection with the performance of its function. The charge or rental specified shall be identified in sufficient time before it is incurred so that the organization may determine to what extent it is liable.
- Full reimbursement to the District for services performed by the District or by District employees in support of the auxiliary organization. No more than 50% of the reimbursement may be made in the form of non-monetary benefits that the auxiliary organization provides to the District, such as increased community awareness or other such benefits that are agreed upon by authorized District officials and the auxiliary organization. The District shall assign a good-faith reimbursement value to such non-monetary benefits. Student body auxiliary organizations may be exempt from reimbursing all or any portion of the costs for such services. Methods of proration where services are performed by District employees for the organization shall be as mutually determined.
- A mutually agreed upon method of determining in advance to what extent the organization shall be liable for indirect costs relating to specially funded programs (including federally sponsored programs.).
- The responsibility for maintenance and payment of operating expenses.
- Proposed expenditures for public relations or other purposes which would serve to augment District appropriations for operation of the District. With respect to these expenditures, the auxiliary organization may expend funds in such amount and for such purposes as are approved by the board of directors of the auxiliary

organization. The board of directors shall file with the Chancellor a statement of such policy on accumulation and use of public relations funds. The statement shall include the policy and procedure on solicitation of funds, source of funds, amounts, and purpose for which the funds will be used, allowable expenditures, and procedures of control.

- The disposition to be made of net earnings derived from the operation of the auxiliary organization, including earnings derived from facilities owned or leased by the auxiliary organization, and provisions for reserves.
- The disposition to be made of net assets and liabilities on dissolution of the auxiliary organization or cessation of the operations under the agreement.
- The covenant of the auxiliary organization to maintain its organization and to operate in accordance with Education Code Sections 72670-72682 and Title 5 Sections 59250 et seq. as well as Board Policy.
- The understanding that the auxiliary organization shall obtain the services and counsel of an attorney admitted to practice in the State of California whenever the need arises.
- The understanding that the auxiliary organization shall not enter into any contract or other business arrangement involving real property either by lease involving payments of more than \$25,000 per annum and duration terms of more than one year, or by purchase without prior notification and consultation with the Chancellor.

Personnel

Each auxiliary organization shall develop general regulations to govern its operations, including policies and regulations concerning the salaries, working conditions, and benefits of its employees.

The aforesaid regulations shall not conflict with the implementing policies adopted by the Board of Trustees or with these procedures.

Except as otherwise provided in any board rules, the board of directors of each auxiliary organization shall, pursuant to Education Code Section 72672, provide salaries, working conditions and benefits for its full-time employees that are comparable to those provided District employees performing substantially similar services. For those full-time employees who perform services that are not substantially similar to the services performed by District employees, the salaries established shall be comparable to the salaries prevailing in other educational institutions in the area or commercial operations of like nature in the area.

Regular District employees may be employed by the auxiliary organization. District employees must resign or request a personal leave of absence from the District in order to accept employment with the auxiliary organization. District officers and employees who are required by the District's Conflict of Interest Code (AP 2712) to file disclosure of financial information are responsible to determine whether or not they are eligible to

accept employment with the auxiliary organization immediately upon resignation from the District.

- **Educational Administrators or other Management Employees** may be granted a personal leave of absence for two semesters, which may be extended to a maximum of ten consecutive semesters.
- **Classified management employees** may be granted a personal leave of absence for up to one year. This leave may not be extended beyond one year without the employee first having returned to active duty.
- **Academic (faculty) employees** may be granted personal leave of absence for two semesters. The leave may be extended for not more than six consecutive semesters.
- **Classified employees** may be granted a personal leave of absence for up to one year. This leave may not be extended beyond one year without the employee first having returned to active duty.

The board of directors of each auxiliary organization may provide retirement benefits different from those provided comparable District employees and may withhold retirement benefits or permanent status benefits or both from temporary employees. For the purposes of this procedure, a temporary employee is:

- An employee employed for a specific research project, workshop, institute or other special project funded by any grant, contract or gift; or
- An employee whose contract of employment is for a fixed term not exceeding three years.

The board of directors of each auxiliary organization may withhold permanent status benefits from executive employees. For the purposes of this procedure, an executive employee is any management employee with responsibility for the development and execution of the auxiliary organization's policies and includes, but is not limited to, general managers, managers, directors and the like, as determined by the board of directors of each auxiliary organization.

Should retirement benefits be provided, they may but need not be provided by the Public Employees' Retirement System. Any newly created auxiliary organization is exempted from the requirement of providing retirement benefits for a period not to exceed three years from the date on which the Board of Trustees recognizes the establishment of such auxiliary organization.

An auxiliary organization may contract with the District for the services of a District employee and reimburse the District for that portion of the employee's full-time assignment (and corresponding benefits) that is spent in providing said services.

Accounting and Reporting for Auxiliary Organizations

The fiscal year of the auxiliary organization shall coincide with that of the District.

Each auxiliary organization shall develop an accounting system that is in accordance with generally accepted accounting principles.

The auxiliary organization shall implement financial practices that will assure its fiscal viability. Such standards shall include professional management, adequate working capital, adequate reserve funds for current operations, capital replacements, contingencies and adequate provisions for new business requirements.

Each auxiliary organization serving the District shall submit its programs and budgets for review at a time and in a manner specified by the Chancellor.

Funds derived from indirect cost payments shall only be appropriated with the specific approval of the Chancellor. All uses of such funds shall be regularly reported to the District's governing board.

Should the Chancellor determine that any program or appropriation planned by an auxiliary organization is not consistent with District policy, the program or appropriation shall not be implemented. Further, should a program or appropriation which has received approval, upon review, be determined by the Chancellor to be operating outside the acceptable policy of the Board of Governors or the District, then that program or appropriation shall be discontinued by direction of the Chancellor until further review is accomplished and an appropriate adjustment is made.

The board of directors of an auxiliary organization shall approve all expenditure authorizations.

If the auxiliary organization receives or accrues in any fiscal year gross revenue of two million dollars (\$2,000,000) or more, it shall also include in its bylaws an audit committee appointed by the board of directors. The audit committee may include persons who are not members of the board of directors, but the member or members of the audit committee shall not include any members of the staff, including the president or chief executive officer and the treasurer or chief financial officer. If the auxiliary committee has a finance committee, it must be separate from the audit committee.

Members of the audit committee shall not receive any compensation from the corporation in excess of the compensation, if any, received by members of the board of directors for service on the board and shall not have a material financial interest in any entity doing business with the corporation. Subject to the supervision of the board of directors, the audit committee shall be responsible for recommending to the board of directors the retention and termination of the independent auditor and may negotiate the independent auditor's compensation, on behalf of the board of directors.

The audited financial statements shall be available for inspection by the Attorney General and shall be made available to members of the public.

The board of directors, or an authorized committee of the board, shall review and approve the compensation, including benefits, of the President or Chief Executive Officer and the Treasurer or Chief Financial Officer to assure that it is just and reasonable. This review and approval shall occur initially upon the hiring of the officer, whenever the term of employment, if any, of the officer is renewed or extended, and whenever the officer's compensation is modified. Separate review and approval shall not be required if a modification of compensation extends to substantially all employees.

Records and Annual Report of Auxiliary Organizations

Personnel and payroll records shall be maintained as permanent records by each auxiliary organization.

Adequate records of all other transactions of an auxiliary organization shall be maintained for a minimum of five years. Transactions of the organization include, but are not limited to, purchases, disbursements, and investments.

An annual report shall be submitted to the board of directors of the auxiliary organization and to the Chancellor by September 15. The report shall include, but is not limited to:

- All financial statements required to be filed with the California Community Colleges Chancellor's Office
- A comparison of budgeted and actual expenditures
- A description of major accomplishments of the organization
- A description of improvements proposed for operation of the organization.

Records maintained by an auxiliary organization shall be available to the public to inspect or copy at all times during the office hours of the auxiliary organization, pursuant to and with the exceptions provided in Education Code sections 72690 et seq.

Annual Audit

Each auxiliary organization shall have an annual fiscal audit of any and all funds. The audit shall be performed by a certified public accountant in accordance with procedures prescribed State Chancellor's Office. Copies of the annual audit report shall be submitted to the Board of Trustees and to the State Chancellor's Office within 30 days after it is received by the auxiliary organization. Thereafter, it shall be a public record, except as otherwise provided by law. Such audits may be conducted as part of a fiscal audit of the District itself.

Auxiliary organizations shall annually publish an audited statement of their financial condition, which shall be disseminated as widely as feasible and be available to any person on request. A reasonable fee may be charged to cover the costs of providing a copy. An auxiliary organization shall comply with this requirement by:

- Publishing the audited financial statement in a campus newspaper; or

- Publishing a notice in a campus newspaper indicating the on-campus location where copies of the financial statement may be obtained or reviewed; or
- Publishing or noticing the audited statement in a campus bulletin or other appropriate medium if a campus newspaper is unavailable.

Insurance

An auxiliary organization shall secure and maintain insurance adequate to protect its operations from catastrophic losses and as required by law, including but not limited to, the following:

- Comprehensive liability;
- Property and extended coverage, when applicable;
- All risks, money and securities;
- Fidelity and performance bonds covering its chief fiscal officer;
- Automotive liability when applicable; and
- Workers' Compensation

In any insurance policy secured by the auxiliary organization, the District shall be named as additional insured.

A copy of each policy or endorsement or insurance certificates setting forth the coverage and limits shall be provided to the District within 30 days from the receipt of the document.

In obtaining the insurance coverage, the auxiliary organization may secure the insurance directly through its own broker or through the District.

Auxiliary Organizations: Use of Facilities

Facilities may be made available by the District to an auxiliary organization to perform the functions specified in these regulations or in an agreement, under the following circumstances:

The auxiliary organization may occupy, operate and use such District facilities as are mutually identified as appropriate for the functions and/or activities that have been undertaken by the auxiliary organization.

The auxiliary organization shall pay to the District a charge or rental for the District facilities to be used by it in connection with the performance of its function or functions.

The charge or rental to be paid by the auxiliary organization shall not require involved methods of computation, and shall be identified by the District and the auxiliary organization in sufficient time before it is incurred so that the auxiliary organization may determine to what extent it shall be liable.

The charge or rental to be incurred by an auxiliary organization for use of District facilities in excess of five days shall be incorporated into the agreement between the parties.

An auxiliary organization shall provide full reimbursement to the District for any services performed by District employees under the direction of the auxiliary organization. Methods of proration where services are performed by District employees for the auxiliary organization shall be simple and equitable.

List of Auxiliary Organizations in Good Standing

Each year, the Chancellor shall provide to the Board of Trustees a list of all auxiliary organizations in good standing. All auxiliary organizations which, after periodic review in the manner specified hereinafter in these regulations, are found to be in compliance with applicable laws, policies and regulations shall be included in the list.

When the Chancellor has reason to believe that a particular organization should be removed from the list of auxiliary organizations in good standing, a conference shall be held to determine whether such grounds for removal do in fact exist. The board of directors of such organization shall be entitled to participate in this conference, and shall have a minimum of one month notice to prepare response to the issues which have been raised.

Based upon such conference, the Chancellor shall decide whether the particular organization shall be removed from the list of auxiliary organizations in good standing.

An organization so removed shall not be permitted to do any of the following:

- Use the name of the District;
- Have as a director any official in the District acting in his/her official capacity;
- Operate a commercial service for the benefit of the District or any of its Colleges; and
- Receive gifts, property or funds to be used for the benefit of the District or any of its colleges.

If the auxiliary organization is dissolved or ceases operations upon removal from the list of organizations in good standing, its net assets and liabilities shall be distributed according to the terms of the written agreement between the organization and the District.

Limitation on Transfer of Funds to Auxiliary Organizations

No funds or resources, other than funds or resources derived from gifts or bequests, shall be transferred by the District to any of its auxiliary organizations for the purpose of either avoiding laws or regulations which constrain community college districts or providing the District with an unfair advantage with respect to the application of any state funding mechanism. Such state funding mechanisms include, but are not limited to, general apportionment funding, capital outlay funding, Extended Opportunity Programs and

Services funding, and funding for programs and services for disabled students.

Compliance Review by the District Chancellor

All auxiliary organization procedures and practices shall be reviewed to determine compliance with Education Code Sections 72670 et seq., and the policies, rules and regulations of the Board of Governors, and of the District. The Chancellor shall designate the individual to conduct this review, which shall be conducted at the end of the first complete fiscal year after its establishment and at least once every three years thereafter.

When the Chancellor's designee determines, after inspection and review, that certain auxiliary organization procedures and practices are not in compliance with policies, rules and regulations of the Board of Governors and the District, a recommendation concerning the items of noncompliance shall be communicated in writing to the Chancellor and to the board of directors of the auxiliary organization. The board of directors shall reply in writing within one month, either describing the actions which will be taken, including time table, to bring said procedures and practices into compliance;

or describing the reasons why the board considers the procedures already to be in compliance.

If the Chancellor's designee considers the proposed corrective actions to be acceptable, the auxiliary organization shall be so informed. A second compliance review shall be held at the end of the time agreed to and the results communicated in writing to the Chancellor and to the board of directors.

When the auxiliary organization fails to provide an acceptable proposal for corrective actions or fails to implement successful corrective actions within the agreed upon time, the Chancellor shall inform the board of directors of such further action as he/she considers appropriate, which may include a recommendation to the Board of Trustees for termination of the contract.

Revision of Rules and Procedures and Reports to the State Chancellor's Office

Rules and procedures for the administration of auxiliary organizations may be revised as necessary by the Chancellor or designee. The board of directors of each auxiliary organization in good standing shall be promptly notified in writing of such revisions and be informed of the date by which any changes in the organization's procedures must be accomplished.

Any such revisions shall be submitted to the State Chancellor's Office for approval.

The District shall report, as may be required from time to time, on the operation of its auxiliary organizations.

Date Approved: January 18, 2012

Date Revised: April 11, 2016

(Replaces current WVMCCD Procedure 6.25)

General Institution

AP 3710 INTELLECTUAL PROPERTY AND COPYRIGHT**References for Intellectual Property:**

17 U.S. Code Sections 101 et seq.;
35 U.S. Code Sections 101 et seq.;
37 Code of Federal Regulations Sections 1.1 et seq.

References for Copyright:

Education Code Sections 72207 and 81459;
17 United States Code 201

The following intellectual property procedure shall be interpreted consistent with other District policies, including, but not limited to, the District's policy on academic freedom and federal and state statutes and regulations. This procedure shall also be interpreted consistent with all collective bargaining agreements.

Definitions

For the purposes of this procedure, the following definitions apply to the following words or phrases:

“Administrative Activity” means the execution of the District’s management or administrative functions such as preparing budgets, policies, contracts, personnel management, printing course materials and catalogues, maintenance of computer data, long range planning, and keeping inventories of equipment. Teaching and academic endeavors are not administrative activities.

“Author” or “Creator” means an individual who alone or as part of a group of other creators, invent, author, discover, or otherwise create intellectual property.

“District Resources” means all tangible resources including buildings, equipment, facilities, computers, software, personnel, and funding.

“Course Materials” Materials prepared for use in teaching, fixed or unfixed, in any form, including, but not limited to, digital, print, audio, visual, or any combination thereof. Course materials include, but are not limited to, lectures, lecture notes, and materials, syllabi, study guides, bibliographies, visual aids, images, diagrams, multimedia presentations, web-ready content, and educational software.

“Course Syllabus” means a document that includes information about the outline, standards for student evaluation, and additional information which reflects the academic work of the faculty member.

“Digital Encoded Work” means a work (on a bit-sequence) that can be stored on computer-readable media, manipulated by computers, and transmitted through data networks.

“Employee” means an individual employed by the District, and shall include full-time and part-time faculty, classified staff, student employees, appointed personnel, persons with "no salary" appointments, and academic professionals, who develop intellectual property using District resources, unless there is an agreement providing otherwise.

“Intellectual Property” means works, products, processes, tangible research property, copyrightable subject matter, works of art, trade secrets, know how, inventions and other creations the ownership which are recognized and protected from unauthorized exploitation by law. Examples of intellectual property include scholarly, artistic, and instructional materials.

“Student” means an individual who was or is enrolled in a class or program at the District at the time the intellectual property was created.

“Student Employee” means a student who is paid by the District, and may include students participating in a work study program or who receive stipends while they are acting within the scope of their employment at the District at the time the intellectual property was created.

“Substantial Use of District Resources” means use of District resources beyond the normal professional, technology, and technical support generally provided by the District and extended to an individual or individuals for development of a product, project or program. The use of District resources must be important and instrumental to the creation of the intellectual property. The following do not constitute substantial use of the District’s resources: (1) incidental use of District resources and/or (2) extensive use of District resources commonly available to District employees. A substantial use of the District’s resources may be implicated in situations where the creator spends such time and energy in the creation of a work that results in a great reduction of the creator’s teaching activity.

“Work” means an “original work of authorship fixed in a tangible medium” as used in the Copyright Act.

Ownership of Intellectual Property

The ownership rights to a creation at the District shall be determined generally as set forth below, unless ownership is modified by an agreement.

Employee Intellectual Property Rights

A District employee who is the creator of an academic work in his/her field of expertise owns the copyright in that work. Academic works include textbooks, lecture notes and other course materials, literary works, artistic works, musical works, architectural works and software produced with no more than nominal or incidental use of the District’s resources. Academic works described in this paragraph are owned by the employee even though such works may have been developed within the employee’s scope of employment.

Intellectual property unrelated to an individual's employment responsibilities at the District, and that is developed on an individual's own time and without the District's support or use of District facilities is the exclusive property of the creator and the District has no interest in any such property and holds no claim to any profits resulting from such intellectual property.

District Intellectual Property Rights

The District owns all other intellectual property, including but not limited to patentable inventions, such as computer software, created by its employees under the following circumstances:

- 1) If intellectual property is created through the District's administrative activities by an employee working within his/her scope of employment; or
- 2) If intellectual property is created by an employee executing a duty or specific assignment designated by the District; or
- 3) If intellectual property is created through the substantial use of District resources; or
- 4) If intellectual property is commissioned by the District pursuant to a signed contract; or
- 5) If intellectual property is produced within one of the nine categories of works considered works for hire under copyright law pursuant to a written contract, or
- 6) If intellectual property is produced from research specifically supported by state or federal funds or third party sponsorship.

Where circumstances give rise to District intellectual property rights, as described above, the creator of the potential intellectual property will promptly disclose the intellectual property to the District. The District and the creator may enter into a written agreement whereby the creator executes documents assigning intellectual property rights to the District.

The Chancellor may waive the District's interests in its intellectual property by executing a written waiver.

Student Intellectual Property Rights

District students who created a work are owners of and have intellectual property rights in that work. District students own the intellectual property rights in the following works created while they are students at the District:

- 1) intellectual property created to meet course requirements using college or District resources, and
- 2) intellectual property created using resources available to the public. Intellectual

property works created by students while acting as District employees shall be governed under provisions for employees.

Modification of Ownership Rights

The general provisions for ownership of intellectual property rights set forth in Section II may be modified by the parties as follows:

Sabbatical Works

Generally, intellectual property created by District employees during a sabbatical is defined as an academic work. However, where a work to be created as part of an approved sabbatical plan requires resources beyond those normally provided to other employees during a sabbatical (substantial use District resources), the parties may enter into a written agreement to define the District and employee's intellectual property rights in the sabbatical work.

Assignment of Rights

When the conditions outlined in the sections on employee intellectual property rights or student intellectual property are met, ownership will reside with the employee or student responsible for creating the intellectual property. In these circumstances, the creator may pursue intellectual property protection, marketing, and licensing activities without involving the District. If such a decision is made, the creator is entitled to all revenues received.

Any person may agree to assign some or all of his/her intellectual property rights to the District. In the event the creator offers to share or assign intellectual property rights in the creation to the District, the District may support and finance application for intellectual property protection (trademark, patent, or copyright) or it may enter into an agreement for other exploitation of the work, including management, development and commercialization of the property under terms and conditions as may be agreeable to the parties. After evaluating the creator's offer, the District may or may not decide to become involved in a joint investment agreement. A negative response from the District will be communicated in writing to the creator. An affirmative response from the District will be summarized as a offer to enter into a written contract. If the creator accepts the District's proposed contract, any revenues received from commercialization of the intellectual property will be distributed as defined in the contract.

Sponsorship Agreements

A sponsored work is a work first produced by or through the District in the performance of a written agreement between the District and a sponsor. Sponsored works generally include interim and final technical reports, software, and other works first created in the performance of a sponsored agreement. Sponsored works do not include journal articles, lectures, books or other copyrighted works created through independent academic effort and based on the findings of the sponsored project, unless the sponsored agreement states otherwise. Ownership of copyrights to sponsored works shall be with the District unless the sponsored agreement states otherwise. Where a sponsorship agreement does not define ownership of the intellectual property, ownership shall

be determined under applicable law. Any sponsorship agreement that provides for ownership of the work by one other than the District generally shall provide the District with a nonexclusive, world-wide license to use and reproduce the copyrighted work for education and research purposes.

Collaboration/Partnership Agreements

The District may participate in projects with persons/organizations that result in the creation of intellectual property. Ownership rights of such intellectual property will be defined by the collaboration/partnership agreement, or shall be determined under applicable law.

Special Commissions

Intellectual property rights to a work specially ordered or commissioned by the District from a faculty member, professional staff member, other District employee, or other individual or entity, and identified by the District, as a specially commissioned work at the time the work was commissioned, shall belong to the District. The District, and the employee shall enter into a written agreement for creation of the specially commissioned work.

Use of Substantial District Resources

In the event the District provides substantial resources to an employee for creation of a work and the work was not created under an agreement (such as a sponsorship agreement, individual agreement, or special commission) the District and the creator shall own the intellectual property rights jointly in proportion to the respective contributions made.

Encoded Works/Software for Administrative Activities

The District may hire an individual or entity to develop software or other encoded works, to be used in the District's administrative activities. The District shall maintain ownership of the intellectual property rights in such encoded works. Similarly, the District shall have ownership of the intellectual property rights in encoded works created by an employee, even where the work was created out of the employee's own initiative, if the work is related to the employee's job responsibilities. For example, if an employee in the student records office creates a software program, on his/her own initiative, that will organize student records, such work is related to the employee's job duties and will belong to the District. Where an employee creates a program that does not relate to his/her job duties, and that program was created on the employee's own time, the work belongs to the employee.

Collective Bargaining Agreement

In the event the provisions of these procedures and the provisions of any operative collective bargaining agreement conflict, the collective bargaining agreement shall take precedence.

Jointly Created Works

Ownership of jointly created works shall be determined by separately assessing which of the above categories applies to each creator, respectively. Rights

between joint owners of a copyright shall be determined pursuant to copyright law.

Work Acquired by Assignment or Will

The District may acquire copyrights by assignment or will pursuant to the terms of a written agreement or testament. The terms of such agreements should be consistent with District policies and these procedures.

Materials Implicating Third Party Rights

District employees and students must comply with District policies and state and federal laws, including copyright and privacy laws, in creating works. District employees and students must obtain all required licenses, consents, and releases necessary to avoid infringing the rights of third parties. District employees and students with questions or concerns regarding third party rights should direct all inquiries to the Associate Vice Chancellor of Human Resources.

Intellectual Property Coordinator

The Associate Vice Chancellor of Human Resources shall be the District's Intellectual Property Coordinator. The coordinator shall administer this procedure and will implement the District's Intellectual Property Policy. The Intellectual Property Coordinator will also monitor the development and use of the District's intellectual property. Any questions relating to the applicability of the District Intellectual Property or this procedure may be directed and answered by the Intellectual Property Coordinator.

Preservation of Intellectual Property Right

Protection of Rights

The District shall undertake such efforts, as it deems necessary to preserve its rights in original works for which the District is the sole or joint owner of intellectual property rights. The District may apply for a patent, for trademark registration, for copyright registration, or for other protection available by law on any new work in which it maintains intellectual property rights.

Payment of Costs

The District may pay some or all costs required for obtaining a patent, trademark, copyright, or other classification on original works for which it exclusively owns intellectual property rights. If the District has intellectual property rights in a jointly owned work, the District may enter into an agreement with the joint owners concerning payment of such costs.

Commercialization of Intellectual Property

Right of Commercialization

The District may commercialize its Intellectual Property using its resources or it may enter into agreements with others to commercialize the work as authorized by law.

Distribution of Proceeds

An employee who creates a work and retains an intellectual property interest in such work in which the District maintains intellectual property rights is entitled to share in royalties, licenses, and any other payments from commercialization of the work in accordance with

applicable agreements and applicable laws. All expenses incurred by the District in protecting and promoting the work including costs incurred in seeking patent or copyright protection and reasonable costs of marketing the work, shall be deducted and reimbursed to the District before the creator is entitled to share in the proceeds.

Intellectual Property Account

The District shall deposit all net proceeds from commercialization of intellectual property in its own general intellectual property account. The Associate Vice Chancellor of Human Resources may use the account to reimburse expenses related to creating or preserving the District's intellectual property rights or for any other purpose authorized by law and District policy including the development of intellectual property.

Notification

The Intellectual Property Coordinator shall provide a copy of these Intellectual Property Procedures to persons upon request. The District shall arrange training on a periodic basis for faculty, staff and/or other persons who are covered by this Intellectual Property Procedure.

Date Approved: January 18, 2012

*(This is **new** procedural language recommended by the Policy and Procedure Service)*

General Institution**AP 3720 INFORMATION TECHNOLOGY USE****References:**

17 U.S. Code Sections 101 et seq.;

Penal Code Section 502, Cal. Const., Art. 1 Section 1;

Government Code Section 3543.1(b);

Federal Rules of Civil Procedure, Rules 16, 26, 33, 34, 37, 45

The District Computer and Network systems are the sole property of West Valley- Mission Community College District. They may not be used by any person without the proper authorization of the District. The Computer and Network systems are for District instructional and work related purposes only.

This procedure applies to all District students, faculty and staff and to others granted use of District information resources. This procedure refers to all District information resources whether individually controlled or shared, stand-alone or networked. It applies to all computer and computer communication facilities owned, leased, operated, or contracted by the District. This includes non-District owned devices whenever such devices are connected to District networks or information resources, regardless of whether used for administration, research, teaching or other purposes. This procedure includes all electronic devices, wired and wireless, that are used to gain access to the District information technology equipment and resources.

Conditions of Use

Individual units within the District may define additional conditions of use for information resources under their control. These statements must be consistent with this overall procedure but may provide additional detail, guidelines or restrictions.

Legal Process

This procedure exists within the framework of the District Board Policy and state and federal laws, collective bargaining contracts, and student code of conduct. A user of District information resources who is found to have violated any of these policies will be subject to disciplinary action up to and including but not limited to loss of information resources privileges; disciplinary suspension or termination from employment or expulsion; and/or civil or criminal legal action.

Copyrights and Licenses

Computer users must respect copyrights and licenses to software and other on-line information.

Copying - Software protected by copyright may not be copied except as expressly permitted by the owner of the copyright or otherwise permitted by copyright law. Software may not be copied into, from, or by any District facility or system, except pursuant to a valid license or as otherwise permitted by copyright law.

Number of Simultaneous Users - The number and distribution of copies must be handled in such a way that the number of simultaneous users within the District or any portion of the District not exceed the number of original copies or otherwise legally acquired by the District or any portion of the District unless otherwise stipulated in the purchase contract.

Copyrights - In addition to software, all other copyrighted information (text, images, icons, programs, etc.) retrieved from computer or network resources must be used in conformance with applicable copyright and other law. Copied material must be properly attributed. Plagiarism of computer information is prohibited in the same way that plagiarism of any other protected work is prohibited.

Fair Use - Fair use explicitly allows use of copyrighted materials for educational purposes such as criticism, comment, news reporting, teaching, scholarship, and research. Rather than listing exact limits of fair use, copyright law provides four standards for determination of the fair use exemption:

- Purpose of use: Copying and using selected parts of copyrighted works for specific educational purposes qualifies as fair use, especially if the copies are made spontaneously, are used temporarily, and are not part of an anthology.
- Nature of the work: For copying paragraphs from a copyrighted source, fair use easily applies. For copying a chapter, fair use may be questionable.
- Proportion/extent of the material used: Duplicating excerpts that are short in relation to the entire copyrighted work or segments that do not reflect the "essence" of the work is usually considered fair use.
- The effect on marketability: If there will be no reduction in sales because of copying or distribution, the fair use exemption is likely to apply.

Integrity of Information Resources

Computer users must respect the integrity of technology based information resources.

In making acceptable use of resources users are expected to:

- Use resources only for purposes authorized by this procedure;
- Protect your user ID, password, and resources from unauthorized use;
- Access only information that is your own, that is publicly available, or to which you have been given authorized access.

Unacceptable use of resources may include, but is not limited to:

- Attempt to circumvent, subvert, or disable system or network security measures;
- Engage in activities that may lead to disrupting services;
- Intentionally damage files or make unauthorized modifications to District data;
- Download, make or use illegal copies of copyrighted materials, software, or music, store such copies on District resources, or transmit them over District networks;
- Creation or display of threatening, obscene, racist, sexist, defamatory, or harassing material which is in violation of existing law or District policy;
- Use of the District's resources or networks for personal profit;
- Installation of unauthorized hardware or software onto any District owned computer/network (the Information Systems Department or appropriate District authorized personnel is responsible for all installations, requests for exceptions should be sent to the Director of Information Systems).

Modification or Removal of Equipment - Computer users must not attempt to modify or remove technology equipment, software, or peripherals that are owned by others without proper authorization.

Unauthorized Use - Computer users must not interfere with others access and use of the District information resources. This includes but is not limited to: the sending of chain letters or excessive messages, either locally or off-campus; printing excess copies of documents, files, data, or programs, running grossly inefficient programs when efficient alternatives are known by the user to be available; unauthorized modification of system facilities, operating systems, or data storage systems and structures; attempting to crash or tie up a District computer or network; and damaging or vandalizing District computing and telecommunication facilities, equipment, software or computer files.

Unauthorized Programs - Computer users must not intentionally develop or use programs which disrupt other technology users or which access private or restricted portions of the system, or which damage the software or hardware components of the system. Computer users must ensure that they do not use programs or utilities that interfere with other computer users or that modify normally protected or restricted portions of the system or user accounts. The use of any unauthorized or destructive program will result in disciplinary action as provided in this procedure, and may further lead to civil or criminal legal proceedings.

Unauthorized Access

Computer users must not seek to gain unauthorized access to information resources and must not assist any other persons to gain unauthorized access.

Abuse of Computing Privileges - Users of District information resources must not access information technology equipment and resources or networks without proper authorization, or intentionally enable others to do so, regardless of whether the information technology equipment and resources, or network in question, is owned by the District. For example, abuse of the networks to which the District belongs or the computers at other sites connected to those networks will be treated as an abuse of District computing privileges.

Reporting Problems - Any defects discovered in system accounting or system security must be reported promptly to the appropriate system administrator so that steps can be taken to investigate and solve the problem.

Password Protection - An information technology user who has been authorized to use a password-protected account on District systems or controlled by the District on other systems may be subject to both civil and criminal liability if the user discloses the password or otherwise makes the account available to others without permission of the system administrator. Users are required to change passwords as mandated by the District.

Unauthorized Access includes, but is not limited to:

- Unauthorized use of another person's system access, user ID, password, files, or data, or giving the use of one's system, user ID, password to another individual or organization;
- Attempt to disguise the identity of the account or computer you are using;
- Attempt to gain unauthorized access to resources and data, including other's passwords;

Password Protection - A computer user who has been authorized to use a password-protected account may be subject to both civil and criminal liability if the user discloses the password or otherwise makes the account available to others without permission of the system administrator.

Usage

Computer users must respect the rights of other technology users. Attempts to circumvent these mechanisms in order to gain unauthorized access to the system or to another person's information are a violation of District procedure and may violate applicable law.

Unlawful Messages - Users may not use electronic communication facilities to send defamatory, fraudulent, harassing, obscene, threatening, or other messages that violate applicable federal, state or other law or District policy, or which constitute the unauthorized release of confidential information.

Commercial Usage - Electronic communication facilities may not be used to transmit commercial or personal advertisements, solicitations or promotions (see Commercial Use, below). Some public discussion groups may be designated for selling items, and may, subsequently, be used appropriately, according to the stated purpose of the

group(s).

Information Belonging to Others - Users must not intentionally seek or provide information on, obtain copies of, or modify data files, programs, or passwords belonging to other users, without the permission of those other users and the system administrator.

Rights of Individuals - Users must not release any individual's (student, faculty, and staff) personal information to anyone without proper authorization.

User identification - Users shall not send communications or messages anonymously or without accurately identifying the originating account or station.

Political, Personal, and Commercial Use - The District is a non-profit, tax-exempt organization and, as such, is subject to specific federal, state and local laws regarding sources of income, political activities, use of property and similar matters.

Political Use - District information resources must not be used for partisan political activities where prohibited by federal, state, or other applicable laws.

Personal Use - District information resources should not be used for personal activities not related to District functions, except in a purely incidental manner.

Commercial Use - District information resources should not be used for commercial purposes. Users also are reminded that the ".cc" and ".edu" domains on the Internet have rules restricting or prohibiting commercial use, and users may not conduct activities not authorized within those domains.

Nondiscrimination

All users have the right to be free from any conduct connected with the use of West Valley-Mission Community College District network and computer resources which discriminates against any person on the basis of national origin, religion, age, gender, gender identity, gender expression, sex, race or ethnicity, color, medical condition, genetic information, ancestry, sexual orientation, marital status, physical or mental disability, pregnancy, or military and veteran status, or because he/she is perceived to have one or more of the foregoing characteristics, or based on association with a person or group with one or more of these actual or perceived characteristics. No user shall use the District network and information resources to transmit any message, create any communication of any kind, or store information which violates any District procedure regarding discrimination or harassment, or which is defamatory or obscene, or which constitutes the unauthorized release of confidential information.

Disclosure

No Expectation of Privacy - The District reserves the right to monitor all use of the District network and information resources to assure compliance with these policies. Users should be aware that they have no expectation of privacy in the use of the District network and information resources. The District will exercise this right only for legitimate District purposes, including but not limited to ensuring compliance with this procedure and

the integrity and security of the system.

Possibility of Disclosure - Users must be aware of the possibility of unintended disclosure of communications.

Retrieval - It is possible for information entered on or transmitted via computer and communications systems to be retrieved, even if a user has deleted such information.

Public Records - The California Public Records Act (Government Code Sections 6250 et seq.) includes computer transmissions in the definition of “public record” and nonexempt communications made on the District network or computers must be disclosed if requested by a member of the public.

Litigation - Computer transmissions and electronically stored information may be discoverable in litigation.

Dissemination and User Acknowledgment

All users shall be provided copies of these procedures and be directed to familiarize themselves with them.

A “pop-up” screen addressing the e-mail portions of these procedures shall be installed on all e-mail systems. The “pop-up” screen shall appear prior to accessing the e-mail network. Users shall sign and date the acknowledgment and waiver included in this procedure stating that they have read and understand this procedure, and will comply with it. This acknowledgment and waiver shall be in the form as follows:

Computer and Network Use Agreement

I have received and read a copy of the District Computer and Network Use Procedures and this Agreement and recognize and understand the guidelines. I agree to abide by the standards set in the Procedures for the duration of my employment and/or enrollment. I am aware that violations of this Computer and Network Usage Procedure may subject me to disciplinary action, including but not limited to revocation of my network account up to and including prosecution for violation of State and/or Federal law.

Date Approved: January 18, 2012

Date Revised: April 11, 2016

*(This is **new** procedural language recommended by the Policy and Procedure Service)*

General Institution

AP 3750 USE OF COPYRIGHTED MATERIAL**References:**

Education Code Sections 32360 and 67302;
U.S. Code Title 17, Copyright Act of 1976

Employees and students shall not reproduce copyrighted materials without prior permission of the copyright owner, except as allowed by the “fair use” doctrine.

Fair Use**Reference:**

Copyright Act, Section 107

The “fair use” doctrine permits limited use of copyrighted materials in certain situations, including teaching and scholarship. In some instances, copyright may be required for works that fall within “fair use.”

NOTE: *The following is excerpted from the legislative history of the 1976 Copyright Act, which established congressionally endorsed guidelines related to classroom copying for educational use.*

I. Single Copying for Teachers

A single copy may be made of any of the following by or for a teacher at his/her individual request for his or her scholarly research or use in teaching or preparation to teach a class:

- A. A chapter from a book
- B. An article from a periodical or newspaper
- C. A short story, short essay or short poem, whether or not from a collective work
- D. A chart, graph, diagram, drawing, cartoon or picture from a book, periodical, or newspaper

II. Multiple Copies for Classroom Use

Multiple copies (not to exceed in any event more than one copy per pupil in a course) may be made by or for the teacher giving the course for classroom use or discussion, provided that:

- A. The copying meets the tests of brevity and spontaneity as defined below; and
- B. Meets the cumulative effect test as defined below; and

C. Each copy includes a notice of copyright

Definitions:

Brevity:

- i. **Poetry:** (a) A complete poem if less than 250 words and if printed on not more than two pages or (b) from a longer poem, an excerpt of not more than 250 words.
- ii. **Prose:** (a) Either a complete article, story or essay of less than 2,500 words, or (b) an excerpt from any prose work of not more than 1,000 words or 10% of the work, whichever is less, but in any event a minimum of 500 words. (Each of the numerical limits stated in "i" and "ii" above may be expanded to permit the completion of an unfinished line of a poem or of an unfinished prose paragraph.)
- iii. **Illustration:** One chart, graph, diagram, drawing, cartoon or picture per book, or per periodical issue.
- iv. **"Special" works:** Certain works in poetry, prose, or in "poetic prose" which often combine language with illustrations and which are intended sometimes for children and at other times for a more general audience fall short of 2,500 words in their entirety. Paragraph "i" above notwithstanding such "special works" may not be reproduced in their entirety; however, an excerpt comprising not more than two of the published pages of such special work and containing not more than 10% of the words found in the text thereof may be reproduced.

Spontaneity:

- i. The copying is at the instance and inspiration of the individual teacher; and
- ii. The inspiration and decision to use the work and the moment of its use for maximum teaching effectiveness are so close in time that it would be unreasonable to expect a timely reply to a request for permission.

Cumulative Effect:

- i. The copying of the material is for only one course in the school in which the copies are made.
- ii. Not more than one short poem, article, story, essay or two excerpts may be copied from the same author, nor more than three from the same collective work or periodical volume during one class term.
- iii. There shall not be more than nine instances of such multiple copying for one course during one class term. (The limitations stated in "ii" and "iii" above shall not apply to current news periodicals and newspapers and current news sections of other periodicals.)

III. Prohibitions

Notwithstanding any of the above, the following shall be prohibited:

- A. Copying shall not be used to create or to replace or substitute for anthologies, compilations, or collective works. Such replacement or substitution may occur whether copies of various works or excerpts therefrom are accumulated or are reproduced and used separately.
- B. There shall be no copying of or from works intended to be "consumable" in the course of study or teaching. These include workbooks, exercises, standardized tests and test booklets and answer sheets and like consumable material.

- C. Copying shall not:
- i. substitute for the purchase of books, publisher's reprints or periodicals
 - ii. be directed by higher authority
 - iii. be repeated with respect to the same item by the same teacher from term to term.
- D. No charge shall be made to the student beyond the actual cost of the photocopying.

Compilations

References:

Basic Books, Inc. v. Kinko's Graphics Corp. (S.D.N.Y. 1991) 758 F.Supp. 1522;
and Princeton University Press v. Michigan Document Services, Inc. (6th Cir. 1996)
F.3d 1381

Permission from the copyright owner should be obtained when using excerpts of copyrighted work to create anthologies or "course packs," even if the excerpts fall under the definitions in the "fair use" doctrine.

Online Courses

References:

The TEACH (Technology, Education and Copyright Harmonization) Act;
U.S. Code 17, Copyright Act, Sections 110(2) and 112

The Teach Act provides instructors greater flexibility to use third party copyrighted works in online courses. An individual assessment will be required to determine whether a given use is protected under the Act. The following criteria are generally required:

- The online instruction is mediated by an instructor.
- The transmission of the material is limited to receipt by students enrolled in the course.
- Technical safeguards are used to prevent retention of the transmission for longer than the class session.
- The performance is either of a non-dramatic work or a "reasonable and limited portion" of any other work that is comparable to that displayed in a live classroom session.
- The work is not a textbook, course pack, or other material typically purchased or acquired by students for their independent use and retention, including commercial works that are sold or licensed for the purposes of digital distance education.
- The District does not know, or have reason to know, that the copy of the work was not lawfully made or acquired.
- The District notifies students that the works may be subject to copyright protection and that they may not violate the legal rights of the copyright holder.

Obtaining Permission to Use Copyrighted Material

NOTE: *Insert local procedures that describe the process faculty and others shall use to obtain permission to use copyrighted material.*

Date Approved: January 18,2012

*(This is **new** procedural language recommended by the Policy and Procedure Service)*

WVMCCD Administrative Procedure

AP 3810

General Institution

AP 3810 CLAIMS AGAINST THE DISTRICT

References:

Education Code Section 72502;
Government Code Sections 900 et seq. and 910 et seq.

Claims for Damages

Claim forms are available from the Director, General Services and all completed forms are to be returned to the Director at West Valley-Mission Community College District, 14000 Fruitvale Avenue, Saratoga, CA 95070. Claims must be submitted using the designated forms or will be returned; any claim returned may be resubmitted using the proper form.

Any and all claims for money or damages against the District must be presented to and acted upon in accordance with Board of Trustees policy and administrative regulation. Compliance with District procedures is a prerequisite to any court action, unless the claim is governed by statutes or regulations which expressly free the claimant from the obligation to comply with this policy and the claims procedures set forth in the Government Code.

The Board delegates to the Chancellor the authority to take action on claims of under \$50,000. (Government Code 935.4).

This policy is intended to apply retroactively to any existing causes of action and/or claims for money and/or damages.

Time Limitations

1. Claims for money or damages relating to a cause of action for death or for injury to person, personal property or growing crops shall be presented to the Board of Trustees no later than six months after the accrual of the cause of action. (Government Code 905, 911.2)
2. Claims for money or damages as authorized in Government Code 905 and not included in paragraph # 1 above shall be filed not later than one year after the accrual of the cause of action. (Government Code 905, 911.2)
3. Claims for money or damages specifically excepted from Government Code 905 shall be filed not later than six months after the accrual of the cause of action. (Government Code 905, 911.2, 935)

Late Claims

Claims under paragraphs #1 and #3 above which are filed later than six months after the accrual of the cause of action must be accompanied by an application to file a late claim. Such claim and application to file a late claim must be filed not later than one year after the accrual of the cause of action.

If a claim under paragraphs #1 or #3 is filed late and is not accompanied by the application, the Board or Chancellor shall, within 45 days, give written notice that the claim was not filed timely and that it is being returned without further action. The notice shall be in the form set forth in Exhibit A.

The application to file a late claim shall state the reason for the delay. The Board shall grant or deny the application within 45 days after it is presented. By mutual agreement of the claimant and the Board, this 45-day period may be extended by written agreement

made before the expiration of such period. If the Board does not take action on the application within 45 days, it shall be deemed to have been denied on the 45th day unless such time period has been extended, in which case it shall be denied on the last day of the period specified in the extension agreement.

If the application to present a late claim is denied, the claimant shall be given notice in the form set forth in Exhibit B. (Government Code 911.3, 911.4, 911.6, 911.8, 912.2, 935)

Delivery and Form of Claim

A claim, any amendment thereto, or an application for leave to present a late claim shall be deemed presented when delivered to the office of the Chancellor or deposited in a post office, sub-post office, substation, or mail chute or other like facility maintained by the U. S. Government in a sealed envelope properly addressed to the District office with postage paid. (Government Code 915, 915.2)

Claims may be submitted on the District claim form or as prescribed in Section 910 and 910.2 of the Government Code. (Government Code 910, 910.2, 910.4)

Notice of Claim Insufficiency

The Chancellor or designee shall review all claims for sufficiency of information. The Chancellor or designee may, within 20 days of receipt of claim, either personally deliver or mail to claimant a notice as set forth in Exhibit C stating deficiencies in the claim presented. If such notice is delivered or sent to claimant, the Board shall not act upon the claim until at least 15 days after such notice is sent. (Government Code 910.8, 915.4)

Amendments to Claim

Claims may be amended within the above time limits or prior to final action by the Board, whichever is later, if the claim, as amended, relates to the same transaction or occurrence which gave rise to the original claim.

Action on Claim

Within 45 days after the presentation or amendment of a claim, the Board (or Chancellor, if delegated this authority) shall take action on the claim. (Government Code 912.4) This time limit may be extended by written agreement before the expiration of the 45-day period or before legal action is commenced or barred by legal limitations. (Government Code 912.4) The Chancellor or designee shall transmit to the claimant a notice of action taken. The notice shall be in the form set forth in Exhibit D. (Government Code 913)

If no action is taken within the prescribed time limits, the claim shall be deemed to have been rejected and the claimant notified in accordance with Government Code 913. (Government Code 945.6)

Date Approved: January 18, 2012

Date Revised: April 11, 2016

(Replaces current WVMCCD Procedure 6.17)

General Institution**AP 3820 GIFTS****Reference:**

Education Code Section 72122

The Office of the Dean of Advancement may accept gifts, donations, and bequests valued at \$10,000 or less in the name of the Board pending acceptance by the Board on its Consent Agenda.

The Office of the Dean of Advancement may accept gift, donations, and bequests valued at \$10,000 or more in the name of the Board pending acceptance by the Board on its Regular Agenda.

Criteria for Accepting Donations or Gifts

The West Valley-Mission Advancement Foundation Management Services were created in an effort to serve the Colleges and their programs, attract, recognize and manage donated funds for scholarships and other purposes.

Donations and gifts are accepted for charitable/educational purpose for which the fund is to be established. All fund raising activities conducted by organizations whose funds are held by the Foundation must meet legal standards for non-profit fund raising events.

Activities conducted to raise funds held by the Foundation should be coordinated with the Advancement Dean. Tax exemption letters, receipts and assistance can be provided by the Advancement personnel.

How Gifts are Reported or Submitted to the Board for Acceptance

A board item is written with the description of the item, the purpose and amount and any terms or restrictions.

Gifts-In-Kind

Gift-In-Kind Procedures were established by the Advancement Foundation to recognize that individuals and organizations in the community may wish to contribute additional materials, supplies and equipment to maintain, enhance and expand opportunities at West Valley and Mission College.

The Office of the Dean of Advancement may accept a Gift-in-Kind in the name of the Board pending acceptance by the Board on its Consent Agenda or on its Regular Agenda.

Criteria for Accepting Donations of Gift-In-Kind

The donation should be deemed suitable college use. Before accepting a Gift-In-Kind an appropriate college administrator should be contacted.

For example: Information Systems should approve and agree to support donated technology equipment. The Music Chair would need to approve the donation of pianos and the Facilities Planning Committee would need to review and approve the gifts of sculpture and art.

Acceptance or acknowledgement should not be construed as an endorsement of a product or business enterprise. Gifts should not endanger community relationships.

How Gifts are Reported or Submitted to Board for Acceptance

A Board item is written with the description of the item, the purpose and amount and any terms or restrictions.

Endowment Plan Fund

The Office of the Dean of Advancement may accept endowments and bequests valued at \$10,000 or more in the name of the Board pending acceptance by the Board on its Consent Agenda.

The Office of the Dean of Advancement may accept endowments, and bequests valued at \$10,000 or more in the name of the Board pending acceptance by the Board on its Regular Agenda.

Criteria for Accepting Donations Endowment Plan Fund

1. All donors wishing to start an endowment fund may discuss the purpose with the Advancement Dean and Foundation representative.
2. A memorandum of understanding is drafted and signed by the donor and the Advancement Dean. The purpose and restrictions of the endowment as well as discussion pertaining to annual interest objectives is to be included in the memorandum of understanding.
3. The overall objective of the fund is to maintain total annual investment return consistent with the risk tolerance and asset allocation contained in the Advancement Foundation investment policies.

How Gifts are Reported or Submitted to the Board for Acceptance

A Board item is written with the description of the item, the purpose and amount and any terms or restrictions.

Also see BP/AP 6620 titled Naming of Facilities and Other Naming Opportunities

Date Approved: January 18, 2012

(Replaces current WVMCCD Procedures 6.26, 6.26.5, and 6.26 (duplicate numbering))

General Institution

(formerly numbered AP 5550)

AP 3900 SPEECH: TIME, PLACE, AND MANNER**References:**

Education Code Sections 66301 and 76120

The students and employees of the District and members of the public shall be permitted to exercise their rights of free expression subject to the time, place, and manner policies and procedures contained in BP 3900 titled Speech: Time, Place, and Manner and these procedures. The policy and procedures relating to use of facilities, distribution and posting of literature, and preventing disruption of instructional and/or other District activities do not apply to student news media.

The colleges of the District are non-public forums, except for the following areas, which are reserved for expressive activities which do not violate District policy and which are lawful.

At West Valley College, the following areas of campus are designated as free speech zones: (1) North Walk (with the exception of the creek bridge and adjacent parking spaces); (2) Campus Center Walk; and (3) Campus Quad (in front of EOPS building and behind District Services/President's Office).

At Mission College, the following area of campus is designated as a free speech zone: the "quad area" bordered by the Library, Telecommunications Building, Main Building (east side), and the Campus Center.

These areas are chosen so as to provide visibility and allow communication to a large number of students, administrators, faculty, and others walking or traveling on campus but also so as not to disrupt educational and other activities of the District on behalf of students:

- These areas are designated public forums. The District reserves the right to revoke that designation and apply a non-public forum designation.
- The District reserves the right to designate areas as non-public forums as necessary to prevent the substantial disruption of the orderly operation of the college. Areas of the college that are non-public forums specifically include campus offices, classrooms, warehouses, maintenance yards, or locker rooms, and any other area not specified above.

The use of these areas reserved and open for expressive activities is subject to the following:

- No person using the areas shall touch, strike or physically impede the progress of passersby, except for incidental or accidental contact or contact initiated by a passerby.
- Persons using areas shall not use any means of amplification that creates a noise or diversion that disturbs the orderly conduct of the campus or classes taking place at the time.
- Persons using the areas reserved for expressive activities shall not disrupt the orderly operation of the college.

Groups or individuals using the campus for free speech shall:

- Ensure that no speech or written materials contain language or images that are obscene, defamatory, incite violence or create a clear and present danger of the commission of unlawful acts, incite others to violate lawful community college regulations, or substantially disrupt the orderly operation of the College.
- Ensure that no speech or written materials advertise controlled substances, as identified by the laws of the United States and/or the State of California.

Non-student, community groups wishing to engage in speech or expressive activities on campus, in the areas designated as public forums, must check in with the District through the Chancellor or designee prior to engaging in the activities. This does not involve an advance approval process. No illegal activities will be permitted, no activities that violate District or campus rules, including rules and laws on illegal harassment and discrimination, and none that will substantially interfere with or disrupt activities already scheduled for that day and time in the designated areas, as described above. In the event the area sought to be used for expressive activities has already been reserved for another activity so that there will be substantial interference or disruption based on noise, overcrowding, or other considerations unrelated to content, the District will offer alternative available areas or if none are available, offer alternative dates. Students, outside organizations, and others are encouraged to make reservations in advance to use the areas for their expressive activities by using the optional reservation forms.

All persons using the areas that are designated public forums shall be allowed to distribute petitions, circulars, leaflets, newspapers, and other printed matter. Such distribution shall take place only within those areas. Those persons distributing printed material must, prior to their departure from the areas that day, make reasonable efforts

to retrieve, remove or properly discard material that is discarded or dropped in or around the areas other than in an appropriate receptacle.

Posting

Bulletin boards shall be provided for use in posting materials at campus locations convenient for use by students, staff, and members of the public. All materials displayed on a bulletin board shall clearly indicate the author or agency responsible for its production and shall be dated with the date of posting by the student activities office. Materials displayed shall be removed after the passage of twenty days.

Date Approved: April 11, 2016

*(This is **new** procedural language recommended by the Policy and Procedure Service)*

AP 3910 USE OF UNMANNED AIRCRAFT SYSTEMS

References:

Federal Aviation Administration Modernization & Reform Act of 2012
Federal Aviation Administration Small UAS Rule, 14 CFR §107 (Part 107)
California Civil Code §1708.B
Special Authority for Certain Unmanned Systems (49 USC §44807)

Operation of Unmanned Aircraft Systems (UAS) and Model Aircraft shall only be allowed in accordance with this Policy.

This Administrative Procedure applies to any District employee and/or student operating UAS in any location as part of their District employment, educational experience, or as part of their College activities; and the operation of an UAS or Model Aircraft by any person(s) on or above District property.

Any District employee, student, or department wishing to purchase a UAS (or the parts to assemble a UAS) with District funds or funds being disbursed through a District account, or grant funds, shall contact the Vice President of Administrative Services or his/her designee in advance in order to assess whether the requested operation of the UAS will comply with the FAA Small UAS Rule, 14 C.F.R. §107 (Part 107) and to obtain approval to proceed with the purchase. All purchases of a UAS or its parts are also subject to the District's purchasing procedures set forth in AP 6330.

DEFINITIONS

Unmanned Aircraft Systems (UAS) - UAS are also known as and commonly referred to as Drones. According to the FAA, a UAS is the unmanned aircraft and all of the associated support equipment, control station, data links, telemetry, communications and navigation equipment, etc., necessary to operate the unmanned aircraft. Model Aircraft are not considered by the FAA as UAS and have different regulations which apply to their operation.

National Transportation Safety Board (NTSB) - The National Transportation Safety Board is an independent Federal agency charged by Congress with investigating every civil aviation accident in the United States.

Federal Aviation Administration (FAA) - The FAA is the agency of the United States Department of Transportation responsible for the regulation and oversight of civil aviation within the U.S., as well as operation and development of the National Airspace System. Its primary mission is to ensure safety of civil aviation.

Small UAS - Small UAS are UAS that weigh between .55 - 55 lbs., on takeoff, including everything that is onboard or otherwise attached to the UAS. Small UAS are the only type of UAS that can be

operated on District property other than by police or other first responders in connection with an emergency.

Model Aircraft - Model Aircraft are not for business purposes, and are only used for hobby and recreation. Model Aircraft are not subject to the same FAA regulations as UAS.

District Property - District property includes all buildings, grounds, parking lots and land that are owned by the District or controlled by the District via leases or other formal contractual arrangements to house ongoing District operations.

Remote Pilot Certificate - A Remote Pilot Certificate with a small UAS rating is a certificate issued by the FAA and is required for operation of a small UAS.

PROCEDURES FOR APPROVAL OF UAS OPERATIONS

UAS flights that are considered to be in support of or in concert with the mission of the District or Colleges will be considered for approval.

Outside of preapproved educational and police and fire activities, the respective College Vice President for Administrative Services or designee shall assist with processing of requests for UAS activities consistent with federal, state, and local laws and regulations and policy requirements. UAS and Model Aircraft shall not be flown over District buildings, pedestrian walkways, roads, parking lots and athletic fields and facilities, nor shall UAS and Model Aircraft be flown inside District buildings. If a UAS or Model Aircraft is operated outside of permitted areas and causes damage to District property or personal injury to anyone on District property, the operator shall be solely responsible for the expense to repair or replace the damaged property, and for any personal injury damages caused by the operation of the UAS or Model Aircraft.

Who May Operate a UAS

Any District employee or student wishing to operate a UAS as part of their job duties or as part of a District program must first obtain a Remote Pilot Certificate pursuant to 14 C.F.R. §107.12, Part 107 Small Unmanned Aircraft. A Remote Pilot Certificate is not required if one of the following two conditions are met:

1. The operation of the UAS is in connection with a course or school club that teaches the building and operation of UAS as part of the class or club curriculum; or,
2. The operator is a student or otherwise not compensated by the District or College.

Submitting Operating Plans

The operation of any UAS equipment on District Property shall follow all state and federal regulations. Non-educational or police activities require a prior filing of an operating plan with the Vice President of Administrative Services.

1. Operating plans shall include:
 - a. Equipment to be used, (include information about the UAS control systems, communication systems, etc.)
 - b. Date and approximate time to be used
 - c. Location(s) to be used
 - d. Purpose(s) of the operation

- e. Specific need for use of UAS equipment
 - f. The identity and day-of-flight contact information of pilot(s) or other remote Operator(s)
 - g. All forms of data (including imagery) to be collected
 - h. Intended use of data
 - i. Current status of any required licenses or permissions
 - j. Certificate of Insurance endorsing the District
2. The respective College Vice President of Administrative Services or designee shall review and approve the plan, noting any limitations.
 - a. The Vice President of Administrative Services or designee for the College shall review the plan and advise the College President of any recommended limitations.
 - b. Operators shall check in with the College Vice President of Administrative Services or designee both before use on campus and upon leaving campus.
 - c. Fire personnel or Law Enforcement use of UAS technology in execution of a search warrant or as part of a tactical response to an immediate threat is automatically authorized, subject to applicable law and government regulations.
 3. For approval of an operating plan:
 - a. Plan must be submitted at least ten (10) business days prior to operations.
 - b. The plan must include all required information in its content.
 - c. The envisioned operation must comply with applicable laws, government regulations, and other District policies.
 - d. The envisioned operation must not pose an unacceptable threat to health, safety, privacy, or the environment, either in an absolute sense or compared to other methods of obtaining the desired information.
 - e. The envisioned operation must be judged by District administrators to be in the best interest of the public and the District.
 4. The Vice President of Administrative Services shall notify Operators in writing of the District's approval or denial to operate the UAS. Written authorization must be received before the UAS is operated on or above District Property.

Requirements Prior To Operation

1. Any operator of a UAS who is required to have a Remote Pilot Certificate under the FAA Small UAS Rule, 14 C.F.R. §107 (Part 107), must register the UAS with the FAA's UAS registry unless the UAS weighs less than .55 lbs. – 55 lbs.
2. Prior to operation the operator will notify the District Police of their intent, location and duration of the drone operation.

Requirements During Operation

During flight operations, Operators must have in their possession of proof of access to public or private property associated with the flight operations, including the District's written authorization to operate the UAS. The UAS must be operated in compliance with the FAA Small UAS Rule, 14 C.F.R. §107 (Part 107), which includes the following time, place, and manner restrictions for the operation of UAS.

The District holds the right to immediately terminate the operation of a UAS if it creates any type of electronic interference; poses a hazard to sensitive campus equipment; poses a threat to the health and safety or privacy of students, employees or visitors; or interferes with any District activity.

REPORTING OBSERVED UAS ON DISTRICT PROPERTY

If an employee or person serving in an official capacity on behalf of the District observes a UAS flying on District property, he/she shall notify the District Police Department by calling 9-1-1 as soon as reasonably possible.

Upon notification, the District Police Department will verify that the District has approved the UAS operations in the area observed. If it is determined that the UAS operation has not been approved, the District Police will dispatch an officer to respond to the area to notify the Operator of this Administrative Procedure. The District Police may take other reasonable steps to identify the involved parties and ensure public safety.

DAMAGE, INJURY, INCIDENT OR ACCIDENT

In the event of damage to property or injury arising from the use of a UAS, the Operator shall notify the District Police Department to report the incident, and the incident must be documented in an Incident Report filed with the Vice President of Administrative Services. FAA Part 107 and NTSB Part 830 regulations must also be followed.

MAINTENANCE AND STORAGE

The department which purchased the UAS is responsible for maintenance and storage of all UAS equipment. When not in use, the UAS must be secured in a locked area.

General Institution

AP 3960 Covid-19 Vaccination Policy

References: California Code of Regulations, Title 8, Section 3203
California Constitution, Article IX, Section 14
Education Code, Section 70902
Education Code, Section 76020
Education Code, Section 76403
Education Code, Section 87408
United States Code Title 29 Section 654(a)(1)
United States Equal Employment Opportunity Commission Guidance
California Community Colleges Chancellor's Office 2021-01 Advisory

In order to access campus/programs, a student or employee shall provide certification of having received an approved COVID-19 vaccine as defined herein. Students and employees may claim an exemption to the approved vaccine requirement in accordance with District procedures. Any student or employee who does not provide certification may be denied access to campus/programs. Face Coverings may also be required by Federal, State, County, or District, regulations, or guidelines, and face covering requirements may be applicable to both vaccinated or unvaccinated individuals, both indoors and outdoors, as appropriate for the current state of the COVID-19 pandemic. In the event that the directives of federal, state, and local governing public health agencies differ, the District will comply with the most stringent or restrictive mandate.

Contractors, as well as all eligible persons, groups, or organizations authorized to use District buildings or grounds pursuant AP6700, Civic Center and Other Facility Use, shall ensure that their agents, employees, and guests undertake appropriate safety measures in accordance with this procedure and all other applicable COVID-19 related regulations, policies, procedures, and guidelines. In consideration of the nature of the contractor's services, or authorized user's activities (including proximity to members of the District community, duration, and extent of on-campus presence), the District may also require that these individuals be fully vaccinated before entering District facilities.

The District may, on rare occasions, consider extenuating or individual circumstances regarding being unvaccinated. Any such consideration shall be consistent with all applicable District policies including those prohibiting discrimination, harassment, and retaliation based on protected status or activity.

This procedure supplements and does not replace District policies and procedures governing other safety measures.

Definitions

Approved Vaccine: A COVID-19 vaccine that has received full approval from the U.S. Food & Drug Administration (FDA) and is recommended for use by the U.S. Centers for Disease Control and Prevention (CDC). The following COVID-19 vaccines shall also be deemed to be approved vaccines for the purpose of satisfying the vaccination requirement in this policy: (a) a COVID-19 vaccine administered under an FDA Emergency Use Authorization; or (b) a COVID-19 vaccine administered outside of the United States that has been approved by the World Health Organization.

Fully Vaccinated: Two weeks after receiving the second dose in a two-dose series or two weeks after receiving a single-dose vaccine.

Campus/Programs: Any campus, property, or facility owned or operated by the District in connection with its teaching, public service, or other programs and services. Any in-person program, service, or activity (on- or off-campus) operated or controlled by the District.

Certification: Submission of information establishing that a student or employee has received an approved vaccine or qualifies for an exemption from the vaccine requirement. The colleges and District may collect from every student or employee who seeks access to campus/programs the following, as applicable: (1) declaration of current COVID-19 vaccination status (with an approved vaccine); (2) declaration of medical exemption; (3) declaration of religious exemption; (4) COVID-19 vaccination record card; or (5) state issued Personal Digital COVID-19 Vaccination Record. Each certification shall include an attestation by the student or employee that the information provided is accurate and truthful. The District may request other information including, but not limited to, date of full vaccination, vaccine type, and lot number.

Contractor: A person or entity, including an auxiliary organization, that agrees to conduct work for the District as specified under the terms of a contract or agreement.

Employees: Faculty, staff, volunteers, student workers, administrators, and project-based employees of the West Valley-Mission Community College District.

Exemptions: A student or employee may be excused from the vaccine requirement in this policy as described below. A person who is granted an exemption shall be required to adhere to other safety measures for the health and safety of the campus community.

Medical Exemption: due to a medical (including mental health) condition for which an approved vaccine presents a significant risk of serious adverse reaction. The District may ask for proof of a medical exemption to be verified by a certified or licensed healthcare professional.

Religious Exemption: due to either (i) a person's sincerely held religious belief, observance, or practice, which includes any traditionally recognized religion, or (ii) beliefs, observances, or practices which an individual sincerely holds and that occupy a place of importance in that individual's life, comparable to that of traditionally recognized religions.

Other Safety Measures: Any action, as determined by the District, after receiving direction from CDC, FDA, Santa Clara County Department of Health, and other regulatory agencies, other than getting an approved vaccine, that decreases the likelihood of COVID-19 transmission or illness and allows the core mission and activities of the campus to continue. Other safety measures may include, but are not limited to, asymptomatic (public health surveillance) testing and symptomatic testing; physical/social distancing; avoiding large gatherings; wearing face coverings or personal protective equipment; frequent handwashing and cleaning; practicing respiratory etiquette; improving ventilation or air purification of indoor spaces; or staying home and/or quarantining when approved/warranted.

Student: Any admitted or enrolled West Valley-Mission student participating in any in-person activities.

General Provisions

Confidentiality of Information: This procedure (including in connection with data collection) shall be governed by applicable District policies regarding confidentiality, privacy, and security of health records, as well as state and federal law. Information shall be used only for the specific purpose intended and only be accessible to District personnel who have a business need-to-know.

Accessibility: This procedure shall be governed by applicable District policies regarding accessibility, as well as applicable state and federal law.

Documentation to Support Certification:

Vaccination Status: Any person submitting a declaration of current COVID-19 vaccination status (with an approved vaccine) shall verify that, at the District's request, they will promptly provide proof of vaccination. The District will not request any health or medical information for the purpose of enforcement of this policy other than that information which is necessary to confirm or verify proof of vaccination.

Medical Exemption: Students and employees may decline vaccination due to medical contraindications or precautions recognized by the U.S. Food & Drug Administration or Centers for Disease Control and Prevention or due to a disability. Any person submitting a declaration of medical exemption shall verify that they will promptly provide documentation from a certified or licensed healthcare professional to support their declaration upon request by the

District. A person who is granted medical exemption shall be required to adhere to other safety measures.

Religious Exemption: Students, faculty, and staff may decline vaccination based on a sincerely held religious belief, practice, or observance. A person who is granted religious exemption shall be required to adhere to other safety measures. Any person submitting a declaration of religious exemption shall verify that they will promptly provide a statement that describes the applicable religious or other comparable belief that is the basis for their exemption upon request by the District. A person who is granted religious exemption shall be required to adhere to other safety measures.

Accommodations: The District will provide an individualized interactive process to identify appropriate accommodations for individuals claiming an exemption. Accommodations may involve adjustments to job duties, remote work or learning, isolation of individuals in certain campus locations, limiting of interactions, and other safety measures.

Broad Dissemination of Policy Information: Information about the COVID-19 vaccination requirement shall be widely disseminated through any combination of written information statements, verbal communications, or online or in-person training programs. Such information shall provide appropriate point(s) of contact, including email and telephone numbers.

Access and Availability of Vaccinations and Testing: COVID-19 testing required by the District shall be provided to students and employees at no charge. Information about the availability of approved vaccines and COVID-19 testing, including those offered free-of-charge, shall be widely disseminated through any combination of written information statements, verbal communications, or online or in-person training programs.

All students and employees shall receive information as part of ongoing training and education, concerning:

- a. The potential benefits for COVID-19 vaccination;
- b. The potential health consequences of COVID-19 illness for themselves, family members and other contacts, coworkers, patients, and the community;
- c. Exposure to COVID-19 and contact tracing;
- d. The epidemiology and modes of transmission, diagnosis, and non-vaccine infection control strategies in accordance with their level of responsibility in preventing COVID-19 infections.
- e. The safety profile and potential risks of any COVID-19 vaccine; and
- f. Requirements for compliance with the COVID-19 vaccination interim policy.

Superseding Public Health Directives: In the event that a federal, state, or local governing public health agency imposes a requirement that restrictively conflicts with

this policy or implementation of this policy, the applicable public health mandate shall govern and be implemented.

Dual Enrollment Students: The District shall coordinate with local K-12 school districts and their respective county offices of education regarding applicability of the provisions of the COVID-19 vaccination interim policy and this administrative procedure.

Apprenticeship Sites: Apprenticeship sites are not operated and controlled by the District and are not subject to this administrative procedure.

Field Trips: Faculty, Staff, and students participating in field trips must adhere to the vaccination requirements identified in this procedure, as well as all applicable laws, regulations, or policies of the jurisdiction in which the field trip occurs.

Date Adopted: September 13, 2021