
**Kern Community College District
Board Policy**
Chapter 3 – General Institution

BP 3050 INSTITUTIONAL CODE OF ETHICS

Reference:

WASC/ACCJC Accreditation Standard III.A.13

NOTE: *The Accreditation Standard requires the District to uphold a written code of professional ethics for all of its personnel.*

❖ From current KCCD Policy 7E titled Code of Ethics

The Kern Community College District recognizes that a commitment to the highest ethical and professional standards on the part of all persons associated with the District is necessary to fulfilling our mission and realizing our vision, which are policies of the District. This code of ethics is based on two ~~(2)~~ fundamental principles.

The first is recognition of the dignity of all persons, which respects the inherent value and worth of each person. The second principle is a commitment to fulfilling our obligations to others using fair and honest means.

All associates in the ~~Kern Community College~~ District, faculty, students, management, classified staff, and trustees, as well as volunteers and vendors, each bear personal responsibility for their own ethical behavior and for the ethical stature of our organization. We are committed to fulfilling the ~~Kern Community College~~ District's mission. While we recognize the relationship between law and ethics, we further understand that legal requirements are necessary but not sufficient, and we endeavor always to do what is right and just, even when no one is watching, compelling, or evaluating our actions.

~~7E1~~ Respect for Persons and Academic Freedom (see BP 4030 titled Academic Freedom)

~~7E1A~~ The inherent dignity of all persons requires that we conduct ourselves with civility in all circumstances of our professional lives. This means that we do not participate in or accept, condone, or tolerate physical or verbal forms of aggression, threat, harassment, ridicule, or intimidation. The District is an institution of higher education and especially values a spirit of free inquiry and

free speech. The District encourages the expression of a range of points of view, but we expect all expressions of content to be conducted in a manner respectful of persons. The District nurtures an atmosphere of mutual respect by treating everyone with dignity, even when the values, beliefs, or behavior of a person or group is different from our own. The District recognizes this foundation of mutual respect to be the basis of civil discourse in an academic environment.

~~7E1B~~ The District further protects the dignity of persons by maintaining the boundaries of both necessary and appropriate confidentiality, and by prohibiting the exploitation of all persons through sexual harassment or financial, professional, or any other form of exploitation. The District seeks to develop policies, procedures, and practices which are both compassionate and fair. In order to assure that we are fair in our policies, procedures, and practices regarding the dignity and worth of persons, the District specifically prohibits discrimination as codified in BP/AP 3410 titled Nondiscrimination. ~~based on race, color, ethnic group identification, ancestry, religion, gender, sexual orientation, national origin, age, and physical or mental disability.~~ While this prohibition is necessary, it is the genuine valuing of diversity that serves to create the general atmosphere in which persons can thrive and realize their potential.

~~7E2~~ Fairness and Honesty

~~7E2A~~ The District desires to participate in a healthy work environment which emphasizes the achievement of our common purpose and the development of our potential as individuals and as an organization.

~~7E2B~~ The District will actively work to build the trust necessary to conduct its mission through open, honest, and fair practices and communications at all levels.

~~7E2C~~ The District values and practices the sharing of information, transparency of policy, and consistency of practice in all its dealings.

~~7E2D~~ The District does not tolerate or condone dishonest practices, such as lying, stealing, plagiarizing, cheating, or deliberate misrepresentation of self, program, or information.

~~7E2E~~ The District does not tolerate the misappropriation of resources of any kind, either through misuse of property, time, equipment, or systems, or through inaccurate reporting which results in personal or group gain.

~~7E2F~~ The District develops and uses systems for the prohibition of bias, and for the reporting of conflict of interest, including conflicts resulting from work relationships in which employees have more than one (1) role in relation to another person, resulting in social pressures on professional conduct.

In those circumstances where such conflicts cannot be avoided and/or are considered minor in scope, we will commit to open and transparent consultation with supervisors and colleagues in order to protect individual rights, professional reputations, and the ethical reputation of our institution.

7E2G The District will engage in self-monitoring and open information sharing to assure fairness in the distribution of resources necessary to support its mission.

7E3 Competence

7E3A The ~~Kern Community College~~ District recognizes the importance of competence to the effectiveness and trustworthiness of its endeavors. The District maintains currency in all areas of responsibility and seeks and uses feedback for improved performance, while also recognizing and celebrating performance achievements. The District is aware of and will behave in accordance with the policies and practices of its various professional associations and share these practices with students and colleagues.

7E3B The District will further acknowledge and seek intervention related to impediments to competent performance, including but not limited to continuing education needs, drug and alcohol abuse, and physical or mental impediments to competent performance of our duties. The District will use appropriate systems to support rehabilitation and/or accommodation.

7E4 Conclusion

7E4A The ~~Kern Community College~~ District celebrates its existence as a unique institution for the realization of human potential in the geographic area it serves and through the global connections fostered by its online programs.

7E4B The District prizes most highly the education and achievements of students, and the fostering of lifelong learning throughout its organization.

7E4C The District allows this value not only to direct our positive behavior and limit our potentially negative behavior, but to inspire us with a sense of shared purpose and a willingness to cooperate with one another in developing the highest potential in individuals and communities.

7E5 The Binding Nature of Ethical Standards of Kern Community College District

7E5A This statement of ethics articulates mutual expectations related to the employment or participation in providing services in the District, including service on the Board of Trustees and community advisory boards, and as volunteers and contracted service providers. (Also see BP 2715 titled Code of Ethics/Standards of Practice)

7E6 Definitions

Bias – a partiality that prevents objective consideration; influence in an unfair way

Civil Discourse – engagement in courteous and polite conversation intended to enhance understanding; a moral interaction that presupposes ethical standards.

Civility – courtesy; politeness.

Competence – the act of performing tasks and roles to an expected standard based on the possession of required skills, knowledge, qualifications, or capacity.

Dignity – bearing, conduct, or speech indicative of self-respect or appreciation of the formality or gravity of an occasion or situation; the quality or state of being worthy of esteem or respect.

District – the Kern Community College District (referred to as “we” or “our”) is a political subdivision of the State of California and includes all Colleges, Centers, satellites, online, and all sites and persons governed by the Kern Community College District Board of Trustees.

Ethical Standard – the principles and norms of proper professional and moral conduct concerning the rights and duties of professionals themselves and their conduct toward others.

Ethical Stature – The reputation for achieving and maintaining the highest level of professional and moral conduct.

Ethics – a system of moral principles; moral principles, as of an individual; a set of principles of right conduct.

Exploitation – the act of using another for personal gain; the practice of treating someone badly

Inherent – existing in someone or something as a permanent and inseparable element, quality, or attribute; existing as an essential constituent or characteristics; intrinsic.

Just – guided by truth, reason, justice, and fairness; done or made according to principle; equitable; property.

Reputation – the estimation in which a person or thing is held by others; the state or situation of being held in high esteem.

Right – in accordance with what is good or proper; in conformity with fact, reason, truth, or some standard or principle; correct in judgment, opinion, or action.

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BP 3200 ACCREDITATION

References:

Title 5 Section 51016:

WASC/ACCJC Accreditation Eligibility Requirement 21:

WASC/ACCJC Accreditation Standards I.C.12 and 13

NOTE: This policy is required by the Western Association of Schools and Colleges (WASC)/Accrediting Commission of Community and Junior Colleges (ACCJC) accreditation standards.

The District Chancellor shall ensure the District complies with the accreditation process and standards of the Western Association of Schools and Colleges (WASC)/Accrediting Commission of Community and Junior Colleges (ACCJC) and of other District programs that seek special accreditation.

The District Chancellor shall keep the Board informed of approved accrediting organizations and the status of accreditations.

The District Chancellor shall ensure that the Board is involved in any accreditation process in which Board participation is required.

The District Chancellor shall provide the Board with a summary of any accreditation report and any actions taken or to be taken in response to recommendations in an accreditation report.

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AP 3200 ACCREDITATION

References:

Title 5 Section 51016:

WASC/ACCJC Accreditation Eligibility Requirement 21:

WASC/ACCJC Accreditation Standards I.C.12 and 13

NOTE: This procedure is **legally required**. Insert local practice here regarding procedures related to accreditation self-study processes and accreditation standards. The procedures may reference or incorporate portions of the Accrediting Commission for Community and Junior Colleges (ACCJC) Guide to Self-Study.

The District will meet the eligibility requirements, accreditation standards, and policies of the Accrediting Commission for Community and Junior Colleges (ACCJC). The District is timely and responsive in meeting the reporting and policy requirements of the Commission. The District engages in an inclusive and collaborative process for developing its comprehensive self-evaluation for reaffirmation of accreditation.

The District makes complete and accurate disclosures in order to comply with ACCJC requests, directives, and decisions.

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BP 3225 INSTITUTIONAL EFFECTIVENESS

References:

Education Code Sections 78210 et seq. and 84754.6;
WASC/ACCJC Accreditation Standard I.B.5 - 9

NOTE: *This policy is required by accreditation and advised for those districts that receive funds under the Seymour-Campbell Student Success Act of 2012, Education Code Sections 78210 et seq.*

The Board of Trustees is committed to developing goals that measure the ongoing condition of the District's operational environment. The Board regularly assesses the District's institutional effectiveness.

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AP 3225 INSTITUTIONAL EFFECTIVENESS

References:

Education Code Sections 78210 et seq. and 84754.6;
WASC/ACCJC Accreditation Standards I.B.5 – 9

NOTE: This procedure is **legally advised** for districts that receive funds under the Seymour-Campbell Student Success Act of 2012, Education Code Sections 78210 et seq.

Each college in the District shall develop, adopt, and publicly post goals that address all of the following:

1. accreditation status;
2. fiscal viability;
3. student performance and outcomes; and
4. programmatic compliance with state and federal guidelines.

The goals will be challenging and quantifiable, address achievement gaps for underrepresented populations, and align the educational attainment of California's adult population to the workforce and economic needs of the state.

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BP 3250 INSTITUTIONAL PLANNING

References:

Title 5 Sections 51008, 51010, 51027, 53003, 54220, 55080, 55190, 55250, 55510, and 56270 et seq.;
WASC/ACCJC Accreditation Standards I.B.9, III.B.4, III.C.2, III.D.2, IV.B.3, and IV.D.5

NOTE: *This policy is legally required.*

The District Chancellor shall ensure that the District has and implements a broad-based comprehensive, systematic, and integrated system of planning that involves appropriate segments of the college community and is supported by institutional effectiveness research.

The planning system shall include plans required by law, including, but not limited to:

- Long Range Educational or Academic Master Plan, which shall be updated periodically as deemed necessary by the Board of Trustees;
- Facilities Plan;
- Equal Employment Opportunity (EEO) Plan;
- Student Equity Plan;
- Student Success and Support Program Plan;
- Transfer Center Plan;
- Cooperative Work Experience Plan; and
- Extended Opportunity Programs and Services (EOPS) Plan

The District Chancellor shall submit those plans (as required by Title 5) to Board of Trustees for approval.

NOTE: *The following is suggested as good practice/optional.*

The District Chancellor shall inform the Board of Trustees about the status of planning and the various plans.

The District Chancellor shall ensure the Board of Trustees has an opportunity to assist in developing the general institutional mission and goals for the comprehensive plans.

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AP 3250 INSTITUTIONAL PLANNING

References:

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

NOTE: This procedure is **legally required**. Procedures related to planning may be locally developed after appropriate consultation with the proper constituent representatives in the local decision making process. It is suggested that those procedures include or address criteria in the Accreditation Standard, **including but not limited to:**

- Processes for developing, reviewing, updating, and implementing plans
- The committees and personnel that are involved and their responsibilities and charges
- Required approvals
- Integration of various planning efforts
- Use of institutional effectiveness research
- Submission to the California Community Colleges Chancellor's Office, when required.

A. The Colleges and District Office, through established committees with representation from faculty, administration, classified staff, and students, will review and recommend planning decisions related to human, physical, technology, and financial resources.

Applying the criteria of accreditation standards, the planning process will be guided by adopted vision, mission, and core values statements and will develop specific goals, objectives, and strategies, which have measurable outcomes and specific accountability.

Action plans will be reviewed and revised annually and approved by the respective planning bodies.

- B. Academic Senate will be the representative body in all academic and professional matters, as defined by Title 5, Section 53200.
- C. Institutional effectiveness research, program reviews, and individual unit plans are utilized in the planning process, which is intended to complement and inform the resource allocation process.
- D. The Board may assist in developing the general institutional mission and goals for the comprehensive plans through a variety of means, including, but not limited to, the Chancellor's evaluation process, the Board/Chancellor retreat, and any time the Board reviews curriculum items.
- E. Planning documents will be submitted to the California Community Colleges Chancellor's Office in a timely manner when required.

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BP 3300 PUBLIC RECORDS

References:

Government Code Sections 6250 et seq.

NOTE: *The language in red ink is **legally advised**.*

The District Chancellor shall establish procedures for records management, including access by the public that comply with the requirements of the California Public Records Act.

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AP 3300 PUBLIC RECORDS

References:

Government Code Sections 6250 et seq.

NOTE: This procedure is **legally required**. Local practice may be inserted, but should conform to the following general principles.

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 General Counsel's Office.

Any request shall identify with reasonable specificity the records that are sought. If additional information is needed, the General Counsel 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.

Within ten days, the General Counsel's Office will determine whether or not the records can be produced and will communicate the determination to the member of the public requesting the record(s).

NOTE: *The Public Records Act presumes that all records of a public agency are public, unless specifically exempted by law. There are now well over a hundred exemptions contained in California law, although most will never apply to a community college district. (See Government Code Sections 6254 et seq. and 6275 et seq.) Any questions about whether a document is exempt should be referred to counsel.*

The most common 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 evaluations...relative to the acquisition of property, or to prospective public supply 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.

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BP 3310 RECORDS RETENTION AND DESTRUCTION

Review destruction of documents AP

References:

Title 5 Sections 59020, et seq.:

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

NOTE: *This policy is **legally required**.*

The District Chancellor shall establish administrative procedures to assure the retention and destruction of all District records—including electronically stored information as defined by the Federal Rules of Civil Procedure—in compliance with Title 5. Such records shall include, but not be limited to student records, employment records and financial records.

❖ From current KCCD Policy 3D3 titled Retention and Destruction of Records

~~3D3 Retention and Destruction of Records~~

~~3D3A Records are all books, papers, data processing output and documents of the District.~~

~~3D3B Records shall be retained and disposed of according to law and regulations.~~

~~3D3C The Chancellor or designee shall periodically, at a minimum, once every three years, review and classify records of the District. See Procedure 3D3a of this Manual for Classification of Records.~~

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BP 3410 NONDISCRIMINATION

References:

Education Code Sections 66250 et seq., 72010 et seq., and 87100 et seq.:

Title 5 Sections 53000 et seq. and 59300 et seq.:

Penal Code Section 422.55:

Title 2 Sections 1055 et seq.:

Government Code Sections 12926.1 and 12940 et seq.:

WASC/ACCJC Accreditation Eligibility Requirement 20 and WASC/ACCJC Accreditation Standard Catalog Requirements

NOTE: *The language in red ink is legally required.*

The District is committed to equal opportunity in educational programs, employment, and all access to institutional programs and activities.

The District, and each individual who represents the District, shall provide access to its services, classes, and programs without regard to national origin, religion, age, gender, gender identity, gender expression, 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.

The District Chancellor shall establish administrative procedures that ensure all members of the college community can present complaints regarding alleged violations of this policy and have their complaints heard in accordance with the Title 5 regulations and those of other agencies that administer state and federal laws regarding nondiscrimination.

No District funds shall ever be used for membership, or for any participation involving financial payment or contribution on behalf of the District or any individual employed by or associated with it, to any private organization whose membership practices are discriminatory on the basis of national origin, religion, age, gender, gender identity, gender expression, race, 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 because of his/her association with a person or group with one or more of these actual or perceived characteristics.

Additional information can be found at:

<https://www.kccd.edu/human-resources/non-discrimination-equal-employment-policy>

NOTE: The language in current KCCD Policies 7D2, 7D3, and 7D4 is shown as struck (below) because the up-to-date information regarding Nondiscrimination is addressed above in new BP 3410 titled Nondiscrimination (revised by the Policy & Procedure Service in September 2002, September 2008, March 2012, April 2014, and November 2014). The prescriptive details contained in current KCCD Policies 7D2, 7D3, and 7D4 are addressed in new AP 3410 titled Nondiscrimination.

❖ **From current KCCD Policy 7D2 titled Unlawful Discrimination**

~~7D2 Unlawful Discrimination~~

~~All forms of discrimination and harassment are contrary to basic standards of conduct between individuals and are prohibited by state and federal law, as well as this policy, and will not be tolerated. The District is committed to providing an academic and work environment that respects the dignity of individuals and groups. The District shall be free of sexual harassment and all forms of sexual intimidation and exploitation. It shall also be free of other unlawful discrimination, including that which is based on any of the following statuses: national origin, religion, age, sex (gender), race, color, medical condition, ancestry, sexual orientation, marital status, physical or mental disability, or because he or she is perceived to have one or more of the foregoing characteristics. (Added December 17, 2009)~~

❖ **From current KCCD Policy 7D3 titled Students and Staff with Disabilities**

~~7D3 Students and Staff with Disabilities~~

~~7D3A The Kern Community College District shall adhere to the wording and the spirit of the Federal Americans with Disabilities Act (ADA) and accompanying laws and regulations that protect persons with disabilities in the State of California.~~

~~7D3A1 The Kern Community College District shall consider or retain for employment all qualified individuals who satisfy the requisite skills, experience, education, and other job related requirements and can perform the essential functions of the position with or without reasonable accommodations. Pre-employment physicals or drug testing shall be conducted after an offer of employment has been made. This offer of employment is conditioned on the employee either passing these tests, or providing proof of disability [as defined in~~

~~the Federal Americans with Disabilities Act (ADA)]. The District will provide reasonable accommodation upon request to applicants and employees in accordance with the Federal Americans with Disabilities Act (ADA).~~

~~7D3A2 The District's goal is to remove barriers to ensure that all qualified employees or students with disabilities are not excluded from or denied the benefits of services, programs, or activities because District facilities are inaccessible or unusable. The District, in terms of existing structures or new construction, shall make every reasonable effort to remove existing architectural barriers to the disabled and/or provide architectural access.~~

~~7D3A3 To the best of its ability, the District shall also furnish disabled students and staff with appropriate aids and instructional services in order to provide an equal opportunity to participate in the services, programs, or activities conducted by the Colleges.~~

~~7D3A4 The District shall designate a coordinator for the ADA related activity at each of its Colleges. The coordinator shall monitor compliance efforts, investigate complaints, complete an initial ADA self-evaluation, and update this evaluation at least every three (3) years.~~

~~7D3A5 The ADA complaint procedure to be utilized shall be that described in Procedure 7D4A.~~

NOTE: *The language in current KCCD Policy 7D4 is shown as struck (below) because it describes a **process** which is delineated in great detail in new AP 3435 titled Discrimination and Harassment Complaints and Investigations. Thus, a reference to new AP 3435 as well as other related policies and procedures was added in red ink below for consideration.*

❖ **From current KCCD Policy 7D4 titled Discrimination Complaint Process**

~~7D4 Discrimination Complaint Process (Revised 5/19/14)~~

~~7D4A The Kern Community College District shall provide an expeditious and effective process for resolution of complaints by staff and students of unlawful discrimination and/or harassment in violation of this policy by staff and students. This process, as described below, will apply to discrimination based on military and veteran status, national origin, religion, age, sex (gender, including Title IX, Gender Equity Violations), gender identity, gender expression, race or ethnicity, color, medical condition, genetic information, ancestry, sexual orientation, marital status, physical or mental disability, or pregnancy, or because he or she is perceived to have one or more of the foregoing characteristics, or based on association with a person or group with one or more of these actual or perceived characteristics. In accordance the State law, the District shall accept complaints filed within one (1) year of the alleged discrimination. See Procedure~~

~~7D4A of this Manual for the guidelines to the Unlawful Discrimination Complaint Process.~~

~~7D4A1 Where complaints are filed directly with State and Federal agencies, the District Vice Chancellor, Human Resources or his/her designee will investigate and respond to the complaint in the manner provided by the agency and in accordance with the process provided for in Procedure 7D4A.~~

~~7D4A2 When complaints are filed directly with the College or District, the Vice Chancellor, Human Resources shall be responsible for ensuring District compliance with rules and regulations adopted by the California Community Colleges and will assure that the College or District investigation shall be completed within ninety (90) calendar days.~~

Also see BP/AP 3430 titled Prohibition of Harassment, AP 3435 titled Discrimination and Harassment Complaints and Investigations, and BP/AP 5140 titled Disabled Student Programs and Services

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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 (formerly II.B.2.c)

NOTE: *This procedure is **legally required**. Local practice may be inserted, but should comply with these minimum 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, race or ethnicity, color, medical condition, genetic information, ancestry, sexual orientation, marital status, physical or mental disability, pregnancy, or because he/she is perceived to have one or more of the foregoing characteristics, or based on association with a person or group with one or more of these actual or perceived characteristics.

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.

Title 2 Sections 10500 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.

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BP 3420 EQUAL EMPLOYMENT OPPORTUNITY

References:

Education Code Sections 87100 et seq.:

Title 5 Sections 53000 et seq.:

WASC/ACCJC Accreditation Standard III.A.12

NOTE: *This policy and the corresponding procedure comply with Title 5 Section 53000 and Education Code Sections 87100 et seq., as amended in 2002. Because this remains a highly dynamic area of law, consultation with legal counsel in implementing this policy and procedure is advised.*

The Board of Trustees supports the intent set forth by the California Legislature to assure that effort is made to build a community in which opportunity is equalized, and community colleges foster a climate of acceptance, with the inclusion of faculty and staff from a wide variety of backgrounds. It agrees that diversity in the academic environment fosters cultural awareness, mutual understanding, harmony, respect, and suitable role models for all students. The Board therefore commits itself to promote the total realization of equal employment through a continuing equal employment opportunity program.

The District Chancellor shall develop, for review and adoption by the Board, a plan for equal employment opportunity that complies with the Education Code and Title 5 requirements as from time to time modified or clarified by judicial interpretation.

Additional information can be found at:

<https://www.kccd.edu/human-resources/non-discriminationequal-employment-policy>

NOTE: *The language in current KCCD Policies 5G2 and 7D1 is shown as struck (below) because the up-to-date information regarding EEO is addressed above in new BP 3420 titled Equal Employment Opportunity. The prescriptive details contained in current KCCD Policies 5G2 and 7D1 are addressed in new BP 3420 titled Equal Employment Opportunity.*

❖ From current KCCD Policy 5G2 titled Affirmative Action

~~5G2 Affirmative Action~~

~~5G2A The Board of Trustees, Administration and Academic Senate have the joint responsibility to ensure that affirmative action goals and timetables are a part of the overall process of hiring faculty.~~

~~5G2B All participants in the hiring process shall receive training in affirmative action procedures and shall become knowledgeable about the affirmative action goals and timetables of the District and its Colleges.~~

~~5G2C Each College's Affirmative Action Officer shall serve as a consultant on District and State guidelines and be responsible for monitoring the College and District's affirmative action policies and procedures, including but not limited to:~~

- ~~• Review of the job description/announcement;~~
- ~~• Review of the composition and procedures of selection committees; and~~
- ~~• Review of the adequacy of the applicant pool.~~

~~5G2D Each College Personnel Officer in consultation with the College Affirmative Action Officer and selection committee shall determine the adequacy of the employment pool based on all applications received.~~

❖ From current KCCD Policy 7D1 titled Equal Employment Opportunity in the Employment of Personnel

~~7D1 Equal Employment Opportunity in the Employment of Personnel~~

~~It shall be the policy of the Kern Community College District that equal opportunity to seek, obtain, hold, and advance in employment in the District shall be afforded to all who qualify without discrimination because of race, color, ethnic group identification, ancestry, religion, national origin, sex (gender), sexual orientation, age, and/or physical or mental disability. Appropriate qualifications for the performance of specific duties are the basic criteria for the employment and promotion of personnel. Additional efforts will be made to recruit, develop, and to promote qualified members of groups that are underrepresented in the District workforce, even if that underrepresentation cannot be traced to particular discriminatory actions on the part of the District.~~

~~7D1A The District will continuously review its policies, procedures, practices, pool and workforce statistics, and any other factor that might contribute to workforce imbalance or adversely impact employment opportunities of members of protected groups.~~

~~7D1A1 The District will annually review the Equal Employment Opportunity Plan and revise as appropriate to address any problems with regard to recruiting a diverse workforce on the schedule provided by the State Chancellor's Office.~~

~~7D1A2 Information regarding Equal Employment Opportunity will be made available annually to the staff and community.~~

~~7D1A3 The District's Human Resources Department will continue to assure reasonable accommodation for applicants and employees with disabilities upon request.~~

~~7D1A4 Pre-employment physicals or drug testing shall be conducted only following an offer of employment. This offer of employment is conditioned on the employee either passing these tests, or providing proof of disability [as defined in the Americans with Disabilities Act (ADA)]. The District will provide reasonable accommodation upon request to applicants and employees in accordance with Federal Americans with Disabilities Act (ADA).~~

~~7D1A5 Whenever possible the names, titles, office locations, and office telephone numbers of individuals serving as liaisons of Equal Employment Opportunity programs, Equal Employment Opportunity officers, receivers of unlawful discrimination complaints, responsible personnel, ADA coordinators, and others responsible for Equal Employment Opportunity functions shall be identified and made public to employees and students.~~

~~7D1B The Board of Trustees recognizes and accepts its responsibilities under the California Education Code and the California Code of Regulations (Title 5) to:~~

~~7D1B1 Assume overall responsibility for the success of the District's effort to achieve Equal Employment Opportunity.~~

~~7D1B2 Approve the District and College Staff Availability Data as well as any revisions; and assure that these are submitted to appropriate agencies in a timely fashion.~~

~~7D1B3 Assure that in all employment procedures for all positions there is no unlawful discrimination.~~

~~7D1B4 Provide a supportive environment free of cultural bias for all staff and students.~~

~~7D1C An Equal Employment Opportunity Advisory Committee shall be established to advise the District on personnel matters relating to equal employment opportunities.~~

~~7D1C1 The Equal Employment Opportunity Advisory Committee will review Staff Availability Data and other relevant data for the purpose of advising the District~~

~~and assisting in its commitment and goals in achieving equal employment opportunities.~~

~~7D1C2 Composition of the Equal Employment Opportunity Advisory Committee shall approximate a balance between District employees and Community members and shall provide for wide representation, including ethnic minorities, women, and the disabled whenever possible.~~

~~7D1C3 The District Equal Employment Opportunity Advisory Committee members shall be appointed by the District Equal Employment Opportunity Officer and shall serve for a period of three (3) years. The Committee shall meet at least once in every calendar year.~~

~~7D1D The following District officers shall be responsible and accountable for providing District-wide leadership in Equal Employment Opportunity:~~

~~7D1D1 The Vice Chancellor, Human Resources shall assume administrative responsibility for implementation of the Equal Employment Opportunity Policy.~~

~~7D1D2 The Vice Chancellor, Human Resources or his/her designee shall be responsible for the ongoing administration of this policy. This ongoing administration, in cooperation with the College Equal Employment Opportunity officers, shall include:~~

- ~~• Monitoring the employment process to ensure that selection or elimination of candidates for employment is based on job-related criteria.~~
- ~~• Providing Multi-college District Staff Availability Data, as it is made available to the District from the California Community Colleges Chancellor's Office.~~
- ~~• Initiating action to correct any identified Equal Employment Opportunity concerns.~~
- ~~• Receiving, investigating, and seeking resolution of unlawful discrimination complaints. (See Procedure 7D4A)~~

~~7D1D3 The faculty and staff of this District shall be responsible and accountable as follows:~~

~~7D1D3A Foster and promote a positive environment and overall hospitable atmosphere to staff and students of all cultures and heritages, encouraging the appreciation and value of diversity to the College communities.~~

~~7D1D3B Act on behalf of the District in recruitment and selection of personnel. In this capacity, faculty and staff shall comply with all applicable state and federal laws and regulations.~~

~~7D1E The District and Equal Employment Opportunity Officer(s) shall conduct periodic internal auditing, reporting, and evaluating of the effectiveness of the Equal Employment Opportunity Program.~~

~~7D1E1 The Equal Employment Opportunity Liaisons shall compile an annual workforce and utilization analysis of District personnel and shall use the data to recruit a diverse applicant pool and workforce.~~

~~7D1E2 College Equal Employment Opportunity Liaisons shall monitor the ethnicity and gender make-up as well as data concerning promotions of positions on a continual basis.~~

~~7D1F The District and Colleges shall provide faculty/staff in-service training on diversity.~~

~~7D1F1 Each College's Human Resources Department is responsible for providing training to all staff on Equal Employment Opportunity programs and issues.~~

~~7D1F2 The District's Equal Employment Opportunity Advisory Committee shall work cooperatively with Human Resources to effectively utilize Equal Employment Opportunity funds allocated to the District.~~

~~7D1G The District shall pursue hiring practices, which effect Equal Employment Opportunity policies.~~

~~7D1G1 All employment practices will be based on job-related factors, considering seniority only where required by law.~~

~~7D1G2 Recruitment for positions shall include verifiable efforts to attract a diverse applicant pool.~~

~~7D1G3 The Human Resources Department, in consultation with the screening committee chair, shall determine the adequacy of the applicant pool relative to its protected class composition.~~

~~7D1G4 Each College will maintain a standard procedure for selecting qualified applicants. College procedures must conform to the following:~~

~~7D1G4A Applicants will be screened by the screening committee for minimum qualifications.~~

~~7D1G4B Screening committees shall include a diverse membership that will bring a variety of perspectives to the assessment of applicant qualifications whenever possible.~~

~~7D1G4C Screening committees are to be trained by a Human Resources Director or Manager in appropriate selection and interviewing techniques and in Equal Employment Opportunity programs and procedures. Selection and interviewing will conform to these techniques and procedures. The Human Resources Director or Human Resources Manager shall work with the screening committee chair to ensure that the employment process complies with the District's Equal Employment Opportunity Policies.~~

~~7D1G4D A reasonable number of candidates as determined by the College President or designee are to be interviewed for each position.~~

~~7D1G4E All materials related to the selection process for a position shall be incorporated into a single file and be maintained for at least three (3) years.~~

Also see BP/AP 5140 titled Disabled Student Programs and Services as well as BP/AP 7100 titled Commitment to Diversity

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**Kern Community College District
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BP 3430 PROHIBITION OF HARASSMENT

References:

Education Code Sections 212.5, 44100, 66252, and 66281.5;

Government Code Sections 12940 and 12950.1;

Title 2 Sections 10500 et seq.;

Title VII of the Civil Rights Act of 1964, 42 U.S. Code Annotated Section 2000e

NOTE: *The language in red ink is legally required.*

All forms of harassment are contrary to basic standards of conduct between individuals and are prohibited by state and federal law, as well as this policy, and will not be tolerated. The District is committed to providing an academic and work environment that respects the dignity of individuals and groups. The District shall be free of sexual harassment and all forms of sexual intimidation and exploitation including acts of sexual violence. It shall also be free of other unlawful harassment, including that which is based on any of the following statuses: 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 of any person, or military and veteran status, or because he/she is perceived to have one or more of the foregoing characteristics.

The District seeks to foster an environment in which all employees, students, unpaid interns, and volunteers feel free to report incidents of harassment without fear of retaliation or reprisal. Therefore, the District also strictly prohibits retaliation against any individual for filing a complaint of harassment or for participating in a harassment investigation. Such conduct is illegal and constitutes a violation of this policy. All allegations of retaliation will be swiftly and thoroughly investigated. If the District determines that retaliation has occurred, it will take all reasonable steps within its power to stop such conduct. Individuals who engage in retaliatory conduct are subject to disciplinary action up to and including termination or expulsion.

Any student, employee, unpaid intern, or volunteer who believes that he/she has been harassed or retaliated against in violation of this policy should immediately report such incidents by following the procedures described in AP 3435. All employees are required

to report any incident to their supervisors. Supervisors are mandated to report all incidents of harassment and retaliation that come to their attention.

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

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

The District Chancellor shall establish procedures that define harassment on campus. The District Chancellor shall further establish procedures for employees, students, unpaid interns, volunteers, and other members of the campus community that provide for the investigation and resolution of complaints regarding harassment and discrimination, and procedures for students to resolve complaints of harassment and discrimination. All participants are protected from retaliatory acts by the District, its employees, students, and agents.

This policy and related written procedures (including the procedure for making complaints) shall be widely published and publicized to administrators, faculty, staff, students, unpaid interns, and volunteers particularly when they are new to the institution. They shall be available for students, employees, unpaid interns, and volunteers in all administrative offices.

Employees who violate the policy and procedures may be subject to disciplinary action up to and including termination. Students who violate this policy and related procedures may be subject to disciplinary measures up to and including expulsion. Unpaid interns who violate this policy and related procedures may be subject to disciplinary measure up to and including termination from the internship or other unpaid work experience program.

NOTE: The language in current KCCD Policy 7D2A is shown as struck (below) because new BP 3430 titled Prohibition of Harassment is up-to-date and addresses all forms of harassment (beyond sexual harassment). In addition, new AP 3430 titled Prohibition of Harassment as well as AP 3435 titled Discrimination and Harassment Complaints and Investigations provide salient details.

❖ **From current KCCD Policy 7D2A titled Sexual Harassment**

7D2A Sexual Harassment

~~7D2A1 The Board of Trustees of the Kern Community College District will not tolerate any behavior which constitutes sexual harassment of staff or students. It is the policy of the Kern Community College District that members of the college community, including visitors, guests, and contractors, may not sexually harass another person employed or contracted to do business by or on District property.~~

~~7D2A1A For the purpose of this policy, sexual harassment is defined as unwelcome sexual advances; requests for sexual favors; and/or physical conduct or oral/written communication of an intimidating, hostile, or offensive sexual nature where:~~

~~Submission to such conduct is made either explicitly or implicitly a term or condition of employment or a student's status in a course, program, or activity; or~~

~~Submission to or rejection of such conduct is used as a basis for employment decisions or as a basis for academic or other decisions affecting a student; or~~

~~Such conduct has the purpose or effect of substantially interfering with an employee's work performance or a student's educational experience, or creates an intimidating, hostile or offensive working or academic environment.~~

~~7D2A2 The Kern Community College District is committed to maintaining a working and educational environment free of sexual harassment.~~

~~7D2A3 When an allegation of sexual harassment is brought to the attention of a supervisor, whether reported by the individual who is the subject of the alleged harassment, or by a witness, the supervisor shall report the allegation to the College Human Resources Manager. The College Human Resources Manager shall investigate the allegation according to Procedure 7D4A.~~

~~7D2A4 An employee or student may be subject to disciplinary action for violation of this policy.~~

~~[Also see AP 3430 titled Prohibition of Harassment, AP 3435 titled Discrimination and Harassment Investigations, and BP/AP 3410 titled Nondiscrimination](#)~~

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AP 3430 PROHIBITION OF HARASSMENT

References:

Education Code Sections 212.5, 44100, and 66281.5;

Government Code Section 12940;

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

NOTE: *This procedure is legally required.*

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, employees, unpaid interns, and volunteers 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 vehicle, 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, sexual orientation of any person, 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 educational setting when:

- submission to the conduct is explicitly or implicitly made a term or condition of an individual's employment, academic status, progress, internship, or volunteer activity;
- 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.

NOTE: *The following is legally advised.*

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.

Also see BP/AP 3410 titled Nondiscrimination, AP 3435 titled Discrimination and Harassment Complaints and Investigations, and BP 4030 titled Academic Freedom

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BP 3440 SERVICE ANIMALS

References:

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)

NOTE: *This policy is **legally required**.*

In order to prevent discrimination on the basis of disability, the District will allow an individual with a disability to use a service animal (dog or miniature horse) in District facilities and on District campuses in compliance with state and federal law.

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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)

NOTE: *This procedure is **legally required**.*

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, dog or miniature horse, as a service animal in District facilities and on District campuses if the, dog or 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 damage caused by his/her service animal.

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BP 3500 CAMPUS SAFETY

Reference:

Education Code 67380(a)(4)

NOTE: *The language in red ink is legally required.*

The Board of Trustees is committed to a safe and secure District work and learning environment. To that end, the District Chancellor shall establish a campus safety plan and ensure that it is posted or otherwise made available to students.

The campus safety plan shall include availability and location of security personnel, methods for summoning assistance of security personnel, any special safeguards that have been established, any actions taken in the preceding 18 months to increase safety, and any changes in safety precautions to be made during the next 24 months.

The campus safety plan and related information can be found at:

<https://www.kccd.edu/about/campus-safety>

NOTE: *The language in current KCCD Policy 7N titled Security is shown as struck because the up-to-date information is addressed above in new BP 3500 titled Campus Safety. The prescriptive details contained in current KCCD Policy 7N are addressed in new AP 3500 titled Campus Safety.*

❖ From current KCCD Policy 7N titled Security

~~7N1 The Kern Community College District is committed to establishing and maintaining a secure workplace for all employees, students, and campus guests.~~

~~7N2 Each College and the District Office shall have a security program as approved by the Board of Trustees.~~

~~7N3 Security notification requirements will be fulfilled by means of a student right-to-know and campus security program as follows:~~

~~Compile records of incidents and arrests for crimes of violence, hate violence (criminal and non-criminal), theft or destruction of property, illegal drugs, or alcohol intoxication.~~

~~Compile hate violence data to include a description of the act, victim characteristics, offender characteristics and make available the data on request to any employee or student or applicant.~~

~~Post and distribute: the availability and location of security personnel; methods for summoning security personnel; any special safeguards for particular facilities or activities; and any actions taken in the preceding eighteen (18) months to increase safety and any changes in safety to be made during the next twenty-four (24) months.~~

NOTE: *Although the language in current KCCD Policy 7L titled Safety is unique to the KCCD, it may certainly be retained in this new board policy.*

❖ **From current KCCD Policy 7L titled Safety**

Injury and Illness Prevention Program

~~7L1 The Kern Community College District is committed to establishing and maintaining a safe and healthful workplace for all employees and students. To further prevent The prevention of accidents and prevention of exposure to a hazardous environment, will be accomplished by means of a the Board of Trustees shall approve an approved Injury and Illness Prevention Program containing the following elements:~~

- Identification of the person or persons responsible for implementing the program.
- A system for identifying and evaluating workplace hazards, including scheduled periodic inspections to identify unsafe conditions and work practices.
- Methods and procedures for correcting unsafe or unhealthy conditions and work practices in a timely manner.
- An occupational health and safety training program designed to instruct employees in general safe and healthy work practices and to provide specific instruction with respect to hazards specific to each employee's job assignment.
- A system for communicating with employees on occupational health and safety matters, including provisions designed to encourage employees to inform the employer of hazards at the worksite without fear of reprisal.
- A system for ensuring that employees comply with safe and healthy work practices, which may include disciplinary action.

- Correction of unsafe and unhealthy conditions and work practices in a timely manner based on the severity of the hazard.
- Training of: (a) all employees when the training program is first established, (b) all new employees, (c) all employees given a new job assignment, and (d) employees whenever new substances, processes, procedures, or equipment are introduced to the workplace and represent a new hazard, and whenever the District receives notification of a new or previously unrecognized hazard.
- Maintenance or appropriate records of steps taken to implement and maintain the program.

~~7L2~~ The District Chancellor shall work with the ~~or designee and the respective~~ College Presidents ~~are responsible for ensuring~~ to ensure compliance with the ~~Kern Community College~~ District's Injury and Illness Prevention Program.

~~7L3~~ Through the District's Injury and Illness Prevention Program, the District shall provide employees with information about Bloodborne Pathogen exposure. The District shall provide ~~protection~~ protective measures from blood or Other Potentially Infectious Materials (OPIM).

~~7L4~~ All machines in instructional and maintenance shops shall be operated in accordance with the recommendations of CAL OSHA. Particular care shall be given to the proper use and maintenance of the safety devices installed on these machines.

~~7L5~~ Eye protective devices must be worn by students and instructors in courses in which the individual is engaged in, or observing an activity or the use of hazardous substances likely to cause injury to the eyes.

Also see BP/AP 3510 titled Campus Security and Access, BP/AP 3505 titled Emergency Preparedness Plan, BP/AP 3520 titled Local Law Enforcement, BP/AP 6800 titled Safety, AP 6850 titled Hazardous Materials, and AP 7343 titled Industrial Accident and Illness Leave and BP/AP 7600 titled Campus Police

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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

NOTE: *This procedure is **legally required**. Local practice may be inserted.*

A campus safety plan shall be developed and provided to students. Campus safety plans can be found on each college's website and at:

<https://www.kccd.edu/about/campus-safety>

The Public Safety Office prepares and annually updates a report of all occurrences reported to campus Public Safety of, and 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.

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.

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BP 3501 CAMPUS SECURITY AND ACCESS

References:

*34 Code of Federal Regulations Part 668.46(b)(3):
WASC/ACCJC Accreditation Standard III.B.1*

NOTE: *The language in red ink is **legally required**.*

The District Chancellor shall establish procedures for security and access to District facilities.

Also see BP/AP 6520 titled Security for District Property

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AP 3501 CAMPUS SECURITY AND ACCESS

References:

34 Code of Federal Regulations Section 668.46(b)(3);
WASC/ACCJC Accreditation Standard III.B.1

NOTE: *The language in red ink is **legally required**.*

During business hours, the District will be open to students, parents, employees, contractors, guests, and invitees. During non-business hours access to all District facilities is by key, if issued, or by admittance via Campus Safety. In the case of periods of extended closing, the District will admit only those with prior written approval to all facilities.

Emergencies may necessitate changes or alterations to any posted schedules. Areas that are revealed as problematic will have regular periodic security surveys. Administrators from each college and other concerned areas review these results. These surveys examine security issues such as landscaping, locks, alarms, lighting, and communications. Additionally, during the academic year, the Public Safety Group and maintenance staff shall meet to discuss campus security and access issues of pressing concern.

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BP 3510 WORKPLACE VIOLENCE

References:

Cal/OSHA: Labor Code Sections 6300 et seq.:

8 California Code of Regulations Section 3203:

"Workplace Violence Safety Act of 1994" (Code of Civil Procedure Section 527.8 and Penal Code Section 273.6)

NOTE: *The language in red ink is **legally required**.*

The Board of Trustees is committed to providing a District work and learning environment that is free of violence and the threat of violence. The Board's priority is the effective handling of critical workplace violence incidents, including those dealing with actual or potential violence.

The District Chancellor shall establish administrative procedures that assure that employees are informed regarding what actions will be considered violent acts, and requiring any employee who is the victim of any violent conduct in the workplace, or is a witness to violent conduct to report the incident, and that employees are informed that there will be no retaliation for such reporting.

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Kern Community College District
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AP 3510 WORKPLACE VIOLENCE

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, and 626.10

NOTE: This procedure is **legally required**. Local practice may be inserted. Safety in the workplace is addressed in AP 6800. Districts may merge the two procedures if desired.

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 or other appropriate person.

A list of services can be found at:

https://www.kccd.edu/sites/kccd.edu/files/page/Campus_Safety.pdf

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, local law enforcement will be called.

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**Kern Community College District
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Chapter 3 – General Institution**

BP 3515 REPORTING OF CRIMES

Reference:

Education Code Section 67380

NOTE: *This policy is legally required.*

The District Chancellor shall assure that, as required by law, reports are prepared of all occurrences reported to Campus Public Safety of and arrests for crimes committed on campus that involve violence, hate violence, theft or destruction of property, illegal drugs, or alcohol intoxication. The District Chancellor shall further assure that required reports of non-criminal acts of hate violence are prepared. Such reports shall be made available as required by law.

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Kern Community College District
Administrative Procedure
Chapter 3 – General Institution

AP 3515 REPORTING OF CRIMES

References:

Education Code Sections 212, 67380, 67383, and 87014;
Penal Code Sections 245 and 422.55;
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

NOTE: *This procedure is **legally required**. Local practice may be inserted, but should include the following requirements.*

Members of each campus who are witnesses or victims of a crime should immediately report the crime to Campus Public Safety or local law enforcement.

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 Local law enforcement. 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 Campus Public Safety 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 Title IX Coordinator if the complainant consents.

The District shall publish warnings to the campus community about the following crimes:

- 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;
- 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 the Local law enforcement; 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 Director of Public Safety, constitutes an ongoing or continuing threat, a campus wide "timely warning" will be issued. The warning will be issued through the college e-mail system to students, faculty, staff and the campus' student newspaper. The information shall be disseminated by the Public Information Officer 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, the Public Information Officer may also post a notice on district and/or college web sites, providing the community with more immediate notification. Anyone with information warranting a timely warning should report the circumstances to the Campus Public Safety Office.

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 concerns 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 prospective 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 Public Safety Office or at the Website address published at:

<https://www.kccd.edu/about/campus-safety>

To Report a Crime:

Contact the Campus Safety Office and/or dial 9-1-1 (emergencies only). Any suspicious activity or person seen in the parking lots or loitering around vehicles or inside buildings should be reported to the Campus Safety Office or local law enforcement.

NOTE: This is legally required.

If you are the victim of a crime and do not want to pursue action within the District's System or the criminal justice system, you may still want to consider making a confidential report. With your permission, the Title IX Coordinator 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. Reports filed in this manner are counted and disclosed in the annual crimes statistics for the institution.

The Office of Public Safety encourages anyone who is the victim or witness to any crime to promptly report the incident to local law enforcement. Because police reports are public records under state law, police cannot hold reports of crime in confidence. 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 Title IX Coordinator.

NOTE: The following procedure is not legally required but authorized pursuant to 34 Code of Federal Regulations Part 99.31(a)(13),(14). It is suggested as good practice/optional.

The District may disclose the final results of disciplinary proceeding to a victim of an alleged perpetrator of a crime of violence or a non-forcible sex offense, regardless of the outcome. The District may also disclose to anyone, the final results of a disciplinary proceeding in which it concludes that a student violated District policy with respect to a crime of violence or non-forcible sex offense. The offenses that apply to this permissible disclosure are:

- Arson;
- Assault offenses;
- Burglary;

- Criminal homicide – manslaughter by negligence;
- Criminal homicide – murder and non-negligent manslaughter;
- Destruction, damage, or vandalism of property;
- Kidnapping or abduction;
- Robbery;
- Forcible sex offenses.

The disclosure may only include the final result of the disciplinary proceeding with respect to the alleged criminal offense. The District shall not disclose the name of any other student, including a victim or witness, unless the victim or witness has waived his/her right to confidentiality.

NOTE: For districts that participate in the Cal Grant Program, the following is also **legally required** (To assist Districts comply with this reporting requirement, the California Attorney General's Office and University of California Office of the President, in partnership with the Alameda County and San Bernardino County District Attorney's Offices and San Francisco and Oxnard Police Departments, has published a Model Memorandum of Understanding that Districts may use as a template to help them comply with their reporting requirements. This template, and instructions on how to use the template, are available on the Attorney General's website (<http://oag.ca.gov/campus-sexual-assault>). Districts should still consult with their own legal counsel before finalizing any Memorandum of Understanding between the District and local law enforcement.):

Required Reports to Local Law Enforcement Agency

Any report of willful homicide, forcible rape, robbery, aggravated assault, sexual assault, or hate crime, committed on or off campus, that is received by a campus security authority and made by the victim for the purposes of notifying the institution or law enforcement must be immediately, or as soon as practicably possible, disclosed to the local law enforcement agency. The report shall not identify the victim, unless the victim consents to being identified after the victim has been informed of his/her right to have his/her personally identifying information withheld. If the victim does not consent to being identified, the alleged assailant shall not be identified in the information disclosed to the local law enforcement agency.

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BP 3520 LOCAL LAW ENFORCEMENT

References:

Education Code Section 67381;

34 Code of Federal Regulations Section 668.46(b)(4)

NOTE: *The language in red ink is **legally required** and is applicable whether or not the District includes a police department as part of its structure.*

The District, on behalf of each campus or center, shall enter into a written agreement with local law enforcement agencies. The agreement shall clarify 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 shall designate which law enforcement agency shall have operational responsibility for violent crimes and delineate the specific geographical boundaries of each agency's operational responsibility, including maps as necessary.

The written agreements required by this policy shall be public records and shall be made available for inspection by members of the public upon request.

The District encourages accurate and prompt reporting of all crimes to the campus police and/or the appropriate police agencies. The District Chancellor shall establish procedures that encourage pastoral counselors and professional counselors, if and when they deem it appropriate, to inform the persons they are counseling of any procedures to report crimes on a voluntary, confidential basis for inclusion in the annual disclosure of crime statistics.

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AP 3520 LOCAL LAW ENFORCEMENT

References:

Education Code Section 67381;

34 Code of Federal Regulations Part 668.46

NOTE: *This procedure is **legally required** and should be in place whether or not the District includes a police department as part of its structure. Because there have been no amendments to the Kristin Smart Campus Safety Act of 1998, and because the Board of Governors has not enacted regulations, it is recommended that the procedures simply restate the Board Policy, and also incorporate any local practices that have been developed and agreed upon with local law enforcement agencies.*

The District, on behalf of each campus or center, 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.

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 Office of General Counsel.

NOTE: *This procedural language is legally required by The Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (20 United States Code Section 1092(f)).*

The Office of Public Safety maintains a close working relationship with local law enforcement agencies. Meetings may be held between the leaders of these agencies on both a formal and informal basis. The Office of Public Safety and local law enforcement 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 Office of Public

Safety will work closely with local law enforcement agencies. There is written memorandum of understanding between the District and local law enforcement agencies.

In response to a call, the Office of Campus Safety will take the required action, dispatching an officer or asking the victim to file an incident report. All incident reports received by the Office of Campus Safety are forwarded to the Director of Public Safety for review and potential action. The Office of Campus Safety may investigate a report when it is deemed appropriate.

Crimes should be reported to the Office of Campus Safety 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 Office of Campus Safety in a timely manner. To report a crime or an emergency on any of the college campuses or to report a non-emergency security or public safety related matter, call the Office of Campus Safety.

NOTE: For institutions with other responsible security officials, the following language is legally required.

Public Safety and Security Officers have the authority to ask persons for identification and to determine whether individuals have lawful business at the District. Safety and Security Officers do not possess arrest power. Criminal incidents are referred to local law enforcement officers who have jurisdiction on the campus. The District maintains a highly professional working relationship with local law enforcement. All crime victims and witnesses are strongly encouraged to immediately report any crime to the campus Public Safety Office and the appropriate police agency. Prompt reporting will assure timely warning notices on-campus and timely disclosure of crime statistics.

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BP 3550 DRUG-FREE ENVIRONMENT AND DRUG PREVENTION PROGRAM

References:

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

NOTE: *The language in red ink is legally required.*

The District shall be free from all drugs and from the unlawful possession, use, or distribution of illicit drugs and alcohol by students and employees.

The unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in all facilities under the control and use of the District.

Any student or employee who violates this policy will be subject to disciplinary action (consistent with local, state, or federal law), which may include referral to an appropriate rehabilitation program, suspension, demotion, expulsion, or dismissal.

A description of the health risks associated with the use of these controlled substances shall be posted on all bulletin boards at the three Colleges and the District Office.

The District Chancellor shall assure that the District distributes annually to each student and employee the information required by the Drug-Free Schools and Communities Act Amendments of 1989 and complies with other requirements of the Act.

NOTE: *The language in current KCCD Policy 7H titled Drug-Free Workplace is shown as struck because much of the language is addressed in new BP 3550 titled Drug-Free Environment and Drug Prevention Program (above). The prescriptive details contained in current KCCD Policy 7H is now reflected in new AP 3550 titled Drug-Free Environment and Drug Prevention Program.*

❖ From current KCCD Policy 7H titled Drug-Free Workplace

~~7H1 The Kern Community College District is committed to the development and maintenance of a drug-free environment in accordance with the Drug-Free Workplace Act. Accordingly, the District will not tolerate any unlawful activity such as the possession, use, manufacture, distribution and/or dispensation of a controlled substance on District owned or controlled property.~~

~~7H1A Substances as referred to in this policy statement include any and/or all of the following:~~

~~Illegal Drugs.~~

~~Legal drugs (either by prescription or over-the-counter) if illegally possessed or misused or overused to such an extent as to cause the impairment of job performance.~~

~~Other mind altering chemicals, materials or substances.~~

~~Intoxicating beverages.~~

~~A description of the health risks associated with the use of these controlled substances shall be posted on all bulletin boards at the three (3) Colleges and the District Office.~~

~~7H2 Violation of this prohibition by employees may result in disciplinary action, up to and including dismissal. In addition, violation may constitute an infraction of the California Education Code and other State laws and may result in immediate suspension without pay in the event criminal charges are filed. As a condition of being employed to work under any federal grant received this District, employees are required to abide by the terms of this statement. These employees are further required to notify the Campus or District Personnel officer of any conviction for a criminal drug statute violation occurring in the workplace within five (5) days after such conviction.~~

~~7H3 In accordance with the District's focus on wellness, the District expects employees to cooperate with supervisors in remedying performance problems associated with drug and alcohol use and to encourage other employees and students to seek help with drug and alcohol problems.~~

~~7H4 Employees with a substance abuse problem may receive assistance through the District Employee Assistance Program. This service is part of the health care program provided by the Kern Community College District.~~

~~7H5 In order to encourage a drug-free work force, the Kern Community College District requires that, as a condition of employment, all individuals to fill positions in the following areas take a drug screen test as part of their pre-employment physical examination:~~

- ~~Child Care~~
- ~~Custodial~~
- ~~Maintenance~~
- ~~Grounds~~
- ~~Security~~
- ~~Mechanical Skilled Workers~~
- ~~Bus Drivers~~
- ~~Allied Health Instructors~~

~~The drug screen will be provided at District expense. Any employee candidate testing positive for drugs will not be hired by the Kern Community College District. See Procedure 7H5 of this Manual for the listing of Position Classifications for Mandatory Drug Screening. (Revised November 19, 1992)~~

~~7H6 If the Kern Community College District has a contractual arrangement with an outside organization and the outside organization requires drug screening of the Kern Community College District employees in that contractual program, these employees must submit to and pass a drug screen. (Added November 19, 1992)~~

~~7H7 Pursuant to Federal Code of regulations Part 382, Department of Transportation, the Kern Community College District has established Procedure 7H7(a-c), of this Manual, to help prevent accidents and injuries resulting from misuse of alcohol or use of controlled substances by District employees who drive commercial motor vehicles. The District requires the following alcohol and controlled substance testing for drivers and applicants:~~

- ~~Pre-employment~~
- ~~Random~~
- ~~Reasonable suspicion~~

~~No driver found to have an alcohol concentration of .02 or higher or who tests positive for controlled substances shall be allowed to perform safety sensitive functions and may not be allowed to continue employment with the Kern Community College District. (Added January 18, 1996)~~

~~*Also see AP 6950 titled Drug and Alcohol Testing (U.S. Department of Transportation) as well as BP/AP 7335 Health Examinations*~~

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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

NOTE: *The language in red ink is **legally required**. Insert local practice here, including identification of the person or office with the authority and responsibility for implementing this procedure. Following are examples:*

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.

NOTE: *Describe local educational and student services programs here, such as relevant courses, seminars, lectures, counseling, health services, and referral for those affected by alcohol or substance abuse.)*

Also describe the health risks associated with the use of illicit drugs and the abuse of alcohol.

NOTE: *The language in current KCCD Policy 7H titled Drug-Free Workplace is shown below in black ink as these prescriptive details are more appropriately codified in an administrative procedure.*

Drug-Free Environment and Prevention Education

In accordance with the District's focus on wellness, the District expects employees to cooperate with supervisors in remedying performance problems associated with drug and alcohol use and to encourage other employees and students to seek help with drug and alcohol problems.

Employees with a substance abuse problem may receive assistance through the District's Employee Assistance Program. This service is part of the health care program provided by the District.

In addition, a description of the health risks associated with the use of these controlled substances shall be posted on all bulletin boards at the three Colleges and the District Office.

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.

The District will not tolerate any unlawful activity such as the possession, use, manufacture, distribution and/or dispensation of a controlled substance on District owned or controlled property.

Substances as referred to include any and/or all of the following:

- Illegal Drugs.
- Legal drugs (either by prescription or over-the-counter) if illegally possessed or misused or overused to such an extent as to cause the impairment of job performance.
- Other mind altering chemicals, materials or substances.
- Intoxicating beverages.

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.

Pre-Employment Health Examinations

In order to encourage a drug-free work force, the District requires that, as a condition of employment, all individuals to fill positions in the following areas take a drug screen test as part of their pre-employment physical examination.

- Child Care
- Custodial

- Maintenance
- Grounds
- Security
- Mechanical Skilled Workers
- Bus Drivers
- Allied Health Instructors

The drug screen will be provided at District expense. Any employee candidate testing positive for drugs will not be hired by the District.

If the District has a contractual arrangement with an outside organization and the outside organization requires drug screening of the District's employees in that contractual program, these employees must submit to and pass a drug screen. (Also see BP/AP 7335 Health Examinations)

Drug and Alcohol Testing

Pursuant to U.S Department of Transportation requirements, the District has established an administrative procedure (see AP 6950 titled Drug and Alcohol Testing (U.S. Department of Transportation)) to help prevent accidents and injuries resulting from misuse of alcohol or use of controlled substances by District employees who drive commercial motor vehicles.

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BP 3560 ALCOHOLIC BEVERAGES

References:

Business and Professions Code Section 25608;
34 Code of Federal Regulations Section 668.46(b)

NOTE: *The language in red ink is legally required.*

The District Chancellor is authorized to enact procedures as appropriate and permitted by law regarding serving alcoholic beverages on campus or at fund-raising events held to benefit non-profit corporations. Alcoholic beverages shall not be served on campus except in accordance with the administrative procedures.

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Kern Community College District
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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)

NOTE: *The following procedure is legally required.*

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 Public Safety Office or the Bakersfield 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 Public Safety Office or the Bakersfield 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.

Alcohol may be allowed in limited situations pursuant to our facilities rental agreements. Contact Business Services for facility rental agreements.

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BP 3600 AUXILIARY ORGANIZATIONS

References:

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

NOTE: *The language in red ink is **legally required**.*

The Board of Trustees may recognize and approve auxiliary organizations established for the purpose of providing to the District any and all supportive services, specialized programs and functions identified in Title 5.

The District Chancellor shall establish the administrative procedures necessary to fully comply with California law relating to auxiliary organizations, and to submit this policy and those procedures to the Chancellor for the California Community Colleges as required by law. At a minimum, the procedures shall address the subjects required by Title 5.

Recognition and establishment of auxiliary organizations shall include a public hearing on the recommendation to recognize or establish an auxiliary organization; Board approval of the auxiliary organization; and approval of a written agreement between the District and the auxiliary organization describing the services, programs or functions to be performed. All such written agreements shall comply fully with the requirements of Title 5 Section 59257(j).

Any auxiliary organization recognized by the Board shall conduct its business in accordance with the administrative procedures adopted by the District Chancellor pursuant to this policy. Notwithstanding anything contained in the administrative procedures, any auxiliary organization recognized by the Board shall comply with Education Code provisions regarding:

- the composition of a board of directors and the way in which it conducts its meetings;
- conducting an annual audit;
- employing its work force;
- expending and appropriating its funds, and keeping its records.

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 that constrain community college districts or providing the District with an unfair advantage with respect to 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.

NOTE: The following language current KCCD Procedure 3A12 is shown as struck because new BP 3600 titled Auxiliary Organizations addresses many of these issues and similar information (above). Also see new AP 3600 titled Auxiliary Organizations.

❖ **From current KCCD Policy 3A12 titled Auxiliary Organizations**

~~3A12A Auxiliary organizations are entities whose purpose is to provide services to the Colleges or District. They may be formed by the Board of Trustees pursuant to the Education Code, California Administrative Code, Title 5, and Board of Trustees-approved implementing regulations and shall require:~~

~~3A12A1 That a recommendation is submitted to the Board of Trustees by the Chancellor when the organization serve the District; or by the Chancellor on behalf of a College President when the organization will primarily serve a particular College;~~

~~3A12A2 Prior to the recognition of an Auxiliary Organization, a public hearing on the recommendation will be held at a time, place, and in the manner determined by the Board of Trustees;~~

~~3A12A3 The approval of the establishment of the Auxiliary Organization by Board of Trustees. Approval by the Board of Trustees shall include a designation of the recognized services, programs, and functions and an identification of the number and category or categories of members of the Board of Directors of the Auxiliary Organization; and~~

~~3A12A4 The approval of a written agreement between the District and the auxiliary organization under which one (1) or more of the services, programs, or functions are to be performed.~~

~~3A12B Each Auxiliary Organization may occupy, operate and use District facilities and property at its respective College site separately or jointly with the District.~~

~~3A12C The Auxiliary Organizations shall use the facilities and property only for those services and functions which are consistent with the policies, rules, and regulations, which have been or may be adopted by the Board of Trustees of the Kern Community College District.~~

~~3A12D The right to use any of the District facilities or equipment shall cease upon written notice by the District Chancellor that the facilities are needed for the exclusive use of the District.~~

~~3A12E An independent certified public accounting firm will be retained and approved by District Chief Financial Officer to audit the Auxiliary Organizations. The costs of the additional services will be paid by the Auxiliary Organizations.~~

~~3A12F The Auxiliary Organizations shall be included in the District's insurance policies for all regular functions. When special events are sponsored by an Auxiliary Organization, separate insurance coverage may be required by the District.~~

~~3A12G The Auxiliary Organizations shall not enter into any transaction concerning real property without the prior approval of the Board of Trustees.~~

~~3A12H The Auxiliary Organizations shall not permit anyone else to use the District facilities or any part thereof without written permission of the Board of Trustees or designee without written approval.~~

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AP 3600 AUXILIARY ORGANIZATIONS

References:

Education Code Sections 72670 et seq.:

Government Code Sections 12580 et seq.:

Title 5 Sections 59250 et seq.

NOTE: *The language in red ink is **legally required**. Local practice may be inserted. The following complies with all requirements of statute and Title 5.*

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 District Chancellor or designee.*

District: *The term District as used herein means the Kern 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 District 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 District Chancellor receives a request to establish an auxiliary organization, the District 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 California Community Colleges 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 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;
- To 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 or Title 5, or the District's procedures; or
- To 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 director 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 Section 72670 et seq. of the Education Code 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 District 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 and 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 Regulation, 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 District 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 with Title 5 Sections 59250 et seq. as well as District 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 District 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 District Chancellor.

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

Should the District 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 District 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 District 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.

NOTE: The following language applies only if auxiliary organizations receive or accrue in any fiscal year gross revenues of \$2 million or more. Per Tom, BC receives more than \$2m a year.

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 District 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 by the Chancellor of the California Community Colleges. Copies of the annual audit report shall be submitted to the Board of Trustees and to the California Community Colleges 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 District 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 District 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 District 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 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 District 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 District 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 District 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 District 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 District 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 District 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 California Community Colleges Chancellor's Office

Rules and procedures for the administration of auxiliary organizations may be revised as necessary by the District 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 California Community Colleges Chancellor's Office for approval.

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

**Kern Community College District
Board Policy
Chapter 3 – General Institution**

BP 3720 COMPUTER AND NETWORK USE

References:

Education Code Section 70902;
Government Code Section 3543.1(b);
Penal Code Section 502;
Cal. Const., Art. 1 Section 1;
17 U.S. Code Sections 101 et seq.

NOTE: *The language in red ink is **legally required**.*

Employees and students who use District computers and networks and the information they contain, and related resources have a responsibility not to abuse those resources and to respect the rights of others. The District Chancellor shall establish procedures that provide guidelines to students and staff for the appropriate use of information technologies. The procedures shall include that users must respect software copyrights and licenses, respect the integrity of computer-based information resources, refrain from seeking to gain unauthorized access, and respect the rights of other computer users.

NOTE: *The following language current KCCD Policy 3E is shown as struck because new AP 3720 titled Computer and Network Use addresses many of these issues and similar information. In addition, much of the language in current KCCD Policy 3E is too prescriptive for inclusion in a board policy and might better be reflected in related guidelines, handbooks, manuals, etc.*

*If deemed **critically necessary**, some of the following language could be codified in new **AP 3720**. Another option is to include these prescriptive details on Information Technology webpages and/or in an Information Technology Manual available on the District's website.*

❖ From current KCCD Policy 3E titled Information Technology

3E1 Computing and Network Use

~~3E1A The Kern Community College District shall provide computing and network resources that benefit faculty, staff, and students and support the instructional and administrative activities of the Colleges and the District. The District is committed to policies which promote the mission of the Colleges and encourage respect for the rights of individuals. These policies shall apply to all individuals using College and District computing and network resources, regardless of access method.~~

~~3E1B Computing and network resources and all user accounts provided by the Kern Community College District are the property of the Kern Community College District. Access to College/District computing and network resources is a privilege that may be wholly or partially restricted by the Kern Community College District without prior notice and without the consent of the user if required by and consistent with policy or law, when there is substantiated reason to believe that violations of policy or law have taken place, or, in exceptional cases, when required to meet time-dependent, critical operational needs.~~

~~3E1C Employees have no privacy whatsoever in their personal or work-related use of District computers, electronic devices, network and other electronic information resources or to any communications or other information in Kern Community College District computing and network systems or that may be transmitted through Kern Community College District computing and network systems.~~

~~3E1D Kern Community College District retains the right, with or without cause, and with or without notice to the employee, to remotely monitor, physically inspect or examine Kern Community College District computers, electronic devices, network or other computing and network resources and any communication or information stored or transmitted through Kern Community College District computing and network resources including but not limited to software, data, image files, Internet use, emails, text messages and voicemail. Kern Community College District shall exercise this right only when required by and consistent with policy or law, when there is substantiated reason to believe that violations of policy or law have taken place, or in exceptional cases, when required to meet time-dependent, critical operational needs.~~

~~3E1E Use of computing and network resources must be for activities related to the mission of the Colleges and the District. Computing and network resources are to be used in an effective, efficient, ethical, and lawful manner.~~

~~3E1F Use of computing and network resources imposes responsibilities and obligations on the part of users. Users are expected to demonstrate respect for intellectual property, data ownership, system security, individuals' rights to access information, and freedom from intimidation or harassment. (See Procedure 3E1C(a) of this Manual for Computing and Network Use Prohibitions; Policy 3E4 of this Manual for Information Technology Security Policy; Policy 3E3 of this Manual for Email Policy; Procedure 3E1C(b) of this Manual for Computer Software Use Procedures; and Appendix 3E1C of this Manual for the Software Registration form.)~~

~~3E1G Computing and network use shall be consistent with the educational, academic, and administrative purposes of the Colleges/District and shall respect the rights of individuals.~~

~~3E1H The Colleges may develop and implement procedures related to college computing and network use. (See Procedure 3E1F of this Manual for College Computing and Network Use Procedures.)~~

~~3E1I Sanctions for violation of the District/College Computing and Network Use Policies or Procedures may be imposed. Sanctions may range from a warning, to restriction of use, to disciplinary action, and/or legal action.~~

~~3E1J Definition of Kern Community College District Computing and Network Resources includes, but is not limited to:~~

~~Any computer, including a laptop computer, that is:~~

~~Owned, leased, or rented by the Kern Community College District Purchased with funds from a grant awarded to the Kern Community College District~~

~~Borrowed by the Kern Community College District from another agency, company, or entity~~

~~Any electronic device other than a computer that is capable of transmitting, receiving, or storing digital media and is:~~

~~Owned, leased, or rented by the Kern Community College District Purchased with funds from a grant awarded to the Kern Community College District~~

~~Borrowed by the Kern Community College District from another agency, company, or entity~~

~~Electronic devices include, but are not limited to:~~

- ~~Telephones~~
- ~~Cellular Telephones~~
- ~~Push-to-Talk Radios~~
- ~~Pagers~~
- ~~Radios~~
- ~~Digital Cameras~~
- ~~Personal Digital Assistants such as Palm Pilots and Smart Phones~~
- ~~Portable storage devices such as USB thumb drives~~
- ~~Portable media devices such as iPods and MP3 players~~
- ~~Printers and copiers~~
- ~~Fax machines~~

~~Any component that is used to build or support the Kern Community College District network including, but not limited to:~~

- ~~Routers~~
- ~~Switches~~
- ~~Servers~~
- ~~Enterprise Storage Systems~~
- ~~Microwave Components~~
- ~~Firewalls~~
- ~~Cabling Infrastructure~~
- ~~Wireless Access Points and Controllers~~
- ~~Telephone Switches~~
- ~~Voicemail Systems~~
- ~~Network Management and Monitoring Systems~~

~~3E2 Attaching Outside Agencies to the District Wide Area Network (WAN)~~

~~3E2A The Kern Community College District (KCCD) may attach outside agencies to the District Wide Area Network (WAN) when such attachments are mutually beneficial, and consistent with the purposes of the District and its Colleges. These agencies may include, but are not limited to, school districts, hospitals, and police and fire departments.~~

~~3E2B The proposal to attach to the District WAN shall be put in the form of a written agreement or contract, and approved by the Board of Trustees or its designee.~~

~~3E2C Written proposals will follow the Procedures for implementing these Policies. [See Procedure 3E2E of this Manual for Attaching Outside Agencies to the District-wide Area Network (WAN).]~~

~~3E3 Electronic Mail Policy~~

~~See Procedure 3E3 of this Manual for the Electronic Mail Procedure and Appendix 3E3 for References and Definitions Pertaining to Mail. (Added August 3, 2000)~~

~~3E3A The Kern Community College District (KCCD) recognizes that principles of academic freedom, freedom of speech, and privacy of information hold important implications for electronic mail and electronic mail services. There is, however, no absolute right to such privacy provided by law; information retained on, or transmitted via, an employer's computer systems is considered the property of the employer.~~

~~3E3B KCCD encourages the use of electronic mail and respects the privacy of users. It does not routinely inspect, monitor, or disclose electronic mail without the holder's consent. Subject to the requirements for authorization, notification, and other conditions specified in the accompanying Procedure, KCCD may deny~~

~~access to its electronic mail services and may inspect, monitor, or disclose electronic mail (a) when required by and consistent with law; (b) when there is substantiated reason to believe that violations of law or of KCCD policies have taken place; (c) when there are compelling circumstances; or (d) under time-dependent, critical operational circumstances.~~

~~3E4 Security Policy (Added July 9, 2009)~~

~~3E4A Introduction~~

~~Kern Community College District has an obligation to ensure that all Information Technology data, equipment, and processes in its domain of ownership and control are properly secured. This obligation is shared, to varying degrees, by the Colleges and their Centers and every employee of the Kern Community College District. Meeting this obligation is critical to achieving Kern Community College District's mission of providing outstanding educational programs and services that are responsive to our diverse students and communities.~~

~~In order to carry out its mission, Kern Community College District shall provide secure yet open and accessible Information Technology resources to all employees and students. Toward this end, Kern Community College District will strive to balance its Information Technology Security Program efforts with identified risks that threaten the availability and performance of mission critical computing and network resources.~~

~~Kern Community College District shall ensure that the use of Information Technology resources complies with the appropriate Kern Community College District policies and procedures and applicable Federal and State regulations.~~

~~3E4A1 Definitions~~

~~a. Information Technology Resources:— people, processes, and technology needed to deliver Information Technology services (Banner, e-mail, online classes, etc.) to Kern Community College District employees and students.~~

~~b. Computing and Network Resources:— any and all technology (servers, personal computers, applications, laptops, routers, etc.) that make up Kern Community College District's vast Information Technology operation.~~

~~3E4B Scope of Information Technology Security~~

~~3E4B1 Information Technology Security Defined~~

~~Information Technology Security is defined as the state of being relatively free of risk. This risk concerns the following categories of losses:~~

- ~~a. Confidentiality of Information Technology data or privacy of personal data and college data~~
- ~~b. Integrity or accuracy of personal data and college data stored in Information Technology systems~~
- ~~c. Information Technology assets which include Information Technology systems, networks, facilities, programs, documentation, and data~~
- ~~d. Personal and college data stored in Information Technology systems~~
~~Information Technology Security is also viewed as balancing the implementation of security measures against the risks that have been identified and weighted against the effective operation of the Kern Community College District.~~

~~3E4B2 Domains of Information Technology Security~~

~~Kern Community College District's Information Technology Security shall deal with the following domains of security:~~

- ~~a. Computer Systems' Security: servers, workstations, applications, laptops, mobile devices, operating systems, and related peripherals used by Kern Community College District employees and students~~
- ~~b. Network and Communications Security: all equipment, people, and processes in place to operate Kern Community College District's network and communications infrastructure~~
- ~~c. Physical Security: premises occupied by Information Technology personnel and core (not end-user) Information Technology equipment such as servers, routers, and switches~~
- ~~d. Operational Security: environmental systems such as HVAC, power, and other related operational systems~~

~~3E4B3 Information Technology Security Program~~

~~Kern Community College District shall have an Information Technology Security Program comprised of the following components:~~

- ~~a. A framework for classifying, reviewing, and updating Kern Community College District's Security risk posture (Risk Assessment)~~

~~A framework for identifying location, type, sensitivity, and access requirements for all data residing anywhere within the Kern Community College District~~

~~Documentation of Information Technology Security Program roles, responsibilities, processes, and architecture~~

~~A plan for identifying, prioritizing, and addressing applicable Federal, State, and other legal compliance requirements~~

~~Appropriate Information Technology Security policies, procedures, and guidelines~~

~~An Information Technology Security Awareness and Information Dissemination plan~~

~~A plan for identifying, validating, prioritizing, implementing, and auditing Information Technology security technology initiatives needed to effectively secure Kern Community College District's Information Technology operations~~

3E4C Roles and Responsibilities

~~3E4C1 Within the context of Information Technology Security, all Kern Community College District employees and students are responsible to some degree for safeguarding the Information Technology resources they use. Equally, all Kern Community College District employees and students are expected to comply with all Kern Community College District Information Technology Security policies and related procedures.~~

~~3E4C2 The Information Technology Managers from the three Colleges and the District Office are responsible for Information Technology Security throughout Kern Community College District.~~

~~3E4C3 Kern Community College District's Director, Information Technology is responsible for carrying out Kern Community College District's Information Technology Security Program as outlined in Policy 3E4B3.~~

~~3E4C4 Appropriate College and District-wide committees shall have the opportunity to provide input on the development of Information Technology Security policies and procedures.~~

3E4D Sanctions

~~3E4D1 Violations of this policy are subject to the established Kern Community College District disciplinary processes as outlined in Kern Community College District Board Policy and Kern Community College District employee contracts.~~

~~Acknowledgements: Kern Community College District acknowledges Murdoch University of Perth, Western Australia (www.murdoch.edu.au), and the University of Minnesota (www.umn.edu) for allowing Kern Community College District to use their Information Technology Security policy material.~~

Kern Community College District
Administrative Procedure
Chapter 3 – General Institution

AP 3720 COMPUTER AND NETWORK USE

References:

Government Code Section 3543.1(b):

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

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

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

NOTE: The following language in red ink is **legally advised**. Local practice may be inserted. The following is an illustrative example:

The District Computer and Network systems are the sole property of the 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 personal computers, workstations, mainframes, minicomputers, and associated peripherals, software, and information resources, regardless of whether used for administration, research, teaching, or other purposes.

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. 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; 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. Protected 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 in a department does not exceed the number of original copies purchased by that department, 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.

Integrity of Information Resources

Computer users must respect the integrity of computer-based information resources.

NOTE: Districts may reference the electronic information security standard created by the California Community Colleges Technology Center.

Modification or Removal of Equipment - Computer users must not attempt to modify or remove computer 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 computers. 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 disk partitions; attempting to crash or tie up a District computer or network; and damaging or vandalizing District computing facilities, equipment, software or computer files.

Unauthorized Programs - Computer users must not intentionally develop or use programs which disrupt other computer 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 computers, computer software, computer data, or information, or networks without proper authorization, or intentionally enable others to do so, regardless of whether the computer, software, data, information, 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 - 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 computer 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).

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.

Rights of Individuals - Users must not release any individual's (student, faculty, or 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. If the District otherwise grants access to the District's email system for personal use, employees may use the District's email system to engage in protected concerted activity during non-work time.

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 the District network and computer resources which discriminates against any person on the basis of the protected categories cited in BP 3410 titled Nondiscrimination. No user shall use the District network and computer 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 computer 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 computer 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.

These procedures should be communicated to all users through multiple methods of communication, as appropriate, including: email, pop-up messages, login banners, web sites and/or printed copies. Users shall sign and date the acknowledgment and waiver stating that they have read and understand this procedure, and will comply with it. This acknowledgment and waiver shall be signed at initial employment.

NOTE: The following language current KCCD Procedure 3E1C(a) is shown as struck because new AP 3720 titled Computer and Network Use addresses many of these issues and similar information (above).

If deemed **critically necessary**, some of the following language could be codified in this new **AP 3720** (above). Another option is to include these prescriptive details on Information Technology webpages and/or in an Information Technology Manual available on the District’s website.

❖ From current KCCD Procedure 3E1C(a) titled Computing and Network Use Prohibitions

~~Improper uses of Colleges/District computing and network resources are prohibited as follows:~~

~~(1) The use of computing and network resources for cheating, plagiarism, furnishing false information, other acts of academic dishonesty, or malicious behavior that interferes with meeting the College/District educational mission is prohibited.~~

~~(2) The use of computing and network resources shall not interfere with the work of employees or students nor disrupt the normal operation of the Colleges/District.~~

~~(3) Computing and network use that monopolizes resources; network use that creates unnecessary network traffic; broadcast of inappropriate electronic mail and messages; transmission of electronic chain letters or other requests for money; and distribution or circulation of media known or suspected to contain computer viruses are prohibited.~~

~~(4) Copying, distributing (either free or for monetary gain), or receiving copyrighted software or electronic information without paying the specified royalty (U.S. copyright laws) are prohibited.~~

~~(5) Unauthorized computing and network account sharing is prohibited.~~

~~(6) Attempts to gain unauthorized access to any computing or network resource are prohibited.~~

~~(7) Unauthorized commercial or business use of Colleges/District computing and network resources for individual or private gain is prohibited.~~

~~(8) Use of Colleges/District computing and network resources to intentionally transmit, receive, display or copy obscene, pornographic, discriminatory or harassing materials not related to coursework or research is prohibited.~~

~~(9) Use of Colleges/District computing and network resources to access or attempt to access student or employee information for any purpose not specifically job-related violates state and federal laws and District policy and is prohibited.~~

~~(10) The Electronic Communications Privacy Act (federal law) includes electronic mail and messages in the same category as U.S. mail and telephone calls, and defines unauthorized attempts to access another user's information as unlawful behavior. Such behavior is prohibited.~~

Reviewed and Recommended by
Chancellor's Cabinet, September 16, 2008
District Consultation Council, May 18, 2009

NOTE: *The following language current KCCD Procedure 3E1C(b) is shown as struck because new AP 3720 titled Computer and Network Use addresses many of these issues and similar information (above).*

*If deemed **critically necessary**, some of the following language could be codified in this new **AP 3720** (above). Another option is to include these prescriptive details on Information Technology webpages and/or in an Information Technology Manual available on the District's website.*

❖ **From current KCCD Procedure 3E1C(b) titled Computer Software Use Procedures**

~~(1) Only software which falls into one of the following categories may be used on equipment which is under the jurisdiction of the Kern Community College District:~~

- ~~a) The software has been purchased by the District in sufficient quantities to account for one purchase for each machine on which the software is used, and a written record of the purchase is available in District files.~~
- ~~b) The software is covered by a licensing agreement with the software author, vendor, or developer, as applicable; no tenets of the agreement have been violated by the user; and a written copy of the agreement is available in District files.~~
- ~~c) The software has been donated to the District in accordance with the software license, and a written record of the donation or its acceptance is available in District files.~~
- ~~d) The software has been developed or written by a District employee for use on District equipment, and full credit has been given to the developer by other users.~~
- ~~e) The software is in the public domain, and documentation exists to substantiate its public domain status.~~
- ~~f) The software is being reviewed or demonstrated as part of a purchasing or licensing decision, and arrangements for such review or demonstration have been satisfactorily reached between the District and the appropriate vendor or representative.~~
- ~~g) The software is the personal property of the user, and these procedures and software license requirements are followed.~~

~~(2) According to law, all copies are illegal unless they fall into one of the following categories:~~

- ~~a) The copy is created as an essential step in the utilization of the computer program in conjunction with a machine, and it is used in no other manner.~~
- ~~b) The copy is for archival purposes only, and all archival copies are destroyed when continued possession of the computer program ceases to be rightful.~~
- ~~c) The copy is in compliance with the license agreement.~~

~~(3) In order to certify the District's right to use software installed on District-owned computers, copies of all software licenses shall be on file at a designated location. When installing software on a District-owned computer, the person completing the installation is responsible for the following:~~

- ~~a) Installation of the software according to instructions provided by the software author/distributor.~~
- ~~b) Completion of a Software Registration Form. (See Appendix 3E3)~~
- ~~c) Forwarding the Software Registration Form, the Software License Agreement received with the software, and a copy of the software purchase order to the designated location. These documents constitute an archival record.~~

~~(4) If a software audit is performed either by District staff, law enforcement officers, or regulatory agencies, the archival records will be used to prove ownership of specific software products. If an archival record does not exist for a specific copy of software and the user is unable to provide proof of legal use as stated in these Procedures, the software will be deleted from the computer's storage media, and all backup copies will be destroyed.~~

~~Approved by the Chancellor's Cabinet
May 23, 1993
Renumbered 4/21/94, 2/11/97, and 10/11/00~~

~~Also see BP/AP 3710 titled Securing of Copyright and AP 3750 titled Use of Copyrighted Material~~

NOTE: *The following language current KCCD Procedure 3E1F is shown as struck because new AP 3720 titled Computer and Network Use addresses some of these issues and similar information (above).*

*If deemed **critically necessary**, some of the following language could be codified in this new **AP 3720** (above). Another option is to include these prescriptive details on Information Technology webpages and/or in an Information Technology Manual available on the District's website.*

❖ From current KCCD Procedure 3E1F titled College Computing and Network Use Procedures

~~The Colleges of the Kern Community College District may develop, adopt, and implement written computing and network use procedures that are consistent with the District's Computing and Network Use Policy, including, but not limited to references to:~~

- ~~A. The District Computing and Network Use Policy including its ten (10) prohibitions.~~
- ~~B. The legal aspects of computing and network use procedures such as:
 - ~~1) The rights of users to freely examine issues.~~~~

~~2) Sexual harassment and creating a hostile environment~~

~~3) Freedom from intimidation, embarrassment, or fear~~

~~4) Rules related to behavior~~

~~C. The development of priorities that emphasize computing and network use that is related to the mission of the College/District.~~

~~D. Sanctions that range from a warning, to restriction of use, to disciplinary action, to legal action.~~

~~E. College Computing and Network Use Procedures will have the approval of the President, will be given wide dissemination to users, and will be forwarded to the District Director, Information Technology.~~

Reviewed and Recommended by
Chancellor's Cabinet
September 16, 2008

Reviewed and Recommended by
District Consultation Council
May 18, 2009

NOTE: *The following language current KCCD Procedure 3E2E is shown as struck as it is unique to the District, and these details are recommended for inclusion on Information Technology webpages and/or in an Information Technology Manual available on the District's website (or on the District's intranet system).*

❖ From current KCCD Procedure 3E2E titled Attaching Outside Agencies to the District Wide Area Network (WAN)

~~1. A written proposal to attach outside agencies to the District WAN is required, and must meet the following stipulations:~~

~~a) Cite and explain the mutual benefit to the District and the outside agency of the proposed attachment.~~

~~b) Identify the costs required to establish and maintain the proposed attachment with the assistance of the District Information Technology staff. Cost considerations should include, but not be limited to, the following:~~

~~• Hardware costs~~

~~• Support costs~~

- ~~• Bandwidth costs~~
 - ~~• Personnel costs~~
 - ~~• Other costs~~
- c) ~~Propose the method for either recovering the related costs, and/or demonstrating the quantifiable off-setting financial benefits to the KCCD.~~
- d) ~~Specify the proposed terms and conditions, which include the following:~~
- ~~• Duration of the agreement and means for evaluating whether it should be extended, renewed, or terminated~~
 - ~~• Services to be provided~~
 - ~~• Costs to the District and method of cost recovery and/or reimbursement~~
 - ~~• Disclaimers related to the interruptions outside the control of KCCD~~
 - ~~• Mutually agreed upon security provisions~~
 - ~~• Method of distribution of resources and obligations upon dissolution of agreement~~
2. ~~A proposal following the stipulations set forth in the Procedures noted in #1, above, will be presented to the District-wide Information Technology Committee (DWITC) for consideration, with action following at a subsequent meeting.~~
3. ~~The DWITC recommendation will be taken to the Chancellor's Cabinet for consideration.~~
4. ~~The agreement or contract for attaching the outside agency to the District WAN will be taken to the Board of Trustees for action upon the recommendation of the Chancellor's Cabinet.~~
5. ~~Once the proposal to attach an outside agency to the District WAN is approved, the Assistant Chancellor, Information Technology will implement the agreement and proceed with the project.~~

~~Approved by the Chancellor's Cabinet
February 8, 2000~~

NOTE: *The following language current KCCD Procedure 3E3 is shown as struck. If deemed **critically necessary**, some of the following language could be codified in this new **AP 3720** (above). Another option is to include these prescriptive details on Information Technology webpages and/or in an Information Technology Manual available on the District's website.*

❖ **From current KCCD Procedure 3E3 titled Electronic Mail Procedure**

~~PART ONE—INTRODUCTION~~

~~The purpose of this Procedure is to assure that:~~

- ~~1. The Kern Community College District (KCCD) community is informed about the applicability of policies and laws to electronic mail;~~
- ~~2. Electronic mail services are used in compliance with those policies and laws;~~
- ~~3. E-mail users are informed about how concepts of privacy and security apply to electronic mail; and~~
- ~~4. Disruptions to KCCD electronic mail and other services and activities are minimized.~~

~~PART TWO—DEFINITIONS~~

~~Any readers unfamiliar with the terminology used in this Procedure can refer to a set of definitions in Appendix 3E3, Part C.~~

~~PART THREE—GENERAL INFORMATION~~

~~General information regarding electronic mail has been included in Appendix 3E3, Part D.~~

~~PART FOUR—SCOPE~~

~~This Procedure applies to:~~

- ~~1. All electronic mail systems and services provided or owned by the KCCD.~~
- ~~2. All users, holders, and uses of KCCD E-mail services.~~
- ~~3. All KCCD E-mail records in the possession of KCCD employees or other E-mail users of electronic mail services provided by the KCCD.~~

~~This Procedure applies only to electronic mail in its electronic form. The Procedure does not apply to printed copies of electronic mail.~~

~~PART FIVE--GENERAL PROVISIONS~~

- ~~1. **Purpose**—In support of its mission of instruction and public service, the KCCD encourages the use of KCCD electronic mail services to share information, to improve communication, and to exchange ideas.~~
- ~~2. **KCCD Property**—KCCD electronic mail systems and services are KCCD facilities as that term is used in other policies and guidelines. Any electronic mail address or account associated with KCCD, or any sub-unit of the KCCD, assigned by the KCCD to individuals, sub-units, or functions of the KCCD, is the property of the KCCD.~~
- ~~3. **Service Restrictions**—Those who use KCCD electronic mail services are expected to do so responsibly, that is, to comply with state and federal laws, with this and other policies and procedures of KCCD, and with normal standards of professional and personal courtesy and conduct. Access to KCCD electronic mail services is a privilege that may be wholly or partially restricted by KCCD without prior notice and without the consent of the E-mail user when required by and consistent with law, when there is substantiated reason (as defined in Appendix 3E3, Part C, Definitions) to believe that violations of policy or law have taken place, or, in exceptional cases, when required to meet time-dependent, critical operational needs.~~
- ~~4. **Consent and Compliance**—An E-mail holder's consent shall be sought by KCCD prior to any inspection, monitoring, or disclosure of KCCD E-mail records in the holder's possession, except as provided for in Part Five, Number 5. KCCD employees are, however, expected to comply with KCCD requests for copies of E-mail records in their possession that pertain to the administrative business of KCCD, or whose disclosure is required to comply with applicable laws, regardless of whether such records reside on a computer housed or owned by KCCD. Failure to comply with such requests can lead to the conditions of Part Five, Number 5.~~
- ~~5. **Restrictions on Access Without Consent**—KCCD shall only permit the inspection, monitoring, or disclosure of electronic mail without the consent of the holder of such E-mail (a) when required by and consistent with law; (b) when there is substantiated reason (as defined in Appendix 3E3, Part C, Definitions) to believe that violations of law or KCCD policies listed in Appendix 3E3, Part B have taken place; (c) when there are compelling circumstances as defined in Part Three; or (d) under time-dependent, critical operational circumstances as defined in Appendix 3E3, Part C, Definitions.~~

~~When the contents of E-mail must be inspected, monitored, or disclosed without the holder's consent, the following shall apply:~~

~~(A) Authorization--Except in emergency circumstances as defined in Appendix 3E3, Part C, Definitions, and pursuant to Part Five, Number 5b, such actions must be authorized in advance and in writing by KCCD Assistant Chancellor for Information Technology Services (IT). Authorization shall be limited to the least perusal of contents and the least action necessary to resolve the situation.~~

~~(B) Emergency Circumstances--In emergency circumstances as defined in Appendix 3E3, Part C, Definitions, the least perusal of contents and the least action necessary to resolve the emergency may be taken immediately without authorization, but appropriate authorization must then be sought without delay following the procedures described in Part Five, Number 5A, above.~~

~~(C) Notification--In either case, the responsible authority or designee shall, at the earliest possible opportunity that is lawful and consistent with other KCCD policies and procedures, notify the affected individual of the action(s) taken and the reasons for the action(s) taken.~~

~~(D) Compliance with Law--Actions taken under Part Five, Numbers 1 and 2 shall be in full compliance with the law and other applicable KCCD policy and procedure, including laws and policies listed in Appendix 3E3, Part A.~~

~~6. **Recourse**--Individuals who believe that actions taken by employees or agents of KCCD were in violation of this Procedure should file a complaint with the Assistant Chancellor for IT.~~

~~7. **Misuse**--In general, both law and KCCD policy prohibit the theft or other abuse of computing resources. Such prohibitions apply to electronic mail services and include (but are not limited to) unauthorized entry, use, transfer, and tampering with the accounts and files of others, and interference with the work of others and with other computing facilities. Under certain circumstances, the law contains provisions for felony offenses. Users of electronic mail are encouraged to familiarize themselves with these laws and policies (see Appendix 3E3, Part A, References).~~

~~PART SIX--SPECIFIC PROVISIONS~~

~~1. Allowable Use--In general, use of KCCD electronic mail services is governed by policies that apply to the use of all KCCD facilities. In particular, use of KCCD electronic mail services is encouraged and is allowable subject to the following conditions:~~

~~(A) **Purpose**--Electronic mail services are to be provided by KCCD organizational units in support of the teaching, research, and public service mission of KCCD, and the administrative functions that support this mission.~~

~~(B) **Users**--Users of KCCD electronic mail services are to be limited primarily to KCCD students, faculty, staff, and community users for purposes that conform to the requirements of this Section.~~

~~(C) **Non-Competition**--KCCD electronic mail services shall not be provided in competition with commercial services to individuals or organizations outside the KCCD.~~

~~(D) **Restrictions**--KCCD electronic mail services may not be used for: unlawful activities; commercial purposes not under the auspices of KCCD; personal financial gain (see applicable academic personnel policies); personal use inconsistent with Part Six, Number 1H; or uses that violate other KCCD policies or guidelines. The latter include, but are not limited to, policies and guidelines (see Appendix 3E3, Part A, References) regarding intellectual property, or regarding sexual or other forms of harassment.~~

~~(E) **Representation**--Electronic mail users shall not give the impression that they are representing, giving opinions, or otherwise making statements on behalf of KCCD or any unit of KCCD unless appropriately authorized (explicitly or implicitly) to do so. Where appropriate, an explicit disclaimer shall be included unless it is clear from the context that the author is not representing KCCD. (e.g., "These opinions are my own, not those of KCCD.")~~

~~(F) **False Identity**--KCCD E-mail users shall not employ a false identity. E-mail may, however, be sent anonymously, provided this does not violate any law or any KCCD policy, and does not unreasonably interfere with the administrative business of KCCD.~~

~~(G) **Interference**--KCCD E-mail services shall not be used for purposes that could reasonably be expected to cause, directly or indirectly, excessive strain on any computing facilities, or unwarranted or unsolicited interference with others' use of E-mail or E-mail systems. Such uses include, but are not limited to, the use of E-mail services to: (a) send or forward Email chain letters; (b) "spam," that is, to exploit listservers or similar broadcast systems for purposes beyond their intended scope to amplify the widespread distribution of unsolicited E-mail; and (c) "letter-bomb," that is, to resend the same E-mail repeatedly to one or more recipients to interfere with the recipient's use of E-mail.~~

~~(H) **Personal Use**--KCCD electronic mail services may be used for incidental personal purposes provided that, in addition to the foregoing constraints and conditions, such use does not: (i) directly or indirectly interfere with the KCCD operation of computing facilities or electronic mail services; (ii) burden the KCCD with noticeable incremental cost; or (iii) interfere with the E-mail user's employment or other obligations to the KCCD.~~

2. Security and Confidentiality

~~(A) The confidentiality of electronic mail cannot be assured. Such confidentiality may be compromised by applicability of law or policy, including this Procedure, by unintended redistribution, or because of inadequacy of current technologies to protect against unauthorized access. Users, therefore, should exercise extreme caution in using E-mail to communicate confidential or sensitive matters.~~

~~(B) Users should be aware that, during the performance of their duties, network and computer operations personnel and system administrators need from time to time to observe certain transactional addressing information to ensure proper functioning of KCCD E-mail services, and on these and other occasions may inadvertently see the contents of E-mail messages. Except as provided elsewhere in this Procedure, they are not permitted to see or read the contents intentionally; to read transactional information where not germane to the foregoing purpose; or disclose or otherwise use what they have seen. One exception, however, is that of systems personnel (such as "postmasters") who may need to inspect E-mail when re-routing or disposing of otherwise undeliverable E-mail. This exception is limited to the least invasive level of inspection required to perform such duties. Furthermore, this exception does not exempt postmasters from the prohibition against disclosure of personal and confidential information of the previous paragraph, except insofar as such disclosure equates with good faith attempts to route the otherwise undeliverable E-mail to the intended recipient. Re-routed mail normally should be accompanied by notification to the recipient that the E-mail has been inspected for such purposes.~~

~~(C) The KCCD attempts to provide secure and reliable E-mail services. Operators of KCCD electronic mail services are expected to follow sound professional practices in providing for the security of electronic mail records, data, application programs, and system programs under their jurisdiction. Since such professional practices and protections are not foolproof, however, the security and confidentiality of electronic mail cannot be guaranteed. Furthermore, operators of E-mail services have no control over the security of E-mail that has been downloaded to a user's computer. As a deterrent to potential intruders and to misuse of E-mail, E-mail users should employ whatever protections (such as passwords) are available to them.~~

~~(D) Users of electronic mail services should be aware that even though the sender and recipient have discarded their copies of an electronic mail record, there may be back-up copies that can be retrieved. Systems may be "backed-up" on a routine or occasional basis to protect system reliability and integrity, and to prevent potential loss of data. The back-up process copies data onto storage media that may be retained for periods of time and in locations unknown to the originator or recipient of electronic mail.~~

3. Archiving and Retention

~~(A) KCCD does not maintain central or distributed electronic mail archives of all electronic mail sent or received. Electronic mail is normally backed up only to assure system integrity and reliability, not to provide for future retrieval. Operators of KCCD electronic mail services are not required by this Procedure to retrieve E-mail from such back-up facilities upon the holder's request, although on occasion they may do so as a courtesy.~~

~~(B) E-mail users should be aware that generally it is not possible to assure the longevity of electronic mail records for record-keeping purposes, in part because of the difficulty of guaranteeing that electronic mail can continue to be read in the face of changing formats and technologies and in part because of the changing nature of electronic mail systems. This becomes increasingly difficult as electronic mail encompasses more digital forms, such as compound documents composed of digital voice, music, image, and video in addition to text. Furthermore, in the absence of the use of authentication systems (see Part One, Number 4), it is difficult to guarantee that E-mail documents have not been altered, intentionally or inadvertently.~~

~~(C) E-mail users and those in possession of KCCD records in the form of electronic mail are cautioned, therefore, to be prudent in their reliance on electronic mail for purposes of maintaining a lasting record. Sound business practice suggests that consideration be given to transferring (if possible) electronic mail to a more lasting medium/format, such as acidfree paper or microfilm, where long term accessibility is an issue.~~

~~PART SEVEN--PROCEDURE VIOLATIONS~~

~~Violations of KCCD procedures governing the use of KCCD electronic mail services may result in restriction of access to KCCD information technology resources. In addition, disciplinary action, up to and including dismissal, may be applicable under other KCCD policies, guidelines, implementing procedures, or collective bargaining agreements.~~

~~PART EIGHT--RESPONSIBILITY FOR PROCEDURE~~

~~The Assistant Chancellor for IT is responsible for development and maintenance of this Procedure, with the concurrence of the District-Wide IT Committee (DWITC).~~

~~Approved by Chancellor's Cabinet
March 28, 2000~~

**Kern Community College District
Board Policy
Chapter 3 – General Institution**

BP 3810 CLAIMS AGAINST THE DISTRICT

References:

Education Code Section 72502;

Government Code Sections 900 et seq. and 910

NOTE: *The language in current KCCD Policy 3A15 parallels the language recommended by the Policy & Procedure Service and its legal team.*

❖ From current KCCD Policy 3A15 titled Claims Against the Kern Community College District

3A15A Any claims against the District for money or damages, which are not governed by any other statutes or regulations expressly relating thereto, shall be presented and acted upon in accordance with Title 1, Division 3.6, Part 3, Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of the California Government Code.

3A15B Claims must be presented according to this policy and the related procedure as a prerequisite for filing suit against the District.

Claims that are subject to the requirements of this policy include, but are not limited to, the following:

- **3A15B1** Claims by public entities, claims by the state department or agency, or by another public entity.
- **3A15B2** Claims for fees, salaries or wages, mileage, or other expenses and allowances.

3A15C The designated place for service of claims, lawsuits, subpoenas, documents pursuant the California Public Records Request Act, or other types of legal process upon the District is:

The Office of the General Counsel
2100 Chester Avenue
Bakersfield, California 93301
(661) 336-5040

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Chapter 3 – General Institution

AP 3810 CLAIMS AGAINST THE DISTRICT

References:

Education Code Section 72502;

Government Code Sections 900 et seq. and 910 et seq.

NOTE: This procedure is **suggested as good practice/optional**. Local practice may be used as the basis for this procedure, and typically addresses the following. Districts are advised also to consult with their insurance administrators or the administrators for their self-insurance JPA regarding any particular procedures that may be required.

- The forms to be used to submit claims;
- That claims must be submitted using the designated forms;
- If a claim is not submitted on the designated form, it will be returned;
- Any claim returned may be resubmitted using the proper form;
- Where claim forms can be obtained;
- Where they have to be turned in;
- Timelines that comply with Government Code; and
- Requirements the insurer or JPA has requested of the District.

CLAIM FORMS

All claims against the District are to be submitted on the District's approved claim form. Claims not submitted on the District's form will be returned to the claimant and may be resubmitted using the proper form.

Claim forms can be obtained by calling the Office of the General Counsel at (661) 336-5040.

Claims forms may be presented in person at, or, deposited in the United States mail, in a sealed envelope, properly addressed, postage prepaid as follows:

For mailing and to serve/present in person:

Kern Community College District
Office of General Counsel
2100 Chester Avenue
Bakersfield, California 93301

TIME LIMITATIONS

Claims for money or damages relating to a cause of action for death, injury to a person, or personal property, must be presented to the District not later than six months after the accrual of the cause of action.

Claims for money or damages relating to a cause of action other than that stated above, must be presented to the District not later than one year from the accrual of the cause of action.

RESPONSE TO CLAIM

The District has 45 days within which to respond to any claim received. The claim may be allowed in whole or in part, or may be rejected altogether. Pursuant to Government Code, the District will notify those claimants, whose claims are rejected, of their rights under the law to pursue their claim further.

If the District decides to allow the claim or offer a compromise in an attempt to settle the claim, the District shall require the claimant to sign a release or waiver agreeing to payment as full and complete settlement of the claim.

OTHER TYPES OF LEGAL PROCESS

Subpoenas

Subpoenas shall be delivered to the Office of General Counsel. If copies of documents are requested payment in the amount of \$15.00 shall be delivered with the subpoena and payment should be made payable to the Kern Community College District.

California Public Records Request Act

All requests are to be made to the Office of General Counsel. General Counsel's Office will assist the requestor with format upon request.

Also see BP/AP 6540 titled Insurance

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BP 3820 GIFTS

Reference:

Education Code Section 72122

NOTE: *In October 2015, this policy was updated to add military or veterans status to the list of grounds upon which a potential donor may not discriminate in order for a district to accept a donation from that donor.*

❖ From current KCCD Policy 3A2A6 titled Gifts

The Board of Trustees shall consider all gifts, donations, and bequests made to the District. The Board reserves the right to refuse to accept any gift which does not contribute toward the goals of the District, or the ownership of which would have the potential to deplete resources of the District.

The District shall assume no responsibility for appraising the value of gifts made to the District.

Acceptance of a gift shall not be considered endorsement by the District of a product enterprise or entity.

In no event shall the District accept a donation from any donor who engages in practices or policies which discriminate against any person on the basis of nationality, religion, age, gender, gender identity, gender expression, race or ethnicity, medical condition, genetic information, ancestry, sexual orientation, marital status, military or veteran status, or physical or mental disability; or when the stated purposes of the donation are to facilitate such discrimination in providing educational opportunity.

Kern Community College District
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AP 3820 GIFTS

Reference:

Education Code Section 72122

NOTE: This procedure is **suggested as good practice/optional**. Local practice may be inserted, and typically covers:

- Responsible personnel or office
- Criteria for accepting donations or gifts
- Forms, if any
- How gifts are reported or submitted to board for acceptance

When gifts or donations are received, the appropriate manager of the area receiving the gift must document its receipt in a memorandum to the College President.

The memorandum should specify: the item or dollar amount being donated; the Division or Department receiving the donation; the use or purpose of the donation; the date the donation was received; and, the name and address of the donor.

If the College President approves acceptance of the donation, the memorandum should be sent to the District Chancellor for approval and placement on the agenda of a meeting of the Board of Trustees.

Once approved by the Board, a thank you and acknowledgement letter shall be sent to the donor from the District Chancellor. No dollar value shall be indicated for in kind gifts.

Gifts to the Foundations must be accepted, processed, and acknowledged in accordance with legal requirements and procedures established by the Foundation Board of Directors.

Also see BP/AP 6620 titled Naming of Properties, Facilities, and Programs

**Kern Community College District
Board Policy
Chapter 3 – General Institution**

BP 3900 SPEECH: TIME, PLACE, AND MANNER

References:

Education Code Sections 66301 and 76120

NOTE: *This policy is **legally required**, with the exception of the second sentence specifying the colleges as non-public forums, which is **suggested as good practice**.*

❖ From current KCCD Policy 3B7 titled Speech: Time, Place, and Manner

Students, employees, and members of the public shall be free to exercise their rights of free expression, subject to the requirements of this policy.

The Colleges of the District are non-public forums, except for those areas that are designated public forums available for the exercise of expression by students, employees, and members of the public. The District Chancellor or designee shall enact such administrative procedures as are necessary to reasonably regulate the time, place, and manner of the exercise of free expression in the designated public forums.

The administrative procedures promulgated by the District Chancellor or designee shall not prohibit the right of students to exercise free expression, including but not limited to the use of bulletin boards, the distribution of printed materials or petitions and the wearing of buttons, badges, or other insignia.

Speech shall be prohibited that is defamatory, obscene according to current legal standards, or which so incites others as to create a clear and present danger of the commission of unlawful acts on District property or the violation of District policies or procedures, or the substantial disruption of the orderly operation of the District.

Nothing in this policy shall prohibit the regulation of hate violence directed at students in a manner that denies their full participation in the educational process (Education Code Section 66301(e)), so long as the regulation conforms to the requirements of the First Amendment to the United States Constitution, and of Section 2 of Article 1 of the California Constitution. Students may be disciplined for harassment, threats, or intimidation unless such speech is constitutionally protected, members of the public may

be asked to leave the campus pursuant to current law. (~~See Administrative Procedure 3B1~~).

NOTE: *The following language is unique to the Kern Community College District and is recommended for deletion as new BP/AP 3900 titled Speech: Time, Place, and Manner and BP 4030 titled Academic Freedom address similar information and comply with statutes and regulations.*

❖ **From current KCCD Policy 4B12 titled Personal Expression and Advocacy**

~~The College staff is authorized to establish regulations for students and staff which will affirm the rights of free expression and advocacy and to assure that, in their exercise, the rights of all members of the College community are protected. Principles and regulations relating to persons other than students and staff are hereby established.~~

~~4B12A Regulations shall be established by the College staff regarding the time, place, and manner of public delivery of speeches and for gathering. The regulations shall assure that orderly conduct prevails, that there will be no interference with free flow of traffic, that there will be no disturbance of offices, classes or study facilities, and that there will be no harm to property.~~

~~4B12B The conduct of these activities shall be consistent with all civil laws.~~

~~4B12C Use of available media on campus shall be regulated as to reasonable time, place, and manner. Since the function of the College is education, any use of media that diminishes that function shall be avoided.~~

~~4B12D Students shall be held responsible for the manner in which they advocate. The College staff shall exercise disciplinary procedures for breach of these regulations in the same manner as with other student violations. An appeal procedure may be established to review administrative judgments regarding the exercise of advocacy.~~

~~Also see BP 4030 Academic Freedom and BP/AP 6700 Civic Center and Other Facilities Use~~

NOTE: *The following language is unique to the Kern Community College District and is recommended for deletion as new BP/AP 3900 titled Speech: Time, Place, and Manner; BP 4030 titled Academic Freedom; and BP/AP 6700 Civic Center and Other Facilities Use address similar information and comply with statutes and regulations.*

❖ **From current KCCD Policy 4B10 titled Guest Lecturers/Classroom and Campus Visitors**

~~4B10A Persons other than students and staff are allowed to speak on the College campus in accordance with the following principles and regulations:~~

~~4B10A1 The College recognizes that discussion of public issues on the campus plays a significant role in promoting the education of its students and in preparing them for intelligent participation in society.~~

~~4B10A2 Events or activities employing College facilities and/or personnel and sponsored by recognized student organizations or by others must not be advertised or promoted in such a way as to suggest sponsorship or endorsement by the College.~~

~~4B10A3 Meetings or events involving off-campus speakers may be held in College facilities with prior approval of the College President. Speakers must be sponsored either by staff members of the College, by chartered student organizations, or by ten (10) or more registered students whose names appear on a petition obtained from an administrator properly designated by the College President.~~

~~4B10A4 No special meetings or events shall be authorized which will result in interference with the physical operations of the campus.~~

~~4B10A5 Whenever the College President considers it appropriate in furtherance of educational objectives, any or all of the following may be required:~~

- ~~• That the meeting be chaired by a member of the faculty.~~
- ~~• That the speaker be subject to questions from the audience.~~
- ~~• That the speaker be appropriately balanced in debate with a person of contrary opinions.~~
- ~~• That the request for an off-campus speaker state the subject and/or the exact title of the speech.~~

~~4B10A6 An applicant who is denied the use of College facilities and who contends that the denial is based on incorrect or inequitable application of these regulations may appeal the denial as provided in the College policy on advocacy and free expression.~~

~~4B10A7 This policy is not intended to supersede the provisions of the Civic Center Act.~~

~~4B10B Non-student visitors to College classes may be approved but must not disrupt the classes.~~

- ~~• Specific procedures shall be developed by each College for classroom visitors.~~

Admin 10/31/16

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AP 3900 SPEECH: TIME, PLACE, AND MANNER

References:

Education Code Sections 66301 and 76120

NOTE: This procedure is **legally advised**. Local practice may be inserted, but should comply with these minimums and those in the related Board Policy.

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.

NOTE: If the District does not wish to limit expressive activities by students and non-students to particular areas as described above, it can use the following language in place of the “list of areas” specified above: “those areas generally available to students and the community, defined as grassy areas, walkways, and other similar common areas.” Given the developing nature of this area of the law, we recommend consulting local counsel on the choice of language.

NOTE: The language is **legally advised**. Districts should consult with local counsel to ensure the District complies with federal and state law regarding speech and expressive activities.

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

- Any person or entity wishing to exercise expressive activities must check in with the office of Public Safety prior to entering campus. This does not constitute review or approval of subject matter.
- 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 that time.
- Persons using the areas reserved for expressive activities shall not disrupt the orderly operation of the college.

Admin 10/31/16