



04-23-19

Academic Senate Meeting Packet

Pg.#	Supplemental Documents	Discussion Item
1	Meeting Agendas	Agendas
4	BP 7350 Resignations	7.B: DCC Subcommittee on Board and Administrative Policies
5	AP 7350 Resignations	7.B: DCC Subcommittee on Board and Administrative Policies
6	OCC Classified Senate Feedback on Anti-Nepotism BP & AP	8.A: BP & AP 7310 Nepotism Policy Review & Discussion
9	CCCD BP 7310 Nepotism Policy	8.A: BP & AP 7310 Nepotism Policy Review & Discussion
11	LBCCC Nepotism Policy	8.A: BP & AP 7310 Nepotism Policy Review & Discussion
12	Mt. Sac Nepotism Policy	8.A: BP & AP 7310 Nepotism Policy Review & Discussion
13	Rio Hondo Nepotism Policy	8.A: BP & AP 7310 Nepotism Policy Review & Discussion
14	El Camino Nepotism Policy	8.A: BP & AP 7310 Nepotism Policy Review & Discussion
15	Proposed: CCCD BP 7310 Anti-Nepotism Policy	8.A: BP & AP 7310 Nepotism Policy Review & Discussion
17	Proposed: CCCD AP 7310 Anti-Nepotism Policy	8.A: BP & AP 7310 Nepotism Policy Review & Discussion
19	Government Code: 1090	8.A: BP & AP 7310 Nepotism Policy Review & Discussion
20	Government Code: 12940	8.A: BP & AP 7310 Nepotism Policy Review & Discussion
26	Academic Senate By-Laws	8.C: Bylaws Revisions & Additions Discussion
31	Proposed Revisions to AS By-Laws	8.C: Bylaws Revisions & Additions Discussion
38	Proxy Voting Resolution (11-13-18)	8.C: Bylaws Revisions & Additions Discussion
39	Counsel Email RE: Proxy Voting	8.C: Bylaws Revisions & Additions Discussion



Academic Senate Regular Meeting Agenda

April 23, 2019 | 11:30 A.M. - 12:30 P.M. | Faculty House

1. **Call to Order** - Academic Senate President
2. **Approval of the Agenda** - Academic Senate Body
3. **Approval of the Minutes** - Academic Senate Body:
 - a. April 2, 2019
 - b. April 16, 2019
4. **Opportunity for Public Comment:**
(Five-minute allotment of time for public speakers)

Senate Members: Please save announcements for “For the Good of the Order.”

Comments on items specific to the agenda may be made at this time, or, preferably, during discussion of that agenda item. Members of the public may fill out a Public Comment Slip that is located near the meeting agendas in front of the meeting room. Please give your slip to the president before the meeting begins. The president will determine the order of speakers. Speakers have a one-minute time allotment per speaker.

5. **For the Good of the Order Announcements:**
Please observe a one-minute allotment per speaker. Senators are invited to report something of interest to faculty: Good news, upcoming events, thanks for a job well done.
6. **Consent Agenda:**
 - a. **Hiring Committee:**
 - i. **Instructor Kinesiology - Women’s Basketball:**
 1. Laura Behr
7. **Officer, Senator, and Committee Reports:**
(Non-agendized reports are limited to two, minutes)
 - a. President’s Report - Loren Sachs
 - b. District Consultative Council Subcommittee on Board and Administrative Policies - Marilyn Kennedy
 - c. Guided Pathways Reporting



8. Unfinished Business:

- a. BP & AP 7310 Nepotism Policy Review and Discussion - Marilyn Kennedy
- b. Smoke Free Campus Taskforce - Loren Sachs
- c. Bylaws Revisions and Additions Discussion Only

9. New Business:

- a. Short-Term Staffing: Overview & Action - Rebecca Morgan

10. Adjournment of the Regular Meeting



Academic Senate Executive Board Meeting Agenda

April 23, 2019 | 12:30 - 1:30 P.M. | Faculty House

- 1. Call to Order - Senate President**
- 2. Opportunity for Public Comment – Five-minute allotment of time for public speakers:**

Members of the public may fill out a Public Comment Slip, which are located near the meeting agendas in front of the meeting room. Please give your slip to the president before the meeting begins. Comments on items specific to the agenda may be made at this time, or, preferably, during discussion of that agenda item. The president will determine the order of any speakers. Speakers have one minute per speaker.
- 3. Approval of the Agenda - Executive Board**
- 4. Approval of the Minutes - Executive Board**
- 5. Reports from Executive Board Members - Executive Board**
- 6. Discussion of Agenda Items for the next Regular and E-Board Meetings:**
 - a. TBD item/s future meeting date assignments
 - b. Consent Calendar Items Discussion/ Selections for Next Week
 - c. Senate Body Elections Update/Officer duty descriptions discussion
 - d. Topics Requested for Senate Discussion by Faculty, OCC Administration, and the District:
- 7. Senate Budget - Executive Board**
- 8. Program Review & Senate Committee Reports Discussion**

Coast Community College District
BOARD POLICY
Chapter 7
Human Resources

BP 7350 Resignations

Revision

References:

Education Code Sections 87730 and 88201

The Board hereby delegates to the Chancellor the authority to accept resignations on its behalf, and to fix the time when the resignation takes effect, pursuant to law so long as the effective date of the resignation is within the current fiscal year (July 1 – June 30). Once a resignation is accepted by the Chancellor, it is not revocable by the employee. Resignations shall be forwarded to the Board for ratification.

Adopted November 16, 1983
Revised August 22, 1990
Revised September 20, 2006
Replaces CCCD Policy 050-1-1.5, Spring 2011
Replaces Board Policy 7113 April 20, 2016
Revised April 20, 2016
Revised DATE

Coast Community College District ADMINISTRATIVE PROCEDURE

Chapter 7 Human Resources

AP 7350 Resignations

Revision

References:

Education Code Sections 87730 and 88201

Submission of Resignations

~~E~~An employee considering resignation from ~~his/her~~their position ~~should be~~ encouraged to discuss the resignation with ~~his/her~~their immediate supervisor and Human Resources prior to submitting the resignation.

All resignations must:

- be written and signed by the employee,
- designate the employee's requested last date of employment,
- be submitted simultaneously by the employee to the employee's immediate supervisor and to the College Director of Human Resources or, for a District Office employee, to the Vice Chancellor of Human Resources or designee.

Role of the Supervisor

~~E~~The employee and ~~his/her~~their immediate supervisor shall be responsible for compliance with District and campus exit ~~and clearance~~ procedures and for the return of keys, parking passes, library cards and materials, and other District property issued to the employee during the course of employment.

Role of the College and District Director of Human Resources ~~and Vice Chancellor of Human Resources~~

~~The College Director of Human Resources or, for a District Office employee, the Vice Chancellor of Human Resources, will advise the supervisor and the employee of possible alternatives to resignation.~~

The College Human Resources Director or designee will forward a copy of the employee's resignation to the Director or Vice Chancellor of Human Resources or designee. For District Office employees, the Vice Chancellor of Human Resources receives the employee's resignation notice. The Vice Chancellor of Human Resources will forward a written copy of the employee's resignation notice to the Chancellor or designee for written acceptance, and placement on the Board agenda for ratification.

Coast Community College District
BOARD POLICY
Chapter 7
Human Resources

BP 7310 Anti-Nepotism**Revision**

References: Government Code Sections 1090 et seq.

The District prohibits the practice of nepotism.

This Policy is established to ensure that no employee or Trustee uses his or her position or authority to influence the hiring, compensation, tenure, retention, transfer, promotion, performance evaluation, discipline, supervision, or work assignment of a District employee or contractor based on relationships as defined in AP 7310. Employment actions shall be conducted in a manner which prevents preferential treatment, improper influence, conflict of interest, or the appearance thereof. This Policy applies to all types of employment, including but not limited to full-time, part-time, temporary, student assistants, and professional experts, as well as independent contractors.

Except as otherwise noted herein, this Policy does not prohibit the employment of relatives or registered domestic partners within the District. However, District employees and Trustees shall not participate in making recommendations or decisions affecting any aspect of employment based on relationships as defined within this Policy and associated Administrative Procedure 7310.

Board Members, and the Chancellor, Vice Chancellors, Presidents, Vice Presidents, and Human Resources employees bear a higher responsibility to avoid the appearance of a conflict of interest. Therefore, the District shall not hire any person with whom a ~~current or past~~ relationship by blood, adoption, marriage, ~~cohabitation~~, or domestic partnership exists with a Board Member, Chancellor, Vice Chancellor, President, Vice President, or Human Resources employee.

Adopted February 5, 2003
Revised August 18, 2010
Renumbered from CCCD Policy 050-1-1.9, Spring 2011
Revised July 13, 2016
Revised DATE

Coast Community College District
ADMINISTRATIVE PROCEDURE
Chapter 7
Human Resources

AP 7310 Anti-Nepotism

New

References: Government Code Sections 1090 et seq. and 12940 et seq.

The District recognizes the potential for conflict of interest, claims of disparate treatment, and/or discrimination in the employment of relatives in the same department or work unit or in a direct or indirect supervisory relationship. The District further recognizes that there are infrequent but compelling circumstances under which such employment relationships may be in the best interests of the District.

It is recognized that current employees' assignments may exist in conflict with this Procedure, as well as potential conflicts that materialize after initial employment. Where such may occur, the Chancellor or designee will be responsible for determining the appropriateness of the assignment. The District retains the right to reassign or transfer employees where such assignments have the potential for creating an adverse impact on supervision, safety, security, or morale, or involves other potential conflicts of interest.

For the purpose of this Procedure, "nepotism" is broadly defined as the practice of District employees or Trustees using their personal power or influence to aid or hinder another in the employment setting where there is a current or past relationship by blood, adoption, marriage, cohabitation, or domestic partnership (as defined in Section 297 of the California Family Code). The relationships covered by this Procedure are the following:

- ~~current or past~~ spouses
- ~~current or past~~ registered domestic partners
- ~~parents and grandparents~~
- siblings
- ~~children and grandchildren~~
- ~~step children~~
- ~~in-laws~~
- ~~nephews and nieces~~
- ~~aunts and uncles~~
- ~~first cousins~~
- ~~current or past cohabitation~~

This Procedure prohibits such employees to be placed to an assignment within a department or organization at a College or the District Office where the employee and the applicant for employment ~~share the same direct supervisor or supervise one another, would be in the same organizational chain of command, or at the same site/College as the employee.~~

Each applicant for employment or current employee (transfer or promotion) is restricted to having a relationship as defined above with up to one other person at a time who is an

Formatted: Font: (Default) Arial

Commented [1]: Reduce this limitation to only list immediate family: spouses, domestic partners, siblings, and children.

Commented [2]: I would argue these all apply as immediate family.

Definition:
Immediate family

Someone's spouse, parents and grandparents, children and grand children, brothers and sisters, mother in law and father in law, brothers in law and sisters in law, daughters in law and sons in law. Adopted, half, and step members are also included in immediate family.

Commented [3]: This is too invasive and I believe it is inappropriate to ask of employees, it should be removed completely from this policy.

Definition:
co·hab·i·ta·tion
noun

1.the state of living together and having a sexual relationship without being married. "couples increasingly prefer cohabitation to marriage"

2.the state or fact of living or existing at the same time or in the same place.

Commented [4]: I second this. Not all of us have the financial ability to live in Orange County without roommates/housemates...I think this would disproportionately impact those with lower income...

Commented [5]: There should not be language requesting applicants to list who they live with.

Commented [6]: Same organizational chain of command "at" the same site/College should be sufficient. I don't think it should read "or" at the same site... Seems too conservative.

Commented [7]: This is too broad, suggest changing to: share the same direct supervisor.

employee at the same site/College ~~and both share the same direct supervisor or supervise one another. a~~ or up to two others if the other two are not employed at the same site/College as the applicant or transfer/promotion employee. ~~and share the same direct.~~

If any relationship covered by this Procedure develops subsequent to being hired, the employees are required to notify the Vice Chancellor of Human Resources in a timely manner of the change in their relationship or cohabitation status. At the recommendation of the Vice Chancellor of Human Resources, the Board may allow exceptions to the Procedure only if the relationship is not and will not create an adverse impact on work productivity or performance of themselves or others in the workplace; the relationship does not and will not create a conflict of interest, or a perceived conflict of interest; the relationship is between two faculty members, two classified employees, or a classified employee and a faculty member and there is no indication of a conflict of interest or a negative impact on the work environment.

Applicants

Each applicant for any position within the District will be required to disclose relationships as defined in this Procedure at the time of application. Also, an internal transfer request will be required to disclose relationships on the Request to Transfer form.

Appeal Process

Each applicant, contractor, or current employee applying for a position will be required to describe how the existing relationship would not create an adverse impact on work productivity or performance of themselves or others in the workplace, and, the relationship would not create a conflict of interest or a perceived conflict of interest. The applicant, contractor, or current employee applying for a position would be asked to clarify how they would reduce or eliminate any negative impact or perceived conflict of interest.

Employment and transfer applicants may participate in the recruitment process and have the ability to be considered for an interview regardless of an existing relationship as defined in this Procedure. The Vice Chancellor of Human Resources shall not remove an applicant from the recruitment process prior to identifying that a conflict of interest or a violation of this Procedure exists.

Complaints about possible violations of this Procedure should be submitted to the Vice Chancellor of Human Resources. Violations may result in discipline up to and including termination of employment or disqualification in the hiring process.

Adopted DATE

- Commented [8]:** Will these appeals also be routed through the President's office for input as well?
- Commented [9]:** Also, can we clarify that the Vice Chancellor of HR at not time will remove an applicant before allowed to make application???

Coast Community College District
BOARD POLICY
Chapter 7
Human Resources

BP 7310 Nepotism

References: Government Code Sections 1090 et seq.

The District prohibits the practice of nepotism.

For the purpose of this Policy, nepotism is broadly defined as the practice of an employee or Trustee using his/her personal power or influence to aid or hinder another in the employment setting where there is a current or past relationship by blood, adoption, marriage, cohabitation, or domestic partnership (as defined in Section 297 of the California Family Code). Examples of relationships covered by this Policy include, but are not limited to, the following:

- spouses
- registered domestic partners
- parents and grandparents
- siblings
- children and grandchildren
- in-laws
- any person living in the same home

This Policy is established to ensure that no employee or Trustee uses his or her position or authority to influence hirings, compensation, tenure, retention, transfers, promotions, performance evaluations, disciplinary actions, supervision, work assignments, or any other aspect of the District's day-to-day operations based on relationships defined in this Policy. Employment actions shall be conducted in a manner which prevents partiality, preferential treatment, improper influence, conflict of interest, or the appearance thereof. This Policy applies to all types of employment, including but not limited to full-time, part-time, temporary, student assistants, professional experts, and independent contractors.

Except as otherwise noted herein, this Policy does not prohibit the employment of relatives or registered domestic partners within the District. However, District employees shall not participate in making recommendations or decisions affecting any aspect of employment based on relationships as defined above.

Additionally, as a matter of best practice and to avoid the appearance of impropriety, this Policy prohibits the hiring, promotion, or transfer of individuals who have a current or past relationship by blood, adoption, marriage, cohabitation, or domestic partnership, with a current District employee or independent contractor at the District site, or one of the three Colleges, where the relative or cohabitant is already employed.

Board Members, Chancellor, Vice Chancellors, Presidents, Vice Presidents, and Human Resources employees bear a higher responsibility to avoid the appearance of a conflict of interest. Therefore, the District shall not hire any person with whom a current or past

relationship by blood, adoption, marriage, cohabitation, or domestic partnership exists with a Board Member, Chancellor, Vice Chancellor, President, Vice President, or Human Resources employee anywhere within the District.

If any relationship covered by this Policy develops subsequent to being hired, the employees are required to notify Human Resources in a timely manner of the change in their relationship or co-habitation status. At the recommendation of the Vice Chancellor of Human Resources, the Board of Trustees may allow exceptions to this Policy under the following circumstances:

- The relationship is not or will not create an adverse impact on work productivity or performance of themselves or others in the workplace;
- The relationship does not or will not create a conflict of interest, or a perceived conflict of interest, that has a negative impact on the work environment;
- The relationship is between two faculty members, and there is no indication of a conflict of interest or a negative impact on the work environment.

Adopted February 5, 2003

Revised August 18, 2010

Renumbered from CCCD Policy 050-1-1.9, Spring 2011

Revised July 13, 2016

3019. ADMINISTRATIVE REGULATIONS ON NEPOTISM

3019.1 The Vice President, Human Resources, or his/her designee, shall be responsible for implementing this regulation.

3019.2 Definition

For the purpose of this policy, a close relative shall be defined as spouse/domestic partner, son, son-in-law, daughter, daughter-in-law, mother, mother-in-law, father, father-in-law, brother, brother-in-law, sister, sister-in-law, grandmother, grandmother-in-law, grandfather, grandfather-in-law, grandchild of the employee, or any person living in the immediate household of the employee.

3019.3 Hiring

A close relative of an applicant may not be involved in any aspect of the hiring process.

Employees are prohibited from making or influencing personnel decisions about an employee who is a close relative, as defined above.

3019.4 Supervision

If an employee is appointed or promoted to a position which would place him/her in direct supervision of a close relative or if two employees get married and a direct supervisory relationship exists between them:

- A. Either one of the two individuals shall be reassigned to a comparable position where the potential for nepotism does not exist

- B. Or, in those instances where the reassignment of a close relative is not in the best interests of the College, all supervisory or evaluative functions for the related person shall be carried out by the next higher supervisor, manager, or administrator.

Chapter 7 – Human Resources

BP 7310 Nepotism

References:

Government Code Sections 12940 et seq. and 1090 et seq.; Family Code Sections 297 et seq.

The College does not prohibit the employment of relatives or domestic partners as defined by Family Code Sections 297 et seq. in the same department or division, with the exception that they shall not be assigned to a regular position within the same department, division, or site that has an immediate family member who is in a position to recommend or influence personnel decisions.

Personnel decisions include appointment, retention, evaluation, tenure, work assignment, promotion, demotion, or salary of the relative or domestic partner as defined by Family Code Sections 297 et seq.

Immediate family means spouse, parents, grandparents, siblings, children, grandchildren, and in-laws or any other relative living in the employee's home.

The College will make reasonable efforts to assign job duties to minimize the potential for creating an adverse impact on supervision, safety, security, or morale or creating other potential conflicts of interest.

Notwithstanding the above, the College retains the right of reassignment where such placement has the potential for creating an adverse impact on supervision, safety, security, or morale or involves other potential conflicts of interest. The College has the right to refuse to place spouses in the same department, division, or facility. The College retains the right to reassign or transfer any person to eliminate the potential for creating an adverse impact on supervision, safety, security, or morale or involves other potential conflicts of interest.

Approved: August 25, 2004

Reviewed: May 14, 2013

Reviewed: December 6, 2014

Reviewed: June 9, 2015

Reviewed: August 17, 2016

NEPOTISMBP No.
7310

Board Adopted: 4-13-05;

Page 1 of 1

Although not legally required, the following is legally advised.

- I. The District does not prohibit the employment of relatives or domestic partners as defined by Family Code Section 297 et seq., in the same department or division, with the exception that they shall not be assigned to a regular position within the same department, division or site that has an immediate family member who is in a position to recommend or influence personnel decisions.
- II. Personnel decisions include appointment, retention, evaluation, tenure, work assignment, promotion, demotion, or salary of the relative or domestic partner as defined by Family Code Section 297 et seq.
- III. Immediate family means spouse, parents, grandparents, siblings, children, grandchildren and in-laws or any other relative living in the employee's home.
- IV. The District will make reasonable efforts to assign job duties to minimize the potential for creating an adverse impact on supervision, safety, security or morale, or creating other potential conflicts of interest.
- V. Notwithstanding the above, the District retains the right where such placement has the potential for creating an adverse impact on supervision, safety, security, or morale, or involves other potential conflicts of interest, to refuse to place spouses in the same department, division or facility. The District retains the right to reassign or transfer any person to eliminate the potential for creating an adverse impact on supervision, safety, security, or morale or involves other potential conflicts of interest.
- VI. Source/Reference
Government Code Section 12920 et seq., 1090 et seq.

Board Policy 7310**Nepotism**

The District does not prohibit the employment of relatives and of domestic partners as defined by the Family Code Section 297 et seq. in the same department or division, with the exception that they shall not be assigned to a regular position within the same department, division or site that has an immediate family member who is in a position to recommend or influence personnel decisions.

Personnel decisions included but are not limited to appointment, retention, evaluation, tenure, work assignment, promotion, discipline, demotion, or salary of the relative or domestic partner as defined by Family Code Sections 297 et seq.

Immediate family means current or former spouse/domestic partner, parents, grandparents, siblings, children, step-children, grandchildren and in-laws or any other relative related by birth or marriage.

Immediate family members of the Board of Trustees, Superintendent/President or Vice President(s) may not be appointed to any positions in the District.

The District will make reasonable efforts to assign job duties to minimize the potential for creating an adverse impact on supervision, safety, security or morale or creating other potential conflicts of interest.

Notwithstanding the above, the District retains the right where such placement has the potential for creating an adverse impact on supervision, safety, security, or morale, or involves other potential conflicts of interest, to refuse to place spouses in the same department, division or facility. The District retains the right to reassign or transfer any person to eliminate the potential for creating an adverse impact on supervision, safety, security, or morale, or involves other potential conflicts of interest.

References:

Government Code Sections 1090 et seq. and 12940 et seq.

El Camino College

Adopted: 6/11/01 (Replaced Board Policy #4100)

Amended: 5/16/11, 6/18/18

Coast Community College District
BOARD POLICY
 Chapter 7
 Human Resources

BP 7310 Anti-Nepotism

Revision

References: Government Code Sections 1090 et seq.

The District prohibits the practice of nepotism.

~~For the purpose of this Policy, nepotism is broadly defined as the practice of an employee or Trustee using his/her personal power or influence to aid or hinder another in the employment setting where there is a current or past relationship by blood, adoption, marriage, cohabitation, or domestic partnership (as defined in Section 297 of the California Family Code). Examples of relationships covered by this Policy include, but are not limited to, the following:~~

- ~~➤ spouses~~
- ~~➤ registered domestic partners~~
- ~~➤ parents and grandparents~~
- ~~➤ siblings~~
- ~~➤ children and grandchildren~~
- ~~➤ in-laws~~
- ~~➤ any person living in the same home~~

This Policy is established to ensure that no employee or Trustee uses his or her position or authority to influence the hirings, compensation, tenure, retention, transfers, promotions, performance evaluations, disciplinary actions, supervision, or work assignments, ~~or any other aspect of the District's day-to-day operations of a District employee or contractor~~ based on relationships as defined in this Policy AP 7310. -Employment actions shall be conducted in a manner which prevents partiality, preferential treatment, improper influence, conflict of interest, or the appearance thereof. -This Policy applies to all types of employment, including but not limited to full-time, part-time, temporary, student assistants, and professional experts, and as well as independent contractors.

Except as otherwise noted herein, this Policy does not prohibit the employment of relatives or registered domestic partners within the District. -However, District employees and Trustees shall not participate in making recommendations or decisions affecting any aspect of employment based on relationships as defined above within this Policy and associated Administrative Procedure 7310.

~~Additionally, as a matter of best practice and to avoid the appearance of impropriety, this Policy prohibits the hiring, promotion, or transfer of individuals who have a current or past relationship by blood, adoption, marriage, cohabitation, or domestic partnership, with a current District employee or independent contractor at the District site, or one of the three Colleges, where the relative or cohabitant is already employed.~~

Board Members, and the Chancellor, Vice Chancellors, Presidents, Vice Presidents, and Human Resources employees bear a higher responsibility to avoid the appearance of a conflict of interest. Therefore, the District shall not hire any person with whom a current or past relationship by blood, adoption, marriage, cohabitation, or domestic partnership exists with a Board Member, Chancellor, Vice Chancellor, President, Vice President, or Human Resources employee ~~anywhere within the District.~~

~~If any relationship covered by this Policy develops subsequent to being hired, the employees are required to notify Human Resources in a timely manner of the change in their relationship or co-habitation status. At the recommendation of the Vice Chancellor of Human Resources, the Board of Trustees may allow exceptions to this Policy under the following circumstances:~~

- ~~• The relationship is not or will not create an adverse impact on work productivity or performance of themselves or others in the workplace;~~
- ~~• The relationship does not or will not create a conflict of interest, or a perceived conflict of interest, that has a negative impact on the work environment;~~
- ~~• The relationship is between two faculty members, and there is no indication of a conflict of interest or a negative impact on the work environment.~~

Adopted February 5, 2003
Revised August 18, 2010
Renumbered from CCCD Policy 050-1-1.9, Spring 2011
Revised July 13, 2016
Revised DATE

Coast Community College District
ADMINISTRATIVE PROCEDURE

Chapter 7
Human Resources

AP 7310 Anti-Nepotism

New

References: Government Code Sections 1090 et seq. and 12940 et seq.

The District recognizes the potential for conflict of interest, claims of disparate treatment, and/or discrimination in the employment of relatives in the same department or work unit or in a direct or indirect supervisory relationship. The District further recognizes that there are infrequent but compelling circumstances under which such employment relationships may be in the best interests of the District.

It is recognized that current employees' assignments may exist in conflict with this Procedure, as well as potential conflicts that materialize after initial employment. Where such may occur, the Chancellor or designee will be responsible for determining the appropriateness of the assignment. The District retains the right to reassign or transfer employees where such assignments have the potential for creating an adverse impact on supervision, safety, security, or morale, or involves other potential conflicts of interest.

For the purpose of this Procedure, "nepotism" is broadly defined as the practice of District employees or Trustees using their personal power or influence to aid or hinder another in the employment setting where there is a current or past relationship by blood, adoption, marriage, cohabitation, or domestic partnership (as defined in Section 297 of the California Family Code). The relationships covered by this Procedure are the following:

- current or past spouses
- current or past registered domestic partners
- parents and grandparents
- siblings
- children and grandchildren
- step-children
- in-laws
- nephews and nieces
- first cousins
- current or past cohabitation

This Procedure prohibits such employees to be placed to an assignment within a department or organization at a College or the District Office where the employee and the applicant for employment would be in the same organizational chain of command, or at the same site/College as the employee.

Each applicant for employment or current employee (transfer or promotion) is restricted to having a relationship as defined above with up to one other person at a time who is an

employee at the same site/College or up to two others if the other two are not employed at the same site/College as the applicant or transfer/promotion employee.

If any relationship covered by this Procedure develops subsequent to being hired, the employees are required to notify the Vice Chancellor of Human Resources in a timely manner of the change in their relationship or co-habitation status. At the recommendation of the Vice Chancellor of Human Resources, the Board may allow exceptions to the Procedure only if the relationship is not and will not create an adverse impact on work productivity or performance of themselves or others in the workplace; the relationship does not and will not create a conflict of interest, or a perceived conflict of interest; the relationship is between two faculty members, two classified employees, or a classified employee and a faculty member and there is no indication of a conflict of interest or a negative impact on the work environment.

Applicants

Each applicant for any position within the District will be required to disclose relationships as defined in this Procedure at the time of application. Also, an internal transfer request will be required to disclose relationships on the Request to Transfer form.

Appeal Process

Each applicant, contractor, or current employee applying for a position will be required to describe how the existing relationship would not create an adverse impact on work productivity or performance of themselves or others in the workplace, and, the relationship would not create a conflict of interest or a perceived conflict of interest. The applicant, contractor, or current employee applying for a position would be asked to clarify how they would reduce or eliminate any negative impact or perceived conflict of interest.

Employment and transfer applicants may participate in the recruitment process and have the ability to be considered for an interview regardless of an existing relationship as defined in this Procedure. The Vice Chancellor of Human Resources shall not remove an applicant from the recruitment process prior to identifying that a conflict of interest or a violation of this Procedure exists.

Complaints about possible violations of this Procedure should be submitted to the Vice Chancellor of Human Resources. Violations may result in discipline up to and including termination of employment or disqualification in the hiring process.

Adopted DATE

State of California**GOVERNMENT CODE****Section 1090**

1090. (a) Members of the Legislature, state, county, district, judicial district, and city officers or employees shall not be financially interested in any contract made by them in their official capacity, or by any body or board of which they are members. Nor shall state, county, district, judicial district, and city officers or employees be purchasers at any sale or vendors at any purchase made by them in their official capacity.

(b) An individual shall not aid or abet a Member of the Legislature or a state, county, district, judicial district, or city officer or employee in violating subdivision (a).

(c) As used in this article, "district" means any agency of the state formed pursuant to general law or special act, for the local performance of governmental or proprietary functions within limited boundaries.

(Amended by Stats. 2014, Ch. 483, Sec. 1. (SB 952) Effective January 1, 2015.)

State of California**GOVERNMENT CODE****Section 12940**

12940. It is an unlawful employment practice, unless based upon a bona fide occupational qualification, or, except where based upon applicable security regulations established by the United States or the State of California:

(a) For an employer, because of the 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 of any person, to refuse to hire or employ the person or to refuse to select the person for a training program leading to employment, or to bar or to discharge the person from employment or from a training program leading to employment, or to discriminate against the person in compensation or in terms, conditions, or privileges of employment.

(1) This part does not prohibit an employer from refusing to hire or discharging an employee with a physical or mental disability, or subject an employer to any legal liability resulting from the refusal to employ or the discharge of an employee with a physical or mental disability, if the employee, because of a physical or mental disability, is unable to perform the employee's essential duties even with reasonable accommodations, or cannot perform those duties in a manner that would not endanger the employee's health or safety or the health or safety of others even with reasonable accommodations.

(2) This part does not prohibit an employer from refusing to hire or discharging an employee who, because of the employee's medical condition, is unable to perform the employee's essential duties even with reasonable accommodations, or cannot perform those duties in a manner that would not endanger the employee's health or safety or the health or safety of others even with reasonable accommodations. Nothing in this part shall subject an employer to any legal liability resulting from the refusal to employ or the discharge of an employee who, because of the employee's medical condition, is unable to perform the employee's essential duties, or cannot perform those duties in a manner that would not endanger the employee's health or safety or the health or safety of others even with reasonable accommodations.

(3) Nothing in this part relating to discrimination on account of marital status shall do either of the following:

(A) Affect the right of an employer to reasonably regulate, for reasons of supervision, safety, security, or morale, the working of spouses in the same department, division, or facility, consistent with the rules and regulations adopted by the commission.

(B) Prohibit bona fide health plans from providing additional or greater benefits to employees with dependents than to those employees without or with fewer dependents.

(4) Nothing in this part relating to discrimination on account of sex shall affect the right of an employer to use veteran status as a factor in employee selection or to give special consideration to Vietnam-era veterans.

(5) (A) This part does not prohibit an employer from refusing to employ an individual because of the individual's age if the law compels or provides for that refusal. Promotions within the existing staff, hiring or promotion on the basis of experience and training, rehiring on the basis of seniority and prior service with the employer, or hiring under an established recruiting program from high schools, colleges, universities, or trade schools do not, in and of themselves, constitute unlawful employment practices.

(B) The provisions of this part relating to discrimination on the basis of age do not prohibit an employer from providing health benefits or health care reimbursement plans to retired persons that are altered, reduced, or eliminated when the person becomes eligible for Medicare health benefits. This subparagraph applies to all retiree health benefit plans and contractual provisions or practices concerning retiree health benefits and health care reimbursement plans in effect on or after January 1, 2011.

(b) For a labor organization, because of the 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 of any person, to exclude, expel, or restrict from its membership the person, or to provide only second-class or segregated membership or to discriminate against any person because of the 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 of the person in the election of officers of the labor organization or in the selection of the labor organization's staff or to discriminate in any way against any of its members or against any employer or against any person employed by an employer.

(c) For any person to discriminate against any person in the selection, termination, training, or other terms or treatment of that person in any apprenticeship training program, any other training program leading to employment, an unpaid internship, or another limited duration program to provide unpaid work experience for that person because of the 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 of the person discriminated against.

(d) For any employer or employment agency to print or circulate or cause to be printed or circulated any publication, or to make any nonjob-related inquiry of an employee or applicant, either verbal or through use of an application form, that expresses, directly or indirectly, any limitation, specification, or discrimination as to 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, or any intent to make any such limitation, specification, or discrimination. This part does not prohibit an employer or employment agency from inquiring into the age of an applicant, or from specifying age limitations, if the law compels or provides for that action.

(e) (1) Except as provided in paragraph (2) or (3), for any employer or employment agency to require any medical or psychological examination of an applicant, to make any medical or psychological inquiry of an applicant, to make any inquiry whether an applicant has a mental disability or physical disability or medical condition, or to make any inquiry regarding the nature or severity of a physical disability, mental disability, or medical condition.

(2) Notwithstanding paragraph (1), an employer or employment agency may inquire into the ability of an applicant to perform job-related functions and may respond to an applicant's request for reasonable accommodation.

(3) Notwithstanding paragraph (1), an employer or employment agency may require a medical or psychological examination or make a medical or psychological inquiry of a job applicant after an employment offer has been made but prior to the commencement of employment duties, provided that the examination or inquiry is job related and consistent with business necessity and that all entering employees in the same job classification are subject to the same examination or inquiry.

(f) (1) Except as provided in paragraph (2), for any employer or employment agency to require any medical or psychological examination of an employee, to make any medical or psychological inquiry of an employee, to make any inquiry whether an employee has a mental disability, physical disability, or medical condition, or to make any inquiry regarding the nature or severity of a physical disability, mental disability, or medical condition.

(2) Notwithstanding paragraph (1), an employer or employment agency may require any examinations or inquiries that it can show to be job related and consistent with business necessity. An employer or employment agency may conduct voluntary medical examinations, including voluntary medical histories, which are part of an employee health program available to employees at that worksite.

(g) For any employer, labor organization, or employment agency to harass, discharge, expel, or otherwise discriminate against any person because the person has made a report pursuant to Section 11161.8 of the Penal Code that prohibits retaliation against hospital employees who report suspected patient abuse by health facilities or community care facilities.

(h) For any employer, labor organization, employment agency, or person to discharge, expel, or otherwise discriminate against any person because the person has opposed any practices forbidden under this part or because the person has filed a complaint, testified, or assisted in any proceeding under this part.

(i) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts forbidden under this part, or to attempt to do so.

(j) (1) For an employer, labor organization, employment agency, apprenticeship training program or any training program leading to employment, or any other person, because 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, to harass an employee, an applicant, an unpaid intern or volunteer, or a person providing services pursuant to a contract. Harassment of an employee, an applicant, an unpaid intern or volunteer, or a person providing services pursuant to a contract by an employee, other than an agent or supervisor, shall be unlawful if the entity, or its agents or supervisors, knows or should have known of this conduct and fails to take immediate and appropriate corrective action. An employer may also be responsible for the acts of nonemployees, with respect to harassment of employees, applicants, unpaid interns or volunteers, or persons providing services pursuant to a contract in the workplace, if the employer, or its agents or supervisors, knows or should have known of the conduct and fails to take immediate and appropriate corrective action. In reviewing cases involving the acts of nonemployees, the extent of the employer's control and any other legal responsibility that the employer may have with respect to the conduct of those nonemployees shall be considered. An entity shall take all reasonable steps to prevent harassment from occurring. Loss of tangible job benefits shall not be necessary in order to establish harassment.

(2) The provisions of this subdivision are declaratory of existing law, except for the new duties imposed on employers with regard to harassment.

(3) An employee of an entity subject to this subdivision is personally liable for any harassment prohibited by this section that is perpetrated by the employee, regardless of whether the employer or covered entity knows or should have known of the conduct and fails to take immediate and appropriate corrective action.

(4) (A) For purposes of this subdivision only, "employer" means any person regularly employing one or more persons or regularly receiving the services of one or more persons providing services pursuant to a contract, or any person acting as an agent of an employer, directly or indirectly, the state, or any political or civil subdivision of the state, and cities. The definition of "employer" in subdivision (d) of Section 12926 applies to all provisions of this section other than this subdivision.

(B) Notwithstanding subparagraph (A), for purposes of this subdivision, "employer" does not include a religious association or corporation not organized for private profit, except as provided in Section 12926.2.

(C) For purposes of this subdivision, "harassment" because of sex includes sexual harassment, gender harassment, and harassment based on pregnancy, childbirth, or related medical conditions. Sexually harassing conduct need not be motivated by sexual desire.

(5) For purposes of this subdivision, "a person providing services pursuant to a contract" means a person who meets all of the following criteria:

(A) The person has the right to control the performance of the contract for services and discretion as to the manner of performance.

(B) The person is customarily engaged in an independently established business.

(C) The person has control over the time and place the work is performed, supplies the tools and instruments used in the work, and performs work that requires a particular skill not ordinarily used in the course of the employer's work.

(k) For an employer, labor organization, employment agency, apprenticeship training program, or any training program leading to employment, to fail to take all reasonable steps necessary to prevent discrimination and harassment from occurring.

(l) (1) For an employer or other entity covered by this part to refuse to hire or employ a person or to refuse to select a person for a training program leading to employment or to bar or to discharge a person from employment or from a training program leading to employment, or to discriminate against a person in compensation or in terms, conditions, or privileges of employment because of a conflict between the person's religious belief or observance and any employment requirement, unless the employer or other entity covered by this part demonstrates that it has explored any available reasonable alternative means of accommodating the religious belief or observance, including the possibilities of excusing the person from those duties that conflict with the person's religious belief or observance or permitting those duties to be performed at another time or by another person, but is unable to reasonably accommodate the religious belief or observance without undue hardship, as defined in subdivision (u) of Section 12926, on the conduct of the business of the employer or other entity covered by this part. Religious belief or observance, as used in this section, includes, but is not limited to, observance of a Sabbath or other religious holy day or days, reasonable time necessary for travel prior and subsequent to a religious observance, and religious dress practice and religious grooming practice as described in subdivision (q) of Section 12926. This subdivision shall also apply to an apprenticeship training program, an unpaid internship, and any other program to provide unpaid experience for a person in the workplace or industry.

(2) An accommodation of an individual's religious dress practice or religious grooming practice is not reasonable if the accommodation requires segregation of the individual from other employees or the public.

(3) An accommodation is not required under this subdivision if it would result in a violation of this part or any other law prohibiting discrimination or protecting civil rights, including subdivision (b) of Section 51 of the Civil Code and Section 11135 of this code.

(4) For an employer or other entity covered by this part to, in addition to the employee protections provided pursuant to subdivision (h), retaliate or otherwise discriminate against a person for requesting accommodation under this subdivision, regardless of whether the request was granted.

(m) (1) For an employer or other entity covered by this part to fail to make reasonable accommodation for the known physical or mental disability of an applicant or employee. Nothing in this subdivision or in paragraph (1) or (2) of subdivision (a) shall be construed to require an accommodation that is demonstrated by the employer or other covered entity to produce undue hardship, as defined in subdivision (u) of Section 12926, to its operation.

(2) For an employer or other entity covered by this part to, in addition to the employee protections provided pursuant to subdivision (h), retaliate or otherwise discriminate against a person for requesting accommodation under this subdivision, regardless of whether the request was granted.

(n) For an employer or other entity covered by this part to fail to engage in a timely, good faith, interactive process with the employee or applicant to determine effective reasonable accommodations, if any, in response to a request for reasonable accommodation by an employee or applicant with a known physical or mental disability or known medical condition.

(o) For an employer or other entity covered by this part, to subject, directly or indirectly, any employee, applicant, or other person to a test for the presence of a genetic characteristic.

(p) Nothing in this section shall be interpreted as preventing the ability of employers to identify members of the military or veterans for purposes of awarding a veteran's preference as permitted by law.

(Amended by Stats. 2018, Ch. 955, Sec. 2. (SB 1300) Effective January 1, 2019.)



The Academic Senate of Orange Coast College By-Laws

Article 1

Membership and Elections

Section 1. The Electorate. The Electorate shall consist of the Faculty, as defined in Article I of the Constitution, and the Senate shall be elected from the members of this body.

Section 2. Composition of the Senate. The Senate shall be composed of a Senator from each Division, the Library, and Student Services; nine Senators-at-Large, all elected from the regular and contract Faculty; and up to three voting Senators-at Large from the Part-time Faculty. There shall be included within the membership of the Academic Senate, a non-voting student who shall be appointed by the SGOCC. The student representative may designate for the record his/her support or opposition to any matter prior to the official Senate vote. A designation shall be recorded in the Senate meeting minutes. Such student shall have the right to attend all meetings of the Senate except those meetings prohibited by Education Code 72023.5 (a) (2) or when the Senate is in closed session.

Section 3. Division Senators. Divisions are responsible for conducting their own elections of division senators. The Senate will conduct elections of division Senators if the division requests the assistance of the Senate. During the month of February, eligible divisions shall report to the Senate the results of their elections of division Senators. Divisions shall be responsible for filling vacant seats when they arise. In such cases, divisions shall report to the Senate the results of their elections of replacement Senators. The Senate President shall report the results of division elections for regular or replacement Senators during the President's report/announcements at the next Senate meeting.

Section 4. Senators-at-Large. During the month of February, each eligible Division may nominate not more than two (2) candidates from the regular and contract Faculty for Senator-at-Large. Additional candidates may be nominated from the floor at a general meeting to be held during the month of March. Not later than the first week of March, the President of the Senate shall call an election of regular and contract Faculty to determine the Senators-at-Large. Voting shall be by secret ballot. Senators shall be seated in the order of popular votes received.

Permanent vacancies that occur prior to the next election will be replaced by the Senate President appointing a Faculty member for the remainder of the term from the alternate list of unelected nominees in order of popular votes received and seeking a majority endorsement from the Senate body. If the list has been depleted, an election will be held using procedures approved by the Senate. For temporary vacancies, a Senator may designate a substitute from the same constituency which they represent who will serve as if elected. If an extended absence of more than three (3) meetings is anticipated, the Senate shall hold an election or appoint a substitute who will serve until the original member is able to return. Individuals who resign or are otherwise unable to complete their term of office will be replaced through a new Senate election or an appointment process.

Section 5. Part-Time Senators-at-Large. Candidates from the part-time members of the Faculty shall receive notice in February that they may nominate themselves for one of three part-time voting Senator-at-Large positions. All interested nominees shall attend the designated meeting in February to present themselves and be endorsed by the Senate for a one year term of office. Vacancies that may occur prior to the next election shall be filled by appointment and endorsement of the Senate.

Section 6. Vacancies

- a. **Permanent Vacancies.** A permanent vacancy is established when a Senator submits a letter of resignation to the Senate President, is unable to complete the term of office, is absent for three (3) consecutive meetings without prior consent of the President of the Senate, or who becomes ineligible to hold membership in the Senate. Permanent vacancies shall be filled as provided in Sections 3, 4, and 5.
- b. **Temporary Vacancies.** Temporary vacancies occur when the President declares a Senator is on approved temporary leave. Then the Senate shall conduct an election to fill the seat for the duration of the leave as per Sections 3, 4, and 5; or, in lieu of an election, the Senator may designate a substitute from the same constituency which they represent who will serve as if elected.

Section 7. Tenure of Office. Approximately one-third (1/3) of the regular and contract Senate membership shall be elected each year; and each elected member shall serve for a term of three years except for the following changes for the 2016-2017 election cycles only:

- a. Effective for the 2016 Senator-at-Large election only, all five newly elected Senators-at-Large shall draw lots to determine which two shall serve two-year terms in order to re-establish the required one-third (1/3) election process as noted above; the remaining three shall serve three-year terms.
- b. Effective for the 2017 Division Senator election only, all six newly-elected Division Senators shall draw lots to determine which two shall serve two-year terms in order to re-establish the required one-third (1/3) election process as noted above; the remaining four shall serve three-years terms.

Section 8. Recall and Removal of Senators.

- a. **Division Senators.** A Division may replace its Senator at any time upon the majority vote of the regular and contract Faculty of the Division at a special election called by petition of one-third (1/3) of the regular and contract Faculty of that Division.
- b. **At-large Senators.** The Faculty-at-large may replace an at-large Senator at any time upon the majority of votes of the regular and contract Faculty at a special election called by petition of one-third (1/3) of the regular and contract Faculty.

Article II Officers and Committees

Section 1. Officers of the Senate.

a. The Senate shall be organized annually during the week following the Spring break. The first order of business of the organizational meeting of the Senate shall be the election of officers except the immediate Past President. The officers shall consist of President, Vice President, Secretary, and Parliamentarian, and the immediate Past President. The President, only upon completion of his/her final elected term of office, shall serve as immediate Past President for one semester or one year only if she/he is an elected Senator. If the immediate Past president is no longer a Senator, he/she may remain as an advisor to the Executive Board.

b. Election of Officers. The Senate officers shall be elected by the Senate from the Senate membership. The officers shall be elected by a simple majority of votes cast by a written, secret ballot, and they shall take office on July 1 of the year elected and serve until June 30 of the following year. The term for the office of President shall be for one year with no more than three years in succession.

c. The President shall:

1. Preside over all Senate meetings and Executive Board meetings.
2. Represent and act as spokesperson for the Academic Senate and the Executive Board
3. Along with the Executive Board:
 - (a) be responsible for establishing the time and place for all Executive Board meetings.
 - (b) be responsible for the preparation of the agenda for all Senate meetings and Executive Board meetings.
 - (c) be responsible for establishing and administering the annual Senate budget and reporting all yearly expenditures to the Senate body in a printed report.
4. Perform any other function normally thought to be within the realm of a presiding officer that is otherwise not denied by the by-laws, Senate rules, or Executive Board rules and not prohibited by the Senate body.

d. The Vice President shall:

1. Act as President in the absence of that officer.
2. Succeed to the Presidency in the event of a vacancy in that office.
3. Attend specific committee meetings to represent the Senate as assigned by the Executive Board or the Senate.

e. The Academic Senate Secretary shall:

1. Be responsible for all minutes of the Senate meetings.
2. Distribute electronically the approved minutes to the faculty, College President, Chancellor, Board of Trustees, the Academic Senate Presidents of Coastline Community College and Golden West College, and the faculty union Presidents.
3. Perform such functions as the President assigns to assist in carrying out the purposes and policies of the Academic Senate.

f. The Parliamentarian shall:

1. Rule on parliamentary procedures as prescribed in the latest edition of Robert's Rules of Order, Revised or such other rules or procedures as may be adopted by the Senate.

g. The Immediate Past President may:

1. Attend meetings of the Executive Board as a non-voting member for one semester or one year following his/her last service as Senate President.
2. Perform such functions as the President may assign to assist in carrying out the purposes and policies of the Academic Senate.

h. Non-voting Members of the Senate and the Executive Board: The Curriculum Committee Chair and the Professional Development Institute Committee Chair shall be non-voting members of the Senate and Executive Board.

Section 2. Committees. The Senate shall create committees when it deems them necessary. Each Senate committee shall establish bylaws approved by the membership of the committee and the Senate. Committees will submit a report to the Senate at least once yearly in either written or oral form.

Article III

Meetings and Senate Procedures

Section 1. Regular Meetings of the Senate. During the school year a regular meeting of the Senate shall be held at least once a month but not more than twice a week at a time and place designated by the Senate.

Section 2. Special Meetings of the Senate. The President may call a special meeting of the Senate or Faculty at his/her discretion. Upon written petition signed by three (3) or more Senators, the President shall call a special meeting of the Senate to be held within one week after receipt of such petition. Written notice of special meetings shall be given to all members of the Senate at least two regular school days prior to the meeting and shall contain a general statement of the business to be brought before such meeting.

Section 3. Quorum. A quorum for the conduct of an Academic Senate meeting shall be twelve (12) members.

Article IV

The Executive Board

Section 1. Composition of the Executive Board. The officers of the Senate, the Curriculum Committee Chair, and the Professional Development Institute Committee Chair shall constitute the members of the Executive Board.

Section 2. Responsibilities of the Executive Board. The Executive Board shall be responsible for establishing and administering the Senate budget, creating the agenda for Senate meetings, and acting for the Senate when school is not in session. The Executive Board shall be subject to the orders of the Senate and none of its acts shall conflict with action taken by the Senate. All official action taken by the Executive Board shall be reported to the Senate at the next official meeting of the Senate. The meetings of the Executive Board shall be open.

The Executive Board shall:

- a. Allocate additional duties to each officer as required.
- b. Meet no fewer than five times each semester.
- c. Implement policies adopted by the Senate; develop procedures; perform other functions that are not inconsistent with the intent, purposes, and provisions of the By-laws and directions of the Senate.

Section 3. Executive Board Meeting Time. The Executive Board will meet following each Senate meeting in the Faculty House unless otherwise agreed on.

Article V

Amendments of By-Laws

Section 1. Amendments to these By-Laws may be proposed by the Executive Board or by a petition signed by one-third (1/3) or more of sitting Senators.

Section 2. These By-Laws may be amended by a two-thirds (2/3) majority of the Senate.

Article VI

Election Procedures

The Senate will conduct electronic elections of senators.

- a. Any faculty member may request to vote with a paper ballot. In such instances, the faculty member should request a paper ballot from the Senate President. The paper ballot must be requested and submitted during the period of electronic voting as determined by the Senate President. The Senate President will announce the dates of the election period at a Senate meeting.
- b. The Senate will conduct elections for division Senators if the division requests the assistance of the Senate. Otherwise, the division will conduct its own elections and report the results to the Senate in February. The Senate President shall report to the Senate the results of division elections during the President’s report/announcements at the next Senate meeting.
- c. The Senate will conduct elections for senators-at-large through the electronic procedures adopted by the Senate. 1. To win the Senator-at-Large seat, a candidate must receive more votes than the other candidate(s). 2. If a candidate for Senator-at-Large runs unopposed, the Senate may elect the candidate by acclamation at a Senate meeting.

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Adopted 12-12-1989
 Amended 8-5-2005
 Amended 2-2-2010
 Amended 4-17-2012
 Amended 4-12-2016



PROPOSED REVISIONS: **The Academic Senate of Orange Coast College By-Laws**

Article 1

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Section 3. Division Senators. Divisions are responsible for conducting their own elections of division senators. The Senate will conduct elections of division Senators if the division requests the assistance of the Senate. During the month of February, eligible divisions shall report to the Senate the results of their elections of division Senators. Divisions shall be responsible for filling vacant seats when they arise. In such cases, divisions shall report to the Senate the results of their elections of replacement Senators. The Senate President shall report the results of division elections for regular or replacement Senators during the President's report/announcements at the next Senate meeting.

Proposed Changes:

Section 3. Division Senators. Note: this wording already exists in 8a and must be changed in Art Vlb

- (a) Divisions are responsible for conducting their own elections of division senators. The Senate will conduct elections of division Senators **if the majority of the regular and contract Faculty in the division vote to requests** the assistance of the Senate. **The request will be forwarded to the Senate by the Division Dean.**
- (b) During the month of February, eligible divisions shall report to the Senate the results of their elections of division Senators. Divisions shall be responsible for filling vacant seats when they arise. In such cases, divisions shall report to the Senate the results of their elections of replacement Senators.

The Senate President shall report the results of division elections for regular or replacement Senators during the President's report/announcements at the next Senate meeting.

Section 4. Senators-at-Large. During the month of February, each eligible Division may nominate not more than two (2) candidates from the regular and contract Faculty for Senator-at-Large. Additional

candidates may be nominated from the floor at a general meeting to be held during the month of March. Not later than the first week of March, the President of the Senate shall call an election of regular and contract Faculty to determine the Senators-at-Large. ~~Voting shall be by secret ballot.~~ Senators shall be seated in the order of popular votes received.

Permanent vacancies that occur prior to the next election will be replaced by the Senate President appointing a Faculty member for the remainder of the term from the alternate list of unelected nominees in order of popular votes received and seeking a majority endorsement from the Senate body. If the list has been depleted, an election will be held using procedures approved by the Senate. ~~For temporary vacancies, a Senator may designate a substitute from the same constituency which they represent who will serve as if elected. If an extended absence of more than three (3) meetings is anticipated, the Senate shall hold an election or appoint a substitute who will serve until the original member is able to return.~~ Individuals who resign or are otherwise unable to complete their term of office will be replaced through a new Senate election or an appointment process.

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- b. **Temporary Vacancies.** Temporary vacancies occur when the President declares a Senator is on approved temporary leave. Then the Senate shall conduct an election to fill the seat for the duration of the leave as per Sections 3, 4, and 5; or, in lieu of an election, the Senator may designate a substitute from the same constituency which they represent who will serve as if elected.

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Proposed Edits:

Section 7. Tenure of Office. Approximately one-third (1/3) of the regular and contract Senate membership shall be elected each year; ~~and each elected member shall serve for a term of three years except for the following changes for the 2016-2017 election cycles only:~~

- ~~a. Effective for the 2016 Senator-at-Large election only, all five newly elected Senators-at-Large shall draw lots to determine which two shall serve two-year terms in order to re-establish the required one-third (1/3) election process as noted above; the remaining three shall serve three-year terms.~~
- ~~b. Effective for the 2017 Division Senator election only, all six newly-elected Division Senators shall draw lots to determine which two shall serve two-year terms in order to re-establish the required one-third (1/3) election process as noted above; the remaining four shall serve three-years terms.~~

Replace with new wording that states:

In order to maintain the (1/3) elections process, some senator and senator-at-large positions will be 2 year terms, while others will be 3 year terms.

Section 8. Recall and Removal of Senators.

a. Division Senators. A Division may replace its Senator at any time upon the majority vote of the regular and contract Faculty of the Division at a special election called by petition of one-third (1/3) of the regular and contract Faculty of that Division.

b. At-large Senators. The Faculty-at-large may replace an at-large Senator at any time upon the majority of votes of the regular and contract Faculty at a special election called by petition of one-third (1/3) of the regular and contract Faculty.

Article II Officers and Committees

Section 1. Officers of the Senate.

a. The Senate shall be organized annually during the week following the Spring break. The first order of business of the organizational meeting of the Senate shall be the election of officers except the immediate Past President. The officers shall consist of President, Vice President, Secretary, and Parliamentarian, and the immediate Past President. The President, only upon completion of his/her final elected term of office, shall serve as immediate Past President for one semester or one year only if she/he is an elected Senator. If the immediate Past President is no longer a Senator, he/she may remain as an advisor to the Executive Board.

b. **Election of Officers.** The Senate officers shall be elected by the Senate from the Senate membership. The officers shall be elected by a simple majority of votes cast by a written, ~~secret~~ ~~ballet~~, and they shall take office on July 1 of the year elected and serve until June 30 of the following year. The term for the office of President shall be for one year with no more than three years in succession.

c. The President shall:

1. Preside over all Senate meetings and Executive Board meetings.
2. Represent and act as spokesperson for the Academic Senate and the Executive Board
3. Along with the Executive Board:
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 - (b) be responsible for the preparation of the agenda for all Senate meetings and Executive Board meetings.
 - (c) be responsible for establishing and administering the annual Senate budget and reporting all yearly expenditures to the Senate body in a printed report.
4. Perform any other function normally thought to be within the realm of a presiding officer that is otherwise not denied by the by-laws, Senate rules, or Executive Board rules and not prohibited by the Senate body.

d. The Vice President shall:

1. Act as President in the absence of that officer.
2. Succeed to the Presidency in the event of a vacancy in that office.
3. Attend specific committee meetings to represent the Senate as assigned by the Executive Board or the Senate.

e. The Academic Senate Secretary shall:

1. Be responsible for all minutes of the Senate meetings.
2. Distribute electronically the approved minutes to the faculty, College President, Chancellor, Board of Trustees, the Academic Senate Presidents of Coastline Community College and Golden West College, and the faculty union Presidents.
3. Perform such functions as the President assigns to assist in carrying out the purposes and policies of the Academic Senate.

f. The Parliamentarian shall:

1. Rule on parliamentary procedures as prescribed in the latest edition of Robert's Rules of Order, Revised or such other rules or procedures as may be adopted by the Senate.

g. The Immediate Past President may:

1. Attend meetings of the Executive Board as a non-voting member for one semester or one year following his/her last service as Senate President.
2. Perform such functions as the President may assign to assist in carrying out the purposes and policies of the Academic Senate.

h. Non-voting Members of the Senate and the Executive Board: The Curriculum Committee Chair and the Professional Development Institute Committee Chair shall be non-voting members of the Senate and Executive Board.

Section 2. Committees. The Senate shall create committees when it deems them necessary. Each Senate committee shall establish bylaws approved by the membership of the committee and the Senate. Committees will submit a report to the Senate at least once yearly in either written or oral form.

Article III

Meetings and Senate Procedures

Section 1. Regular Meetings of the Senate. During the school year a regular meeting of the Senate shall be held at least once a month but not more than twice a week at a time and place designated by the Senate.

Section 2. Special Meetings of the Senate. The President may call a special meeting of the Senate or Faculty at his/her discretion. Upon written petition signed by three (3) or more Senators, the President shall call a special meeting of the Senate to be held within one week after receipt of such petition. Written notice of special meetings shall be given to all members of the Senate at least two regular school days prior to the meeting and shall contain a general statement of the business to be brought before such meeting.

Section 3. Quorum. A quorum for the conduct of an Academic Senate meeting shall be twelve (12) members.

Article IV

The Executive Board

Section 1. Composition of the Executive Board. The officers of the Senate, the Curriculum Committee Chair, and the Professional Development Institute Committee Chair shall constitute the members of the Executive Board.

Section 2. Responsibilities of the Executive Board. The Executive Board shall be responsible for establishing and administering the Senate budget, creating the agenda for Senate meetings, and acting for the Senate when school is not in session. The Executive Board shall be subject to the orders of the Senate and none of its acts shall conflict with action taken by the Senate. All official action taken by the Executive Board shall be reported to the Senate at the next official meeting of the Senate. The meetings of the Executive Board shall be open.

The Executive Board shall:

- a. Allocate additional duties to each officer as required.
- b. Meet no fewer than five times each semester.
- c. Implement policies adopted by the Senate; develop procedures; perform other functions that are not inconsistent with the intent, purposes, and provisions of the By-laws and directions of the Senate.

Section 3. Executive Board Meeting Time. The Executive Board will meet following each Senate meeting in the Faculty House unless otherwise agreed on.

**Article V
Amendments of By-Laws**

Section 1. Amendments to these By-Laws may be proposed by the Executive Board or by a petition signed by one-third (1/3) or more of sitting Senators.

Section 2. These By-Laws may be amended by a two-thirds (2/3) majority of the Senate.

**Article VI
Election Procedures**

The Senate will conduct electronic elections of senators.

a. Any faculty member may request to vote with a paper ballot. In such instances, the faculty member should request a paper ballot from the Senate President. The paper ballot must be requested and submitted during the period of electronic voting as determined by the Senate President. The Senate President will announce the dates of the election period at a Senate meeting.

b. ~~The Senate will conduct elections for division Senators if the division requests the assistance of the Senate. Otherwise, the division will conduct its own elections and report the results to the Senate in February.~~The Senate President shall report to the Senate the results of division

c. The Senate will conduct elections for senators-at-large through the electronic procedures adopted by the Senate. 1. To win the Senator-at-Large seat, a candidate must receive more votes than the other candidate(s). 2. If a candidate for Senator-at-Large runs unopposed, the Senate may elect the candidate by acclamation at a Senate meeting.

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- Adopted 12-12-1989
- Amended 8-5-2005
- Amended 2-2-2010
- Amended 4-17-2012
- Amended 4-12-2016

Orange Coast College
Faculty Academic Senate
November 13, 2018

Whereas: Current Academic Senate by-laws do not provide submission of a vote by Proxy, and

Whereas: Proxy voting can be validated by amending the current Orange Coast College,
Faculty Academic Senate By-laws, and

Whereas: Senators represent a constituency of academic divisions, departments or the campus
At-large, and

Whereas: Proxy voting will allow voting Academic Senate members to dutifully represent
constituents on issues brought before the Senate, and

Whereas: A valid proxy vote is one offered in writing, signed and submitted by a voting
Senate member;

Be it Resolved: The Orange Coast College Faculty Academic Senate amend the By-Laws to
include the submission of vote by proxy.

-----Original Message-----

From: Carl Piper <CPiper@ocde.us>

To: ProfMKennedy <profmkennedy@aol.com>

Sent: Tue, Feb 5, 2019 5:17 am

Subject: Re: Phone Call Follow-Up Questions Regarding Proxy Voting and Orange Coast College's Academic Senate

Hi Professor Kennedy: Feel free to share the email.
Carl

From: ProfMKennedy <profmkennedy@aol.com>

Sent: Monday, February 4, 2019 10:05 PM

To: Carl Piper

Subject: Re: Phone Call Follow-Up Questions Regarding Proxy Voting and Orange Coast College's Academic Senate

Mr. Piper,

Thank you so much for your research and knowledge, and the clarity and depth of your explanations and citations. I will share this with our E-Board and Senate. Is the email confidential? I don't wish to violate any laws or your privacy, so let me know what is appropriate and legal in terms of my use of it (in regards to the legal interpretations.) .

Sincerely,

Professor Marilyn Kennedy

-----Original Message-----

From: Carl Piper <CPiper@ocde.us>

To: 'ProfMKennedy' <profmkennedy@aol.com>

Sent: Mon, Feb 4, 2019 1:42 pm

Subject: RE: Phone Call Follow-Up Questions Regarding Proxy Voting and Orange Coast College's Academic Senate

Hi Professor Kennedy:

This is an area that may be somewhat open to differing interpretation. My interpretation is below:

I agree with your counsel that the Government Code does not specifically authorize or prohibit voting by proxy. However, the Brown Act sections listed below do, if effect, prohibit proxy voting:

Government Code 54952.2 defines “meeting” as a congregation of the legislative members **at the same time and location** to discuss, deliberate, and take action.

A vote by proxy would not come within the definition of a “meeting” within this section as the proxy grantor would not be at the same time and location.

Government Code 54952.6 defines “action taken” as a collective decision of an actual vote **when sitting as a body**.

A vote by proxy would not come within the definition of an “action taken” with this section because the proxy grantor’s vote would not have occurred when sitting as a body.

Government Code 54953(c)(2) requires the legislative body to report on any action taken and the vote of each member **present for the action**.

A vote by proxy would not comply with this section as the proxy grantor would not be present for the action.

Also, in Government Code 54953 the legislature specifically provided for attendance at a meeting by teleconference, and provided the requirements for such attendance. If the legislature intended to allow for proxy voting under the Brown Act then it would have provided specific authorization and procedures, as it did for teleconferencing.

Government Code § 54952.2. Meeting; prohibited communications; exclusions from chapter

(a) As used in this chapter, “**meeting**” means any congregation of a majority of the members of a legislative body **at the same time and location**, including teleconference location as permitted by [Section 54953](#), to **hear, discuss, deliberate, or take action** on any item that is within the subject matter jurisdiction of the legislative body.

Government Code § 54952.6. Action taken

As used in this chapter, “**action taken**” means a **collective decision** made by a majority of the members of a legislative body, a collective commitment or promise by a majority of the members of a legislative body to make a positive or a negative decision, **or an actual vote by a majority of the members of a legislative body when sitting as a body or entity**, upon a motion, proposal, resolution, order or ordinance.

Government Code § 54953. Meetings to be open and public; attendance

(a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

- (c)
- (1) No legislative body shall take action by secret ballot, whether preliminary or final.
 - (2) **The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.**

Schools Legal Service
 Orange County Department of Education
 200 Kalmus Drive
 Costa Mesa, CA 92626
 714 966 4214
www.ocde.us

From: ProfMKennedy <profmkennedy@aol.com>

Sent: Monday, February 4, 2019 12:24 PM

To: Carl Piper <CPiper@ocde.us>

Subject: Phone Call Follow-Up Questions Regarding Proxy Voting and Orange Coast College's Academic Senate

Hello Mr. Piper,

Thank you for taking my phone call and offering to help in answering our academic senate executive board's questions regarding the Brown Act and proxy voting.

As per our phone call, a senator in our academic senate is proposing to add written proxy voting to our bylaws, allowing a senator to give his or her written proxy to another senator: "A valid proxy vote is one offered in writing, signed and submitted by a voting Senate member."

I had mentioned to you that our district's general counsel had advised that it is not disallowed, but he had recommended against it for our senate because it could lead to potential violations of the Brown Act, as senators could talk amongst themselves away from the public meeting about issues on the agenda for a vote or action. Some of the senators are unclear on what this means, so I was advised by the Board Secretary of our district to contact OCDE for clarification. The sections of the Brown Act that are most concerning in this regard are the ones cut and pasted below, 54953.c. (1) and (2). Our questions are these:

- Does the Brown Act prohibit or allow this type of written proxy voting?
- If not allowed or recommended, what would be the reason?
- If allowed, what are things to be observant and cautious of?
- If allowed, how are absences recorded and votes tallied for those absent but voting by written proxy?

["The Brown Act"] Government Code - GOV

TITLE 5. LOCAL AGENCIES [50001 - 57550] DIVISION 2. CITIES, COUNTIES, AND OTHER AGENCIES [53000 - 55821]

**PART 1. POWERS AND DUTIES COMMON TO CITIES, COUNTIES, AND OTHER AGENCIES [53000 - 54999.7]
 CHAPTER 9. Meetings [54950 - 54963]**

54953.

(a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

Thank you for your time and work on this; it is very much appreciated,

Professor Marilyn Kennedy
Orange Coast College, Coast Community College District
Academic Senate Secretary

ORANGE COUNTY DEPARTMENT OF EDUCATION
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