CHAPTER 7 – HUMAN RESOURCES

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Board Approved July 13, 2010
BP 7110        DELEGATION OF AUTHORITY

Reference: Education Code Section 70902(d)

The Board delegates authority to the Chancellor to authorize employment, fix job responsibilities, and perform other personnel actions provided that all federal and state laws and regulations and board policies and administrative procedures have been followed subject to confirmation by the Board.
BP 7120  RECRUITMENT AND HIRING POLICY

The San Jose/Evergreen Community College District recognizes that a diverse community of faculty, staff and administrators promotes academic excellence and creates an inclusive educational and work environment for its employees, contractors, students and the community it serves. It is the District’s policy to recruit, employ, value, and support a highly qualified and diverse workforce.

Through the cooperation and with the assistance of all District staff, the Governing Board assures that all employees and applicants for positions in the District will have equal opportunity for employment regardless of ethnic group identification, race, color, language, accent, immigration status, ancestry, national origin, political beliefs, age, gender, religion, transgender, sexual orientation, marital status, veteran status, and/or physical or mental disability. Nothing in this section will supersede applicable federal and state law. The San Jose/Evergreen Community College District believes the Governing Board, administration, faculty, staff and students share the responsibility of ensuring that District employees are sensitive to, and knowledgeable of, the diverse backgrounds of its staff and students.

The District seeks candidates who meet the following requirements and who are best prepared to meet the needs, interests and goals of the diverse students we serve. It is the intent of the District that the sensitivity, knowledge, understanding, and experience that candidates bring with them should bear some relation to the demographics of the student population of the District. All candidates must meet the following three requirements to be qualified for employment in the district.

1) All candidates must demonstrate sensitivity, knowledge, and understanding of the diverse academic, socioeconomic, gender, cultural, disability, and ethnic backgrounds of the students we serve and sensitivity to and knowledge and understanding of groups historically underrepresented, and groups who may have experienced discrimination.

2) All candidates must demonstrate experience or demonstrated ability integrating diversity into the major duties (as appropriate) outlined in the job description or demonstrates they have equivalent transferable skills to do so.

3) Candidates in the following classifications should demonstrate experience and knowledge in diversity in the areas listed below and must have demonstrated experience in integrating diversity into at least three of the areas:

For managers and supervisors: supervision, evaluations, recruitment, hiring, student services, program and/or curriculum development, policies and practices, retention of women, ethnic minorities and the disabled, contracting, mentorship, staff development, and meaningful interaction with diverse students and other employees.
BP 7130  COMPENSATION

Reference: Education Code Sections 70902(b)(4); 87801; 88160; Government Code Section 53200

Salary schedules, compensation and benefits, including health and welfare benefits, for all classes of employees and each contract employee shall be established by the Board, or the respective collective bargaining agreement.

Remainder of former policies are subject to collective bargaining.
BP 7140  COLLECTIVE BARGAINING


If eligible employees of the District select an employee organization as their exclusive representative, and if after recognition by the District or after a properly conducted election, an exclusive representative is certified as the representative of an appropriate unit of employees under the provisions of the Educational Employment Relations Act, Government Code Section 3540 et seq., the District will meet and negotiate in good faith on matters within the scope of bargaining as defined by law.

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Academic employees are all persons employed by the District in academic positions. Academic positions include every type of service, other than paraprofessional service, for which minimum qualifications have been established by the Board of Governors for the California Community Colleges.

Faculty members are those employees who are employed by the District in academic positions that are not designated as supervisory or management. Faculty employees include, but are not limited to, instructors, librarians, counselors, and professionals in health services, DSPS, and EOPS.

Decisions regarding tenure of faculty shall be made in accordance with the evaluation procedures established for the evaluation of probationary faculty through the collective bargaining process and in accordance with the requirements of the Education Code. The Board reserves the right to determine whether a faculty member shall be granted tenure.

The District may employ temporary faculty from time to time as required by the interests of the District. Temporary faculty may be employed full time or part time. The Board delegates authority to the Chancellor to determine the extent of the District’s needs for temporary faculty.

Notwithstanding this policy, the District shall comply with its goals under the Education Code regarding the ratio of full-time to part-time faculty to be employed by it and for making progress toward the standard of 75% of total faculty work load hours taught by full-time faculty.
BP 7230  CLASSIFIED EMPLOYEES

Reference:  Education Code Sections 88003; 88004; 88009; 88013

Classified employees are those who are employed in positions that are not academic positions. The employees and positions shall be known as the classified service.

The classified service does not include:

- Substitute and short-term employees who are employed and paid for less than 75 percent of the fiscal year.
- Part-time apprentices and professional experts employed on a temporary basis for a specific project, regardless of length of employment.
- Full time students employed part time, and part-time students employed part time in any college work-study program or in a work experience education program conducted by the District.

The Board shall fix and prescribe the duties of the members of the classified service. (See Board Policy 7110.)

Before a short-term employee is employed, the Board, at a regularly scheduled meeting, shall specify the service required to be performed and certify the ending date of the service. The Board may later act to shorten or extend the ending date, but shall not extend it beyond 75 percent of an academic year.

The Chancellor shall direct the Vice Chancellor of Human Resources to establish procedures to assure that the requirements of state law and regulations are met.
Confidential employees are those who are required to develop or represent management positions with respect to employer-employee relations or whose duties normally require access to confidential information that is used to contribute significantly to the development of management positions. The fact that an employee has access to confidential or sensitive information shall not in and of itself make the employee a confidential employee.

A determination whether a position is a confidential one shall be made by the Board in accordance with applicable law and with the regulations of the California Public Employment Relations Board.

Confidential employees are not eligible for inclusion in a bargaining unit represented by an exclusive representative and the terms and conditions of their employment are not controlled by any collective bargaining agreement.

The terms and conditions of employment for confidential employees shall be provided for by procedures developed by the Chancellor. Such terms and conditions of employment shall include, but not be limited to, procedures for evaluation and rules regarding leaves, transfers and reassignments.
The District does not prohibit the employment of relatives or domestic partners 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, termination, or salary of the relative or domestic partners.

Any recommendation of employment involving a member of the immediate family or domestic partner of a current employee shall contain notation of such fact and analysis of possible conflict of interest or other potential problems related to safety, security, supervision, or morale.

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

In the event employees decide to live in the same household, 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.
BP 7330  COMMUNICABLE DISEASE

Reference:  Education Code Sections 87408; 87408.6; 88021

All newly hired academic employees shall have on file a medical certificate indicating freedom from communicable diseases, including tuberculosis. No academic employee shall commence service until such medical certificate has been provided to the District.

All newly hired employees must show that they have been examined within the past 60 days to determine that they are free from active tuberculosis.

All employees shall be required to undergo an examination within four years of employment and every four years thereafter, to determine if they are free from tuberculosis.
BP 7335    HEALTH EXAMINATIONS

Reference:  42 U.S.C. Section 12112; 29 C.F.R., Part 1630; Government Code Section 12940

The Chancellor shall direct the **Vice Chancellor of Human Resources** to establish administrative procedures related to medical examinations of candidates for appropriate positions prior to assuming the duties of the position. Such pre-employment medical examinations shall be required only after a conditional job offer has been made, and shall be required of any candidate for a position for which a pre-employment medical examination has been deemed appropriate. No candidate shall be required to participate in such an examination solely on the basis of the candidate's age or disability.

The procedures may require any employee to undergo a physical or mental examination where such a fitness for duty exam is job related and consistent with business necessity. Such medical examinations shall be at the District’s expense and shall be conducted by a physician chosen by the District.
BP 7340 LEAVES

Reference: Education Code Sections 87763 et seq., 88190 et seq. and cites below

The Chancellor shall direct the Vice Chancellor of Human Resources to establish procedures for employee leaves as authorized by law and by any collective bargaining agreements entered into by the District. Such leaves shall include, but are not limited to:

- illness leaves for all classes of permanent employees;
- vacation leave for members of the classified service, educational and classified administrators, confidential and classified supervisors;
- leave for service as an elected official of a community college District public employee organization, or of any statewide or national employee organization with which the local organization is affiliated; Education Code Sections 87768.5; 88210
- leave of absence to serve as an elected member of the legislature; Education Code Section 87701
- pregnancy leave; Education Code Sections 87766; 88193; Government Code Section 12945
- use of illness leave for personal necessity; Education Code Sections 87784; 88207
- industrial accident leave;
- bereavement leave;
- jury service or appearance as a witness in court; Education Code Section 87036; 87037
- military service; Education Code Section 87700
- sabbatical leaves for permanent academic faculty

In addition to these policies and collective bargaining agreements, the Board retains the power to grant leaves with or without pay for other purposes or for other periods of time.
BP 7345  CATASTROPHIC LEAVE PROGRAM

Reference:  Education Code Section 87045

The Board authorizes implementation of a catastrophic leave program to permit employees of the District to donate eligible leave credits to an employee when that employee or a member of his or her family suffers from a catastrophic illness or injury.

The Chancellor shall direct the Vice Chancellor of Human Resources to establish administrative procedures to administer the program and/or collectively bargain the procedures that comply with the requirements established by the Education Code. The administrative procedures shall assure that the program is administered in a nondiscriminatory way.
BP 7350  RESIGNATIONS

Reference:  Education Code Sections 87730; 88201

A resignation is a separation of employment to include retirement from District service.

The Board shall accept the resignation of any employee and shall fix the time when the resignation takes effect, which shall not be later than the close of the academic year during which the resignation has been received by the Board.

The Board hereby delegates to the Chancellor the authority to accept resignations on its behalf at any time. Resignations shall be deemed accepted by the Board when received in writing by the Chancellor or the Vice Chancellor of Human Resources. When received by the Chancellor or the Vice Chancellor, the resignation is final and may not be rescinded. All such resignations shall be forwarded to the Board for ratification.
BP 7360 DISCIPLINE AND DISMISSAL, ACADEMIC EMPLOYEES

Reference: Education Code Section 87669, 87732

A contract or regular employee may be dismissed or penalized for one or more of the grounds set forth in Education Code section 87732. If the employee is to be penalized, the Board shall determine the nature of the penalties. If the Board decides to dismiss or penalize a contract or regular employee, it shall assure that each of the following has been satisfied:

The employee has been evaluated in accordance with standards and procedures established in accordance with the provisions of Education Code Sections 87660 et seq., and any administrative procedure for evaluation contained in a collective bargaining agreement;

The Board has received all statements of evaluation which considers the events for which dismissal [or penalties] may be imposed;

The Board has received a recommendation from the Chancellor.

The Board has considered the statements of evaluation and the recommendations in a lawful meeting.

If the Board decides it intends to dismiss or penalize a contract or regular employee, it shall take the actions required by the Education Code, and the Chancellor or designee shall thereafter assure that the employee is afforded the full post-termination due process required by the Education Code Sections 87666 through 87681, and 87740.

If not provided in the appropriate collective bargaining agreement, the Chancellor or designee shall establish procedures that define the conditions and processes for dismissal, discipline, and due process and ensure they are available to employees.
BP 7365 DISCIPLINE AND DISMISSAL, CLASSIFIED EMPLOYEES

Reference: Education Code Section 88013

The Chancellor authorizes the Vice Chancellor of Human Resources to enact procedures for the disciplinary proceedings applicable to permanent classified employees of the District if not included in respective collective bargaining agreements. Such procedures shall conform to the requirements of the Education Code.

The Board’s determination of the sufficiency of the cause for disciplinary action of a classified employee shall be conclusive.

No disciplinary action shall be taken for any cause that arose prior to the employee becoming permanent, or for any cause that arise more than two years preceding the date of the filing of any charge against the employee, unless the cause was concealed or not disclosed by the employee when it could be reasonably assumed that the employee should have disclosed the facts to the District.

A permanent member of the classified service shall be subject to disciplinary action, including, but not limited to, oral reprimand, written reprimand, reduction in pay, demotion, suspension, or discharge, for any of the following grounds:

- Abandonment of position. A position shall be deemed abandoned if an employee fails to report for work without notifying the supervisor for three (3) consecutive days.
- Abuse or misuse of sick leave or any other authorized leave privileges.
- Carelessness, willful misconduct, or negligence in the performance of duty, including sleeping while on duty. Conviction of a serious crime by a court of law. A serious crime includes the conviction of a felony, any crime involving moral turpitude, or any crime bringing discredit upon the District. A plea or verdict of guilty or a conviction following a plea of no lo contender to a charge or a serious crime shall be deemed to be a conviction within the meaning of this section.
- Displaying discourteous, offensive, or abusive conduct or language toward supervisors, other employees, students, or the public while in the performance of District employment.
- Dishonest acts including theft of District property.
- Engaging in political activities during regular assigned hours of employment. Failure or refusal to perform the normal and reasonable duties of the position.
- Failure to disclose or falsifying information supplied to the District including, but not limited to, information supplied on application forms, employment records, or any other District records.
- Failure to meet job qualifications including, but not limited to, failure to possess or keep in effect any required licenses, certificate or other similar requirement specified in the law or the employee’s job description or otherwise necessary for the employee to perform the
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duties of the position.

For employees who drive a vehicle in the regular course of their employment: Failure to satisfy the insurability requirements of the District’s insurance carrier under the District’s regular insurance policies.
The District’s ability to obtain insurance for the employee under a high risk or any policy other than the regular insurance policies does not mitigate this failure.

Incompetence or inefficiency in the performance of duties.

Insubordination (including, but not limited to, refusal to do assigned work.

Offering of anything of value or any service in exchange for special treatment in connection with employment, or accepting anything or value or any service in exchange for granting any special treatment to another employee or to any member of the District staff or the public.

Persistent violation and/or refusal to obey District safety rules and regulations.

Possession or consumption of alcoholic beverages or illegal drugs on District premises or reporting for service while under the influence of alcoholic beverages, illegal drugs or controlled substances.

Repeated and unexcused absence or tardiness.

Using the credit, time, facilities, equipment or supplies of the District for the employee’s private gain or advantage or the private gain or advantage of another.

Violation of any rule or regulation of the District or provisions of the Education Code or the laws of the State of California in relationship to District employment.

Willful damage to public property, waste of public supplies or equipment, or carelessness with District property or funds including misuse of the District computer system.
BP 7370    POLITICAL ACTIVITY

Reference:    Education Code Sections 7054, 7056; Government Code Section 8314

Employees shall not use District funds, services, supplies or equipment to urge the passage or defeat of any ballot measure or candidate, including, but not limited to, any candidate for election to the governing board. This policy prohibits political activity during an employee’s working hours, but shall not be construed to prohibit an employee from urging the support or defeat of a ballot measure or candidate during nonworking time.
BP 7380    RETIREE HEALTH BENEFITS

Reference: Education Code Sections 7000 et seq.

The District shall permit any former academic employee who has retired from the District to enroll in the health and welfare benefit plan and/or dental care benefit plan currently provided to its current academic employees. In addition, the District shall also permit the enrollment of the surviving spouse of a former academic employee who either retired from the District or was, at the time of his or her death, employed by the District as an academic employee and a member of the State Teaches’ Retirement System.

Enrollment pursuant to this policy shall be at the retiree or surviving spouse’s own expense unless stated otherwise in the respective collective bargaining agreement or employee procedures handbook.

A retired academic employee or surviving spouse may enroll in the District’s health and welfare benefit plans only once pursuant to this policy. A retired academic employee or surviving spouse who voluntarily terminates coverage under this policy may be excluded from obtaining coverage again.

The Chancellor shall direct the Vice Chancellor of Human Resources to establish procedures as may be deemed necessary to administer this policy in accordance with Education Code Sections 7000, et seq.
An employee may request reduction of his or her salary in any amount for any or all of the following purposes:

- participation in a deferred compensation program;
- paying premiums on any policy or certificate of group life insurance or disability insurance or legal expense insurance, or any of them;
- paying rates, dues, fees, or other periodic charges on any hospital service contract.

The request provided for above shall be revocable by the employee.

The District shall **without charge** reduce the salary payment by the amount which the employee has authorized in writing for the purpose of paying his or her membership dues in any local, statewide or other professional organization. Revocation of such authorization shall be in writing and shall be effective beginning with the next pay period.
BP 7400 TRAVEL

Reference: Education Code Section 87032

The Chancellor is authorized to attend conferences, meetings and other activities that are appropriate to the functions of the District.

The Chancellor or designee shall establish procedures regarding the attendance of other employees at conferences, meetings, or activities unless already included in the respective collective bargaining agreement or employee procedures handbook. The procedures shall include authorized expenses, advance of funds, and reimbursement.

All travel outside the United States must be approved in advance by the Board.
BP 7510    DOMESTIC PARTNERS


The District recognizes domestic partners registered with the California Secretary of State and those defined as indicated below shall have, insofar as permitted by California law, all of the same rights, protections, and benefits, as well as the same obligations, responsibilities, and duties of married persons (spouses) under state law.

A domestic partner is also defined as two persons, each aged 18 or older, to have chosen to live together in a committed relationship, who are not legally allowed to marry in the state in which they reside, and who have agreed to be jointly responsible for living expenses incurred during the domestic partnership.

The Vice Chancellor of Human Resources shall ensure procedures are developed to implement this policy, including development of forms to verify the existence of a domestic partner relationship.
BP 7600       COLLEGE POLICE DEPARTMENT

Reference:    Education Code Sections 72330, et seq.

The Board has established a police department under the supervision of the Chief of Police, who shall report directly to the Vice Chancellor of Administrative Services. The purpose of the department is to enforce the law on or near the campuses and other grounds or properties owned, operated, controlled or administered by the District or by the State acting on behalf of the District.

District police officers shall be employed as members of the classified service but shall, when duly sworn, be peace officers as defined by law. Prior to employment, they shall satisfy the training requirements set out in Penal Code Sections 830, et seq.

The Chancellor shall establish minimum qualifications of employment for the Chief of Police including, but not limited to, prior employment as a peace officer or completion of a peace officer training course approved by the Commission on Peace Officers’ Standards and Training.

The Chancellor shall ensure that every member of the police department first employed by the District before July 1, 1999 satisfies the requirements of state law regarding qualifications for continued employment.

Every member of the police department shall be issued a suitable identification card and badge bearing words “San Jose/Evergreen Community College Police”...

The Vice Chancellor of Administrative Services, in cooperation with the Chief of Police, shall issue such other regulations as may be necessary for the administration of the police department.
WHISTLEBLOWER PROTECTION

The Chancellor or designee shall establish procedures regarding the reporting and investigation of suspected unlawful activities by district employees, and the protection from retaliation of those who make such reports in good faith and/or assist in the investigation of such reports. For the purposes of this policy and any implementing procedures, unlawful activity refers to any activity—intentional or negligent—that violates state or federal law, local ordinances, or District policy. The procedures shall provide that individuals are encouraged to report suspected incidents of unlawful activities without fear of retaliation, that such reports are investigated thoroughly and promptly, remedies are applied for any unlawful practices and protections are provided to those employees who, in good faith, report these activities and/or assist the District in its investigation. Furthermore, district employees shall not: (1) retaliate against an employee or applicant for employment who has made a protected disclosure, assisted in an investigation, or refused to obey an illegal order; or (2) directly or indirectly use or attempt to use the official authority or influence of his or her position for the purpose of interfering with the right of an applicant or an employee to make a protected disclosure to the District. The District will not tolerate retaliation, and will take whatever action may be needed to prevent and correct activities that violate this policy, including discipline of those who violate it up to and including termination.

Reference:

See AP #7700