Santa Monica Community College District
District Planning and Advisory Council
MEETING – JANUARY 8, 2014
AGENDA

A meeting of the Santa Monica Community College District Planning and Advisory Council (DPAC) is scheduled to be held on Wednesday, **January 8, 2014** at 3:00 p.m. at Santa Monica College, Drescher Hall Room 300-E (the Loft), 1900 Pico Boulevard, Santa Monica, California.

I. Call to Order

II. Members

Randal Lawson, Administration, Chair Designee
Jeff Shimizu/Marcy Wade, Administration Representative

Greg Brown, Management Association President
Katharine Muller/Erica LeBlanc, Management Association Representative

Eve Adler, Academic Senate President, Vice-Chair
Janet Harclerode, Academic Senate Representative

Mitra Moassessi, Faculty Association President
Peter Morse, Faculty Association Representative

Bernie Rosenloecher, CSEA President
Leroy Lauer, CSEA Representative

Ty Moura, Associated Students President
Michael Greenberg, Associated Students Representative

III. Review of Minutes: December 11, 2013

IV. Agenda

Public Comments
Individuals may address the District Planning and Advisory Council (DPAC) concerning any subject that lies within the jurisdiction of DPAC by submitting an information card with name and topic on which comment is to be made. The Chair reserves the right to limit the time for each speaker.

Agenda

A. Update on I^3 Projects/New Collaborations

B. Board Policy and Administrative Regulation: Whistleblower Protection

C. Report from DPAC Facilities Subcommittee: Arts Installation for Construction Projects *(attached)*

V. Adjournment

Meeting schedule through June, 2014 (second and fourth Wednesdays each month at 3 p.m.)

2014
January 22
February 12, 26
March 12, 26
April 9, 23
May 14, 28
June 11, 25

VI. Council of Presidents Meeting

The Council of Presidents will set the agenda for the January 22, 2014 DPAC meeting.

BP 2116 Whistleblower Protection

The Superintendent/President shall establish procedures regarding the reporting and investigation of suspected improper activities by District employees and the protection from retaliation of those who make such reports in good faith and/or participate in the investigation of such reports. Good faith is a sincere and reasonable belief or motive that is not characterized by malice or foreknowledge that the report is false.

For the purposes of this policy and any implementing regulations, "improper activity" refers to any activity by the District or one of its employees that (a) violates a state or federal law or regulation, including but not limited to corruption, malfeasance, bribery, theft of government property, fraudulent claims, fraud, coercion, conversion, malicious prosecution, misuse of government property, or willful omission to perform duty, or (b) is economically wasteful or involves gross misconduct, incompetency, or inefficiency.

The regulations established by the Superintendent/President shall provide for the following:

1. Individuals may report suspected incidents of improper activities without fear of retaliation.
2. Reports are investigated thoroughly and promptly.
3. Remedies are applied when allegations regarding improper activities are verified.
4. Protections are provided to and retaliation is prohibited against employees or applicants for employment who, in good faith, report suspected improper activities or participate in the investigation of such reports.
5. Protections are provided to and retaliation is prohibited against employees who refuse to obey an illegal order.
6. District employees shall not 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 individual or entity to make a report of a suspected improper activity to the District or to other non-District authorities.
7. Employees who violate this policy shall be subject to discipline up to and including termination.

References:

Education Code Sections 87160-87164
Labor Code Section 1102.5
Government Code Section 53296
Private Attorney General Act of 2004 (Labor Code Section 2698)
Board Policy 6116 (Reporting Fraud, Waste or Abuse)

AR 2116 Whistleblower Protection

Any individual may report suspected incidents of improper activities by District employees in the performance of their duties. Reports made under this Administrative Regulation must be made in good faith. Good faith is a sincere and reasonable belief or motive that is not characterized by malice or foreknowledge that the report is false. Employees who, in good faith, report such activities and/or assist the District in the investigation will be protected from retaliation. Reports about suspected incidents of improper activities will be investigated promptly and appropriate remedies applied.

This procedure sets out the processes for responding to and investigating reports of improper activities* and addressing complaints of retaliation for making such reports.

Filing a Report about Suspected Improper Activities

Any person may report allegations of suspected improper activities. Knowledge or suspicion of such improper activities may originate from academic personnel, staff, administrators, or managers carrying out their assigned duties, internal or external auditors, law enforcement, regulatory agencies, customers, vendors, students, or other third parties.

District employees shall not directly or indirectly use or attempt to use the official authority or influence of their position for the purpose of interfering with the right of an individual or entity to make a report of a suspected improper activity to the District or to other non-District authorities.

Anonymous reports will be investigated to the extent possible. However, employees are strongly encouraged not to report anonymously because doing so impedes the District's ability to thoroughly investigate the claim and take appropriate remedial measures. As set forth below, retaliation against individuals who report suspected improper activities will not be tolerated.

Normally, a report by a District employee of allegations of a suspected improper activity should be made to the reporting employee's immediate supervisor or other appropriate administrator, manager, or supervisor within the employee's operating unit. However, if the report involves or implicates the direct supervisor or others in the employee's operating unit, the report may be made to any other District official whom the reporting employee believes to have either responsibility over the affected area or the authority to review the alleged improper activity on behalf of the District. When the alleged improper activity involves the Superintendent/President, the report should be made to the Chair of the Board of Trustees. When the alleged improper activity involves the Board of Trustees or one of its members, the report should be made to the Superintendent/President who will confer with the Chair of the Board of Trustees and/or legal counsel on how to proceed.

Allegations of suspected improper activities should be made in writing so as to assure a clear understanding of the issues raised, but may be made orally. Such reports should be factual and contain as much specific information as possible. The receiving supervisor, administrator, or manager should elicit as much information as possible. If the report is made orally, the receiving supervisor, administrator, or manager shall reduce it to writing and make every attempt to get the reporter to confirm by his or her signature that it is accurate and complete.

Internal Reporting and the Investigation Process

Once the receiving supervisor, administrator, or manager has received and/or prepared a written report about the alleged improper activity, he or she must immediately forward it to the Superintendent/President or Superintendent/President's designee. However, if this process would require submitting the report to an employee implicated in the report, the receiving supervisor, administrator, or manager should follow the reporting options outlined above. The manager, administrator, or trustee who receives the written report pursuant to this paragraph is responsible for ensuring that a prompt and complete investigation is made by an individual with the competence and objectivity to conduct the investigation, and that the assistance of counsel and/or an outside investigator is secured if deemed necessary.

In the course of investigating allegations of improper activity, all individuals who are contacted and/or interviewed shall be advised of the District's no-retaliation policy. Each individual shall be: (a) advised that if he or she experiences retaliation for cooperating in the investigation, it must be reported immediately; and (b) warned that retaliation by an employee against the reporter(s) and/or others participating in the investigation will subject the employee to discipline up to and including termination.

In the event that an investigation into alleged improper activity verifies the allegations, prompt and appropriate corrective action shall be taken.

Employees found to violate this Administrative Regulation shall be subject to discipline up to and including termination. Violations of this Administrative Regulation include making a report not in good faith or engaging in retaliation.

Protection from Retaliation

When a person makes a good-faith report of suspected improper activities to an appropriate authority, the report is known as a protected disclosure. District employees and applicants for employment who make a protected disclosure are protected from retaliation.

Any employee who believes he or she has been subjected to or affected by retaliatory conduct for reporting improper activities, or for refusing to engage in activity that would result in a violation of law, should report such conduct to the employee's immediate supervisor or other appropriate administrator, manager, or supervisor within the employee's operating unit. However, if the report involves or implicates the direct supervisor or others in the employee's operating unit, the report may be made to any other District official whom the reporting employee believes to have either responsibility over the affected area or the authority to review the alleged retaliatory conduct on behalf of the District. When the alleged retaliatory conduct involves the Superintendent/President, the report should be made to the Chair of the Board of Trustees. When the alleged retaliatory conduct involves the Board of Trustees or one of its members, the report should be made to the Superintendent/President who will confer with the Chair of the Board of Trustees and/or legal counsel on how to proceed.

All allegations of retaliation shall be investigated promptly and with discretion, and all information obtained will be handled on a "need to know" basis. As appropriate, remedial and/or disciplinary action will be taken at the conclusion of an investigation where the allegations are verified.

Whistleblower Contact Information

Employees may report suspected improper activities of employers or complaints of retaliation resulting from whistleblower activities to the California State Auditor Whistleblower Hotline at (800) 952-5665, or to the California State Attorney General's Whistleblower Hotline at (800) 952-5225. In addition, employees can contact the State Personnel Board with complaints of retaliation resulting from whistleblower activities at (916) 653-1403.

Other Remedies and Appropriate Agencies

In addition to the internal reporting and complaint process set forth above, any employee who has information concerning alleged improper activity may contact the appropriate government agency.

***BP 2116** defines *improper activity* as "any activity by the District or one of its employees that (a) violates a state or federal law or regulation, including but not limited to corruption, malfeasance, bribery, theft of government property, fraudulent claims, fraud, coercion, conversion, malicious prosecution, misuse of government property, or willful omission to perform duty, or (b) is economically wasteful or involves gross misconduct, incompetency, or inefficiency."

References:

Education Code Sections 87160-87164;
Government Code Section 53296;
Labor Code Section 1102.5;
Private Attorney General Act of 2004 (Labor Code Section 2698)
Board Policy 2116

DPAC Facilities Subcommittee Report

At the November 2013 Facilities Planning Subcommittee meeting, the committee discussed "public art" policy for construction projects in response to prior discussion at the Board of Trustees meetings. Over 100 colleges have a policy on the subject, and a thematic review of those policies was presented to the Subcommittee.

The Subcommittee was unanimous in opposition to spending bond funds or general fund money on art, as the public is very subjective in evaluating art. The public passions aroused might generate opposition to providing taxpayer funds for the college's educational purposes. The idea of a "percentage for art" policy that dedicates a percentage of a building's construction cost to public art is firmly opposed by all of the subcommittee's members. However, art donations, art loans, and displays of temporary art or performances might have educational value. We certainly want the ability to occasionally highlight the recent artistic work of current students at a particular time. Over the life of any facility, any art displayed might change. There are both federal and state laws that apply to art so legal agreements with artists would be necessary before any art is displayed, in order to protect the College's interests. Maintenance costs for art are not trivial.

The Subcommittee passed the following resolution to send to DPAC for further consideration:

Art Installations for Construction Projects

1. It is recommended that any future building project with a construction budget of over $10 million would have one or more areas designed to accommodate the display of art to the public.

2. A committee representing college constituent groups would recommend appropriate art for each building to the Superintendent/President. The committee would be made up of at least one representative of the buildings' occupants, one representative of the Art Department and one representative of the College Foundation.

3. Donations of art or funds to purchase art would be arranged through the College Foundation. No college general operating funds or taxpayer supported bond funds would be used for the purchase of building art.