

GENERAL COUNSEL NEWSLETTER

With new people joining the District each year, it seems appropriate to remind folks of a few key issues from the General Counsel's perspective. Please feel free to direct questions to your Vice President if you'd like further clarification.

CALIFORNIA PUBLIC RECORDS ACT

- We must make public records available for inspection.
- We must respond within 10 days as to whether we will produce the documents, and when.
- We will not disclose confidential records.
- We charge for copying costs and computer programming time.
- Conflict of Interest Forms (Form 700) are public records.

TIP

Write your emails as if they might end up on the front page of the New York Times.

Always exercise care and discretion as you use this important communication tool!

ADA ACCOMMODATIONS HONOR DSPTS ACCOMMODATIONS

The District and its Colleges will ensure that all of our students, including those with disabilities, are able to participate in and enjoy the benefits, activities, programs, and services we offer. For students with disabilities, the Colleges will provide the appropriate academic adjustments as long as they do not affect the fundamental nature of the educational programs. See [Policy P-2731](#) and [Regulation R-2731](#).

Students must request accommodations and provide those accommodations to their professors. The DSPTS department at each College receives the appropriate medical information and provides the appropriate accommodations and documentation to the students. Professors must abide by those DSPTS accommodations unless and until they have been altered by the appeal process mentioned below. Failure to honor an accommodation could subject a professor and the District/College to administrative proceedings and/or a lawsuit.

The District's Regulations contain an appeal process for both professors and students if they believe a suggested accommodation is inappropriate. To reject a proposed accommodation, the professor must demonstrate that the accommodation fundamentally alters the nature of the educational program.

The appeal committee will include the appropriate dean, the College ADA coordinator, and two faculty members. The committee will hear the appeal and reach a decision by majority vote. The Vice President of Student Services has the final word on appeal. During the appeal process, the professor must honor the accommodations prescribed by the DSPTS office.

FIRST AMENDMENT

The outdoor areas of District and College facilities open to the public generally are available for free speech. The Colleges cannot and do not require that people ask for permission to exercise this right. As a courtesy, the Colleges ask that that speakers check in with the College Operations Office, but it is not required. If they do not check in, we cannot stop them from speaking.

Persons that wish to engage in free speech and advocacy activities must do so in such a manner as is compatible with the use of the property and that assures orderly conduct and avoids disruption or interference with District or College operations.

Persons setting up free speech activities may not use amplified sound without a permit from the College and may not block the sidewalks or create safety hazards. Speakers that repeatedly violate these rules can be asked to leave. Spaces for free speech activities may be reserved in advance and those reservations will be honored. Otherwise space is available on a first come, first served basis.

For purposes of safety, District personnel may move demonstrations away from each other to create buffer zones. This should be done rarely and always in consultation with the General Counsel's office.

STUDENT RECORDS AND FERPA

- College-maintained records that refer to students are confidential unless there is an exception.
- Exceptions include signed and dated student consent forms, subpoenas or court orders, and disclosure to parents of students under 18 who are dependents on their tax returns (petition required).
- Students have a right to review their records and receive a copy if they request one.
- Colleges are not required to disclose records to anyone other than the student.
- LRPD records, which are not shared with the College, are not subject to disclosure or inspection.
- District/College employees are “school officials” and may review student records where they have a legitimate, job-related need-to-know.
- Some outside contractors may be “school officials,” but protections must be put into place for those contractors. Consult with the Associate Vice Chancellor of Student Services if you have questions about this issue.

SUBPOENAS

Subpoenas require the College to conduct a diligent search, locate, and produce all documents in its possession, custody, or control. For students, this includes Admission and Records, Financial Aid, DSPS, the nurse's office, Discipline/Grievance offices, and the Equity offices. For employees, this includes the personnel file, benefits, and payroll. If you have to go to court, you should be prepared to testify (truthfully) to three things:

1. How the documents you produce are generally created in the ordinary course of the College's work and that they are made at or about the date specified in the document;
2. That the documents you provide are routinely created and kept in the ordinary course of the College's work;
3. That the documents you provide are correct copies of the documents in the College's files.

When it comes to criminal subpoenas, there are special rules and the College must produce documents to the court, not to the party subpoenaing the documents. Please contact the General Counsel's office immediately if you receive a subpoena in a criminal case.