

Board of Trustees Agenda Item

Board Meeting Date: August 2, 2010

Title of Item: Board Action Items – Staffing, Hiring and Employment Transactions

Background and Analysis:

Background

Under current procedures, all personnel transactions are taken to the Board for approval, typically prior to the effective date of the hire or personnel change. On occasion, and as provided under Board Policy 4125 (full text below), the Chancellor approves personnel actions subject to the ratification of the Board.

Board Policy 4125 (in its entirety)

The Board authorizes the Chancellor when necessary, to authorize employment and other personnel actions pending Board ratification provided he/she has verified that all appropriate procedures and policies have been followed.

Challenges and Concerns

Current procedures, which include Board approval prior to making a personnel action effective, create artificial barriers to the effective recruitment and hiring of staff, and diverts critical staff resources from more urgent service delivery.

- Hiring of critical positions is delayed.
- Staff are under pressure to meet deadlines to submit personnel actions for Board action.
- There is an increase in the number of errors which later requires more staffing resources for correction and additional Board action.
- A tremendous amount of staffing resources are spent creating Board documents, following up on details, making copies, delivering documents, tracking the Board transactions, later sending notifications and related activities.
- Reduces availability of scarce staffing resources for critical functions and services.

Recommendation

Given the reductions in staffing across the District we are compelled to find efficiencies in all areas of our operations, including Board activities. With this in mind, we propose the following.

The Chancellor may, at his/her discretion, or as delegated by him/her to a duly authorized officer or administrator of the District, more regularly utilize the provisions of BP 4125, subject to verification that all appropriate procedures and policies have been followed.

All actions approved by the Chancellor and/or his/her duly authorized officer or administrator shall be presented to the Board for ratification following such approval.

Recommendation: (specify if information only)

Information and discussion only.

Submitted by:	Dorene Novotny, ext. 6211
Additional contact names:	
Is backup provided?	Yes

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Overview of Applicable Laws and Policies

Education Code § 7

Pursuant to Education Code § 7, the Chancellor may delegate the power granted to her by the Board to employ personnel pursuant to § 70902(B)(4) to other duly authorized officer or administrator of the District.

Education Code § 7, Delegation of Powers, provides as follows (*in its entirety*):

"Whenever a power is granted to, or a duty is imposed upon, a public officer, the power may be exercised or the duty may be performed by a deputy of the officer or by a person authorized, pursuant to law, by the officer, unless this code expressly provides otherwise."

Education Code § 70902

Education Code § 70902(B)(4) vests power in the Board to employ and assign all personnel not inconsistent with the minimum standards adopted by the board of governors, and establish employment practices, salaries, and benefits for all employees not inconsistent with the laws of this state.

Education Code § 70902(B)(7) vests power in the Board to manage and control district property including the power to contract for the procurement of goods and services.

The Board's powers to employ personnel pursuant to § 70902(B)(4) and the power to contract for goods and services are therefore delegable under § 70902(d).

Education Code § 70902(d) provides that:

"Wherever in this section or any other statute a power is vested in the governing board, the governing board of a community college district, by majority vote, may adopt a rule delegating the power to the district's chief executive officer or any other employee or committee as the governing board may designate."

Education Code § 81655

Pursuant to Education Code § 81655, whenever the Board has the power to enter into contracts, the Board may delegate such power to the Chancellor or to other officers or employees of the district so long as the Board subsequently approves and ratifies any such contracts. Such delegation of power may be limited as to time, money or subject matter or may be a blanket authorization in advance of its exercise.

The official exercising delegated authority is responsible to ensure that the contract complies with all applicable laws and that it is submitted to the Board of Trustees for ratification after the official signs it.

Contracts include employment contracts, labor agreements, settlement agreements, and related personnel transactions including changes to these contracts and agreements, such as reclassification, transfer, salary changes, etc.

Labor Agreements and Handbooks ratified by the Board include provisions for the application of personnel changes including transfer, reclassification, salary changes and related employment transactions.

Board Policy 4125

The Board authorizes the Chancellor when necessary, to authorize employment and other personnel actions pending Board ratification provided he/she has verified that all appropriate procedures and policies have been followed.

Employment actions, including hiring, settlements, and related personnel transactions are deemed “personnel actions” and as such, the Chancellor is authorized to approve such transactions pending Board ratification.

Legal and Ethical Requirements

Board of Trustees Delegations of Contractual Authority

- The Board has delegated authority to the Chancellor, under Board Policy 4125 as noted above.
- The Board also delegates its authority to negotiate labor agreements, on an annual basis, to the District’s Chief Negotiator(s).

Board Approval or Ratification

In order to comply with Education Code Section 81655, personnel actions, including employment contracts, constitute an enforceable obligation against the District when they have been approved or ratified by the Board of Trustees by a formal action of said Board duly passed and adopted by majority vote.

Personnel actions shall be presented for adoption or ratification by the Board after execution by the Chancellor or a duly authorized representative, typically the Vice Chancellor of Human Resources and Equal Opportunity or the Director of Human Resources.

Compliance with District Ethical Standards

In accordance with the ethical standards of the District, and in order to avoid an actual or apparent conflict of interest, no administrator or officer shall authorize or significantly influence the hiring or employment of any person with whom he/she has a personal or financial interest.

Further, each administrator or officer is prohibited from engaging in any activity which is inconsistent, incompatible, or in conflict with his or her duties as an employee or officer or with the duties, functions or responsibilities of his or her position.

Required Records and Audit

All personnel actions must include appropriate documentation of administrative authorization and financial support. The records must document compliance with applicable Federal, State, and Local laws as well as District policies and are subject to audit and verification.

All records, actions and related authorizations and verification shall be made available to the Board of Trustees upon request.

Contracts for Personal or Professional Services

Any contract to purchase the services of a person, business, or corporation who is not an employee of the District or the colleges is an independent contract and is subject to the District's procedures for Independent Contractors.