



GOVERNING BOARD MINUTES
REGULAR MEETING, GOVERNING BOARD
PALOMAR COMMUNITY COLLEGE DISTRICT
ROOM D-10
COLLEGE CAMPUS
SAN MARCOS, CALIFORNIA
TUESDAY, MAY 11, 2004
6:00 P.M. (CLOSED SESSION) 7 P.M. (OPEN SESSION)

A. CALL TO ORDER

Ralph G. Jensen, President, called the regular meeting of the Palomar Community College District Governing Board to order at 6:00 p.m.

B. ROLL CALL

TRUSTEES PRESENT:

RALPH G. JENSEN, B.A., PRESIDENT
MICHELE T. NELSON, PH.D., VICE PRESIDENT
NANCY C. CHADWICK, M.S.W., M.P.A., SECRETARY
MARK R. EVILSIZER, M.A., TRUSTEE
DARRELL L. McMULLEN, M.B.A., TRUSTEE
AMADOR SOTO, STUDENT TRUSTEE

EXECUTIVE ADMINISTRATORS PRESENT:

Sherrill L. Amador, Ed.D., Superintendent/President
Berta Cuaron, M.A., Assistant Superintendent/Vice President, Instruction
Joseph Madrigal, M.A., Assistant Superintendent/Vice President, Student Services
Jack Miyamoto, Ed.D., Assistant Superintendent/Vice President, Human Resource Services
Jerry Patton, M.B.A., Assistant Superintendent/Vice President, Finance and Administrative Services

BB. CLOSED SESSION

The Board went into Closed Session at 6:00 p.m., to discuss:

1. Public Employee Discipline/Dismissal/Release, pursuant to Government Code 54957.6.
2. Conference regarding negotiations with CCE/AFT, pursuant to Government Code Section 54957.6.
3. Conference regarding negotiations with PFF/AFT, pursuant to Government Code 54957.6.
4. Conference regarding discussion with Other Unrepresented Employees, pursuant to Government Code 54957.6.

5. Appointment/Employment of Interim Superintendent/President, pursuant to Government Code 54957
6. Employment Contract for Interim Superintendent/President, pursuant to Government Code 54957

BBB. RECONVENE TO OPEN SESSION

The meeting reconvened to Open Session at 7:00 p.m. There was no reportable action taken during Closed Session.

STAFF PRESENT:

Barbara Baldrige, Executive Assistant to Superintendent/Governing Board
Bill Bedford, Part-time Faculty
Monika Brannick, Associate Professor, Mathematics
Leslie Briggs, Academic Department Assistant, Chemistry/Physics and Engineering
Dan Finkenthal, Associate Professor, Physics and Engineering
Reno Frigo, Part-time Faculty
Colene Hicken, Senior Office Specialist, Tenure Review & Evaluation
Julie Ivey, Co-President, PFF/AFT; Part-Time Faculty, English
Gene Jackson, Part-time Faculty, English
Ken Jay, President, Administrative Association; Director, Business Services
Barbara Kelber, President, The Faculty; Associate Professor, English
Lubov Krasheninnikova, Part-time Faculty
Roy Latas, Part-time Faculty
Shannon Lienhart, Associate Professor, Mathematics
Becky McCluskey, President, CCE/AFT; Accounting Technician, Fiscal Services, Escondido Center
Pam McDonough, Professor, English
Takashi Nakajima, Associate Professor/Chair, Physics and Engineering
Donna Renner, Secretary, CAST; Facilities Services Coordinator
Sara Thompson, Associate Professor, Life Sciences
Katie Townsend-Merino, President, Faculty Senate; Associate Professor, Behavioral Sciences
Rocco Versaci, Co-President, PFF/AFT; Associate Professor, English

GUESTS:

Darren Cooper, Student
Jenn Dugan, Student
C. Anne Hudson, Legal Counsel
Jack Mawhinney, Student
Gerald Singleton, Attorney

Others present are listed on the sign-in sheets.

3. Pledge of Allegiance

QUORUM ESTABLISHED

Following the pledge of allegiance to the flag, Mr. Jensen declared a quorum present, and the meeting proceeded with the order of business.

A TAPED RECORD OF THE PROCEEDINGS OF THIS MEETING IS ON FILE IN THE PRESIDENT'S OFFICE FOR THIRTY DAYS OR UNTIL THE MINUTES OF THE MEETING HAVE BEEN APPROVED BY THE GOVERNING BOARD, WHICHEVER IS LONGER.

1. APPROVE HIRING OF INTERIM SUPERINTENDENT/PRESIDENT

MSC Chadwick, McMullen

The Governing Board hereby approves the hiring of **Dr. Richard Jones** to serve as **Interim Superintendent/President**. A contract for his employment will be considered at the next regular Board meeting.

The Vote was unanimous.

2. Report from Closed Session Following Regular Meeting on April 13, 2004.

There was no reportable action.

C. APPROVAL OF MINUTES

MSC Chadwick, Nelson

1. The Governing Board hereby approves the Minutes of the Regular Meeting of April 13, 2004.
2. The Governing Board hereby approves the Minutes of the Special Meeting of April 27, 2004.
3. The Governing Board hereby approves the Minutes of the Special Meeting of May 3, 2004.

The Vote was unanimous.

Student Trustee Advisory Vote: Aye

At this time, President Jensen moved item H-17 forward on the agenda.

H-17. RATIFY SWORN CLASSIFIED EMPLOYMENT

MSC Chadwick, Nelson

The Governing Board hereby ratifies the recommendation of the Superintendent/President regarding the **employment** of the following **sworn classified employees**:

- a. Name: **MAGAULI V. SOOTO**
Position: Police Officer I
Department: Palomar College Police Department
Position #: 5873 New?: No
Remarks: Replacement for William Knack; funded - Parking Lot Fees.
Sal Grade/Stp: **31/1** Salary: **\$3,490.69/month**
% of Position: 100% # of Mos: 12
Effective: May 12, 2004
Account #(s): K-212200-543100-69500-1812070/100%

- b. Name: **GERARD R. PEREZ**
Position: Police Officer I
Department: Palomar College Police Department
Position #: 5872 New?: No
Remarks: Replacement for Adam Chase; funded - Parking Lot Fees.
Sal Grade/Stp: **31/5** Salary: **\$4,243.78/month**
% of Position: 100% # of Mos: 12
Effective: May 12, 2004

Account #(s): K-212200-543100-69500-1812070/100%

c. Name: **ARTURO CARLOS, Jr.**
Position: Police Officer I
Department: Palomar College Police Department
Position #: 6062 New?: No
Remarks: Replacement for Gene LaRue Jr.; funded - Parking Lot Fees.
Sal Grade/Step: **31/1** Salary: **\$3,490.69/month**
% of Position: 100% # of Mos: 12
Effective: May 12, 2004
Account #(s): K-212200-543100-69500-1812070/100%

The Vote was unanimous.
Student Trustee Advisory Vote: Aye

Jerry Patton introduced and discussed these officers' backgrounds and experience in law enforcement. The officers' families were invited to stand with them as they took their oaths and received their badges.

Administration of Oath of Office to Officers Sooto, Perez, and Carlos

President Jensen administered the Oath of Office to Officers Sooto, Perez, and Carlos.

D. CALL FOR REMOVAL OF ITEMS FROM OR CHANGES TO AGENDA – There were none.

DD. CONTINUATION OF PUBLIC HEARING FROM APRIL 13 MEETING

1. Under Government Code 54957, Dr. Daniel Finkenthal requested a public hearing on the Palomar Community College District's complaints and charges against him.

President Jensen read the charges to Dr. Finkenthal:

The Superintendent/President has recommended that the Board consider sending Dr. Daniel Finkenthal a Notice of Unprofessional Conduct pursuant to Education Code Section 87734. The basis for this recommendation is complaints made by District employees against him. Government Code Section 54957 is a part of the Ralph M. Brown Act Open Meetings Law. This law provides that whenever charges and complaints are considered against a public employee, that employee has the right to have those charges and complaints considered in an open session, rather than in closed session. Dr. Finkenthal requested that this matter be held in an open session as is his right to do under Government Code Section 54957.

On April 13, 2004, Dr. Finkenthal and his attorney made their presentation in open session in response to those complaints. From the public comments made on April 13, 2004, it appears that at least some students and members of the public believe that this Board was considering action to terminate Dr. Finkenthal's employment. A Notice of Unprofessional Conduct is not a Notice of Termination of Employment, and the President has not made such a recommendation. Such a notice would be in effect for a period of four years. Repetition of similar behavior could lead to further disciplinary action if appropriate. At the conclusion of the April 13 presentation by Dr. Finkenthal, the Board heard some public comment and decided to continue the item regarding Dr. Finkenthal for these reasons: (1) to give the Board time to consider all of the documents and statements made by Dr. Finkenthal and his attorney, and (2) to provide those members of the public who notified the Board that they wanted to speak to us an opportunity to be heard but could not do so because of the late hour,

and (3) to take appropriate action on the recommendation of the President to send Dr. Finkenthal the Notice of Unprofessional Conduct.

In the interim between the April 13 meeting and today, correspondence has been exchanged regarding this Board item, copies of which are available to the public.

Prior to hearing the public comment, I would like to repeat a summary of the complaints in order that everyone may understand what issues are being considered by the Board.

On Monday, February 2, 2004, Dr. Finkenthal canceled his Physics 201 Laboratory class which is scheduled in the Class Schedule to meet from 2:00 p.m. to 4:50 p.m. on Mondays. He did this in order to attend a Faculty Senate meeting which met from 2:00 p.m. to 3:39 p.m. on the same day. Board Policy and District practice do not authorize academic employees to cancel scheduled classes to attend regularly scheduled committee meetings. Dr. Finkenthal was not given permission to cancel this laboratory class and did not inform his department chair or the Academic Department Assistant, Leslie Briggs, that he was going to be absent on that date.

On Monday, February 9, 2004, Dr. Finkenthal again canceled his Physics 201 Laboratory class in order to attend a meeting of the Tenure and Evaluation Review Board (TERB) which meets from 3:00 p.m. to 4:00 p.m. on Mondays. Dr. Finkenthal was not given permission to cancel this laboratory class, and he did not inform his department chair or the Academic Department Assistant that he was going to be absent.

On February 25, 2004, Dr. Finkenthal responded to three messages from his supervisor, Dr. Rourke, in which he asked Dr. Finkenthal how he accommodated his classes on February 2 and 9, and how he intended to do this in order to attend TERB meetings on Mondays which conflicted with his Physics Laboratory 201 class. Dr. Finkenthal responded to Dr. Rourke but did not answer his questions. Instead, he stated that he took personal necessity leave on February 2 and 9. He also stated that he would take personal necessity leave or personal business leave and that he would try to find a substitute and would offer makeup laboratories on Wednesdays and Fridays in order for him to attend TERB meetings. Finally, Dr. Finkenthal stated that Dr. Rourke's inquiry into this matter was a duplication of effort since he had already discussed it with the chair and that it was a "drain" on Dr. Finkenthal's time and that of his chair.

On February 27, 2004, Dr. Rourke again asked Dr. Finkenthal how his students were accommodated on February 2 and 9. Dr. Finkenthal responded to him on the same date stating that he had already answered this question, which he had not, stating that when he takes leave, he tries to provide alternative instruction but does not believe that he needs to "log this with administration."

On Monday, March 1, 2004, Dr. Rourke sent Dr. Finkenthal an electronic message at 8:18 a.m., which he read at 10:45 a.m. on the same date. In the message, Dr. Rourke told Dr. Finkenthal that he expected Dr. Finkenthal to meet his classes as stipulated in the class schedule, and that taking personal necessity leave to attend meetings of campus committees is inappropriate. Despite this directive, Dr. Finkenthal left his Physics 201 laboratory class to attend a TERB meeting. Immediately prior to that meeting, Dr. Rourke attempted to talk to Dr. Finkenthal about his attending committee meetings during scheduled class times. While he was talking to Dr. Finkenthal, Dr. Finkenthal rudely walked away from him, shut the door in his face, and directed him to "speak with my chairperson." Knowing that he was directed to meet his 201L class as scheduled, and that he was not supposed to take leave to attend this meeting, Dr. Finkenthal then asked Berta Cuaron, Vice President

of Instruction, to excuse him from his classes to attend TERB meetings. She also told him that she would not do this, and that it was not the practice in the District to do this. Dr. Finkenthal responded that it "was just a laboratory." Board Policy 173 states that the "instructor shall meet classes as stipulated in the Class Schedule."

After the TERB meeting on March 1, 2004, Dr. Finkenthal admitted to Dr. Rourke that he canceled his 201L classes on February 2 and 9. Dr. Finkenthal did not respond to Dr. Rourke's questions as to how he accommodated his students on February 2 or 9 if, in fact, he did, or how he did so on March 1, 2004.

Dr. Finkenthal informed his Department Chair through the Academic Department Assistant that his February 2 201L class was rescheduled from 9:00 a.m. to 1:00 p.m. and from 4:00 p.m. to 5:00 p.m. on Monday with the consent of all students. However, of the first six of the nineteen students enrolled in that class, three of them had schedule conflicts at these times. He additionally told his Department Chair through Ms. Briggs that his February 9 class was rescheduled with the consent of all students to meet on Friday, February 13 from 9:00 a.m. to 12:00 p.m. However, at least two students had a conflict during this time period.

On February 9, 2004, Dr. Finkenthal appeared in the TERB office and demanded from Colene Hicken, Senior Office Specialist in the Tenure and Evaluations Department, a list of all tenured faculty who were evaluated last year and confirmation that their evaluation reports were filed. When she told Dr. Finkenthal that she would need to get permission before releasing confidential documents, as she had previously been instructed to do, Dr. Finkenthal raised his voice at her, arguing with her and telling her that he was her "boss" and that he was, therefore, entitled to the information. The following day, February 10, 2004, Dr. Finkenthal returned to the TERB office and, in a very loud voice, repeatedly demanded the list from Ms. Hicken, angrily refusing to leave until he got the information that he came for. Berta Cuaron was asked to come and assist Ms. Hicken because another employee heard Ms. Hicken's voice shake as she tried to respond to Dr. Finkenthal, and because she was visibly so upset that she was flushed. Dr. Finkenthal continued to raise his voice at Ms. Cuaron, repeatedly refused to leave or to go to Ms. Cuaron's office as she requested that he do, and stated that there was a plot to keep him from getting information. Dr. Finkenthal then launched into a verbal attack on the TERB coordinator, accused Ms. Hicken of being part of a plot to keep him from getting information, and pointed at Ms. Hicken and threatened a lawsuit. Ms. Hicken was so upset by his behavior that she began to cry uncontrollably. The following day, Dr. Finkenthal sent an electronic mail message to several people clearly implying that Ms. Hicken had promised to give him the information on February 10, which she did not, that she was uncooperative when Dr. Finkenthal went to get it, and that she was part of a plot.

It was subsequently discovered that on Monday, April 5, 2004, Dr. Finkenthal again attended a TERB meeting during his 201L class, the fourth absence from his class which meets sixteen times during the semester. On April 19, 2004, Dr. Finkenthal again left his classroom to attend a TERB meeting.

Before going to public comment, I will ask Dr. Amador to summarize the recommendation for a Notice of Unprofessional Conduct.

Dr. Amador read the following summary:

The recommendation to give a Notice of Unprofessional Conduct to Dr. Daniel Finkenthal is not about academic freedom, first amendment rights, teaching ability, the Tenure and Evaluation Review Board, hiring committees, individual faculty member's evaluations, the dental assisting program, a dental hygiene program,

union activities, or reprisals for being an activist, or anything to do with Dr. Finkenthal's personal beliefs.

The recommendation to give a Notice of Unprofessional Conduct to Dr. Finkenthal does have to do with

- whether classified employees and administrators must tolerate rude and unprofessional behavior by faculty,
- whether faculty have the right to unilaterally cancel and/or not meet their scheduled classes for the purpose of attending regularly scheduled committee meetings, and
- whether faculty must follow reasonable requests and directives of their supervisors.

This recommendation is about the District's expectations of professional conduct of its faculty.

Mr. Jensen continued:

At this time, we will hear from those who were not able to speak at the April 13, 2004, meeting of the Board. Please be advised that pursuant to Board Procedure 12.10.1, members of the public who wish to address the Board have a five-minute time limit per person. Additionally, a group may be asked to select a spokesperson and thereby limit the number of speakers on a particular topic. Therefore, of those individuals who did not have an opportunity to speak at the last meeting, or want to speak now in support of Dr. Finkenthal, I am going to ask that you select a spokesperson to address the Board unless you intend to address different concerns.

Of those individuals who were not able to speak or who want to address this issue but have something to say other than in support of Dr. Finkenthal, I will ask the same thing if what you intend to say is substantially the same.

Dr. Finkenthal, do you or your attorney have any new information? (Mr. Singleton responded affirmatively.)

Before we get started again, I want to emphasize that this is not a procedure to terminate Dr. Finkenthal.

After lengthy discourse between Dr. Finkenthal, Mr. Singleton, and Ms. Hudson, Dr. Nelson stated:

It is my understanding that this is a hearing, not an interactive hearing. Am I in error on that matter? (Mr. Jensen responded that Dr. Nelson was correct.)

Mr. Jensen asked that Mr. Singleton and Dr. Finkenthal refrain from further "wisecracking" and to add any new information.

Mr. Singleton and Dr. Finkenthal provided further arguments against the charges which had been brought against him.

Mr. McMullen asked questions of Dr. Finkenthal:

How many members are on TERB? (Dr. Finkenthal responded that there are seven faculty members on TERB.)

When you approached Ms. Hicken and asked for information, were you coming on behalf of the will of the majority saying "go get this," or were you steaming on your own? (Dr. Finkenthal responded that he wouldn't say "steaming," but if somebody

came to you that you represent in the District and said that they had a serious problem with what is going on at Palomar College, would you first come to the Board and discuss it with fellow Board members before you took some kind of investigative action?)

I know that I, as an individual Board Member, have no power. I have to get the will of the majority. They can send a representative on behalf of the Board to go get information or go take whatever action is necessary, but I can't steam on my own. How many committees are on the campus? (Someone responded "about 40." Dr. Finkenthal stated that TERB is not a committee, it is a Board. It's an elected Board tantamount to Faculty Senate in its autonomy. It's a faculty-wide general election for this. We are not appointed as TERB members by anybody. We are elected by the faculty at large and have to abide by the Brown Act as you are. And you understand the importance of your job and your role as an elected official in making sure that rules are followed. This Board had not met for 15 months until I got assigned to it. Nobody can explain why the Board had never met until I got assigned to it. The best we got is that the TERB Coordinator had entered into an agreement with the previous Vice President of Instruction, and they had agreed together that the Board no longer needed to meet, but they didn't tell anybody. So it appears to be a secret agreement.)

Do we have any other committees that don't meet? (Dr. Finkenthal responded that this is not a committee.)

Excuse me, any other Boards? (Dr. Finkenthal responded that the Board acts every year on the recommendations of the Tenure and Evaluations Review Board whether or not to grant or deny faculty tenure. Where have those recommendations been coming from for the last 15 months? The other thing is that there has been a lot of this about there hasn't been a specific need for the Board to meet, but that's not true. We have had a number of faculty who have tried to get time for the Board to express some concerns and complaints they have with the Tenure and Evaluation Review process, and they were denied access. So the Board did have needs to meet. Even if you want to go under the assumption that they don't need to meet as they are required to under Board Policy 173.)

I've never seen Ms. Hicken comment on this, but I'm wondering, hypothetically here, if she felt that you came as one member of seven trying to get information, and that you didn't come on behalf of TERB. (Dr. Finkenthal stated that he thinks, as a faculty member, he put Ms. Hicken in a very difficult situation. And this is what I feel really terrible about, is that she was put there is some way, and I never said the word "plot," but I feel that she's been fielding questions from people that the TERB Coordinator who is paid to staff that office, she's supposed to be there. But Ms. Hicken has been doing the job of this faculty member who gets 80% assigned time. And that's just wrong. And so, when I first went there that day and asked for these lists, all I wanted was a list of the faculty that were evaluated.)

I'm just saying in defense, I'm wondering if her thinking that a person on a committee or a Board can't come as one person and demand stuff. You've got to come on behalf of the will of the Board. (Dr. Finkenthal stated that it's public information in this case. And anyway, I didn't have to be a Board member to want this information. And Ms. Hicken, to defer to her, she did probably what was the right thing to do. She said, "I can't give you that information without approval from my boss." I did, though, get a promise from her that she would look into it. And, you know, I then, in between the 7½ hours I teach on Tuesday, I went back during my break to see if I could collect that information. And rather than say "yes" or "no," she could not remember if she had asked her boss the previous day to do it. And that's why I was frustrated. Not that she was denying or saying that she could or couldn't, but that she had not

gone and asked, even though I had impressed upon her how important I felt this issue was.)

Mr. Evilsizer stated:

Mr. Chair, I have a comment and a question to ask Dr. Finkenthal. There is a Board Policy 177. It is addressing academic due process specifically. In the opening paragraph it states that academic due process is a system of procedures designed to resolve personnel issues in an academic institution in a clear, fair, and orderly manner. These procedures apply to actions which interfere with and/or exert a harmful effect on the functions of the college and may involve faculty, administrative staff, classified staff, and/or students. These guidelines are intended to achieve an equitable solution that will resolve the issue with due regard for the rights of the accused or group. The best academic due process is possible only when all involved believe that justice must be based on orderly procedure. During the course of events that have brought us to this point, Dr. Finkenthal, have you been denied academic due process? Have you applied for it at any time and have you been denied this right, this Board policy? (Dr. Finkenthal stated that he was denied on this campus three separate times. I appealed for academic due process on issues and problems I've had on campus. Each time, I've been denied this policy in the Governing Board Manual. The most recent one was regarding my own peer evaluation in the fall where I felt that my Dean was taking an undue interest in my evaluation and so, as it says in our procedure, Board Policy 173, the evaluatee can initiate academic due process at any time. So as I felt that to deal with in a collegial fashion was the best way to go, so I applied for it, but unfortunately, those applications go to President Amador, who has no interest in seeing any of this resolved collegially. President Amador has a mentality where you just get them, don't resolve issues, just get 'em. Get 'em on this, get 'em on that. There has never been resolution or attempts to resolve any of the problems I faced and disclosed here on campus.)

Specifically, what happened when you requested academic due process? (Dr. Finkenthal stated he was refused by President Amador. The first time was Jack Miyamoto said that me applying to due process was unsuitable and denied. That was after my first reprimand in a conflict I had with my Dean in 2000, or 2002.)

Dr. Nelson asked questions of Dr. Finkenthal:

You cancelled your class, your section Physics and Engineering 120? (Dr. Finkenthal stated that he canceled the course, not the class. As I thought we agreed on, if we could not fund the course, we would not offer the course.)

You led the first class, did you not, and you cancelled that class? (Dr. Finkenthal stated he notified all his superiors that the class would need to be cancelled. This went back a year of me petitioning, yes.)

Did you not sign your contract for that particular semester including that course, and you went to the first class and you cancelled the class when it was enrolled with 59 students? (Dr. Finkenthal stated that is right. And that is what needed to be done because we weren't getting the funding to support those 59 students.)

It was not your choice. (Dr. Finkenthal stated that somebody has to hold the line on eroding of public education in this state. We can't just go wily nilly along with the flow. Okay, when we grow our program by a factor of 5, and we get no increase in operating budget, it means that students that we used to serve with one budget now has to be spread across five times that amount to the point where this five times increase is not going to get suitable or proper education. And I will not see my profession degrade in that fashion. It is not a numbers game.)

You signed a contract. (Dr. Finkenthal stated he signed an overload agreement to teach this class in addition to his full load.)

You made your load with your overload. (Dr. Finkenthal stated, "so this is what I am being charged with, canceling this course?")

These actions show a pattern. (Dr. Finkenthal stated that he informed his chair, who agreed with him. Did I not inform the Dean a year prior to this, that if we could not secure funding for the course, it would not be able to be offered? What I was told, in writing, that we are going to try to get the funding but in the meantime list the course in the course schedule. Then if we do get the funding at least the students will sign up for it and it will be filled like it needs to be. I was told, led to believe, that the funding would be found so that I could offer this section. Okay, and now bait and switch. When the spring came, the course not only was listed, the course had enrolled to capacity. Meanwhile, I look around and there is money going to every other which way, okay? I and my chair have grown our program by a factor of five. We knew we were bringing in the money and these students were paying this money, and none of that money was going back into their laboratory process. Somebody was skimming it – it was going somewhere else, to some general fund to pay for some other college fiasco. And I'll tell you, to a person, the students in that classroom, when I explained the situation to them, they were upset but they agreed with me. Some of them came up to me and shook my hand and said at least somebody is doing something about this. In the chemistry lab we don't have any test tubes. They are going to these shoddy classrooms, shoddy equipment, they can't get the funding. At least somebody is taking a stand. A difficult stand and I got reprimanded for it. I took the lump because I felt it was a lump that needed to be taken.)

Mr. Evilsizer asked:

Dr. Finkenthal, have you ever been offered any of the following by this district: conflict resolution? (No); Anger management? (Yes); Non-violent communication techniques? (No); The Dale Carnegie course on how to win friends and influence people? (No).

You said you were offered an anger management. (Yea, in a very specious way. I was subjected to an interrogation by my Dean after the so-called TERB meeting where I shut the door in his face. I was walking to this meeting and I was fully intent on going to this meeting. His plan was to disrupt me from attending this meeting. So I never stopped. I went right to the meeting. He asked if I spoke to my Chair about this and I said I did and went to my meeting. That's not shutting the door in somebody's face, that's not running away from your supervisor, okay. After that meeting I was cornered, called into his office. The same question was asked of me over a dozen times. What did you do to accommodate your students on such and such date. I told him that I took personal necessity leave as is my right. This went on again and again and again and again until I finally realized that one of the clearest indications that somebody is insane is that they ask the same question again and again and expect a different outcome. This went on and on and on until finally we broke up. When we got out of the office, that's when he quite loudly in front of a public audience suggested that I get anger management courses, implying that I was an angry person. That is a set-up. I have witnesses to testify to that. If he wanted to suggest I attend anger management, he should have done so in a private session, which he just concluded. He waited though to make this inference in public. Again, that is a set-up. This is to make me look like I am a stark raving angry person who is unfit to teach in a classroom in this college, therefore undermining my accusations and my arguments about the corruption of this college. That is what this is all about.

You are trying to undermine my credibility in my profession amongst my peers, and any outside agency that will come in here and look into this, and they will, believe me. You're trying to undermine my credibility on this campus by making me look like an angry person. I'm not angry, I'm outraged. If you are not outraged here you are not paying attention. I will never, never abate my outrage. There is a difference between outrage and anger – one is positive, the other is negative. As my Chair will testify, despite my outrage, despite what I have been through, I am just as passionate and hard working in my classroom today as was when I first took this job. I believed the pie in the sky about what it would mean to be in a community college where I didn't have to suffer from the petty vendettas in the dog eat dog world of the UC which I started out in.

Ralph Jensen asked:

Dr. Finkenthal, do you have anything to add? (Dr. Finkenthal stated that he would like to really ask the Board to allow people that came here to speak to this issue. It seems to me the Board is trying to control the amount or limit the people, from what I heard, that can speak. I know a lot of people are really concerned about this issue. I think that everybody that wants to speak should be allowed to speak.)

So, are you finished then? (Finkenthal replied that he was finished.)

We will move on then to public comments.

The following persons addressed the Board regarding Dr. Finkenthal's behavior and/or the charges against him: Becky McCluskey, Barbara Kelber, Takashi Nakajima, Leslie Briggs, Katie Townsend-Merino, Monika Brannick, Mark Radovanovic, Shannon Lienhart, Lubov Krasheninnikova, Colene Hicken, Gene Jackson, Pam McDonough, Timothy Toth, Bill Bedford, and Darren Cooper.

Dr. Nelson asked Dr. Nakajima:

Is there not a distinction between a standing committee such as the curriculum committee that meets weekly or at certain times throughout the semester or year and a hiring committee that meets for shorter periods of time or a one time appearance before the planning committee? Do you not, in your Senate and your faculty, make a distinction between those two? (Professor Nakajima said no. Our department found out there was a big issue, problem for the college and so our department decided to support him and the class would be covered by substitution. He will be missing the last two hours of labs. Usually the first hour will be instructive and then the other part the students do the assignments. There are less-qualified instructors who could do this.)

I'm not disputing that or that there was coverage. It has been my experience in other institutions, however, that standing committees, when people plan on serving on those committees throughout a semester or an entire year, they plan their schedule in accordance with that. Just like you plan your schedule and you know you are going to serve on a curriculum committee, you know that TERB meets at a certain time and plan your schedule around it. That's all.

On behalf of the PFF, Rocco Versaci made the following statement:

As you are now aware, the state of California Public Employee Relations Board (PERB) has been considering a number of unfair labor charges made by Daniel Finkenthal against the District. The role of PERB is to examine these charges and decide whether or not they merit further action. On April 29, 2004, PERB made a decision about Dr. Finkenthal's unfair labor claims: their Office of General Counsel

issued a complaint against the District on behalf of Dr. Finkenthal for various incidents. One of these charges is that threats of disciplinary action made by Dean Rourke against Dr. Finkenthal on or about May 10, 2002, and June 14, 2002, constitute an unfair labor practice. Another of these charges is that a letter of reprimand issued by Dr. Miyamoto to Dr. Finkenthal similarly constitutes an unfair labor practice. I don't disagree with Ms. Hudson that this is not a ruling; the evidence is going to be heard before an Administrative Law Judge. These incidents are certainly tied to the justification for this notice, just as Dr. Nelson was trying to point out a pattern earlier, if in fact these are unfair labor practices, they too would constitute a kind of pattern of action against Dr. Finkenthal. So I would just advise that I think it would be much more prudent to wait until that Administrative Hearing takes place before you move on this action. Because if you do move on this action, and it is later found that those did constitute unfair labor practices, you're exposing the District with a great deal of legal liability.

Also, according to Dr. Amador's letter, the Notice is partially based on the letter of reprimand written by Dr. Rourke and placed in Dr. Finkenthal's file on February 10, 2004. As a reminder, this letter involves missed paperwork deadlines for an evaluation report that was already completed and turned in to the TERB office at the time the reprimand was made. On Monday, in fact, the Faculty Senate passed a resolution stating that the missed deadlines cited in the aforementioned letter of reprimand, as well as Dr. Finkenthal's attendance at the TERB meetings are a direct result of inconsistencies in the current policy and procedures, and that is what Katie Townsend Merino talked about, so I'm not going to repeat that here.

As to the matter in the TERB office, the PFF wants to emphasize that if someone feels threatened by another's words or manner, then that is a serious matter. We do not wish to downplay what Colleen Hicken felt that day, and we take her reactions and perceptions very seriously. But a Notice of Unprofessional Conduct and the termination process that this Notice sets in motion, because it does do that. This is different than a letter of reprimand. Letters of reprimand do not come before the Board – this is one step in a process that could culminate in termination. It is not the way to resolve this situation. Such a notice is unwarranted, and it will achieve nothing to diffuse any conflict that exists. Because this is a situation that involves faculty and classified staff, then I believe it is our responsibility and obligation to work together and resolve it. Becky McClusky talked about an ongoing incident now and this is being resolved in a collegial manner in informal resolution meetings. As PFF Co-President representing full-time faculty, I wish to state right now and on the record that if you will dispense with this matter, I will make it my number one priority to sit down with all of the witnesses who were there at the TERB office, as well as anyone else that Mrs. Hicken is comfortable with and try and achieve some kind of resolution on this matter—a collegial resolution – a resolution that will bring the parties together instead of driving the wedge of conflict deeper.

In sum, please understand that voting to approve this Notice could place the District at greater legal risk, which is good news for the lawyers but bad news for those of us who are professionally and emotionally invested in Palomar College. The PFF counts its members among this latter group, and I hope that you members of the Governing Board do as well. In addition, approving this Notice could also deepen—rather than resolve—conflict between and within employee groups when other, more collegial alternatives for resolution exist. Please allow faculty and classified staff to pursue those alternatives rather than go to a Notice of Unprofessional Conduct.

Mr. McMullen asked Rocco Versaci:

You made a statement regarding this is a more grievous matter because it has come before the Board. You made a statement like that? (Mr. Versaci responded yes.)

That was at his request. I think your assumption and everybody's assumption is that the Board doesn't act upon other notices of unprofessional conduct that goes to people's files that none of you know about, and you won't know about it. That's the point. (Mr. Versaci remarked that a letter of reprimand goes into a file and then the person has a chance to respond to it. You don't know anything about a letter of reprimand. They are just issued. For a notice of unprofessional conduct the Governing Board needs to approve that and send it out. That's why I meant that it's coming before you, so it is a more serious matter than a letter of reprimand.)

Ok, but coming before the Board is a separate issue than the letter coming to us as a Board.

Mr. Jensen continued:

Will the President please again address the Board regarding her recommendation to send Dr. Finkenthal a Notice of Unprofessional Conduct based on the complaints which I have summarized?

Dr. Amador again stated:

The recommendation to give a Notice of Unprofessional Conduct to Dr. Daniel Finkenthal is not about academic freedom, first amendment rights, teaching ability, the Tenure and Evaluation Review Board, hiring committees, individual faculty member's evaluations, the dental assisting program, a dental hygiene program, union activities, or reprisals for being an activist, or anything to do with Dr. Finkenthal's personal beliefs.

The recommendation to give a Notice of Unprofessional Conduct to Dr. Finkenthal does have to do with

- whether classified employees and administrators must tolerate rude and unprofessional behavior by faculty,
- whether faculty have the right to unilaterally cancel and/or not meet their scheduled classes for the purpose of attending regularly scheduled committee meetings, and
- whether faculty must follow reasonable requests and directives of their supervisors.

Mr. Jensen asked if the Board members had any other questions.

Nancy Chadwick made the following statement:

I believe that for the most part this discussion has been rationale and to the point. I regret that many people wanted to escalate the rhetoric instead of de-escalating. I think there are some compelling issues here, and I must say that Barbara Kelber and her very well written statement outlined for the most part what they are. Apparently there was academic due process denied at least three times. It should not have happened once. I can't imagine that this campus with this distinguished history and the character of this community would see this as anything but shameful. I believe that we have violated academic due process after I have read all this and I have listened to all this. And I think that Ms. Kelber's statements about how this should have had initiated a due process and an academic due process. It's where we need to be. I would hope that my colleagues and this community would find the character and the integrity to do the right thing, and that is to at least refer this to the academic

due process. We can't let this happen a fourth time. And we have had several offers tonight to at least facilitate that process. I think unless we do that, we are on a path of escalation that will end up being additional lawsuits, and one lawsuit more is too destructive to this campus. We must preserve a basic tenet in the academic world. The academy has always had academic due process. I would urge again careful consideration of a path that will take us to de-escalation and to return to our integrity and the character of this campus and everybody in this community. I hope we do this. Thank you.

Michele Nelson made the following statement:

Mr. Chair, I have some thoughts too. We have obviously raised very serious issues that need to be investigated. However, there is a pattern of behavior that Dr. Finkenthal has shown that is of grave concern to me. I feel that he is absolutely out-of-bounds in the way he is relating to people, the way he has attempted to solve problems. I do not take exception at all of his obviously great teaching – it's great. I saw that years ago when he first came before us. I respect his dedication to students. However, there are processes and procedures for working out certain issues. The fact that you cancelled a class, a fully enrolled class of 59 students, is not acceptable. The fact that you have verbally assaulted and attempted to intimidate not just one classified person, but other people. And, you've done it in writing. The fact that you have taken ... I am telling you why I am going to vote as I will. Attempting to use your personal leave which is absolutely inappropriate to attend a committee meeting. And the fact that you stood before us and addressed confidential issues about hiring is all evidence of your out-of-boundness. It is inappropriate. I hope that this warning is taken seriously. I do not ever intend to see you up before us again for anything like it.

Mr. Evilsizer made the following statement:

Mr. Chair I've got some comments as well. How did we get here? In trying to answer that question I have to refer back to Board policy. In going through our Board policies, we have some very wise things written to help us govern this institution. And certainly one of those is ethics and expectations. Board Policy 1.3 states that the Governing Board recognizes that the District is a model community, an agency to establish and present highly ethical and compassionate behaviors for the community to look up to and emulate. Do we want the community to look up to this and emulate this? We therefore strive to uphold three central values: respect for each other, the district, and its culture; responsibility for ourselves, our work, and our studies; and honesty towards all members of the District's community. I agree with Trustee Chadwick that there is a breakdown in process and procedure here. That's why we find ourselves where we are tonight. I think that if we follow this Board policy on academic due process, which clearly spells out four steps on how to handle grievances, how to resolve conflict, how to deal with difficult personnel issues – its all here and we didn't follow it. We did not follow our Board policy. And I am appalled, not angry, Maybe I need some anger management too, but I find it very unsettling that this District would not honor our Board policy and not follow it. And that anyone would be denied academic due process is very appalling. And as a result, I cannot vote for any disciplinary action at this stage until we get back to following Board policy in this District.

DDD. SEND NOTICE OF UNPROFESSIONAL CONDUCT

MSC McMullen, Jensen

1. The Governing Board hereby approves the sending of a Notice of Unprofessional Conduct, pursuant to Education Code Section 87734, to Dr. Daniel Finkenthal.

The Vote: 3 Aye, 2 No (Chadwick, Evilsizer)

E. REPORT OF THE GOVERNING BOARD PRESIDENT

Mr. Jensen reported that he had attended the President's Concert on Saturday evening. Once again, the performing arts department blew me away. Also, I would like to look into whether or not the Upward Bound program could serve the All Tribes American Indian Charter School, because it sounds like just the ticket for us.

F. REPORTS OF THE GOVERNING BOARD MEMBERS

Dr. Nelson reported that the Faculty Tea was wonderful. She requested from Barbara Kelber a copy of the poem she read. It was wonderful to celebrate the faculty. The Wine and Dine event last Saturday night was very successful and very student focused. The art in the centerpieces were provided by the art department and their contributions raised the awareness of what a wonderful program we have here. I would like to commend Extended Studies on their Venture catalog and the College for Kids they have implemented this year.

Mr. Evilsizer reported that he served on the executive board of the non-profit organization, Encuentros Leadership. Encuentros is a non-profit group to assist North County Latino boys in Junior High School and High School to succeed with their educations. First of all, attend school. And secondly, help them identify who they are, where they are going, and how to get there. We had a meeting with Joe Madrigal, Lynda Halttunen, Calvin One Deer Gavin, and Robert Reeves, the president of the Encuentros, on Monday, April 19. Hopefully, we will have an event scheduled here sometime soon to help in their endeavor.

Mr. Evilsizer reported that he attended the California Community College Trustees Conference. This was held on the weekend of April 30-May 2 up in Long Beach. There were some very interesting facts tossed about at the conference along with a number of terrific workshops. Jerry (Patton) gave two workshops to this group as well. But some of the things I walked from are worth sharing. The cost of educating a student in the community college system in California is \$9,000, and that comes out of the Chancellor's office. We are funded at \$3,600. There is a very strong effort and endorsement taking place to maintain the equalization funding – it is still at \$59.8 million for the State. It was interesting, Mr. Flores stated in a study he did in the Chancellor's office that under-funded districts have the highest percentage of students of color, which was a very interesting statistic. COLA looks like its going to hang in there. The number they were tossing about at the conference was 2.41%, about \$25 million additional. Growth will be maintained at 3%, 33,000 full time equivalent students throughout the system. Non-credit growth looks about \$4 million. This will be disbursed to those districts who do not receive equalization money. The tax increases in 2004-05 appear to be unlikely, but perhaps in 2005-06 there is some tax increases – that's one of the predictions made. However, the state general fund growth will continue at 4.5% annually over the next decade. That is provided the stock market can bring higher dividends to people. Unfortunately, health education costs will exceed 4%-5% annually, so we are not really gaining any ground there. Prop 98, there should be \$4 billion in growth this year and that isn't going to happen. The trend, however, is that K-12 enrollment growth is slowing. It is forecast that it will be declining in the years 2008-09, which means there is more momentum for community colleges. There is also talk, maybe Jerry can shed some light on this later on, on a new funding formula that may be achieved. There is an overhaul being talked about on how community colleges are funded.

Mr. Evilsizer reported that the Faculty Appreciation Tea was well attended. It was great to recognize the faculty for their efforts and it was nice to see all the academic papers and photos and things that were published. I was also able to attend a town hall meeting hosted by Senator

DeeDee Alpert last Friday. Senator Kristine Kehoe was there as well. It was really designed to discuss the budget cuts and the impact to higher education. There is a lot of pain throughout the whole system – UC, CSU, and the other community colleges as well. There are legislatures trying to get their arms around that issue to try to find ways to plug some of the holes.

Mr. Evilsizer reported that yesterday he was able to attend the GEAR-UP and Upward Bound luncheon in San Marcos, recognizing those wonderful programs that are funded through grants.

Ms. Chadwick reported that she has been very busy. I went to the Business Industry reception and Wilma Owens should be absolutely recognized for all the wonderful things that is going on there. Those businesses and commercial operations that support this institution in so many ways are there because of the hard work Wilma Owens has done – outstanding job. The second thing was the SDICCA meeting. As you know, this is an important meeting for us because it is a way for us to lobby through our strongest groups those issues that community colleges are doing right now for equalization and the budget. There is much to be done. You're doing a wonderful job; just keep it up because that is so important. When you email the Governor's office or legislators, let them know this is an issue. I heard today the Governor has settled the budget for UC and CSU but not the community colleges yet so you can still get up there and let them know how you feel. I was also at the Faculty Appreciation Tea. It was marvelous. It would have been nice to have had more people there and I was especially happy that the 2003 faculty were included as well. Our faculty are a huge resource that we highly appreciate. I was also at the Wine and Dine. These events are for all of us, many of us from the campus community are there. We have lots of big supporters in our community and they really do provide a lot of support for us that ordinarily we would not have. Finally, I did attend the GEAR-UP luncheon and it is an extraordinary example of what can happen when you have dedicated people like Calvin One Deer that really put their heart and soul in developing these programs from the ground up. They make so much difference. They now have a spread of these programs beginning in grade school, through the middle and the high school that culminate in having these students very familiar with, and ready to attend, and feeling good about themselves in an academic setting.

Mr. McMullen reported that he went to four of the events already mentioned, so you kind of stole my thunder. I loved your poem – that was fabulous. It set the tone for the event. It think it was actually called the Faculty Appreciation and Professional Achievement Tea. Of course you gave out the milestone awards – five year increments from 5 up to 35 years. It is that dedication that makes Palomar College great and fabulous.

G. REPORT OF THE SUPERINTENDENT/PRESIDENT

1. Report of Vice President for Instruction

a. Report on Materials Fees Procedures – Report was postponed to June 8 due to the lateness of the hour.

b. Bravura

Dr. Rocco Versaci, the advisor for *Bravura*, introduced two students, Jack Mawhinney and Jenn Dugan, who distributed the latest publication of *Bravura*, and invited the Board members to the 40th anniversary celebration of the publication of *Bravura*, on May 17 in the Howard Brubeck Theatre.

c. Radio and TV Classes

Ms. Cuaron reported that she had the opportunity to visit Radio/TV 240 television news class this spring semester. She invited Assistant Professor Pat Hahn to share what the students are doing in that class. Mr. Hahn stated that students produce a weekly half-hour television show shown on Cox and Adelphia that goes out to 275,000 viewers. He reported that Radio and TV students had won

numerous awards at the largest film festival in America, including best drama and comedy films in their category. MTV is producing a new television show in California, where they will follow a student film crew and they chose Palomar College.

Mr. Hahn showed a brief videotape made by students.

2. Report of Vice President for Student Services

- a. Report on Student Representation Fees – Report postponed to June 8 due to the lateness of the hour.

3. Report of Vice President for Finance and Administrative Services

- a. Police Department Award

Jerry Patton reported that the Palomar College Police Department had received a plaque for the 2003 Special Recognition Award from Mothers Against Drunk Drivers, San Diego Chapter.

4. Report of Vice President for Human Resource Services

- a. Report on Salaries of CEOs of Comparable Colleges

Jack Miyamoto distributed a copy of the list of salaries of CEOs of comparable and neighboring colleges. The Board agreed that this would be useful in negotiating with a new Superintendent/President. **Exhibit G-4-a**

Dr. Amador reported that the Emergency Medical Technician program received their initial accreditation through April, 2007. May 19 is Honors Night at the San Marcos Civic Center and Commencement is on May 21.

C O N S E N T C A L E N D A R
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H. CONSENT CALENDAR

BUSINESS SERVICES

1. **REVIEW AND APPROVE PURCHASES MADE FOR PRIOR SIXTY DAYS**

MSC Chadwick, McMullen

The Governing Board hereby reviews and approves the following **purchase transactions and contracts** entered into on behalf of the Palomar Community College District. All of the following purchases are made against the 2003-2004 fiscal year budget:

Re-Encumbered				
FY 2003 PO's	0400030	through	0400031	\$ 6,286.58
Purchase Orders	0440494	through	0440557	\$ 497,357.95
Travel	0450097	through	0450103	\$ 2,678.31
Advertising/Increases	0460073	through	0460086	\$ 63,987.10
Employment Ads	0465017	through	0465020	\$ 1,703.86
Agreement/Services	0470481	through	0470544	\$ 302,303.90
Repairs	0475106	through	0475125	\$ 8,966.39

Agreement/Annual	0480167	through	0480167	\$	898.00
TOTAL				\$	<u>884,182.09</u>

The Vote was unanimous.
 Student Trustee Advisory Vote: Aye

COMMUNITY DEVELOPMENT

2. APPROVE NEW COMMUNITY DEVELOPMENT CLASSES, AGREEMENTS, AND PERSONNEL

MSC Chadwick, McMullen

The Governing Board hereby approves the following **new classes, agreements, and personnel** for providing **Community Development classes**.

Summer, 2004

- a. **Presenter:** Sherry Shoemaker
Name of Class: Oriental Medicine – The Key to Health and Immunity
Effective: June 30, 2004
Instructor Rate: 30% of fees collected
Fee to Student: \$45.00 + \$5 materials fee
Terms: Minimum/maximum 10/30
- b. **Presenter:** Mark Lane
Name of Class: Backyard Astronomy
Effective: July 9, 2004 - July 30, 2004
Instructor Rate: \$41.27 per hour
Fee to Student: \$65.00
Terms: Minimum/maximum 15/60
- c. **Presenter:** Russ Parmenter
Name of Class: Martial Arts Biannual Competition
Effective: June 5, 2004 – June 6, 2004
Instructor Rate: None
Fee to Student: \$30.00 per event entered
Terms: Minimum/maximum 200/600
- d. **Presenter:** Terry Rowen
Name of Class: Beginning Medical Insurance Billing I
Effective: August 14, 2004
Instructor Rate: 40% of fees collected
Fee to Student: \$89.00
Terms: Minimum/maximum 10/60
- e. **Presenter:** Terry Rowen

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- Name of Class:** Beginning Medical Insurance Billing II
Effective: August 15, 2004
Instructor Rate: 40% of fees collected
Fee to Student: \$72.00
Terms: Minimum/maximum 10/60
- f. **Presenter:** Terry Rowen
Name of Class: Computerized Medical Insurance Billing
Effective: August 14, 2004
Instructor Rate: 40% of fees collected
Fee to Student: \$40.00
Terms: Minimum/maximum 10/60
- g. **Presenter:** Terry Rowen
Name of Class: How to Start Your Home Medical Insurance Billing Business
Effective: August 15, 2004
Instructor Rate: 40% of fees collected
Fee to Student: \$52.00
Terms: Minimum/maximum 10/60
- h. **Presenter:** JoEllen Handelsman
Name of Class: Belly Dancing
Effective: July 10, 2004 – August 14, 2004
Instructor Rate: 30% of fees collected
Fees to Student: \$74.00
Terms: Minimum/maximum 10/50
- i. **Presenter:** Tricia Robleto
Name of Class: Make Easy Money Participating in Product Focus Groups
Effective: August 7, 2004
Instructor Rate: 30% of fees collected
Fees to Student: \$39.00
Terms: Minimum/maximum 10/40
- j. **Presenter:** Doug O'Connor
Name of Class: Massage for Couples Class
Effective: June 19, 2004
Instructor Rate: 35% of fees collected
Fees to Student: \$55.00
Terms: Minimum/maximum 20/40
- k. **Presenter:** Tania Bullard-Balay
Name of Class: The Art and Science of Aromatherapy
Effective: June 26, 2004 – June 27, 2004
Instructor Rate: 30% of fees collected
Fees to Student: \$59.00
Terms: Minimum/maximum 6/20
- l. **Presenter:** Clark Moffat
Name of Class: 10 Ways for Retirees to Cut Taxes and Make \$\$ Last
Effective: June 22, 2004
Instructor Rate: **No charge from Instructor**

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|----|-------------------------|--|
| | Fees to Student: | \$29.00 |
| | Terms: | Minimum/maximum 10/50 |
| m. | Presenter: | David Cook |
| | Name of Class: | How to Build Your Dream Home for a Song |
| | Effective: | July 15, 2004 |
| | Instructor Rate: | 30% |
| | Fees to Student: | \$49.00 |
| | Terms: | Minimum/maximum 10/50 |
| n. | Presenter: | Michele Armstrong |
| | Name of Class: | Children's Theater – "Tom Sawyer" Production |
| | Effective: | June 16, 2004 – August 4, 2004 |
| | Instructor Rate: | 50% |
| | Fees to Student: | \$150.00 |
| | Terms: | Minimum/maximum 25/60 |
| o. | Presenter: | Professional Educators |
| | Name of Class: | College For Kids Program |
| | Effective: | July 5, 2004 – August 13, 2004 |
| | Instructor Rate: | \$28 per hour |
| | Fees to Student: | \$120.00 per camp program |
| | Terms: | Minimum/maximum 10/25 |

The Vote was unanimous.
Student Trustee Advisory Vote: Aye

FISCAL SERVICES

3. APPROVE REVOLVING CASH EXPENDITURES

MSC Chadwick, McMullen

The Governing Board hereby approves the **Revolving Cash Expenditures** for the month of April, 2004, as indicated on **Exhibit H-3**.

The Vote was unanimous.
Student Trustee Advisory Vote: Aye

4. APPROVE QUARTERLY FINANCIAL STATUS REPORT

MSC Chadwick, McMullen

The Governing Board hereby approves the **California Community Colleges Quarterly Financial Status Report (CCFS-311Q)** for quarter ending March 31, 2004. **Exhibit H-4**

The Vote was unanimous.
Student Trustee Advisory Vote: Aye

5. APPROVE INTRABUDGET TRANSFER AT FISCAL YEAR END

MSC Chadwick, McMullen

The Governing Board hereby authorizes the Vice President for Finance and Administrative Services to make such **transfers** between the **undistributed reserve** and **any expenditure classification** of the budget of the District for the Fiscal Year 2003-

2004 as are necessary to permit the payment of obligations of the District incurred during the fiscal year. **Exhibit H-5**

The Vote was unanimous.
Student Trustee Advisory Vote: Aye

6. APPROVE QUARTERLY REPORT OF CFO REGARDING DISCLOSURE OF DISTRICT INVESTMENTS

MSC Chadwick, McMullen

The Governing Board hereby approves the **Quarterly Report of Chief Financial Officer Regarding Disclosure of District Investments** as of March 31, 2004. **Exhibit H-6**

The Vote was unanimous.
Student Trustee Advisory Vote: Aye

PERSONNEL

7. RATIFY LEAVES OF ABSENCE

MSC Chadwick, McMullen

- a. The Governing Board hereby ratifies the recommendation of the Superintendent/President granting a **100% Personal Leave of Absence without pay and with no effect on benefits**, effective August 1, 2004, through May 31, 2005, to **Alexis K. Ciurczak**, Librarian, Library/Media Center. Ms. Ciurczak has been awarded a Fulbright Scholarship.
- b. The Governing Board hereby ratifies the recommendation of the Superintendent/President granting a **100% Personal Leave of Absence without pay and with no effect on benefits**, effective May 20, 2004, through June 11, 2004, to **Megan M. Schwerdtfeger**, Counseling Support Specialist, Counseling Department.
- c. The Governing Board hereby ratifies the recommendation of the Superintendent/President granting a **20% Personal Leave of Absence without pay and with no effect on benefits**, effective June 4, 2004, through August 13, 2004, to **Christie L. Bundy**, Staff Assistant, Library/Media Center.

The Vote was unanimous.
Student Trustee Advisory Vote: Aye

8. RATIFY NEW ACADEMIC POSITION

MSC Chadwick, McMullen

The Governing Board hereby ratifies the recommendation of the Superintendent/President regarding the approval of the following **new academic position**:

- a. Position: **Assistant Professor, Psychology**
Department: Behavioral Sciences
Division: Social & Behavioral Sciences
Position #: 5393 New?: Yes
% of Position: 100% # Mos: 10
Effective: May 12, 2004

Account #: A-111000-363500-20010-0000000/100%

The Vote was unanimous.
Student Trustee Advisory Vote: Aye

9. RATIFY CLASSIFIED RECLASSIFICATIONS

MSC Chadwick, McMullen

The Governing Board hereby ratifies the recommendation of the Superintendent/President regarding the **reclassification** of the following classified positions:

- a. Position: **Staff Assistant**
Department: Student Affairs
Name: Marilyn Lunde
Position #: 5487 New?: No
Remarks: Position was Administrative Secretary, Grade 19
Effective: May 1, 2004
% of Position: 100% # Mos: 12
Sal Grade/Stp: **23/13** Salary: **\$3,794.86/month**
Account #: A-212200-451100-64910-0000000/100%

- b. Position: **Student Activities Coordinator**
Name: Vacant
Department: Student Affairs
Position #: 5704 New?: No
Remarks: Replacement for Cuong (Chris) Nguyen. Position reclassified from PIC/ BOGW Program Coordinator, Range 20. Funded PIC and Student Activity fees.
Sal Grade/Stp: **25/1** Salary: **\$3,016.01/month**
% of Position: 100% # Mos.: 12
Effective: May 12, 2004
Account #: A-212200-451100-64910-0811520/80%
A-212200-451100-64910-1812600/20%

The Vote was unanimous.
Student Trustee Advisory Vote: Aye

10. APPROVE PERSONNEL ACTIONS/ HISTORY

MSC Chadwick, McMullen

The Governing Board hereby approves the **Personnel Actions/History** report, which includes hires and pay rate changes for **student employees** for the month of **April, 2004, and short-term employees** for the month of **May, 2004. Exhibit H-10**

The Vote was unanimous.
Student Trustee Advisory Vote: Aye

11. RATIFY ACADEMIC EMPLOYMENT

MSC Chadwick, McMullen

The Governing Board hereby ratifies the recommendation of the Superintendent/President regarding the **employment** of the following **academic employees**:

a. Name: **KATHLEEN N. YOUNG**
Degree: B.A., Philosophy and Political Science
M.A., Psychology - Clinical
Ph.D., Psychology
Position: Assistant Professor, Psychology
Department: Behavioral Sciences
Position #: 5392 New?: No
Remarks: Replacement for Mark Vernoy
Sal Grade/Step: **G/1** Salary: **\$4,827.44/month**
% of Position: 100% # of Mos: 10
Effective: August 20, 2004
Account #(s): A-111000-363500-20010-0000000/100%

b. Name: **FREDRIC E. ROSE**
Degree: B.A., Psychology
M.A., Psychology
Ph.D., Psychology
Position: Assistant Professor, Psychology
Department: Behavioral Sciences
Position #: 5393 New?: Yes
Remarks: Position approved 5/11/04
Sal Grade/Step: **G/1** Salary: **\$4,827.44/month**
% of Position: 100% # of Mos: 10
Effective: August 20, 2004
Account #(s): A-111000-363500-20010-0000000/100%

c. Name: **MARTIN M. JAPTOK**
Degree: M.A., American Studies
Ph.D., English
Position: Assistant Professor, English
Department: English
Position #: 5107 New?: No
Remarks: Replacement for William Salomone
Sal Grade/Step: **G/1** Salary: **\$4,827.44/month**
% of Position: 100% # of Mos: 10
Effective: August 20, 2004
Account #(s): A-111000-324200-15010-0000000/100%

The Vote was unanimous.
Student Trustee Advisory Vote: Aye

12. RATIFY RESIGNATIONS

MSC Chadwick, McMullen

The Governing Board hereby ratifies the recommendation of the Superintendent/President granting the **resignation** of the following employees:

- a. **ELOISA CASTRO**, Supervisor, Employment Services, Human Resource Services, effective May 5, 2004 (last day of employment May 4, 2004).
- b. **KIELY KEANE-ALT**, Manager, Fiscal Operations, Fiscal Services, effective May

6, 2004 (last day of employment May 5, 2004).

- c. **LISA M. JOHNSON**, Administrative Secretary, Public Safety Programs, effective May 29, 2004 (last day of employment May 28, 2004).

The Vote was unanimous.
Student Trustee Advisory Vote: Aye

13. RATIFY STIPEND FOR DESIGNATED BILINGUAL INTERPRETER

MSC Chadwick, McMullen

The Governing Board hereby ratifies the recommendation of the Superintendent/President granting the bilingual **stipend** for the following employee who is a designated **bilingual interpreter**:

ANGELINA E. ARZATE, Financial Aid Advisor, Financial Aid and Scholarships, effective May 1, 2004.

The Vote was unanimous.
Student Trustee Advisory Vote: Aye

14. RATIFY CLASSIFIED EMPLOYMENT

MSC Chadwick, McMullen

The Governing Board hereby ratifies the recommendation of the Superintendent/President regarding the **employment** of the following **classified employees**:

- a. Name: **CHRIS H. LANG**
Position: Law Enforcement Training Supervisor
Department: Public Safety Programs
Position #: 5742 New?: No
Remarks: Replacement for Jason Blacklock; position is in the Confidential and Supervisory Team.
Sal Grade/Stp: **50/1** Salary: **\$3,977.40/month**
% of Position: 100% # of Mos: 12
Effective: April 26, 2004
Account #(s): A-123400-336100-60100-0000000/100%
- b. Name: **PATRICIA C. FRADY**
Position: Systems Module Functional Specialist
Department: Fiscal Services
Position #: 6132 New?: No
Remarks: Replacement for Susan Doran; promotion for Ms. Frady.
Sal Grade/Stp: **39/1** Salary: **\$4,243.78/month**
% of Position: 100% # of Mos: 12
Effective: April 19, 2004
Account #(s): A-212200-551100-67200-0000000/100%
- c. Name: **KAREN L. BOGUTA**
Position: Community Service Officer
Department: Palomar College Police Department
Position #: 6195 New?: No
Remarks: Replacement for David Santos; funded – Parking Lot Fees.

Sal Grade/Step:	11/1	Salary:	\$2,142.73/month
% of Position:	100%	# of Mos:	12
Effective:	May 12, 2004		
Account #(s):	K-212200-543100-69500-1812070/100%		

The Vote was unanimous.
Student Trustee Advisory Vote: Aye

15. GRANT EQUIVALENCY FOR DISCIPLINE

MSC Chadwick, McMullen

Upon the recommendation of the Faculty Senate Equivalency Committee, the Governing Board hereby grants the following individuals **equivalency to minimum qualifications** for the disciplines listed:

Eloise Sesler – Cabinet and Furniture Technology
Cynthia Ovard – Dental Assisting
Erin McInerny – Emergency Medical Education

The Vote was unanimous.
Student Trustee Advisory Vote: Aye

16. RATIFY PART-TIME FACULTY EMPLOYMENT

MSC Chadwick, McMullen

The Governing Board hereby ratifies the recommendation of the Superintendent/President regarding the **employment of the following part-time faculty**, at the rates indicated for Summer and Fall, 2004 (day and/or evening); said part-time faculty are not scheduled to teach more than a 60-percent load in a single semester:

SUMMER, 2004

BUSINESS EDUCATION

McMahon, Thomas	Real Estate B.A., Business (Finance) 2+ Years Experience	\$37.01
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EMERGENCY MEDICAL EDUCATION

McInerny, Erin	Emergency Medical Education Coursework and 6+ Years Experience as Emergency Medical Technician	\$37.01
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MULTICULTURAL STUDIES

Sawyer, Marcia	Multicultural Studies B.A., History M.A., History Ph.D., History	\$40.71
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FALL, 2004

COOPERATIVE EDUCATION

Nott, Sheryl	Cooperative Education A.B., Home Economics	\$38.24
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	M.A., Education	
DENTAL ASSISTING		
Ovard, Cynthia	Dental Assisting Coursework and 6+ Years Experience in Dental Assisting Discipline	\$37.01
EARTH SCIENCES		
Lindsay, David	Geography B.A., History M.A., Geography	\$38.24
Selkin, Peter	Oceanography B.A., Geology Ph.D., Earth Sciences	\$40.71
PERFORMING ARTS		
Shaffer, David	Music B.A., History M.M., Music: Performance	\$39.47
TRADES & INDUSTRY		
Kessel, Edward	Automotive Technology B.S., Mechanized Agriculture 2+ Years Experience	\$37.01
Sesler, Eloise	Cabinet and Furniture Technology Eminence in Furniture Making, Design, And Finishing	\$37.01

The Vote was unanimous.
Student Trustee Advisory Vote: Aye

17. This item was covered earlier in the meeting.

Resumption of REGULAR AGENDA

I. ACTION ON ITEMS REMOVED FROM CONSENT CALENDAR

There were no items removed from the Consent Calendar.

J. REPORTS FROM COLLEGE GROUPS

1. INFORMATION

Report of the Faculty Senate

Katie Merino reported that she is happy to be here tonight in her new role as Faculty Senate President. She announced that the new vice president is Marilee Nebelsick-Tagg, the secretary continues to be Bonnie Dowd, and the past-president designee is Sherry Gordon. Additionally, last week we elected or confirmed Bonnie Dowd as our Academic Technology coordinator and Lori Waite as our Professional Development Coordinator. I should also report to you that we have the coordinators for the Learning

Outcomes Council, and those members will be Barbara Kelber, Theresa Laughlin, Brent Gowen, Deborah Paes de Barros, and Larry Roberts. Yesterday, the Senate ratified the work of our curriculum committee in regards to the Administration of Justice courses and the revisions they are working for on the role, responsibilities, and duties of curriculum committee. I want to thank Steve Spear and Sara Thompson for their leadership last year, particularly in helping the Senate develop a positive working relationship with PFF. I feel that we have a lot of faculty members working together. And finally, what I would like to see in the fall is for those of us in leadership positions of our different constituent groups, from Administrative Association, Classified, CAST, PFF, that if we could have lunch together once a month on a Friday afternoon and get to know each other as people, I think that for me personally, when I know someone as a person I work better with them. And we need to work through the difficult issues because you also find out for the most part that most of us have more shared interests in the future of Palomar College than we have differences. Not to suggest that differences don't exist, but I think that getting to know each other personally really helps. So, expect to get an email from me on that.

2. **INFORMATION**

Report of the Palomar Faculty Federation

Julie Ivey stated that the District has and continues to spend many hours and tens of thousands of dollars attempting to fire a respected faculty member who had the audacity to reveal corruption in the faculty evaluation process and was most importantly, telling his students to become knowledgeable, critically-thinking citizens, and will continue to do so. At last week's mediation session between the Faculty and the District teams, the District once again (unintelligible) the process through some sort of compromise can happen by doing nothing. I'm told that three years of the first faculty contract marks almost a record in obstructivism, but at least the state mediator has cleared the way for a new District team and administration to settle the contract before the entire negotiating team gets retired and age. For faculty waiting for their first contract, Palomar's 850 part time instructors who teach over 50%, over half, of Palomar's students on a notoriously unequal conditions, faculty who have been living off state vapors for decades are denied a small but significant sum of dedicated state funds that can start us on a path towards equity and, most importantly, help retain highly qualified educators. Although I do have to say, we've had a meeting of the adjunct office committee and we are thankful that at least we are getting that. The question we should be asking is how does constantly throwing boulders at faculty and as we heard tonight, denied due process, help the students we teach and the educational process? There will always be differences of opinion between management and employees, but it should not have to be up to the employees to teach the (unintelligible) of an institution charged with educating adult age students. Delivering quality in education has to remain Palomar's chief priority. The PFF calls upon the new administration to work with faculty and classified staff towards healing what amounts to be several continued attacks on the educational process, attacks which the District should have learned by now will only continue to make us stronger.

Jack Miyamoto responded:

"The District's interest is truly to settle the contract as is the PFF's. I know you have heard it a hundred times, but truly that is our interest. On April 7, we had a mediation session and the District presented the PFF a comprehensive settlement package. At that time, obviously the PFF needed time to work through that and respond to that. May 7, last Friday, we had another mediation session, in which we might expect a response from PFF on that proposal. We received nothing. What we did receive

from the mediator as a counter was an email that Dave Forsythe had sent to his PFF team, indicating some placement for some part time faculty and overload faculty, a proposal on how they would be placed on the salary schedule, along with a new adjunct and overload salary schedule. Which was fine. But our position continues to be that we need to try to get the settlement on the total package, not just little bits at a time. And so we asked the mediator to go back and respond to the PFF that this was our decision. So, it is not that we did nothing, it's that from our vantage point, when we gave them a package proposal on April 7, we expected they would respond in kind with questions or some types of dialogue, and they did respond to that one piece of information that we needed to model because PFF didn't model it in terms of cost. So they gave us a proposal and we need to look at it to see what that cost is. I wanted to give you another perspective of that – it's not our position that we sit there and do nothing, it is a position in which certainly we feel that PFF needs to respond to our proposal at this point in time.

3. **INFORMATION**

Report of The Faculty

Barbara Kelber stated that she wanted to use a minute to invite everyone to join her in keeping in mind the Marines at Camp Pendleton who are serving in Iraq. I just want to mention them because, of course in the difficult month of April, while our difficulties preoccupied and distracted us, the Marines fighting out of Camp Pendleton in and around Fallujah particularly took some heavy losses. They are men and women of our District. I want to mention them and honor them by mentioning them, and all our students, past and present, who have served our nation in the armed forces. On behalf of the Faculty, and I think all the rest of us, I want to call them into our attention tonight. On behalf of the Faculty we are working toward the end of the semester. There are finals, finishing up research and essays, all these kinds of things that we do and do passionately. The constitutional changes are pending. In the faculty constitution the Senate worked very hard this year to try to resolve some issues, made some changes, and I hope those changes will be approved by the faculty. We won't know until after those ballots are turned in on the 17th. I have had some extensive dialogue with our fine police force. I appreciate the time they have taken to follow-up on the situation surrounding Professor O'Dougherty. I want to make one more report relating to that to let you know what constructive things have come of that. Not only my dialogue with those seven sworn officers and now we have a total of ten, which was very informative to me. Also, we've made a plan to have a day honoring diversity. This was under the leadership of Jerry Patton, and working in conjunction with Bruce Bishop. We will have a day to celebrate diversity in the fall semester. We will also form a committee that will be a faculty and police partnership to deal with biased related incidents or incidents of hate speech. I think all of those things will make a big difference, hopefully in the future. I also want to finally thank Dr. Amador and her office, particularly Barbara Baldrige and Cheryl Ashour for a beautiful Faculty Appreciation Tea. Thank you very much for that.

4. **INFORMATION**

Report of the Administrative Association – There was no report.

5. **INFORMATION**

Report of the Confidential and Supervisory Team – There was no report.

6. **INFORMATION**

Report of the CCE/AFT – There was no report.

7. **INFORMATION**

Report of the Associated Student Government

Amador Soto introduced Paul Charas, the newly elected ASG President and Student Trustee. He will still be around because he is on the Presidential Search Committee. He stated it was nice working with everyone and that he learned a lot.

K. **COMMENTS FROM OTHER INDIVIDUALS OR GROUPS**

The following persons addressed the Board on the following subjects:

1. Sara Thompson – Presented a petition to the Governing Board in support of the Tenure and Evaluation Board, Procedures, and the current TERB Coordinator, Anne Voth.
2. Reno Frigo – The necessity of distributing equity money.
3. Roy Latas – Requesting the release of part-time equity funds.

Mr. Evilsizer asked:

Mr. Patton, are we endangering those funds by not releasing them? With the contract with the state and a two-year window, could the state recall those unused funds? Mr. Patton replied that it is not his understanding of their procedure. What the Chancellor's office does insist on is an agreement on parity before releasing.

Jack Miyamoto reminded the Board that in December, 2003, at the same time we put on the table the child development proposal, we had a proposal for part time salaries not contingent upon any other part of that contract that was on the table to negotiate. And so, we have put a proposal on the table in the past that separated anything and only dealt with part time faculty salaries and those issues.

L. **UNFINISHED BUSINESS** – There was none.

M. **NEW BUSINESS**

1. **APPROVE PROPOSED NEW POLICY – BP 6310 – RISK MANAGEMENT**

MSC McMullen, Chadwick

The Governing Board hereby approves the following **new policy**:

**BP 6310
Risk Management**

The Board is committed to the establishment of a risk management program that is consistent with all legal requirements for community colleges. The primary concern of such a program shall be the safety and health of students, faculty, staff, and the public and the protection of District property and assets. In order to ensure that the District is conducting its operations as safely and efficiently as possible, the Board authorizes the Superintendent/President or designee to develop and maintain a risk management program that includes identification, prevention, mitigation, and assumption or transfer of risks through appropriate agreements, purchase of insurance, pooling with other

agencies or other risk financing practices. The ultimate goal shall be successful implementation of safety and loss prevention/control practices and the maintenance of adequate insurance programs. An annual report on the program shall be presented to the Board.

The Vote was unanimous.
Student Trustee Advisory Vote: Aye

2. APPROVE PROPOSED NEW POLICY – BP 6810 – ILLNESS/INJURY PREVENTION

MSC Chadwick, Nelson

The Governing Board hereby approves the following **new policy**:

**BP 6810
Illness/Injury Prevention**

Pursuant to the Labor Code and California General Industry Orders, the Board of Trustees recognizes the necessity of an injury/illness prevention program. No employee shall be required to work under unsafe or hazardous conditions or to perform tasks that endanger their health or safety. The District shall make every reasonable effort to ensure that working conditions and equipment are maintained in compliance with federal, state, and local laws and regulations.

The Board expects all employees to use safe work practices and to report and correct any unsafe conditions that may occur. The Superintendent/President shall name a manager to serve as the safety officer for the District. The safety officer shall be responsible for maintaining implementation procedures for this policy in accordance with federal, state, and local laws. These procedures shall include the development of safe and healthy work practices through education, training, and enforcement.
Labor Code Section 6401.7; Cal-OSHA Safety Orders Section 3203

The Vote was unanimous.
Student Trustee Advisory Vote: Aye

3. APPROVE PROPOSED NEW POLICY - BP 5030.6 – FEE EXEMPTION FOR INTERNATIONAL STUDENTS

MSC Nelson, Chadwick

The Governing Board hereby approves the following **new policy**:

**BP 5030.6
Fee Exemption for International Students**

Palomar College shall charge a nonresident capital outlay fee and an application processing fee to citizens and residents of a foreign country per Education Code 76141 and 76142. A student who demonstrates economic hardship is exempt from the capital outlay fee and the application processing fee. The exemption is authorized, on a per semester basis, when a student meets the eligibility criteria for benefits under the Aid to Families of Dependent Children program, the Supplemental Income/State Supplementary Program, or a general assistance program.

The Vote was unanimous.
Student Trustee Advisory Vote: Aye

4. EXCUSE ABSENCE OF MEMBER DUE TO ILLNESS

MSC McMullen, Chadwick

In accordance with Section 72425(c) of the California Education Code, the Governing Board hereby finds that the **absence of Amador Soto** from the Special Governing Board Meeting held April 27, 2004, is **excused** due to illness.

The Vote was unanimous.
Student Trustee Advisory Vote: Abstain

5. EXCUSE ABSENCE OF MEMBER DUE TO PERSONAL BUSINESS

MSC Chadwick, Nelson

In accordance with Section 72425(c) of the California Education Code, the Governing Board hereby finds that the **absence of Darrell L. McMullen** from the Special Governing Board Meeting held April 27, 2004, is **excused** due to personal business out of state.

The Vote: 4 Aye, 1 Abstain (McMullen)
Student Trustee Advisory Vote: Aye

6. APPROVE RESOLUTION OF APPRECIATION TO STUDENT TRUSTEE

MSC Chadwick, Nelson

RESOLUTION 04-20786

BE IT RESOLVED, That the members of the Governing Board of the Palomar Community College District do hereby express their **sincere appreciation to AMADOR SOTO**, who has served as President of the Associated Student Government and Student Trustee from May 27, 2003, through May 11, 2004, and who, throughout his tenure in office, has rendered outstanding service and provided responsible leadership, and who, as a result, has accomplished a great deal for the betterment of the students at Palomar College.

The Vote was unanimous.
Student Trustee Advisory Vote: Aye

7. REAFFIRM ELECTION PROCEDURES - IN EVENT OF TIE VOTE, DETERMINE GOVERNING BOARD MEMBER ELECTION WINNER OR WINNERS BY LOT; CANDIDATES TO PAY ALL CHARGES; AND 200-WORD MAXIMUM ON CANDIDATE'S STATEMENT

MSC Chadwick, Nelson

The Governing Board hereby declares that for the purposes of the November 2, 2004, regular Governing Board member elections, the Palomar Community College District has established the following **election regulations**:

Tie Vote Procedures (Education Code Section 5016, BP 9.4)

Winner(s) determined by lot
 Runoff election to be called

Costs of Candidate's Statement (Elections Code Section 13307, BP 9.3)

Candidate to pay all charges
 District will pay charges

200-word maximum
 400-word maximum (WILL DOUBLE THE COST)

The Vote was unanimous.
Student Trustee Advisory Vote: Aye

8. APPROVE ATTENDANCE ALLOWANCE REQUEST BECAUSE OF EMERGENCY CONDITIONS

MSC Chadwick, Nelson

The Governing Board hereby approves the **Attendance Allowance Request Because of Emergency Conditions**, pursuant to California Code of Regulations, Title 5, Section 58146, for the period of **October 27 through November 1, 2003, due to the San Diego wildfires necessitating a closure of the campus because of unsafe air quality conditions.**

The Vote was unanimous.
Student Trustee Advisory Vote: Aye

9. AUTHORIZATION FOR THE SOLICITATION OF BIDS FOR THE HIGH TECHNOLOGY LABORATORY/CLASSROOM BUILDING

MSC Chadwick, McMullen

The Governing Board hereby authorizes the Office of Contract Services to publish a notice calling for **bids** pursuant to California Education Code Section 81641 for construction of the **High Technology Laboratory/Classroom Building** in accordance with approved plans and specifications. **Exhibit M-9**

The Vote was unanimous.
Student Trustee Advisory Vote: Aye

10. REVIEW AND APPROVE CONTRACTS AND AGREEMENTS MADE FOR PRIOR SIXTY (60) DAYS

MSC Chadwick, McMullen

The Governing Board hereby ratifies and approves all **contracts and agreements** for the period **March 1, 2004, through April 30, 2004**, and entered into on behalf of the Palomar Community College District, as detailed on **Exhibit M-10**.

The Vote was unanimous.
Student Trustee Advisory Vote: Aye

11. REJECT ALL BIDS FOR TELEPHONE MAINTENANCE CONTRACT AND AUTHORIZE SOLICITATION OF REQUEST FOR PROPOSALS FOR TELEPHONE MAINTENANCE CONTRACT

MSC Chadwick, Nelson

The Governing Board hereby rejects all **bids** that were **submitted on April 22, 2004**, at the 2:00 p.m. bid opening as **non-responsive** as detailed in the attached memorandum, identified as **Exhibit M-11** and authorizes the office of Contract Services to **publish a notice calling for proposals** pursuant to Education Code Section 81645.

The Vote was unanimous.

Student Trustee Advisory Vote: Aye

12. **APPROVE FIELD COURSE TO YELLOWSTONE NATIONAL PARK FOR SUMMER, 2004**

MSC McMullen, Chadwick

The Governing Board hereby approves the Palomar Community College District's 2004 **field course to Yellowstone National Park**. The courses listed below shall be offered during the field course. Students may enroll in one of the following courses: (a) Biology 195A, Field Studies in Natural History 3 units; (b) Biology 195B, Field Studies in Ecology 3 units; (c) Biology 45A, Field Studies in Natural History 3 units; (d) Biology 114L Ecosystem Biology Laboratory 2 units; (e) Biology 295, Directed Study in Life Science 2 units.

All agreements and contracts necessary to carry out this summer field course to Yellowstone National Park are hereby authorized between the Palomar Community College District and the following vendors: (a) Xanterra Int'l (AMFAC Parks & Resorts); (b) National Park Service; (c) Dorman's Moose Enterprise; (d) Leisure Sports; (e) Grand Teton Lodge Company; (f) Triangle X Ranch. Advance deposits as may be required by these vendors are hereby authorized. The estimated cost per student is \$720.00 depending on lodging options and availability. Fee includes lodging and activities. Student must provide own means of transportation and meals. **Exhibit M-12**

The Vote was unanimous.

Student Trustee Advisory Vote: Aye

13. **APPROVE AGREEMENT FOR COMMUNITY COLLEGE DISTRICTS MEDIA COLLECTION AND SERVICES**

MSC Chadwick, Nelson

The Palomar Community College District hereby approves the **Agreement for Community College Districts Media Collection and Services** implemented through the San Diego County Superintendent of Schools and the San Diego and Imperial Counties Community Colleges Association for establishing a system for sharing information services and maintaining a single collection of their individually owned educational media in a common depository accessible to all parties of this agreement. **Exhibit M-13**

The Vote was unanimous.

Student Trustee Advisory Vote: Aye

14. **APPROVE CHANGE OF NAME ON TAX- SHELTERED ANNUITY PROVIDER**

MSC Chadwick, Nelson

The Governing Board hereby approves an **amended tax-sheltered annuity** agreement changing the name of the annuity provider from **CGU Life Insurance Company of America** (CGU Life) to **Aviva Life Insurance Company** (Aviva). The Governing Board authorizes the Vice President for Finance and Administrative Services to execute all documents required to carry out this action, effective March 24, 2004.

The Vote was unanimous.

Student Trustee Advisory Vote: Aye

15. APPROVE AGREEMENT WITH JOINT POWERS AUTHORITY (JPA) FOR MEMBERSHIP IN THE PROTECTED INSURANCE PROGRAM FOR SCHOOLS

MSC McMullen, Chadwick

RESOLUTION 04-20787

WHEREAS, California school and college districts have determined there is a need for affordable workers' compensation coverage by combining their respective efforts to establish, operate, and maintain a Joint Power Agency for workers' compensation coverages; and

WHEREAS, Title I, Division 7, Chapter 5, Article I (Section 6500 et seq.) of the Government Code of the State of California authorizes joint exercise by two or more public agencies of any power common to them;

NOW, THEREFORE, BE IT RESOLVED That the Trustees of the Palomar Community College District declare its membership in the Protected Insurance Program for Schools and instruct its duly authorized agent to execute on behalf of the Palomar Community College District the attached Joint Powers Agreement and appoints Kenneth Jay and Nancy Horio as its official representatives to the Protected Insurance Program for Schools JPA.

PASSED AND ADOPTED by the Governing Board of the Palomar Community College District this 11th day of May, 2004, by the following vote:

AYES: 5
NOES: 0
ABSENT: 0

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO)

I, Sherrill L. Amador, Secretary to the Governing Board, do hereby certify that the foregoing is a full, true, and correct copy of a resolution adopted by the Governing Board at a regularly called and conducted meeting held on said date.

Secretary to the Governing Board **Exhibit M-15**

The Vote was unanimous.
Student Trustee Advisory Vote: Aye

16. APPROVE 2004-05 CHILD DEVELOPMENT AGREEMENT CONTRACT NUMBER: FCAP-3223, TODDLER CHILD CARE RESOURCE PROGRAM; ACCEPT FUNDING FROM CALIFORNIA DEPARTMENT OF EDUCATION; AND AUTHORIZE DESIGNATED PERSONNEL TO SIGN CONTRACT

MSC Chadwick, Nelson

The Governing Board hereby approves **Child Development Services agreement**, Contract Number: FCAP-3223, between the California Department of Education and the Palomar Community College District, effective April 1, 2004, through June 30, 2005, and **accepts funding in the amount of \$3,291.00** for support of the **Toddler Child Care Resources Program** on the San Marcos campus.

The Governing Board hereby authorizes, Jerry R. Patton, Vice President for Finance and Administrative Services, and Ken Jay, Director of Business Services to sign contract documents of the California Department of Education – Child Development Services.

Exhibit M-16

The Vote was unanimous.
Student Trustee Advisory Vote: Aye

17. APPROVE RESOLUTION REQUESTING TEMPORARY TRANSFER OF FUNDS

MSC McMullen, Soto

RESOLUTION 04-20788

WHEREAS, the California Constitution, Article XVI, Section 6, and Education Code Section 85220 provide that the Treasurer of the County shall have the power and it shall be his duty to make such temporary transfer from the funds in his custody as may be necessary to provide funds for meeting the obligations incurred for maintenance purposes by any district whose funds are in his custody and are paid out solely through his office; such temporary transfer of funds shall be made only upon resolution adopted by the governing board of the County to make such temporary transfer; such temporary transfer of funds shall not exceed 85% of taxes accruing to the district, shall not be made prior to the first day of the fiscal year nor after the last Monday in April of the current fiscal year, and shall be replaced from the taxes accruing to such district before any other obligation of the district is met from such taxes; and

WHEREAS, on June 08, 2004, the Governing Board will:

[XXX] Adopt a tentative budget

[] Adopt its final budget

for this district for the fiscal year 2004-2005 pursuant to the provisions of the Education Code Sections 85000 et seq., and taxes accruing to the district for said fiscal year are estimated to be \$38,127,600 and 85% of said taxes is \$32,408,460; and

WHEREAS, taxes accrued to this district during the 2003-2004 fiscal year are projected to be \$37,380,000; and

WHEREAS, it is necessary to provide funds for meeting the obligations incurred for maintenance purposes by this district; and

NOW, THEREFORE, IT IS RESOLVED AND ORDERED pursuant to the provisions of the California Constitution, Article XVI, Section 6, and Education Code Section 85220 as follows:

1. The Board of Supervisors of the County of San Diego is requested to direct the Treasurer of the County of San Diego to make a temporary transfer from the funds in his custody to this district during the 2004-2005 fiscal year to meet obligations incurred for maintenance purposes in the amount of:
 - (a) \$ 5,509,438 for the period from July 1 until August 31 not to exceed 17% of the authorized limit.
 - (b) \$32,408,460 after August 31 but not to exceed a total of 85% of taxes accruing to the district. This amount represents the total available

temporary transfer approved by the governing board for the 2004-2005 fiscal year inclusive of the 17% shown in (a) above.

- 2. If directed by the Board of Supervisors, funds will be transferred to this district by the Treasurer of the County of San Diego in sums as requested by the District Superintendent and certified by him/her to be necessary to provide funds for meeting the obligations incurred for maintenance purposes by the district not to exceed the maximum amount herein specified, provided the Treasurer determines that funds in his custody are available for such transfers.
- 3. The Clerk/Secretary of this Board is directed to file a copy of this resolution with the Board of Supervisors, the County Superintendent of Schools, the County Auditor and Controller and the County Treasurer-Tax Collector.

PASSED AND ADOPTED by the Governing Board of the Palomar Community College District, County of San Diego, State of California, this 11th day of May, 2004, by the following vote:

AYES: 5
 NOES: 0
 ABSENT: 0

STATE OF CALIFORNIA)
 COUNTY OF SAN DIEGO)

I, Nancy C. Chadwick, Clerk/Secretary of the Governing Board of the Palomar Community College District, County of San Diego, State of California, do hereby certify that the foregoing is a true copy of a resolution adopted by said Board at a meeting thereof, at the time and by the vote therein stated, which original resolution is on file in the office of said Board.

_____ Date

_____ Secretary of the Governing Board

Exhibit M-17

The Vote was unanimous.
Student Trustee Advisory Vote: Aye

18. APPROVE RESOLUTION IN SUPPORT OF EQUALIZATION FUNDING FOR CALIFORNIA'S COMMUNITY COLLEGE STUDENTS

MSC Chadwick, McMullen

RESOLUTION 04-20789

WHEREAS, on a dollar per student basis, there is great disparity in funding among California's community college districts; and

WHEREAS, the highest-funded district receives more than \$8,000 per full-time-equivalent student and the lowest-funded districts receive less than \$3,600, and

WHEREAS, the difference between the 15 highest-funded districts and the 15 lowest-funded districts has been more than \$1,200 per student continuously; and

WHEREAS, when there are more state funds available to the community college system, higher-funded districts receive proportionately more and lower-funded districts receive proportionately less; and, conversely, when state funds are cut, higher-funded districts

receive a smaller cut per student and lower-funded districts receive a larger cut per student, making the disparity in funding even worse, and

WHEREAS, the lack of equitable state funding means that students in lower-funded districts have significantly less access to classes, tutors, full-time instructors, lab technicians, math and writing center assistance, basic skills classes, adequately maintained facilities, instructional materials, current technology, technical programs, counselors and other support staff for an increasingly diverse student population; and

WHEREAS all of California's community college districts are required to comply with the same state mandates, paying the same rates to PERS, STRS, and Workers Compensation; but the resources to comply with these and other state requirements vary widely district by district; and

WHEREAS, funding all community college programs and services on a per-student basis would reduce the disparity in funding, increase equal access to education and boost the potential for student success throughout the state; and

WHEREAS, the Governor's budget proposal would assist more than 75% of the state's community colleges and 85-90% of the state's community college students;

NOW, THEREFORE, BE IT RESOLVED That the Governing Board of the Palomar Community College District supports the Governor's proposal to fund equalization and:

- urges enactment of SB 1875 (Alpert) to begin the process of equitable funding, and
- commits to actively advocate on behalf of comparable funding for ALL of the state's community college students on a per-student basis.

Passed and adopted by the Governing Board of the Palomar Community College District, in San Diego County.

The Vote was unanimous.

Student Trustee Advisory Vote: Aye

19. APPROVE AGENDA ITEMS FOR CONSIDERATION AT NEXT MEETING

The Governing Board hereby approves the following agenda items for consideration at the next meeting:

Mr. Evilsizer requested a discussion of the summary of legal costs which the Board has received and the Board's policy in legal matters. Mr. Patton responded that all legal cases are discussed in closed session. Ms. Chadwick would like to know about all investigations before legal action may be taken. She would like to know the processes that are taken by the College. Mr. Patton responded that Ken Jay brings those claims to the Board every time we receive a notice.

Ms. Chadwick would like to look at our health sciences program, especially as it relates to our nursing education program and the fact that we did not respond to a grant from Palomar Pomerado Hospital District which was subsequently given to CSUSM.

N. CLOSED SESSION

Mr. Jensen stated that he would report out from Closed Session in the Governing Board Room. The Board recessed at 10:55 p.m. and went into Closed Session at 11:00 p.m., to discuss:

1. Public Employee Discipline/Dismissal/Release, pursuant to Government Code 54957.6.
2. Conference regarding negotiations with CCE/AFT, pursuant to Government Code Section 54957.6.

3. Conference regarding negotiations with PFF/AFT, pursuant to Government Code 54957.6.
4. Conference regarding discussion with Other Unrepresented Employees, pursuant to Government Code 54957.6.

Closed Session ended at 11:32 p.m.

O. RECONVENE TO OPEN SESSION

The meeting reconvened at 11:35 p.m. in the Governing Board Room. There was no reportable action taken during Closed Session.

P. ADJOURNMENT

The meeting was adjourned at 11:35 p.m.

President

Secretary