

**General Institution**  
**DRAFT as of 1/7/09**

## **AP 3100 ORGANIZATIONAL STRUCTURE**

**References:**

Education Code Section 72400;  
Title 5 Section 53200

The District's current organizational charts are included in the Palomar College Governance and Administrative Handbook posted on the District's website.

Office of Primary Responsibility: Office of the Superintendent/President

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**NOTE:** This procedure is **legally advised**. The **red ink** is language recommended by the Community College League and legal counsel (Liebert Cassidy Whitmore). The **green ink** reflects language recommended by Institutional Research and Planning. The information in **blue ink** is language to consider including.

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**Date Approved:**

*(This is a new procedure recommended by the CC League and the League's legal counsel)*

## **AP 3200 ACCREDITATION**

### **References:**

- [Accreditation Eligibility Requirement 20;](#)
- [Accreditation Standard IV.B.1.i](#)

In accordance with the standards of the Accrediting Commission for Community and Junior Colleges, the District shall conduct a comprehensive self study every six years and host a visit by an accreditation team. The District shall prepare and submit mandatory midterm reports as required by the Accrediting Commission in the third year of each six-year cycle. Further, the District shall prepare and submit progress reports and annual reports as required the by the Accrediting Commission.

District employees responsible for the functions related to the accreditation standards shall be involved in the self study and team visit. The process for producing the written document that is the Comprehensive Self Study shall include:

- A Self Study Chair or Chairs, appointed by the Superintendent/President in accordance with campus procedures. If the Chair is a faculty member, the appointment shall be made jointly by the Faculty Senate and Superintendent/President
- Accreditation Liaison Officer, appointed by the Superintendent/President
- Active, campus-wide constituency participation inclusive of administrators, faculty, classified and supervisory staff, and students and
- An Accreditation Steering Committee

When the Self Study is completed, the Governing Board shall review and approve it prior to submission to the Accrediting Commission a minimum of 45 days prior to the team visit.

The District recognizes that the process of accreditation is an ongoing and continuous effort of planning, review, and improvement. To this end, the District shall establish a governance committee, titled the Accreditation Steering Committee. The Accreditation Steering Committee shall report to the District's principle governance committee, the Strategic Planning Council and provide the overall planning, guidance, response, and preparation for the comprehensive Self Study, mid-term report, and other report requirements from the Accrediting Commission. The Accreditation Steering Committee shall make recommendations on any issues related to accreditation throughout the six-year cycle. The Committee shall maintain currency with accreditation standards and procedures, including attending accreditation workshops. The Committee shall communicate and distribute information related to accreditation standards and procedures. The Committee shall meet regularly and as necessary throughout the year.

Offices of Primary Responsibility: Instructional Services  
Institutional Research and Planning  
Office of the Superintendent/President

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**NOTE:** The **red ink** is language recommended by the Community College League and legal counsel (Liebert Cassidy Whitmore). The **green ink** reflects language recommended by Institutional Research and Planning. The information in **blue ink** is additional language to consider including in this procedure. This procedure is **legally required**.

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**Date Approved:**

*(This is a new procedure recommended by the CCLC and the League's legal counsel)*

**General Institution**  
**DRAFT as of 1/7/09**

## **AP 3250 INSTITUTIONAL PLANNING**

### **References:**

[Title 5 Sections 51008, 51010, 51027, 53003, 54220, 55080, 55190, 55510, and 56270 et seq.;](#)  
[Accreditation Standard I.B](#)

The District's Institutional Planning processes shall be broad-based, comprehensive, systematic, and integrated into all aspects of decision making, including resource allocation decisions.

As the principle participatory governance and planning body of the District, the Strategic Planning Council shall guide the development and implementation of the District's systematic planning system. As appropriate, the Strategic Planning Council and/or other planning councils shall develop, implement, and update all District plans, including but not limited to those required by law such as the District's:

- [Long-range Educational and Facilities Master Plan](#)
- [Faculty and Staff Diversity Plan](#)
- [Student Equity Plan](#)
- [Matriculation Plan](#)
- [Transfer Center Plan](#)
- [Cooperative Work Experience Plan](#)
- [EOPS Plan](#)

As part of the planning system, the Strategic Planning Council shall develop and implement a Strategic Plan. The Strategic Plan shall include statements of the District's vision, mission, and values. The Strategic Plan shall document institution-wide goals and objectives. To develop the Strategic Plan, the Planning Council shall review the results of internal and external scans which provide information regarding the environment in which the District operates and measures of institutional effectiveness. Once developed, the Strategic Planning Council shall guide and monitor the implementation of the Strategic Plan. As part of the planning system, the Strategic Planning Council and other planning councils shall annually review and discuss measures of institutional effectiveness, including the District's accountability metrics established by the state.

In addition to the Strategic Plan, the District's planning councils (Instructional Planning Council, Student Services Planning Council, Finance and Administrative Services Planning Council, and Human Resource Services Planning Council) shall guide the development and implementation of program planning and review cycles. These cycles shall include a review of program effectiveness and the development of program plans. The District's planning councils shall use completed program planning and review

documents in their decision-making processes, including recommendations for resource allocations.

Office of Primary Responsibility: [Institutional Research and Planning](#)

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**NOTE:** The **red ink** signifies **legally required** language recommended from the Community College League and legal counsel (Liebert Cassidy Whitmore). The **green ink** reflects language recommended by Institutional Research and Planning. The information in **blue ink** is additional language to consider including in this procedure.

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**Date Approved:**

*(This is a new procedure recommended by the CCLC and the League's legal counsel)*

**General Institution**  
**DRAFT as of 1/9/09**

**AP 3280 GRANTS**

**Reference:**

[Education Code Section 70902](#)

Grants provide additional funds for academic programs, student support services, and administrative operations. Grants directly support the mission, goals, and objectives of the District as contained in current planning documents such as the Strategic Plan.

Applications for grants will be made with state, federal, and private agencies when the content of these applications extends the resources available to the District in support of the purposes and long-range plans of the District, its divisions or departments. Funds sought may be utilized for staffing needs, equipment, materials, in-service education, travel, research and development, facilities, instructional innovations, financial aid, or other provisions as authorized in the grant.

The Superintendent/President or designee shall create, maintain, and communicate procedures for the preparation, submission, and implementation of all applications for grant funding. Grant applications which require matching funds will be submitted insofar as matching funds are identified and available within the budgeted resources of the District for the duration of the grant award.

All new, continuing, or renewing grant applications will be scrutinized by the appropriate Vice President(s) and require approval of the Superintendent/President and the Board of Trustees. When notification of a grant award is received, the appropriate Vice President(s) shall prepare an agenda item for the Governing Board requesting acceptance of funding. Once awarded, the responsible Vice President(s) shall ensure that appropriate staff are assigned to manage and monitor the grant.

**❖ From current Palomar College Procedure 311 titled Instructional Grants**

~~Projects which may be considered for an Instructional Grant include:~~

- ~~• Development of an innovative course of study for which prior approval has been received through normal channels.~~
- ~~• Major revisions to an existing course of study which may include extensive use of instructor-prepared programmed materials by the student in the Learning Resource Center or a laboratory.~~
- ~~• Development of instructional or curricular procedure changes which result in more efficient operations, such as changes in preparing Curriculum Committee agenda, minutes, and catalog updates.~~

~~Applications for Instructional Grant are available in each Dean's office and in the Office of Instruction.~~

Office of Primary Responsibility: [Office of the Superintendent/President](#)

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**NOTE:** This procedure is **suggested as good practice**. The **red ink** is language recommended by the Community College League and legal counsel (Liebert Cassidy Whitmore). The language in **black ink** is current Palomar College Procedure 311 titled Instructional Grants with no date. The **green ink** reflects language recommended by Institutional Research and Planning. The **blue ink** is suggested language.

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**Date Approved:**

*(Replaces current Palomar College Procedure 311)*

**AP 3500 CAMPUS SAFETY**

**References:**

Education Code Sections 212, 67380, and 87014;  
Penal Code Section 245;  
Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act of 1998 (20 U.S. Code Section 1092(f))  
20 U.S. Code Sections 1232(g) and 1292(f);  
34 Code of Federal Regulations Section 668.46;  
34 Code of Federal Regulations Sections 99.31(a)(13) and (14);  
Campus Security Act of 1990

A Campus Safety Plan shall be developed and is provided to students as part of the Annual Security Report published by the Palomar College Police Department by October 1<sup>st</sup> of each year. This report is also available online at [www.palomar.edu/police](http://www.palomar.edu/police)

In addition, the Chief of the Palomar College Police Department or designee will prepare and annually update the campus safety and security report of all Clery Act reportable crimes. A copy of this report will be submitted to the Governing Board.

Written records of non-criminal acts of hate violence shall include at least a description of the act of hate violence, the victim characteristics, and offender characteristics, if known.

**Note:** Education Code Section 67380 defines “hate violence” as: “any act of intimidation or physical harassment, physical force or physical violence, or the threat of physical force or physical violence, that is directed against any person or group of persons or the property of any person or group of persons because of the ethnicity, race, national origin, sex, sexual orientation, disability, or political or religious beliefs of that person or group.” Section 67380 requires reporting of both occurrences reported to campus police or safety authorities of and arrests for crimes that involve hate violence (Section 67380(a)(1)(A)) and of “non-criminal acts of hate violence” (Education Code Section 67380(a)(1)(B)).

**Definitions**

**Prevention activities** increase awareness and minimize the potential for crisis in the workplace. Training is essential for all staff to learn how to recognize early warning signs, so that appropriate intervention can be provided for identified areas of conflict in the workplace.

**Crisis or conflict** constitutes any inappropriate or unreasonable disruption that interferes with the normal functioning of your work.

**Acts of violence** include any physical action, whether intentional or reckless, that harms or threatens the safety of self, another individual, or property.

**A threat of violence** includes any behavior that by its very nature could be interpreted by a reasonable person as intent to cause physical harm to self, another individual, or property.

**Workplace** includes off-campus locations as well as District-sponsored activities where faculty, staff, or student employees are engaged in District business or locations where incidents occur as a result of the person's relationship to the District community.

### **Crisis and Conflict Intervention**

Any employee experiencing an unsafe work condition should immediately contact his/her supervisor or the **Human Resource Services**. The supervisor shall immediately notify the **Human Resource Services** about any acts or threats of violence. The employee will be provided consultation regarding resources available to resolve the unsafe work condition. (See AP 3510 titled **Workplace Violence Plan**)

It is the responsibility of all employees to immediately report threats, acts of violence, or any other behavior which deliberately hurts or harms another person in the District to their immediate supervisor and the **Palomar College Police Department**. Such reports will be promptly and thoroughly investigated.

### **Employee Crisis Assistance Team**

An Employee Crisis Assistance Team is established to provide regular training and advice to individuals and departments. Training activities may include, but not be limited to, skill development in conflict resolution, communication, anger management, and early identification of unsafe working conditions in the workplace.

Team advising activities may include individual consultations, peer mediation, conflict resolution services, and referral to outside sources.

Immediately upon notification of an act of violence or threat of violence involving an employee, the team member notified will initiate Employee Crisis Assistance Team procedures as stated below.

In the event of an act or threat of violence, the team will investigate the incident and forward the results of the completed investigation to the **Human Resource Services** for consideration. Law enforcement will take appropriate action if the incident involves injuries or criminal activity.

The team will coordinate available resources to provide intervention, consultation, or referral which may include arranging for counselors to work with victims and observers of the incident.

### **Restraining Orders/Court Orders**

An employee shall notify law enforcement of any restraining orders/court orders when named as a plaintiff and provide a copy of the order to the **Palomar College Police**

Department. In the event the supervisor is informed by an employee of a restraining order, the supervisor will contact the Palomar College Police Department to ensure they are aware of it and that they have a copy of the restraining order on file.

❖ **From current Palomar College Procedure 465 titled Emergency Messages to Students**

~~Student messages will be handled in the following manner: Messages will be delivered to students in classrooms **only in health and safety emergencies**. Upon receipt of a valid emergency phone call, the Campus Police will dispatch a member of Campus Police to locate the student concerned and deliver the message. Please provide your family members, friends, and child care providers with your complete class schedule and classroom numbers so you can be contacted quickly if an emergency should arise.~~

~~Campus Police shall note:~~

- ~~A. the emergency;~~
- ~~B. the time of the call; and~~
- ~~C. the time Campus Police picks up the message to be delivered.~~

~~The caller will be contacted only if the student was not in the classroom. The time frame established to deliver an emergency message to a student is 30 minutes. This time begins once Campus Police has determined the location of the student, and the officer is dispatched to locate the student.~~

~~In the event that Campus Police cannot locate a student, the caller shall be notified of this situation (within the 30-minute time frame).~~

Rev. PAC 3/21/00

❖ **From current Palomar College AP 40 titled Regulations Controlling Use of Coasters, Roller Blades, Skateboards, and Similar Devices on District Property (#00-20256)**

1. For purpose of applying this Regulation procedure, the term “roller device” shall mean roller skates, roller blades, skateboards, coasters, toy vehicles, or any similar device upon which a person may be propelled.
2. For purposes of applying this Regulation procedure, the term “motorized device” shall include motorized bicycles, motorized scooters, “all terrain vehicles” (ATVs) unlicensed for use on the public streets, unlicensed “go-carts,” unlicensed motorcycles, mopeds, and motorized scooters, or any similar motorized device not licensed to operate upon the public streets, excepting there from motorized wheel chairs and motorized carriers when in use by handicapped individuals.
3. For purposes of applying this Policy procedure, the term “District property” shall mean all property owned by the Palomar Community College District, leased by the District, and rented by the District, including parking lots, driveways, roadways, sidewalks, walkways, structures, including classrooms and non-classroom, and all improvements thereon.

4. No person shall use a roller device and/or a motorized device upon any District property.
5. No person shall use a roller device and/or a motorized device upon any District Property in such a manner as to interfere with the lawful use thereof by motor vehicles or pedestrians.
6. No person shall use a roller device and/or a motorized device upon District property that is open to the public for commercial purposes, provided that such property is posted indicating that such use is prohibited by this ~~Policy~~ procedure.
7. No person shall use a roller device and/or a motorized device upon or within any drainage channel, ditch, culvert or other improved storm water control system that is situated, in whole or in part, upon District property.

Any person whose conduct is alleged to be a violation of this ~~Policy~~ procedure shall be cited for a violation hereof and shall be liable for sanction as follows:

- A. ~~For the violation hereof,~~ A violation of this procedure shall constitute a fine ~~in the amount of \$30.00,~~ and in addition to the fine, the repeat offender may receive up to 40 hours of community service.
- B. For a second and subsequent violation hereof, and in addition to the fine imposed by ~~“B”~~ “A” above, the forfeiture of the roller device and/or the motorized device to the District, to be sold at public auction to the highest bidder.
- C. In the case of Palomar student violators, and in addition to the sanctions set forth above, and in cases of persistent violations, referral to the Director of Student Affairs for alleged violation of the Code of Student Conduct.
- D. ~~A violation of this Regulation shall constitute an “infraction” under the law and shall be charged as such in the citation.~~

Office of Primary Responsibility: Facilities Office  
Human Resource Services  
Palomar College Police Department  
Student Affairs

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**NOTE:** The **red ink** signifies **legally required** language recommended from the Community College League and legal counsel (Liebert Cassidy Whitmore). The information in **blue ink** is additional language to consider including in this procedure. The language in **black ink** is current Palomar College Procedure 465 titled Emergency Messages to Students dated 3/21/00 and Palomar College AP 40 titled Regulations Controlling Use of Coasters, Roller Blades, Skateboards, and Similar Devices on District Property (#00-20256) with no date. The language in **green ink** was recommended by the Palomar College Police Department.

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**Date Approved:**  
(Replaces current Palomar College  
Procedures 40 and 465)

## **AP 3510 WORKPLACE VIOLENCE PLAN**

### **References:**

Cal/OSHA – Labor Code Sections 6300 et seq.;  
Title 8 Section 3203;  
Code of Civil Procedure Section 527.8;  
Penal Code Sections 273.6, 422, 626.9, 626.10, and 12021

### **Responding to Threats of Violence**

The top priority in this process is effectively handling critical workplace incidents, especially those dealing with actual or potential violence.

Violence or the threat of violence against or by any employee of the District or any other person is unacceptable.

Should a non-employee on District property demonstrate or threaten violent behavior, he/she may be subject to criminal prosecution.

Should an employee, during working hours, demonstrate or threaten violent behavior he/she may be subject to disciplinary action, and/or criminal prosecution.

The following actions are considered violent acts:

Striking, punching, slapping, or assaulting another person

Fighting or challenging another person to fight

Grabbing, pinching, or touching another person in an unwanted way whether sexually or otherwise

Engaging in dangerous, threatening, or unwanted horseplay

Possession, use, or threat of use, of a firearm, knife, explosive, or other dangerous object, including but not limited to any facsimile firearm, knife, or explosive, on District property, including parking lots, other exterior premises, District vehicles, or while engaged in activities for the District in other locations, unless such possession or use is a requirement of the job

Threatening harm or harming another person, or any other action or conduct that implies the threat of bodily harm

Bringing or possessing any dirk, dagger, ice pick, or knife having a fixed blade longer than 2½ inches upon the grounds, unless the person is authorized to possess such a weapon in the course of his or her employment, has been authorized by a District employee to have the knife, or is a duly appointed peace officer who is engaged in the performance of his or her duties

Any employee who is the victim of any violent threatening or harassing conduct, any witness to such conduct, or anyone receiving a report of such conduct, whether the

perpetrator is a District employee or a non-employee, shall immediately report the incident to his/her supervisor or other appropriate person. The Palomar College Human Resource Services Office and the Palomar College Police Department should also be notified.

No one, acting in good faith, who initiates a complaint or reports an incident under this policy will be subject to retaliation or harassment.

Any employee reported to be a perpetrator will be provided both due process and representation before disciplinary action is taken.

In the event the District fears for the safety of the perpetrator or the safety of others at the scene of the violent act, the District Police and/or appropriate law enforcement personnel will be called.

Offices of Primary Responsibility: Human Resource Services  
Palomar College Police Department

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**NOTE:** The **bold type** signifies **legally required** language recommended from the Community College League and legal counsel (Liebert Cassidy Whitmore). The information in **italic type** is additional language to consider including in this procedure. *The language in green ink was recommended by the Palomar College Police Department.*

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**Date Approved:**

*(This is a new procedure recommended by the CCLC and the League's legal counsel)*

**General Institution**  
**DRAFT as of 1/13/09**

## **AP 3515 REPORTING OF CRIMES**

### **References:**

Education Code Sections 212 and 87014;  
Penal Code Sections 245 and 11160;  
Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act of 1998 (20 U.S. Code Section 1092(f));  
20 U.S. Code Section 1232g;  
34 Code of Federal Regulations 99.31(a)(13) and (14);  
34 Code of Federal Regulations 668.46;  
Campus Security Act of 1990

Members of the Palomar Community College District who are witnesses or victims of a crime should immediately report the crime to the Palomar College Police Department

In the event an employee is assaulted, attacked, or menaced by a student, the employee shall notify his or her supervisor as soon as practical after the incident. The supervisor of any employee who is attacked, assaulted, or menaced shall assist the employee to promptly report the attack or assault to the Palomar College Police Department. The supervisor himself or herself shall make the report if the employee is unable or unwilling to do so.

The District shall publish warnings to the campus community about crimes that are considered to represent a continuing threat to other students and employees in a manner that is timely and will aid in the prevention of similar crimes. The information shall be disseminated by the Palomar College Police Department in a manner that aids the prevention of similar crimes.

The District shall annually collect and distribute statistics concerning crimes on campus. All District staff members with significant responsibility for student and campus activities shall report crimes about which they receive information.

The District shall publish an Annual Security Report every year by October 1 that contains statistics regarding crimes committed on campus and at affiliated locations for the previous three years. The Annual Security Report shall also include policies pertaining to campus security, alcohol and drug use, crime prevention, the reporting of crimes, sexual assault, victims' assistance program, student discipline, campus resources, and other matters. The District shall make the report available to all current students and employees. The District will also provide perspective students and employees with a copy of the Annual Security Report upon request. A copy of the Annual Security Report can be obtained by contacting the Palomar College Police

Department located at 1140 W. Mission Road, San Marcos, CA 92069 or at [www.palomar.edu/police](http://www.palomar.edu/police)

The District may disclose the final results of disciplinary proceeding to a victim of an alleged perpetrator of a crime of violence or a non-forcible sex offense, regardless of the outcome. The District may also disclose to anyone, the final results of a disciplinary proceeding in which it concludes that a student violated school policy with respect to a crime of violence or non-forcible sex offense. The offenses that apply to this permissible disclosure are:

- Criminal Homicide
  - Murder and Non-negligent Manslaughter
  - Negligent Manslaughter
- Sex Offenses
  - Forcible Sex Offenses
  - Non-forcible Sex Offenses
- Robbery
  - Aggravated Assault
  - Burglary
  - Motor Vehicle Theft
- Arson
- Liquor Law Violations
  - Arrest
  - Referral to Student Affairs
- Drug Law Violations
  - Arrest
  - Referral to Student Affairs
- Illegal Weapons Possession
  - Arrest
  - Referral to Student Affairs

The disclosure may only include the final result of the disciplinary proceeding with respect to the alleged criminal offense. The District shall not disclose the name of any other student, including a victim or witness, unless the victim or witness has waived his or her right to confidentiality.

Offices of Primary Responsibility: [Student Services](#)  
[Palomar College Police Department](#)

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**NOTE:** The information in **blue ink** is additional language to consider including in this procedure. The **red ink** signifies **legally required** language recommended from the Community College League and legal counsel (Liebert Cassidy Whitmore). The language in **green ink** was recommended by the Palomar College Police Department.

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**Date Approved:**

*(This is a new procedure recommended by the CC League and the League's legal counsel)*

## AP 3516 REGISTERED SEX OFFENDER INFORMATION

### References:

Penal Code Sections 290, 290.01, and 290.95;  
34 Code of Federal Regulations Section 668;  
42 U.S. Code Section 14071j (Campus Sex Crimes Prevention Act);  
20 U.S. Code Section 1092(f)(1)(I);  
20 U.S. Code Section 1232g(b)(7)(A)

The District shall include in its Annual Security Report a statement advising the campus community where information pertaining to registered sex offenders may be obtained.

Sex offenders are required to register with the police in the jurisdiction in which they reside and at institutions of higher learning if they are students there or if they work there as employees, contractors, or volunteers. A sex offender who is an employee or volunteer in the District must disclose his or her status as a registrant upon his or her application or acceptance of the position if he or she 1) would be working directly and in an unaccompanied setting with minor children on more than an incidental and occasional basis or have supervision or disciplinary power over minor children or 2) would be working directly and in an accompanied setting with minor children and his or her work would require touching minor children on more than an incidental basis.

A sex offender who must register for committing a crime against a minor victim under the age of 16 is prohibited from serving as an employer, employee, contractor, or volunteer in any capacity in which the sex offender would be working directly and in an unaccompanied setting with minor children on more than an incidental and occasional basis or involving having supervision or disciplinary power over minor children.

Sex offenders who may be required to register should do so at [the Palomar College Police Department](#)

Information concerning registered sex offenders can be obtained from [the California Department of Justice Megan's Law website at www.meganslaw.ca.gov.](#)

Offices of Primary Responsibility: [Student Services](#)  
[Palomar College Police Department](#)

**NOTE:** The **red ink** signifies **legally required** language recommended from the Community College League and legal counsel (Liebert Cassidy Whitmore). The information in **blue ink** is additional language to consider including in this procedure. The language in **green ink** was recommended by the Palomar College Police Department on 12-1-08.

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### Date Approved:

*(This is a new procedure recommended by the CCLC and the League's legal counsel)*

**General Institution  
DRAFT as of 1/13/09**

**AP 3518 CHILD ABUSE REPORTING**

**References:**

Penal Code Sections 261, 264.1, 273a, 273d, 285, 286, 288, 288a, 289, 647a, and 11164-11174.3;

Welfare and Institutions Code Sections 300, 318, and 600;

Family Code Sections 7802, 7807, 7808, 7820-7829, 7890, and 7892

The Palomar Community College District recognizes the responsibility of its employees to report to the appropriate agency when there is a reasonable suspicion that an abuse or neglect of a child may have occurred. Mandated reporters include faculty members, educational administrators, classified staff members, and part-time employees. Volunteers are not mandated reporters but are encouraged to report suspected abuse or neglect of a child.

Child abuse is defined as physical abuse, neglect, sexual abuse, and/or emotional maltreatment. This procedure addresses the sexual assault, sexual exploitation, and/or sexual abuse of a child; the willful cruelty or unjustifiable punishment of a child; incidents of corporal punishment or injury against a child; abuse in out-of-home care; and the severe and/or general neglect of a child (definitions contained in Penal Code Section 11165).

“Reasonable suspicion” occurs when “it is objectively reasonable for a person to entertain such a suspicion, based upon facts that could cause a reasonable person in a like position drawing when appropriate on his or her training and experience, to suspect child abuse” (Penal Code Section 11166(a)).

A child protective agency is a police or sheriff’s department, a county probation department, or a county welfare department. The Palomar College Police Department is not a child protective agency (Penal Code Section 11165.9).

Any person not mandated by law to report suspected child abuse has immunity unless the report is proven to be false and the person reporting knows it is false, or the report is made with reckless disregard of the truth or falsity of the incident (Penal Code Section 11172(a)). Reporting is an individual responsibility. An employee making a report cannot be required to disclose his or her identity to the employer (Penal Code Section 11166(h)). However, a person who fails to make a required report is guilty of a misdemeanor punishable by up to six months in jail and/or up to a \$1,000 fine (Penal Code Section 11172(e)).

Mandated reporters must report immediately any reasonable suspicion of child abuse to the County of San Diego Child Protective Services and follow up with a written report within 36 hours.

The written report may be mailed or submitted by facsimile or electronic transmission.

Child abuse reporting forms are available at the Palomar College Police Department.

No mandated reporter who reports a known or suspected instance of child abuse shall be civilly or criminally liable for any report required or authorized by the Penal Code. Any person other than a child care custodian reporting a known or suspected instance of child abuse shall not incur any liability as a result of making any report of child abuse, unless it can be proven that a false report was made and the person knew that the report was false (Penal Code Section 11172(a)).

When an employee releases a minor pupil to a peace officer for the purpose of removing the minor from the campus, the District official shall take immediate steps to notify the parent or guardian regarding the release of the minor to the officer and regarding the place to which the minor is reportedly being taken (Education Code Section 87044), except when a minor has been taken into custody as a victim of suspected child abuse, as defined in Section 11165 of the Penal Code, or pursuant to Section 305 of the Welfare and Institutions Code. In those cases, the official shall provide the peace officer with the address and telephone number of the minor's parent or guardian.

Non-accidental physical injury is considered to be a health and safety emergency, and parental consent is not required for release of student information under the Family Education Rights and Privacy Act or the California Student Records Act (Education Code Sections 76200 et seq.).

Information relevant to the incident of child abuse may be given to an investigator from a child protective agency who is investigating the known or suspected cause of child abuse (Penal Code Section 11167(b)).

The Palomar Community College District shall provide a mandated reporter with a statement informing the employee that he or she is a mandated reporter and inform the employee of his or her reporting obligations under Penal Code Section 11166 and of his or her confidentiality rights under subdivision (d) of Penal Code Section 11167. The Palomar Community College District shall provide a copy of Penal Code Sections 11165.7, 11166, and 11167 to the employee. Prior to commencing his or her employment and as a prerequisite to that employment, the employee shall sign and return the statement to the District. The signed statements shall be retained by the District (Penal Code Section 11166.5).

The District will distribute this procedure to all employees.

Offices of Primary Responsibility: [Student Services](#)  
[Palomar College Police Department](#)  
[Human Resource Services](#)

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**NOTE:** This procedure is **legally advised**. The **red ink** is language recommended by the Community College League and legal counsel (Liebert Cassidy Whitmore). The information in **blue ink** is additional language to consider including in this procedure. The language in **green ink** was recommended by the Palomar College Police Department.

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**Date Approved:**

*(This is a new procedure recommended by the CC League and the League's legal counsel)*

**AP 3520 LOCAL LAW ENFORCEMENT**

**Reference:**

Education Code Section 67381

Each college or center of the District has a written agreement with local law enforcement agencies. The agreement clarifies operational responsibilities for investigations of Part I violent crimes, defined by law as willful homicide, forcible rape, robbery, and aggravated assault, occurring at each location. Part I crimes are reported to the jurisdictional law enforcement authority for that area and a joint investigative effort between the Palomar College Police Department and the adjacent law enforcement agency such as the San Diego County Sheriff's Department or Escondido Police Department is conducted to solve these serious felony crimes. The prosecution of all criminal offenses, both felony and misdemeanor, are conducted through the San Diego County District Attorney's Office.

The written agreement designates which law enforcement agency has operational responsibility for violent crimes and delineates the specific geographical boundaries of each agency's operational responsibility, including maps as necessary.

Jurisdiction is shared with local law enforcement agencies. The San Diego County Sheriff's Department has concurrent jurisdiction on all campuses and upon all properties owned and controlled by the District. If any campus or property is located within a municipality, the city police department has concurrent jurisdiction.

The written agreements required by the Board Policy are public records and are made available for inspection by members of the public upon request to the District.

The Palomar College Police Department has complete police authority pursuant to Penal Code Section 830.32 to apprehend and arrest anyone involved in illegal acts on campus and in areas immediately adjacent to the campus. Officers are responsible for reporting and investigating crimes and traffic accidents, responding to medical emergencies, enforcing state laws and local ordinances, and handling all other incidents requiring police assistance. Palomar College Police Department officers undergo continued training to upgrade skills and are certified in CPR including the administration of first aid.

Minor offenses involving District rules and regulations committed by a Palomar College student may also be referred to the Student Affairs Office.

Offices of Primary Responsibility: Student Services  
Palomar College Police Department

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**NOTE:** The **red ink** signifies **legally required** language recommended from the Community College League and legal counsel (Liebert Cassidy Whitmore). The information in **blue ink** is additional language to consider including in this procedure. The language in **green ink** was recommended by the Palomar College Police Department.

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**Date Approved:**

*(This is a new procedure recommended by the CCLC and the League's legal counsel)*

## AP 3530 WEAPONS ON CAMPUS

### References:

Penal Code Sections 626.7, 626.10, and 12020

Firearms, knives, explosives, or other dangerous objects, including but not limited to any facsimile firearm, knife, or explosive, are prohibited on all District grounds.

Activities involving firearms or other weapons conducted under the direction of District officials or as authorized by an official law enforcement agency shall be reported to the Palomar College Police Department before taking place.

Any person who believes that he or she may properly possess a firearm or other weapon on campus or in a District center or other facility of the District must promptly notify the Palomar College Police Department.

Also see AP 3510 titled Workplace Violence Plan

Offices of Primary Responsibility: Student Services  
Palomar College Police Department

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**NOTE:** The **red ink** signifies **suggested/recommended** language from the Community College League and legal counsel (Liebert Cassidy Whitmore). The information in **italic type** is additional language to consider including in this procedure. The language in **green ink** was recommended by the Palomar College Police Department.

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### Date Approved:

*(This is a new procedure recommended by the CCLC and the League's legal counsel)*

**General Institution  
DRAFT as of 1/13/09**

## **AP 3540 SEXUAL ASSAULTS ON CAMPUS**

### **References:**

Education Code Section 67385;

20 U.S. Code Section 1092(f);

34 Code of Federal Regulations Section 668.46(b)(11)

Any sexual assault or physical abuse, including, but not limited to, rape, as defined by California law, whether committed by an employee, student, or member of the public, occurring on District property or on an off-campus site or facility maintained by the District or on grounds or facilities maintained by a student organization is a violation of District policies and regulations and is subject to all applicable punishment, including criminal procedures and employee or student discipline procedures. (Also see AP 5500 titled Standards of Student Conduct)

“Sexual assault” includes but is not limited to, rape, forced sodomy, forced oral copulation, rape by a foreign object, sexual battery, or threat of sexual assault.

These written procedures and protocols are designed to ensure victims of sexual assault receive treatment and information. (For physical assaults/violence, also see AP 3500 titled Campus Safety, AP 3510 titled Workplace Violence Plan, and AP 3515 Reporting of Crimes).

All students, faculty members, or staff members who allege they are the victims of a sexual assault on District property shall be provided with information regarding options and assistance available to them. Information shall be available from Palomar College Police Department, Office of Student Affairs, Human Resources or Student Health Services, which shall maintain the identity and other information about alleged sexual assault victims as confidential unless and until the Palomar College Police Department, Office of Student Affairs, Human Resources or Student Health Services is authorized to release such information.

The Palomar College Police Department, Office of Student Affairs, Human Resources or Student Health Services shall provide all alleged victims of sexual assault with the following, upon request:

A copy of the District's policy and procedure regarding sexual assault

A list of personnel on campus who should be notified of the assault and procedures for such notification, if the alleged victim consents Palomar College Police Department, or the Office of Student Affairs

A description of available services and the persons on campus available to provide those services if requested. Services and those responsible for provided or arranging them include: Palomar College Police Department, Office of Student Affairs, Human Resources or Student Health Services

- transportation to a hospital, if necessary
- referral to a counseling center
- notice to the police, if desired and
- a list of other available campus resources or appropriate off-campus resources
- A description of each of the following procedures:
  - criminal prosecution
  - civil prosecution (i.e., lawsuit)
  - District disciplinary procedures, both student and employee
  - modification of class schedules and
  - tutoring, if necessary

All alleged victims of sexual assault on District property shall be kept informed, through the Palomar College Police Department, or the Office of Student Affairs of any ongoing investigation. Information shall include the status of any student or employee disciplinary proceedings or appeal; alleged victims of sexual assault are required to maintain any such information in confidence, unless the alleged assailant has waived rights to confidentiality.

The District shall maintain the identity of any alleged victim or witness of sexual assault on District property, as defined above, in confidence unless the alleged victim or witness specifically waives that right to confidentiality. All inquiries from reporters or other media representatives about alleged sexual assaults on District property shall be referred to the District's Communications Office, which shall work with the College Police Department, or the Office of Student Affairs Palomar to assure that all confidentiality rights are maintained.

Additionally, the Annual Security Report will include a statement regarding the District's programs to prevent sex offenses and procedures that should be followed after a sex offense occurs. The statement must include the following:

A description of educational programs to promote the awareness of rape, acquaintance rape, and other forcible and nonforcible sex offenses

Procedures to follow if a sex offense occurs, including who should be contacted, the importance of preserving evidence to prove a criminal offense, and to whom the alleged offense should be reported

Information on a student's option to notify appropriate law enforcement authorities, including on-campus and local police, and a statement that campus personnel will assist the student in notifying these authorities, if the student so requests

Information for students about existing on and off-campus counseling, mental health, or other student services for victims of sex offenses

Notice to students that the campus will change a victim's academic situation after an alleged sex offense and of the options for those changes, if those changes are requested by the victim and are reasonably available

Procedures for campus disciplinary action in cases of an alleged sex offense, including a clear statement that:

- The accuser and the accused are entitled to the same opportunities to have others present during a disciplinary proceeding and
- Both the accuser and the accused must be informed of the outcome of any institutional disciplinary proceeding resulting from an alleged sex offense. Compliance with this paragraph does not violate the Family

Educational Rights and Privacy Act. For the purposes of this paragraph, the outcome of a disciplinary proceeding means the final determination with respect to the alleged sex offense and any sanction that is imposed against the accused

A description of the sanctions the campus may impose following a final determination by a campus disciplinary proceeding regarding rape, acquaintance rape, or other forcible or nonforcible sex offenses

### **Education and Prevention Information**

The Palomar College Police Department shall:

Provide, as part of each campus' established on-campus orientation program, education, and prevention information about sexual assault. The information shall be developed in collaboration with campus-based and community-based victim advocacy organizations

Post sexual violence prevention and education information on the campus internet website

Offices of Primary Responsibility: Student Services  
Palomar College Police Department  
Human Resource Services  
Student Health Services

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**NOTE:** *This procedure is **legally required**. The **red ink** is language recommended by the Community College League and legal counsel (Liebert Cassidy Whitmore). The information in **blue ink** is additional language to consider including in this procedure. The language in **green ink** was recommended by the Palomar College Police Department.*

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### **Date Approved:**

*(This is a new procedure recommended by the CC League and the League's legal counsel)*

**AP 3550 DRUG FREE ENVIRONMENT AND DRUG PREVENTION PROGRAM**

**References:**

[Drug Free Schools and Communities Act Amendment of 1989;](#)  
[Federal Drug-Free Workplace Act of 1988](#)

The District is committed to providing its employees and students with a drug-free workplace and campus environment. It emphasizes prevention and intervention through education.

**Prohibition of Drugs**

The unlawful manufacture, distribution, dispensing, possession, or use of alcohol or any controlled substance is prohibited on District property, during District-sponsored field trips, activities or workshops, and in any facility or vehicle operated by the District.

Violation of this prohibition will result in appropriate action up to and including termination of employment, expulsion, and referral for prosecution, or, as permitted by law, may require satisfactory participation in an alcohol or drug abuse assistance or rehabilitation program.

As a condition of employment, employees must notify the District within days of any conviction for violating a criminal drug statute while in the workplace. The District is required to inform any agencies that require this drug-free policy within ten days after receiving notice of a workplace drug conviction.

❖ **From current Palomar College Policy 108 titled Drug-Free Workplace (88-13017)**

~~It is the policy of the Palomar Community College District to maintain a drug free workplace. The unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in all buildings, property, facilities, service areas, and education centers of the District. All employees are required to comply with this policy as a condition of their continued employment, and any employee violating this policy will be subject to disciplinary action which may include termination. Any employee convicted under a criminal drug statute for conduct in the workplace, must report this conviction within 5 days to the Vice President for Human Resource Services and Affirmative Action.~~

~~GB-3-14-89~~

❖ **From current Palomar College Procedure 109 titled Drugs and Alcohol**

## **Education**

The District will provide a Drug Education and Awareness program for all students and employees that will include the following:

- A. Annual distribution of accurate, current information on the health risks and symptoms of alcohol and other drug use as well as legal sanctions proscribing substance use and abuse under local, state, and federal law for the unlawful possession or distribution of illicit drugs or alcohol.
- B. Training programs to enable employees and students to detect problems of alcohol abuse and other drug use and to refer persons with these problems to appropriate assistance programs.
- C. Inclusion of drug and alcohol information (including information on the misuse and abuse of over-the-counter drugs) in both student- and staff-orientation programs.
- D. Training for faculty on ways to incorporate alcohol and other drug education into the curriculum whenever appropriate.
- E. Developing and training a group of students and employees to serve as referral teams to help other students and employees who seek assistance with drug- and alcohol-related problems.
- F. Providing information on drug and alcohol counseling, treatment, or rehabilitation programs that are available to employees and students.
- G. Educating employees and students in preventing alcohol abuse and other drug use and in the safe use of legal drugs.
- H. Providing facilities and opportunities for peer support groups to meet.

## **Referral and Assistance**

The District will implement a program to assist employees and students who are alcohol or drug-dependent or who are experiencing problems associated with drug and/or alcohol dependency.

- A. Designated employees and students who normally interact with large numbers of employees and students will be identified throughout the District to be trained in referral skills and response to emergency situations. The names and phone numbers of the Referral Team members will be well publicized so that students and employees will know who to contact when they have questions or concerns about alcohol and drug use, misuse, and abuse. Referral Team members will treat all such inquiries and concerns with the highest level of confidentiality and refer the employee or student to the appropriate assistance program. Referral Team contact is voluntary, and neither employment nor academic status will be jeopardized by seeking assistance.

Employees and students, other than those designated, may volunteer to be trained as members of the Referral Team or as support for other employees and students who are experiencing drug- and alcohol-related problems. The District will provide periodic training updates for these employees and students who are members of Referral Teams.

- B. Any person who suspects that an individual may have a drug- or alcohol-related problem may contact a member of the Referral Team for advice. All such contacts are confidential and the name of the individual with the suspected problem need not be revealed. The purpose of the contact is to obtain advice on how to encourage or support the affected individual in seeking help.
- C. The District will offer training and written information to all employees and students on how to contact and effectively use the services of the Referral Team. Training and information will also be provided to employees and students on effective and constructive ways to deal with friends and co-workers/students who may be experiencing drug- or alcohol-related problems.

### **Action**

Although the District will treat violations of the Drug and Alcohol policy as serious matters that may result in disciplinary actions up to and including expulsion or termination, its first concern is for the health and safety of employees and students. The District is committed to creating an environment that promotes and reinforces healthy, responsible living, respect for community and District standards, individual responsibility, and the intellectual, social, emotional, ethical, and physical well being of employees and students. While unsatisfactory work performance or inappropriate student behavior will not be tolerated, the District will encourage and assist an employee or student with an alcohol- or drug-dependency or related problem to seek and obtain the appropriate treatment to deal with the dependency.

### **Employee Program**

The District Policy is focused on rehabilitation and recovery, not on discipline. Therefore, the District will encourage and assist employees who participate in efforts to deal effectively with dependency problems and will provide reasonable accommodation for such participation. (Such assistance/accommodation will normally be limited to granting appropriate leave when requested, continuation of medical benefits while on such leave, flexible work schedules to allow attendance at required meetings, etc.)

Direct financial support or payment for rehabilitation treatment is not included. An employee who is alcohol or drug dependent will be permitted to participate in outpatient treatment/rehabilitation and inpatient treatment/rehabilitation before any final action is taken as a result of violations of the prohibitions in the District policy on Drugs and Alcohol. However, to protect the District from potential liability, the District may alter the duties and responsibilities of an employee participating in a treatment/rehabilitation program and/or may reassign the employee during that period of time.

### **Employee Rights and Responsibilities**

In accordance with the Drug-Free Workplace Act of 1988, an employee must notify the Superintendent/President or the Vice President for Human Resource Services in writing within five (5) days of any conviction under a criminal drug statute for conduct in the workplace. An employee also must notify the Superintendent/President or the Vice President for Human Resource Services in writing within five (5) days of any conviction of driving under the influence of alcohol or under the influence of illegal drugs occurring in any workplace or while the employee is acting within the scope of employment.

The terms "workplace" and "scope of employment" have the same meaning as described in District Policy. A conviction includes any finding of guilt, including a no-

contest plea, or imposition of a sentence by any judicial body. An employee convicted of driving under the influence of illegal drugs, a controlled substance, or alcohol when driving a District vehicle while acting within the scope of employment is subject to immediate termination.

When an employee through self-identification or intervention of a co-worker or supervisor seeks assistance for an alcohol or drug related problem, the District will provide access and referral through appropriate employee assistance programs that offer counseling, assistance, and treatment.

When an employee experiences performance problems or violates District Policy related to an alcohol or drug-related problem, the District will comply with the appropriate discipline policy and in accordance with District Policy will permit the employee to participate in outpatient treatment and inpatient treatment before any final disciplinary action is taken or the employee is dismissed.

### **District Rights and Responsibilities**

The District has the right, upon reasonable suspicion, to ask an employee whether he or she has a drug- or alcohol- related problem and to request that the employee seek assistance in dealing with that problem. Reasonable suspicion includes, but is not limited to, the employee appearing to be under the influence of alcohol or drugs, the employee being found in possession of alcohol or suspected controlled substances, the employee being involved in an accident whose nature indicates impairment of ability or judgment, or the employee being involved in an incident in which a safety precaution was violated or a careless act was performed. If an employee denies that such a problem exists and/or refuses to seek assistance, then the employee must provide reasonable explanation for the performance or behavior problem that prompted the District to suspect that the employee may have a drug- or alcohol-related problem. The District may then proceed with the appropriate disciplinary policy that applies to the employee. However, in case of blatant violations of safety rules, drinking alcoholic beverages on the job, and other overt violations of the Policy on Drugs and Alcohol or when the employee has repeated violations after having had the opportunity to participate in rehabilitation/treatment, the District has the right to begin the disciplinary process whether or not the employee agrees to seek assistance/treatment.

### **Student Program**

Students at Palomar College are responsible for regulating their own conduct and for respecting the rights and privileges of others. Palomar students are expected to conduct themselves in a manner compatible with the function of the College District as an educational institution and respect and obey all civil and criminal laws. Failure to abide by the Rules and Regulations for Student Behavior of Palomar College is cause for disciplinary action which could result in suspension or expulsion.

Guidelines for student conduct are set forth in the California Education Code, California Administrative Code Title 5, policies of the Board of Trustees, and all civil and criminal codes.

### **Student Rights and Responsibilities**

The academic status of a student seeking assistance will not be jeopardized based on the act of seeking assistance. However, seeking assistance cannot be used to change or excuse the academic record of the student. Such decisions will continue to be based

on the student's performance in the class and changes will be made only with the approval of the instructor. Details of communication between students and Referral Team members will not be disclosed without the written consent of the student. If a student rejects a suggestion to seek assistance, it is the student's responsibility to correct the problem and/or comply with any disciplinary action imposed as a result of the problem or behavior.

❖ **From current Palomar College Procedure 110 titled Controlled Substance and Alcohol Testing**

**SECTION I. RESPONSIBILITIES**

A. District Controlled Substance and Alcohol Program Coordinator: The Vice President, Human Resource Services is the individual responsible for questions related to the Controlled Substance and Alcohol Policy and Procedures or implementation of the Policy and Procedures.

B. Supervisors: Supervisors are responsible for observing the performance and behavior of drivers and observation/documentation of events suggestive of behavior that is prohibited by this part (i.e., controlled substances use and/or alcohol misuse). It is the Supervisor's responsibility to determine when testing for controlled substances and/or alcohol is necessary based on reasonable cause.

C. Drivers: Each driver has the responsibility to be knowledgeable of the requirements of the District's Controlled Substance and Alcohol Policy and to fully comply with the provisions of the policy and its procedures.

**SECTION II. DEFINITIONS**

The following definitions apply for the purposes of the Controlled Substance and Alcohol Policy and Procedures:

**Accident** - (390.5) an occurrence involving a commercial motor vehicle operating on a public road which results in:

1. A fatality; or
2. Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
3. One or more vehicles incurring disabling damage as a result of the accident, requiring the vehicle to be transported away from the scene by a tow truck or other vehicle.

**Commercial Driver's License (CDL)** - a license issued by the State or other jurisdiction, in accordance with the standards contained in the Federal Highway Administration (FHWA) regulations 49 CFR Part 383, to an individual which authorizes the individual to operate a class of commercial motor vehicle. Commercial Motor Vehicle (CMV) - a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:

1. has a gross combination weight rating of 26,001 or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds; or
2. has a gross vehicle weight rating of 26,001 or more pounds; or is designed to transport 16 or more passengers, including the driver; or is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR Part 172, Subpart F).

**Consortium** - an entity, including a group or association of employers or contractors, that provides controlled substance and alcohol testing required by the FHWA regulations, and acts on behalf of the employers.

**Controlled Substance (or Prohibited Drug)** - marijuana, cocaine, opiates, phencyclidine (PCP), and amphetamines.

**Driver** - any person who operates a commercial motor vehicle. This includes, but is not limited to: fulltime, regularly-employed drivers; casual, intermittent, or occasional drivers; leased drivers and independent owner-operator contractors who are either directly employed or under lease to an employer or who operate a commercial motor vehicle at the direction of or with the consent of an employer. For the purposes of pre-employment/pre-duty testing only, the term “driver” includes a person applying to an employer to drive a commercial motor vehicle.

**Fail a Controlled Substance Test ( or “Test Positive”)** - the initial test or confirmation test result under Department of Transportation (DOT) procedures shows positive evidence of the presence of a prohibited drug in the driver’s or applicant’s system.

**Fail an Alcohol Test (or Test Positive)** - the initial test or confirmation test result under DOT procedures shows that the driver’s alcohol level is at least .020.

**Pass a Controlled Substance Test (or “Test Negative”)** - the initial test or confirmation test under DOT procedures does not show evidence of the presence of a prohibited drug in the driver’s or applicant’s system.

**Pass an Alcohol Test (or Test Negative)** - the initial test or confirmation test under DOT procedures indicates the driver’s alcohol level is .019 or lower.

**Performing (a safety-sensitive function)** - a driver is considered to be performing a safety-sensitive function during any period in which s/he is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.

**Refusal to Submit (to an alcohol or controlled substance test)** - the driver (1) fails to provide adequate breath for testing without a valid medical explanation after s/he has received notice of the requirement for breath testing in accordance with these regulations, and/or (2) fails to provide adequate urine for controlled substances testing without a valid medical explanation after s/he has received notice of the requirement for urine testing in accordance with these regulations, and/or (3) engages in conduct that clearly obstructs the testing process.

**Safety-Sensitive Function (or “Covered Function”)** - any of those on-duty functions as described in 49 CFR Part 395.2 On-duty time. On-duty time commences at the time a driver begins to work or is required to be in readiness for work and continues until the time s/he is relieved from work and all the responsibility for performing work.

**SAMHSA** - Substance Abuse and Mental Health Services Administration (formerly the National Institute on Drug Abuse), established by the Department of Health and Human Services (DHHS) in 1986 to regulate laboratories performing analytical tests (drug tests) on human body fluids for employment purposes in the public sector.

**Substance Abuse Professional** - a licensed physician (medical doctor or doctor of osteopathy), or a licensed psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol and controlled-substance related disorders.

### SECTION III. WHO IS COVERED BY THE CONTROLLED SUBSTANCE AND ALCOHOL POLICY AND PROCEDURES

The Controlled Substance and Alcohol Policy and Procedures apply to every person who operates a commercial vehicle in interstate or intrastate commerce, and is subject to the commercial driver's license requirements. (Commercial Motor Vehicle and Commercial Driver's License definitions are located in Section II, above.)

### SECTION IV. NOTIFICATION TO THE DRIVER

Prior to performing a controlled substances or alcohol test under the Controlled Substance and Alcohol Policy:

- A. the District must notify the driver(s) that the alcohol and/or controlled substances test is required;
- B. the District shall post the Policy in a prominent location that is readily accessible to all covered drivers;
- C. all covered drivers will be provided with a complete copy of the Controlled Substance and Alcohol Policy and Procedures; and
- D. each driver will be required to sign a certificate of receipt certifying that s/he has received a copy of the Controlled Substance and Alcohol Policy and Procedures.

Additional copies of the Controlled Substance and Alcohol Policy and Procedures may be obtained for review from the District Controlled Substance and Alcohol Program Coordinator.

### SECTION V. TESTING PROCEDURES

#### A. Specimen Collection Requirements for Controlled Substance and Alcohol Testing

1. All specimen collections for controlled substances and alcohol shall be performed according to the specific guidelines as designated in 49 CFR, Part 40, Procedures for Transportation Workplace Drug and Alcohol Testing Programs. A urine specimen will be collected to test for controlled substances and a breath sample will be collected to test for alcohol.

2. Alcohol tests will be administered using an Evidential Breath Testing Device (EBT) that is on the Conforming Products List published by the National Highway Traffic Safety Administration (NHTSA). The tests will be performed by a certified Breath Alcohol Technician (BAT).

#### B. Substances for Which Testing Must Be Conducted

Testing must be conducted for alcohol and for all controlled substances as defined in Section II.

#### C. Drug Testing Laboratory

1. The District shall use a drug testing laboratory certified under the DHHS Mandatory Guidelines for Federal Workplace Drug Testing Programs; 53 FR 11970, April 11, 1988, and subsequent amendments.

2. The laboratory shall provide services in accordance with Part 40 and Part 382. The name and address of each SAMHSA laboratory used by the District is contained in Appendix A.

#### B. Time Period When Testing is Conducted

A driver may be sent to be tested for controlled substances at any time during the driver's shift.

Testing for alcohol must take place just before, during, or just after performing a safety-sensitive or covered function. Performing a safety-sensitive function means a driver is considered to be performing a safety-sensitive function during any period in which s/he is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.

### SECTION VI. TYPE OF TESTS REQUIRED

#### A. Pre-employment Testing

A pre-employment controlled substance test must be conducted before the first time a driver performs a safety-sensitive function. A driver must also take a pre-employment controlled substance test when s/he transfers to a safety-sensitive position. This also applies to a driver returning from a leave of absence for more than 30 days who has not participated in the controlled substance and alcohol program and, therefore, has not been subject to the random selection process. A negative test result is required prior to performing safety-sensitive functions.

#### **Exception to Pre-employment Controlled Substance Testing**

A driver would not be required to take a pre-employment controlled substance test if the District verifies the following:

1. The driver has participated in a controlled substance testing program that meets the requirements of this policy within the previous 30 days; and
2. While participating in this program, was tested for controlled substances within the past six months OR participated in a random testing program for the previous 12 months; and
3. The District verifies with the driver's previous employers that within the past six months the driver has not violated any part of this policy nor has s/he violated the rules of other DOT agencies.

#### B. Post-Accident Testing

1. Following an accident (as defined by the Federal Motor Carrier Regulations 390.5 – see Section II) involving a commercial motor vehicle, a post-accident controlled substances and alcohol test will be administered to each driver who:

- was performing a safety-sensitive function with respect to the vehicle, if the accident involved the loss of human life; or
- who receives a citation under State or local law for a moving traffic violation arising from the accident.

2. **Controlled Substances Test:** The driver must be tested for controlled substances as soon as possible but no later than 32 hours after the accident. If a driver is not tested for controlled substances within 32 hours, the District shall maintain a record stating why the test was not administered.

3. Alcohol Test: The driver must be tested for alcohol as soon as possible but no later than eight hours following an accident. If a driver is not tested within two hours after an accident, the District shall maintain a record stating the reasons why the test was not administered promptly.

4. The District will provide the driver with information on how to comply with the post accident procedures prior to operating a commercial motor vehicle.

5. Post-accident breath, urine, or blood tests completed by local, state, or federal officials may fulfill the requirements of this policy.

6. A driver who is subject to post-accident testing must remain readily available for such testing or may be deemed by the District as refusing to submit to testing. However, this requirement should not delay necessary medical attention for injured people following an accident or prohibit a driver from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident.

#### C. Random Testing

1. The regulations require that safety-sensitive drivers shall be subject to controlled substance and alcohol testing on an unannounced and random basis. The District shall conduct a number of controlled substance tests equal to at least 50 percent of all covered drivers and alcohol tests equal to at least 25 percent of all covered drivers each calendar year, spread reasonably over a twelve-month period. The selection of drivers to be tested shall be made by a scientifically valid method, such as computer-generated random selection, and each driver shall have an equal chance of being tested each time the selection is made. Only covered drivers operating vehicles on behalf of the Palomar Community College District are participants in the pool of drivers subject to the random testing procedures required by this policy.

2. Once the driver has been notified that s/he has been selected for testing, s/he must be available for testing immediately.

3. Alcohol tests will be performed only just before, during, or just after performing a safety- sensitive function.

#### D. Reasonable Suspicion Testing

Reasonable suspicion testing of a driver is required when there is reasonable suspicion to believe that the driver has violated the prohibitions of the Controlled Substance and Alcohol Policy (as described in Section VII). A supervisor or District official, who is trained in the detection of the possible symptoms of controlled substance use and/or alcohol abuse, shall make the decision to test the driver.

##### 1. Controlled Substances

a. The determination that reasonable suspicion exists will be based upon specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the driver. The observations may include indication of the chronic and withdrawal effects of controlled substances.

b. A driver may be asked to submit to a reasonable cause controlled substance test at any time during the work period.

## 2. Alcohol

- a. The determination that reasonable suspicion exists will be based upon specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the driver.
- b. Alcohol tests for reasonable suspicion must be requested before, during, or just after the driver performs a safety-sensitive function.
- c. The supervisor that makes the determination to test the driver may not administer the alcohol test.
- d. The driver shall not be permitted to return to duty to perform safety-sensitive functions until:
  - 1) An alcohol test is administered with a result of less than .02, or
  - 2) Twenty-four hours have elapsed from the time the determination of reasonable suspicion was made.

### **Supervisor Training**

Supervisory personnel responsible for those drivers covered under Part 382 will receive training under the Controlled Substance and Alcohol Policy. The training shall include at least one 60-minute period of training on alcohol misuse and at least an additional 60 minutes of training on controlled substances use. The training shall cover the specific and contemporaneous physical, behavioral, and performance indicators of probable controlled substance use and alcohol use.

This training shall be for supervisors who may determine whether a driver must be tested for reasonable suspicion.

### **E. Return-to-Duty Testing**

Each driver that has violated the prohibited conduct standards related to controlled substances and/or alcohol shall be tested for controlled substances and/or alcohol, respectively, before returning to his/her safety-sensitive function. The test results must indicate a verified negative result for controlled substances and/or alcohol concentration of less than .02. A Substance Abuse Professional will determine if both a controlled substance and alcohol test are required prior to returning to duty.

### **F. Follow-up Testing**

A driver who returns to duty shall be subject to unannounced follow-up controlled substance and/or alcohol testing. At least six tests must be conducted within the first 12 months after the driver returns to duty. The District may extend the follow-up testing for up to 60 months after the driver returns to duty.

## **SECTION VII. PROHIBITED CONDUCT**

### **A. Refusal to Submit to an Alcohol or Controlled Substance Test**

No driver shall refuse to submit to any of the required controlled substance and/or alcohol tests, including, post-accident, random, reasonable suspicion, or follow-up tests.

### **B. Prohibited Conduct Related to Controlled Substances**

1. No driver shall report for duty or remain on duty performing a safety-sensitive function when the driver uses a controlled substance, except when the substance is prescribed by a physician, and the physician informs the driver that the substance does not adversely affect the driver's ability to perform the safety-sensitive function.
  - a. All drivers must report all therapeutic drug use to the District, if the drugs prescribed are known to produce any psychoactive effects on the user, including alterations in

mood, alertness, and reflexive response. Therapeutic drug use must be reported regardless of whether the drugs are among those listed as controlled substances for the purposes of the Controlled Substance and Alcohol Policy. Each driver must provide verification to the District from his or her physician that any medications prescribed do not adversely affect his or her ability to perform a safety-sensitive function.

b. No driver shall report for duty, remain on duty, or perform a safety-sensitive function after testing positive for a controlled substance.

#### C. Prohibited Conduct Related to Alcohol

1. No driver shall report to duty or remain on duty requiring the performance of a safety sensitive function with a breath alcohol concentration of .04 or greater.

2. No driver shall use alcohol while performing a safety-sensitive function.

3. No driver shall possess alcohol while on duty or operating a CMV.

4. No driver shall perform a safety-sensitive function within four hours after using alcohol.

5. No driver shall use alcohol within eight hours after an accident, or until an alcohol test has been completed, whichever comes first.

### SECTION VIII. CONSEQUENCES FOR PROHIBITED CONDUCT

A driver that engages in prohibited conduct as detailed in Section VII of these procedures shall be removed from performing safety-sensitive functions.

A driver will not be hired if s/he refuses to submit to a pre-employment controlled substance or alcohol test.

A driver will be removed from a safety-sensitive function if s/he refuses to submit to a post-accident, reasonable suspicion, random, or follow-up controlled substance and/or alcohol test.

A positive breath alcohol test of between .02 and .04 will result in the removal of the driver from the safety-sensitive function for 24 hours.

A driver who engages in prohibited conduct may be disciplined in accordance with other Board policies and procedures, and as allowed by law.

### SECTION IX. REFERRAL, EVALUATION, AND TREATMENT

A. Drivers who have engaged in conduct prohibited by the Controlled Substance and Alcohol Policy will be:

1. provided resources for evaluating and resolving problems associated with alcohol misuse and controlled substance use;

2. evaluated by a Substance Abuse Professional (SAP) who will recommend assistance, if necessary, for the driver to resolve problems associated with alcohol misuse and controlled substance use.

B. Before a driver returns to duty requiring the performance of a safety-sensitive function, after engaging in conduct prohibited by the Controlled Substance and Alcohol Policy, s/he must:

1. Follow the rehabilitation program prescribed by the SAP; and

2. Pass a return-to-duty controlled substance and/or alcohol test, and

3. Submit to unannounced follow-up alcohol and/or controlled substance tests, following the driver's return to duty.

### SECTION X. MEDICAL REVIEW OFFICER (MRO)

The MRO shall be a licensed physician with knowledge of substance abuse disorders. The function of the MRO is to review all negative and positive controlled substance test results. The MRO interviews drivers who test positive before results are transmitted to the District. A positive test result does not automatically identify a driver/applicant as having used controlled substances in violation of a DOT regulation. An individual with a detailed knowledge of possible alternate medical explanations is essential to a review of the results.

The role of the MRO is to review and interpret confirmed positive test results obtained through the District testing program. In carrying out this responsibility, the MRO shall examine alternate medical explanations for any positive test result. This action could include conducting a medical interview with the individual and review of the individual's medical history, or review of any other relevant biomedical factors. The MRO shall review all medical records made available by the tested individual when a confirmed positive test result could have resulted from legally-prescribed medication. The MRO shall not, however, consider the results of urine samples that are not obtained or processed in accordance with DOT regulations.

The District has contracted with an MRO for the controlled substance testing program in accordance with the requirements of Parts 40.33 and 382

## SECTION XI. CONFIDENTIALITY

### A. Release of Driver's Test Results

1. Information regarding the driver's test results will not be released, except to the District, without the driver's written consent excepted as noted in 3, 4, and 5 below.
2. All records regarding the driver's controlled substance and alcohol test results are available to the driver at any time, upon written request. A driver may also, upon written request, have records released to subsequent employers or other individuals identified by the driver.
3. Access to records shall be permitted to the Secretary of Transportation, any DOT agency, or any state or local officials with regulatory authority over the employer or any of its drivers.
4. When required as a part of an accident investigation, records regarding the District's administration of post-accident alcohol and controlled substance tests shall be made available to the National Transportation Safety Board.
5. The District may disclose records maintained as part of the Controlled Substance and Alcohol Policy pertaining to a driver, to a decision-maker in a lawsuit, grievance, or other proceeding initiated by or on behalf of the driver, and arising from the results of an alcohol and/or controlled substance test administered as per the Controlled Substance and Alcohol Policy, or from the District's determination that the driver engaged in prohibited conduct (including, but not limited to, a worker's compensation, unemployment compensation, or other proceeding relating to a benefit sought by the driver).

### B. Previous Employer's Test Results

1. The District may obtain, with driver's written consent, any records relating to the Controlled Substance and Alcohol Policy, from the previous employer.
2. The District must obtain all positive test results for controlled substances and alcohol and records of refusal to test occurring within the preceding two years. These records shall be obtained, with the driver's consent, from the driver's previous employer.

3. These records must be obtained and reviewed no later than 14 days after the first time the driver performs a safety-sensitive function. If the records have not been obtained within 14 days, the driver will not be permitted to continue to perform a safety-sensitive function.
4. A driver may not use a driver to perform safety-sensitive functions if the District obtains information on the driver's alcohol test with a concentration of .04 or greater, verified positive controlled substances test result, or refusal to be tested, by the driver, without obtaining information on a subsequent SAP evaluation and/or compliance with the return to- duty testing section of these procedures.

## SECTION XII. SUBSTANCE ABUSE PROFESSIONAL

A. The SAP provides information to drivers regarding the following issues:

1. Effects of alcohol/controlled substance use on the individual's health, work, and personal life;
2. Signs and symptoms of an alcohol or controlled substance problem;
3. Methods of intervening when an alcohol or controlled substance problem is suspected; and
4. Counseling and treatment programs available for controlled substance use and alcohol misuse.
5. The SAP for the District is identified in Appendix A.

Offices of Primary Responsibility: [Student Services](#)  
[Palomar College Police Department](#)  
[Facilities](#)  
[Human Resources](#)

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**NOTE:** The **red ink** signifies **legally required** language recommended from the Community College League and legal counsel (Liebert Cassidy Whitmore). The information in **blue ink** is additional language to consider including in this procedure. The language in **black ink** is current Palomar College Procedure 109 titled Drugs and Alcohol with no date and Procedure 110 titled Controlled Substance and Alcohol Testing with no date. The language in **green ink** was recommended by the Palomar College Police Department.

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### **Date Approved:**

(Replaces current Palomar College  
Procedures 109 and 110)

**AP 3560 ALCOHOLIC BEVERAGES**

**References:**

Business and Professions Code Sections 24045.4, 24045.6, and 25608

Alcoholic beverages on campus are permitted if:

- The alcoholic beverage is for use in connection with a course of instruction, and the instructor has been authorized to use it by the Palomar College Police Department
- The alcoholic beverage is for use during a non-college event at a performing arts facility built on District property and leased to a nonprofit public benefit corporation
- The alcoholic beverage is wine produced by a bonded winery owned or operated as part of an instructional program in viticulture and enology
- The alcoholic beverage is wine that is for use during an event sponsored by the District or an organization operated for the benefit of the District in connection with the District's instructional program in viticulture or the District's instructional program in enology

Offices of Primary Responsibility: Student Services  
Palomar College Police Department

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**NOTE:** The **red ink** signifies **suggested/recommended** language by the Community College League and legal counsel (Liebert Cassidy Whitmore). The information in **blue ink** is additional language to consider including in this procedure. The language in **green ink** was recommended by the Palomar College Police Department.

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**Date Approved:**

*(This is a new procedure recommended by the CCLC and the League's legal counsel)*