

BP 3260 LEGAL OPINIONS/ASSISTANCE

References:

Education Code Sections 70902(b)(6) and 88003-88003.1;
Government Code Section 53060

❖ From current Palomar Policy 506 titled Legal Opinions/Assistance

All general administrative and Governing Board requests for legal advice and opinions from opinions from the County counsel or counsel shall be submitted in writing to the Superintendent/President or designee. ~~(or his/her designee)~~, who will then forward them to counsel for action, or request an oral opinion if he/she feels they warrant legal interpretation.

Office of Primary Responsibility: Superintendent/President

NOTE: The information in **black ink** is current Palomar College Policy 506 titled Legal Opinions/Assistance with no adoption date. The language in **green ink** is recommended by Human Resource Services. This policy was reviewed and approved by the Task Force on February 20, 2009.

Date Approved:

(Replaces current Palomar College Policy 506)

General Institution
DRAFT as of 2/20/09

BP 3310 RECORDS RETENTION AND DESTRUCTION

References:

Title 5 Sections 59020 et seq.;
Federal Rules of Civil Procedure, Rules 16, 26, 33, 34, 37, and 45

The Superintendent/President shall establish administrative procedures to assure the retention and destruction of all District records in accordance with Title 5 and applicable state and federal laws, including electronically stored information (ESI) as defined by the Federal Rules of Civil Procedure.

“Records” means all records, maps, books, papers, data processing output, and documents of the District required by Title 5 to be retained, including but not limited to records created originally by computer and ESI, as that term is defined by the Federal Rules of Civil Procedure. Such records shall include but not be limited to student records, employment records, and financial records.

NOTE: The **red ink** signifies language that is **legally required** and recommended from the Community College League and legal counsel (Liebert Cassidy Whitmore). The language in **green ink** is recommended by Human Resource Services. This policy was approved by the Task Force on February 20, 2009.

Date Adopted:

(This is a new policy recommended by the CC League and the League’s legal counsel)

BP 7310 NEPOTISM

References:

Government Code Sections 1090 et seq. and 12920 et seq.;
Education Code Section 88194;
Family Code Sections 297 et seq.

The District will not discriminate in favor of or against any job applicant because of an immediate family member or domestic partner's employment in the District. Employees shall not be assigned to a position within the same department, division, or site as an employee's immediate family member or domestic partner where either would be in a position to supervise and/or recommend or influence personnel decisions with respect to the other. Any employee of the District is also prohibited from making any admissions, financial aid, work-study, student hourly employment, or internship decisions for student(s) who are immediate family members and/or domestic partners.

This procedure is subject to the provisions in the applicable collective bargaining agreement or employee handbooks.

Personnel decisions include appointment, reappointment, retention, evaluation, tenure, work assignment, promotion, demotion, termination, leaves, and salary decisions.

For purposes of this policy, immediate family means spouse, parents, grandparents, siblings, children, grandchildren, and in-laws or any other relative living in the employee's immediate household. Domestic partners are as defined by Family Code Section 297. (Also see BP 7510 titled Domestic Partners)

The District will make reasonable efforts to assign job duties to minimize the potential for creating an adverse impact on supervision, safety, security, or morale, or creating other potential conflicts of interest.

Notwithstanding the above, the District retains the right, where such placement has the potential for creating an adverse impact on supervision, safety, security, or morale, or involves other potential conflicts of interest, to refuse to place spouses in the same department, division, or facility. The District retains the right to reassign or transfer any person to eliminate the potential for creating an adverse impact on supervision, safety, security, or morale, or to prevent other potential conflicts of interest.

Prior to accepting any employment decisions, employees have the responsibility for full disclosure in writing to the appropriate supervisor or administrator that a conflict of interest may exist. All applicants have the responsibility for disclosing any immediate family members and/or domestic partners employed by or affiliated with the District.

This policy applies to all types of employment including, but not limited to full-time, part-time, temporary, and student hourly.

❖ **From current Palomar Policy 106 titled Nepotism (84-10417)**

~~The District will not prohibit employment of relatives in the same department or administrative unit, provided that neither relative participates in making recommendations or decisions specifically affecting the appointment, retention, evaluation, tenure, work assignment, promotion, demotion, or salary of the other relative. In those instances where developments cause one relative to have recommending or decision-making responsibilities over another relative, these functions, as they apply to the related persons, shall be performed by the next higher supervisor/administrator in the department or administrative unit.~~

~~GB 11-27-84~~

Office of Primary Responsibility: [Human Resource Services](#)

NOTE: This policy is **legally advised**. The language in **red type** is recommended by the Community College League and legal counsel (Liebert Cassidy Whitmore). The information in **blue type** is additional language to consider including in this policy. The language in **black type** is current Palomar Policy 106 titled Nepotism adopted on 11-27-84. The language in **green ink** reflects revisions/additions made by Human Resource Services. This policy was approved by the Task Force on December 12, 2008 and confirmed approval with the added second paragraph on February 20, 2009.

Date Adopted:

(Replaces current Palomar Policy 106)

Human Resources
DRAFT as of 2/20/09

BP 7365 DISCIPLINE AND DISMISSAL – CLASSIFIED EMPLOYEES

References:

Education Code Section 88013;

Government Code Sections 3300-3313 (Peace Officers' Bill of Rights)

The Superintendent/President shall enact procedures for the disciplinary proceedings applicable to permanent classified employees of the District. Such procedures shall conform to the requirements of the applicable law and are subject to the provision of the applicable collective bargaining agreements or employee handbooks.

The District utilizes progressive discipline, which involves both informal and formal discipline. Informal discipline is primarily corrective in nature, and does not involve potential loss of property interests. Informal discipline includes adverse or negative evaluations, warnings, reprimands, directives and the denial of any leave. These actions may be used in attempts to resolve problems informally prior to imposing formal disciplinary action.

Formal discipline refers to disciplinary actions, penalties, and/or settlements including dismissal, suspension, or demotion without the classified employee's voluntary consent, and which are subject to due process because of the potential deprivation of an employee's property interest. A permanent classified employee may be subject to formal discipline by the District for cause. The Board's determination of the sufficiency of the cause for formal disciplinary action of a classified employee shall be conclusive.

No disciplinary action shall be taken for any cause that arose prior to the employee becoming permanent or for any cause that arose more than two years preceding the date of the filing of any charge against the employee, unless the cause was concealed or not disclosed by the employee when it could be reasonably assumed that the employee should have disclosed the facts to the District.

Office of Primary Responsibility: Human Resource Services

NOTE: This policy is **legally required**. The language in **red type** is recommended by the Community College League and legal counsel (Liebert Cassidy Whitmore). The information in **blue type** is additional language to consider including in this policy. The language in **green ink** reflects revisions/additions made by Human Resource Services. This policy was reviewed at the December 12, 2008 and approved at the February 20, 2009 Task Force Meeting.

Date Adopted:

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

Human Resources
DRAFT as of 2/20/09

BP 7900 CONSULTANTS

References:

[Education Code Sections 70902\(b\)\(6\) and 88003-88003.1;](#)
[Government Code Section 53060](#)

❖ From current Palomar Policy 508 titled Consultants

Consultants shall exercise no administrative authority over the work of [District](#) College employees, but shall act only as advisers in those fields in which they are qualified to offer assistance. They shall be selected on a nondiscriminatory basis and without regard to such matters as ethnic group identification, national origin, religion, age, sex, race, color, ancestry, sexual orientation, or physical or mental disability.

[The role of consultants is also addressed in AP 2712 titled Conflict of Interest Code](#)

[Office of Primary Responsibility: Finance and Administrative Services](#)

NOTE: The wording in **blue ink** is additional language to consider including in this policy. The information in **black ink** is current Palomar Policy 508 titled Consultants with no adoption date. The language in **green ink** reflects revisions/additions made by Human Resource Services. The policy was approved by the Task Force on February 20, 2009.

Date Adopted:

(This policy is unique to Palomar College – there is no CC League recommended language. Replaces current Palomar Policy 508)