

General Institution
DRAFT as of 3/6/09

AP 3100 ORGANIZATIONAL STRUCTURE

References:

Education Code Section 72400;
Title 5 Section 53200

The District's organizational charts reflecting the current organizational structure shall be included in the Palomar College Governance and Administrative Structure posted on the District's website.

Office of Primary Responsibility: Office of the President

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. This procedure was reviewed by the Task Force on 1-23-09. This procedure was approved by the Policy and Procedure Task Force on March 6, 2009.

Date Approved:

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

AP 3310 RECORDS RETENTION AND DESTRUCTION

References:

- Title 5 Sections 59020 et seq.;
- Government Code Section 14756;
- Federal Rules of Civil Procedure, Rules 16, 26, 33, 34, 37, and 45

The Superintendent/President or designee shall supervise the classification and destruction of records and electronically stored information (ESI). An annual report shall be made to the Governing Board regarding the classification and destruction of records and ESI.

The following documents are not "records" and may be destroyed at any time:

- Additional copies of documents beyond the original or one copy (a person receiving a duplicated copy need not retain it)
- Correspondence between district employees that does not pertain to personnel matters or constitute a student record
- Advertisements and other sales material received and
- Textbooks used for instruction, and other instructional materials, including library books, pamphlets, and magazines

Classification of Records:

Except where other state or federal laws and/or regulations are controlling, records shall be reviewed annually and classified consistent with Title 5 as either Class 1–Permanent, Class 2--Optional, or Class 3–Disposable. Classification of records shall not occur during the academic year in which the record was originated. Records of a continuing nature (i.e., active and useful for administrative, legal, fiscal, or other purposes over a period of years) shall not be classified until such usefulness has ceased. Unless otherwise indicated by law, all records not classified prior to July 1, 1976 are subject to the Title 5 classifications. Reclassification of records and record destruction requests require Governing Board approval.

In the event of a conflict of laws as to record retention periods or where the prescribed retention calculations result in more than one reasonable timeframe, the District shall observe the longer retention period.

Class 1 – Permanent Records:

Examples of documents in Class 1 –Permanent Records and primary responsibilities for maintenance and retention are outlined in Table 1 below. The original of each of the following records or one exact copy thereof when the original is required by law to be filed with another agency, is a Class 1 –Permanent record and shall be *retained indefinitely*, unless copied or reproduced in a manner consistent with the requirements of Title 5 Section 59022 (e):

- Annual Reports:
 - Official budget
 - Financial report of all funds, including cafeteria and student body funds
 - Audit of all funds
 - Full-time equivalent student, including Period 1 and Period 2 reports and
 - Other major annual reports, including: those relating to property, activities, financial condition, or transactions; and those declared by Board minutes to be permanent
- Official Actions:

- Minutes of the Board or committees thereof, including the text of a rule, regulation, policy, or resolution not set forth verbatim in minutes but included therein by reference only
- Elections, including the call, if any, for and the result (but not including detail documents, such as ballots) of an election called, conducted or canvassed by the Governing Board for a Board member, the Board member's recall, issuance of bonds, incurring any long-term liability, change in maximum tax rates, reorganization, or any other purpose and
- Records transmitted by another agency that pertain to that agency's action with respect to District reorganization
- Personnel Records of Employees:
 - All detail records relating to employment, assignment, employee evaluations, amounts and dates of service rendered, termination or dismissal of an employee in any position, sick leave record, rate of compensation, salaries or wages paid, deductions or withholdings made and the person or agency to whom such amounts were paid
 - In lieu of the detail records, a complete proven summary payroll record for every employee of the District containing the same data may be classified as Class 1 – Permanent, and the detail records may then be classified as Class 3 – Disposable
- Student Records:
 - Records of enrollment and scholarship for each student, including but not limited to: name of student; place of birth; name and address of a parent having custody or a guardian (if the student is a minor); entering and leaving date for each academic year and for any summer or other extra sessions; subjects taken during each year, half year, summer session or semester; if grades or credits are given, the grades and number of credits toward graduation allowed for work taken
 - All records pertaining to any accident or injury involving a student for which a claim for damages has been filed as required by law, including any policy of liability insurance relating thereto (except that these records cease to be Class 1 –Permanent records, one year after the claims has been settled or after the applicable statute of limitations has run)
 - Exceptions:
- Property Records: All detail records relating to land, buildings, and equipment. In lieu of such detail records, a complete property ledger may be classified as Class 1 – Permanent, and the detail records may then be classified as Class 3 – Disposable, if the property ledger includes:
 - All fixed assets
 - An equipment inventory and
 - For each unit of property, the date of acquisition or augmentation, the person from whom acquired, an adequate description of identification, and the amount paid, and comparable data if the unit is disposed of by sale, loss or otherwise

Table 1. Class 1 – Examples of Permanent Records and Responsible Parties.

Primary Responsibility for Maintenance and Retention	Documents
<p>Superintendent/President</p>	<p>Board documents: Board policies and procedures, minutes, Board agendas.</p>
	<p>Legal counsel opinions</p>
	<p>Elections called by the Board and records of call and results</p>
	<p>District organizations</p>
	<p>Records relating to Board action, formation, naming, boundaries, changes in boundaries, reorganizations.</p>
	<p>District foundation: All documents of incorporation, governing by-laws and amendments, and all state and federal exemption designations, financial audits and corresponding regulations governing operation of 501(c)(3) tax exempt non-profit organizations.</p>
	<p>Conflict of Interest Statements Form 700</p>
<p>Assistant Superintendent/ Vice-President of Finance and Administrative Services</p>	<p>Administrative affairs: budgets, financial reports (quarterly and annual), annual audit, budget allocation and planning review committee minutes, apportionment notices and worksheets, tentative budget, adopted/final budget, all worksheets and budget change forms/transfers</p>
	<p>Fixed assets and property records: (1) Buildings: working drawings, blue prints and specifications of all structures, additions, alternations, certificates of approval of completion and related documents, change orders, contracts for construction, contractor payment requests, and appraisals); (2) Equipment: All records relating to model numbers, quantity, type, identification number assigned, vendor, cost, date of acquisition and disposal.</p>
	<p>Payroll records: Proven summary of payroll for every employee; salary, wages, deductions and withholdings; absence records; payroll register.</p>
	<p>Risk management: Certificates of insurance and Worker's Compensation Insurance certificates from vendors.</p>
	<p>Safety: Hazardous waste generator reports; hazardous bill of lading, hazardous waste manifests</p>
<p>Assistant Superintendent/Vice-President Human Resource Services</p>	<p>Personnel Records: Dates of service rendered; employment, assignment and reassignment records, termination and dismissal notices; evaluations; retirements; professional growth reports; employee contracts; collective bargaining agreements/employee handbooks; grievances; unfair labor practices.</p>
	<p>Risk Management/ Employee Health Benefits: Health and benefits contracts, District Worker's Compensation insurance reports and claims files; liability claims files; insurance policies; Insurance summary of loss runs; employee benefits/fringe enrollment forms; OSHA logs; accident or injury reports.</p>
<p>Assistant Superintendent/Vice-President Instruction</p>	<p>Academic affairs: Catalog, class schedules, minutes of: advisory committee meetings and academic senate meetings; accreditation reports; faculty handbooks</p>
<p>Assistant Superintendent/Vice-President Student Services</p>	<p>Admissions and records: Attendance reports, class rosters, instructor grade sheets, permanent transcripts, reports of degrees and certificates, State 320 reports</p>
	<p>Student governance minutes</p>

Class 2 – Optional Records:

Any record worthy of further preservation but not classified as Class 1 – Permanent may be classified as Class 2 – Optional and shall be retained until reclassified as Class 3 – Disposable. If the Superintendent/President or designee determines that classification should not be made at the time of annual document review, all records of the prior year may be classified as Class 2 – Optional, pending further review and classification within one year. Details regarding specific records falling within Class 2 – Optional records and associated retention periods can be found in the appropriate departmental handbooks.

Class 3 – Disposable Records:

All records, other than continuing records, not classified as Class 1 – Permanent or Class 2 – Optional shall be classified as Class 3 – Disposable. Unless otherwise specified by law, Class 3 – Disposable Records shall be destroyed during the third college year after the college year in which it originated.

Disposable records include, but are not limited to:

- Records basic to audit, including those related to attendance, full-time equivalent student, or a business or financial transaction (purchase orders, invoices, warrants, ledger sheets, cancelled checks and stubs, student body and cafeteria fund records), and detail records used in the preparation of any other report
- Periodic reports, including daily, weekly and monthly reports, bulleting and instructions

A continuing record shall not be destroyed until the third year after it has been classified as Class 3 – Disposable. Class 3 – Disposable records basic to an audit shall not be destroyed until after the third July 1 succeeding the completion of an audit required by Education Code Section 84040 or of any other legally required audit or that period specified by Title 5 Section 59118 or after the ending date of any retention period required by law, whichever date is later. Details regarding specific records falling within Class 3 – Disposable records can be found in the appropriate departmental handbooks.

Records Reproduction:

Whenever an original Class 1–Permanent record is photographed, micro-photographed or otherwise reproduced on film or electronically, the copy thus made shall be classified as Class 1 – Permanent. The original record may be classified as Class 3 – Disposable if the following conditions have been met:

- The reproduction is accurate in detail
- The Superintendent/President or designee has attached to or incorporated in the copy or system a signed and dated certification of compliance with the provisions of California Evidence Code Section 1531, stating in substance that the copy is a correct copy of the original, or a specified part thereof, as the case may be
- The copy was placed in an accessible location and provision was made for preserving permanently, examining and using same
- If the record is photographed or microfilmed, the reproduction must be on film of a type approved for permanent, photographic records by the United States Bureau of Standards

Records Classification and Retention Process and Timeframes:

Each fiscal year and before January 1, the Superintendent/President or designee shall classify and review every record originated during the prior fiscal year. The retention period for Class 3 – Disposable Records shall be designated and such records shall be segregated according to the fiscal year in which they are to be destroyed.

With respect to District records, the Superintendent/President or designee shall:

- Personally supervise the classification of records

- Use District approved, standard-sized record storage boxes with attached labels indicating the classification, record title, and fiscal year in which the records originated. For Class 3 – Disposable Records, the label shall also indicate the fiscal year in which such records are to be destroyed
- Ensure records segregation by classification to avoid accidental destruction

Destruction of Records:

The Superintendent/President or designee shall submit to the Governing Board a list of records recommended for destruction, and shall certify that no records are included in the list in conflict with Title 5 or other applicable laws.

Upon order of the Governing Board, the Superintendent/President or designee shall supervise the destruction of records, and such destruction shall be conducted by any method that ensures the record is permanently destroyed, such as shredding, burning or pulping.

Storage and Retrieval of Stored Records:

To preserve available campus space, wherever practical and feasible, storage of Class 1 - Permanent documents shall be via approved electronic reproduction techniques that satisfy title 5, Section 59022 requirements as outlined in the records reproduction section above. Baring significant space and/or accessibility considerations or other practical necessities, Class 2 – Optional and Class 3 - Disposable records shall not be converted to electronic formats. Specific procedures for ESI are detailed in AP 3320 titled Electronically Stored Information.

Hard copy storage shall be in climate controlled locations and in District-approved boxes, which shall include a standardized District records label indicating the records classification, description of contents, year of document origination, and where appropriate, designated destruction date.

All off-site storage requests shall be via District-approved vendors. Records shall be stored in District approved boxes, and shall include an appropriate Records Transmittal Form, indicating the records classification, description of contents, year of document origination, and where appropriate, designated destruction date.

Any hard copy records retrieved from storage require completion of a Storage Records Request Form, which shall include the authorized party retrieving the records and an appropriate contact number, the name(s) of the record(s) retrieved, the date of retrieval, the anticipated date of record return.

Also see BP 5040 titled Student Records and Directory Information, AP 3320 titled Electronically Stored Information, and BP/AP 3300 titled Public Records

Office of Primary Responsibility: Office of the President

NOTE: *The **red ink** signifies **legally required** language recommended from the Community College League and legal counsel (Liebert Cassidy Whitmore). The language in **green ink** is recommended by Human Resource Services. The information in **blue ink** is additional language to consider including in this procedure. This procedure was approved by the Policy and Procedure Task Force on 3-6-09.*

Date Approved:

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

AP 3810 CLAIMS AGAINST THE DISTRICT

References:

Education Code Section 72502;
Government Code Sections 900 et seq.

Claims and Actions Against the District

Any and all claims for money or damages against the District must be presented to, and acted upon, in accordance with the following procedures. Compliance with these procedures is a prerequisite to any court action, unless the claim is governed by statutes or regulations which expressly relieve the claimant from the obligation to comply with this policy and the claims procedures set forth in Government Code Sections 900 et seq.

If a claim, amendment to a claim, or application for leave to present a late claim is presented or sent by mail, or if any notice regarding a claim or application is given by mail, the claim, amendment, or notice shall be deposited in the United States mail, in a sealed envelope, properly addresses, with postage paid. Any period of notice, and any duty to respond after receipt of service of a claim, amendment, application, or notice set forth in this Board Policy is extended five days upon service by mail, if the place of address is within the State of California, ten days if the place of address is within the United States, and 20 days if the place of address is outside the United States. Proof of mailing may be made in the manner prescribed by Section 1013a of the Code of Civil Procedure. (Government Code Section 915.2)

Delivery and Form of Claim

A claim, any amendment thereto, or an application for leave to present a late claim shall be deemed presented when delivered to the Office of the President, or deposited in a post office, sub-post office, substation, or mail chute or other like facility maintained by the U.S. Government in a sealed envelope properly addressed to the District with postage paid. (Government Code Sections 915 and 915.2)

Claims shall be submitted on the District's approved claim form, which may be obtained in the Business and Contract Services Office, shall provide all of the information required by Government Code Section 910 and shall be signed by the claimant or a person acting on the claimant's behalf. Any claim not presented using the form may be returned to the person presenting it. A claim returned for failure for use the form may be resubmitted using the appropriate form within the time in which a claim may be presented. (Government Code Sections 910, 910.3, 910.4, and 911.2)

Time Limitations

Claims for money or damages relating to a cause of action for death, injury to a person or personal property, or damage to growing crops, shall be presented to the Governing Board not later than six months after the accrual of the cause of action. Claims for money or damages relating to any other cause of action shall be filed not later than one year from the date the cause of action accrues. (Government Code Sections 905, 911.2, and 935)

Late Claims

Claims for money or damages relating to a cause of action for death, injury to a person or personal property, or damage to growing crops which are filed outside the specified time

limitation must be accompanied by an application to file a late claim. Such claim and application to file a late claim must be filed not later than one year after the accrual of the cause of action. If such claim is filed later than six months after the accrual of the cause of action and is not accompanied by the application, the Governing Board or Vice President, Finance and Administrative Services, may within 45 days, give written notice that the claim was not filed timely and that it is being returned without further action.

The application shall state the reason for the delay in presenting the claim. The Governing Board shall grant or deny the application within 45 days after it is presented. By mutual agreement of the claimant and the Governing Board, such 45 day period may be extended by written agreement made before the expiration of such period. If the Governing Board does not take action on the application within 45 days, it shall be deemed to have been denied on the 45th day unless such time period has been extended, in which case it shall be denied on the last day of the period specified in the extension agreement.

If the application to present the claim is denied, the claimant shall be given notice in the form set forth in Government Code Section 911.8. The appropriate form may be obtained in the Business and Contract Services Office. (Government Code Sections 911.3, 911.4, 911.6, 911.8, 912.2, and 935)

Notice of Claim Insufficiency

The Vice President, Finance and Administrative Services, shall cause to have all claims reviewed for sufficiency of information. The Vice President or designee may, within 20 days of receipt of claim, either personally deliver or mail to claimant a notice stating deficiencies in the claim presented. If such notice is delivered or sent to claimant, the Governing Board shall not act upon the claim until at least 15 days after such notice is sent. (Government Code Sections 910.8 and 915.4)

Amendments to Claim

Claims may be amended within the above limits or prior to final action by the Governing Board, whichever is later, if the claim, as amended, relates to the same transaction or occurrence which gave rise to the original claim.

Action on Claim

Within 45 days after the presentation or amendment of a claim, the Governing Board shall take action on the claim. This time limit may be extended by written agreement before the expiration of the 45 day period or before legal action is commenced or barred by legal limitations. The Vice President, Finance and Administrative Services shall transmit to the claimant a notice of action taken. If no action is taken by the Governing Board, the claim shall be deemed to have been rejected. (Government Code Section 912.4)

Retroactivity

This procedure shall apply retroactively to any causes of action or claims for money or damages that accrued prior to adoption of this procedure.

❖ From current Palomar Procedure 509 titled Claims Against the District

~~All tort claims shall be presented within the time limit as provided under Government Code Section 911.2; i.e., six months for claims relating to death or injury to person or damage to personal property after accrual of the cause of action and one year for any other claim after accrual of the cause of action. The Governing Board shall act upon such claim within 45 days as specified in Government Code Section 912.4.~~

Office of Primary Responsibility:

Business and Contract Services

NOTE: The **red ink** signifies **suggested/recommended** language by the Community College League and legal counsel (Liebert Cassidy Whitmore). The language in **green ink** is recommended by Finance and Administrative Services. The information in **blue ink** is additional language to consider including in this procedure. The information in **black ink** is current Palomar College Procedure 509 titled Claims Against the District with no date. This procedure was approved by the Policy and Procedure Task Force on 3-6-09.

Date Approved:

(Replaces current Palomar College Procedure 509)

AP 6450 CELLULAR OR WIRELESS PHONE/MOBILE DEVICE USE

References:

Vehicle Code, Sections 12810.3, 23123, and 23124;
Internal Revenue Code (I.R.C.), Sections 274(d)(4) and 280F(d)(4)

The Superintendent/President shall determine if it is in the best interests of the District to provide a cellular or wireless phone/mobile device at District expense. Mobile devices do not include laptop computers.

This procedure is subject to the applicable collective bargaining agreement or employee handbook.

The Chief Business Officer shall be responsible for creating, maintaining, and communicating information and operational guidelines related to cellular or wireless phones owned by the District and for stipend allowances for usage of personal cellular or wireless phone/mobile devices.

Cellular telephones owned by the District are classified by the Internal Revenue Service as "listed property" and may be included as employee wages, unless they are used exclusively for business purposes.

Employees provided a District owned cellular or wireless phone shall maintain supporting documentation regarding personal and business use, to permit the District to include a pro rata share of the value of the phone and the monthly service charges for personal cellular or wireless telephone usage. Failure to document such usage will result in the classification of the value of the cellular or wireless telephone and the monthly service charges as employee income.

The District shall monitor the cellular or wireless phone usage records of the District-provided cellular or wireless phones/mobile devices to ensure compliance with this procedure. These rules do not apply to cellular or wireless phones/mobile devices owned by employees. Any reimbursements to employees for use of their own cellular or wireless phones/mobile devices may be excluded from wages if the employee accounts for the expense pursuant to the Internal Revenue Service accountable plan.

Motor vehicle drivers may not use cellular or wireless phones/mobile devices while operating their vehicles without a hands-free listening device. Drivers may use a cellular or wireless phone/mobile device to contact a law enforcement agency or public safety entity for emergency purposes.

Office of Primary Responsibility: Finance and Administrative Services

NOTE: The **red ink** signifies language that is **legally advised**. This new procedure was recommended by the CC League and the League's legal counsel in Update #15 disseminated to districts in September 2008. This procedure was created to address Internal Revenue Service (IRS) guidelines. The language in **green ink** is recommended by Finance and Administrative Services. The information in **blue ink** is language to consider including. This procedure was approved by the Policy and Procedure Task Force on 3-6-09.

Date Approved:

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