

*Foothill-De Anza Community College District
Administrative Procedures*

ADMINISTRATIVE PROCEDURES MANUAL



**FOOTHILL-DE ANZA
Community College District**

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Neighborhood Outreach Procedures

AP 1115

The Board of Trustees is committed to clear, proactive communication with the Colleges' neighbors regarding campus development. The purpose of this administrative procedure is to establish a baseline protocol for dissemination of information related to capital projects and to encourage early and frequent communication between District staff and the public.

Definitions

For the purpose of this policy:

“Large Capital Project” is defined as the construction of new buildings, substantial additions to existing buildings, and other events that could have significant neighborhood impact.

Outreach Procedures

The campus will prepare a community outreach plan for each large capital project. The scale of the outreach effort will be designed to match the size and scope of the project and the likely level of community interest. In any case, the California Environmental Quality Act (CEQA) requirements for notification will serve to denote the minimum level of effort.

Outreach modes:

Web site: All capital projects will be posted on the campus Web site. When the project size warrants, electronic means may be used to provide ongoing updates to interested parties.

Written notification: Letters and postcards should be used for formal notification. Newspapers advertisements announcing projects and meeting notification may be appropriate for larger projects.

Meetings: For projects that are exceptionally large or that may otherwise generate significant neighborhood interest, there should be at least one community meeting no fewer than 30 days prior to the end of the public review period as defined by CEQA. It is recommended that the community meeting be held early in the CEQA process. Midweek evening meetings are preferred. A minimum of two weeks should be allowed for notifying the community of the meeting.

Outreach before and during construction:

The minimum level of effort should include a letter to the campus neighbors outlining the purpose and composition of the project, the schedule of activities, and what construction activity may be expected. The holding of periodic community meetings is appropriate in the case of particularly large projects or those with significant neighborhood interest.

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See Board Policy 1115

Dated 7/12/04

Procedures for the Investment of District Funds

AP 3130

The investment portfolio shall be diversified within the parameters defined below:

Allowable Investment Instruments:

- Santa Clara County Commingled Fund — under the direction of the Santa Clara County Finance Agency and Treasury Department.
- Local Agency Investment Fund — under the direction of the State of California.
- Time certificates of deposit (CD's) not exceeding \$100,000 with a commercial institution that is also an active member of a Federal deposit insurance program.
- Secured (collateralized as defined under §53638 and 53652) time deposits exceeding \$100,000 shall be permitted when all of the following requirements have been met:
 - (i) *Pooled collateralization* — the commercial institution should be in good standing with the California State Collateral Pool which requires the commercial institution reserve a pool of funds securing the investment balance (typically 110% of the agencies investments).
 - (ii) *Profitability* — the commercial institution must have been profitable for the two most recently completed quarters.
 - (iii) *Rating* — the commercial institution shall be included in the top three ratings' categories by one of the nationally recognized rating services such as Moody's or Standard & Poor's (e.g., "A" or better).
- Unsecured (negotiable) time deposits shall be permitted with commercial institutions meeting the criteria as defined in the "secured deposits" section above and having assets in excess of one billion dollars (\$1,000,000,000). Furthermore, such institution shall provide the District annual financial statements as well as Federal Home Loan Bank "FHLB" reports (Form 107 or its equivalent).

Prior to purchasing negotiable time deposit investments, the Director shall certify in writing that the financial institution is in good standing and that the requirements above have been satisfied. Conversely, the Director shall have the ability to liquidate negotiable time deposit investments and/or remove an institution's eligibility that fails to meet the above guidelines.

Purchases of negotiable certificates of deposit may not exceed thirty percent (30%) of the District's invested funds.

- Securities issued by, or an agency of, the United States Government guaranteed by the full-faith and credit of the United States Government.

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- Commercial paper or notes of “prime” quality issued by corporations organized and operating within the United States, containing assets in excess of five hundred million dollars (\$500,000,000) and having a rating of “A” or higher on the issuer’s debt by Moody’s or Standard and Poor’s rating services.

Commercial paper shall be further limited to maturities not exceeding 180 days or more than ten percent (10%) of the outstanding paper from the issuing corporation. Additionally, such investments shall not exceed fifteen percent (15%) of the District’s invested funds; however, this limitation can be increased by fifteen percent (15%) if the dollar weighted average of such instruments does not exceed 30 days.

- Bills of exchange or time drafts drawn on and accepted by a commercial institution, otherwise known as Banker’s Acceptances, which are eligible for purchase by the Federal Reserve System. Investment in such securities requires current credit ratings of “A” or higher by Moody’s or Standard and Poor’s rating services. Additionally, these securities shall be guaranteed by the commercial institution. Moreover, the District should assess the financial stability of the institution prior to placing the investment. In ascertaining such stability, the District shall follow similar guidelines as previously defined in evaluating negotiable certificates of deposit.

Banker’s acceptances shall not exceed 270 days maturity or forty percent (40%) of the District’s invested funds. Furthermore, investments of this nature shall not exceed thirty percent (30%) of the District’s invested funds with any one commercial institution.

- Medium-term notes issued by corporations organized and operating within the United States, containing assets in excess of five hundred million dollars (\$500,000,000) and having a rating of “A” or higher on the issuer’s debt by Moody’s or Standard and Poor’s rating services.

Maturity of medium-term notes may not exceed two (2) years or ten percent (10%) of the District’s invested funds.

- Obligations which are legal investments of District monies under the laws of the State of California provided that if such investments are not fully insured or adequately collateralized that such investments will be issued by entities that are rated in the highest short-term or one of the two highest long-term rating categories by Moody’s or Standard and Poor’s rating services.
- Repurchase agreements exclusively consisting of United States Government obligations or an agency of the United States for a term not to exceed six (6) months. Furthermore, the seller will provide a “book entry” or physically deliver the instrument to the District or its acting agent. The counterparty bank’s trust department is also considered sufficient delivery for the purposes of these transactions.

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- Reverse repurchase agreements shall not be permitted as a means of enhancing yield or arbitrage but shall be allowed only as a short-term borrowing technique to supplement anticipated cash requirements.

Additional Requirements

Invested funds shall be maintained to ensure the following liquidity levels are available to meet current cash flow requirements:

- Short-term funds, available within five (5) business days or less, shall constitute a minimum of five percent (5%) of the portfolio; and
- The weighted average maturity of the portfolio shall not exceed 360 days.

Liquidity levels shall be calculated as of the purchase (trade) date.

Restrictions

Highly speculative investments, such as the futures or options markets.

Investments departing from the requirements specifically defined throughout this policy.

Activity contrary to §53600 of the Government Code of California.

Internal Controls

The District shall incorporate effective internal controls designed to prevent the loss or misappropriation of funds arising from fraud, employee error or imprudent action(s) or misrepresentation by a third party.

The District shall account for all investment transactions in accordance with Generally Accepted Accounting Principles (GAAP) and ensure all investments are properly recorded in the corresponding fund accounts to which they relate. Annually, the District shall have the internal and/or external auditor examine and evaluate the internal controls as they relate to the District's investment practices and if deemed necessary, make recommendations to improve operating procedures and/or enhance internal controls.

Reporting

The legislature enacted SB 564 which requires local agencies such as the District to comply with the following conditions:

- Local agencies, including school districts, are required to render an investment policy to the legislative body of the local agency for consideration at a public meeting.
- Schools are required to report any outside investments on a quarterly basis, no later than thirty days after the close of each fiscal quarter.

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In accordance with the provisions above, the District shall prepare an investment report on a quarterly basis that provides the current status of District investments and a summary of investments within the District's portfolio. If applicable, the report will also highlight significant changes in market trends, adverse market conditions, legal modifications and recommended actions. At a minimum, the report will include the following information:

- Current yield on the portfolio and its performance against other common investments (e.g., Local Agency Investment Fund, Treasury Notes, etc.).
- List of individual securities by investment type and maturity date.
- Weighted average maturity of the portfolio.

The report will be prepared by the Controller and made available to the Chancellor, Director of Business Services and Internal Auditor and will be presented to the District's Audit and Finance Committee and Board of Trustees as an information item during a regularly scheduled public session.

See Board Policy 3130, "Investment of District Funds"

Reviewed by Board 9/9/96; 8/16/99

Definitions

Budgeter

A Budgeter is the manager responsible for a particular budget account. Budgeters have authority to sign Purchase Requisitions. A Budgeter does not have authority to obligate the District or a college by entering into contracts or signing Purchase Orders for goods or services except to the extent that the Board of Trustees may have delegated contractual authority by written resolution to the position held by the Budgeter and, even then, the Budgeter may only exercise such delegated contractual authority to the extent allowed by the Budgeter's college or District Administration.

District Material and Purchasing Services

This is the central purchasing department for Foothill-De Anza Community College District, Foothill College, and De Anza College. It is administered by the Director of Material and Purchasing Services who reports to the District's Vice Chancellor for Business Services. Purchasing Services Buyers and Senior Buyers solicit competitive bids and award purchase orders. Material Services provides central receiving, including property control tagging, for items ordered on District Purchase Orders, and it operates a storeroom that stocks commonly used forms and supplies.

Purchase Order

A Purchase Order is a document created by District Purchasing Services after it receives a requisition, conducts necessary bidding, and selects a vendor. District Purchasing Services creates Purchase Orders online in the District's Financial Records System (FRS). A Purchase Order is a contract to purchase goods or services from a vendor. When District Purchasing creates the Purchase Order it establishes a FRS encumbrance against the accounts listed on the requisition. The encumbered funds will be used to pay for the purchase after it is received and invoiced.

Purchase Requisition

A Purchase Requisition is a purchase request form that is completed by the authorized Budgeter(s) and sent to District Purchasing Services so that District Purchasing Services can obtain bids, select a vendor, and award an order in accordance with applicable laws and policies. A Purchase Requisition must describe the needed item in terms of required quantity, quality, features, and functions, and it must indicate the desired delivery date. It also lists the accounts that will pay for the requested items, and it must be signed by the Budgeter for each of those accounts before it is sent to District Purchasing Services.

Overview of Legal, Ethical, and Policy Requirements

Overview of Applicable Laws and Policies

The State of California Education Code, Sections 81655 and 81656, empowers the Board of Trustees to enter into contracts on behalf of the District and to delegate such contractual authority to one or more District officers or employees by resolution of the Board. The Foothill-De Anza Community College District's Board Policies 3140 and 3143 and the District's Administrative Procedures AP3140 and AP3143 have been written to comply with Education Code Sections 81655 and 81656 as well as with public bidding requirements mandated by Public Contract Code Section 20651, conflict of interest regulations mandated by Government Code Sections 1090 and 1126, and applicable Internal Revenue Service regulations. Board policies 3140 and 3143 require that all contracts and purchasing transactions shall be in writing. Please refer to the most current version of the California Association of School Business Officials (CASBO) *Purchasing Agents Reference Guide to Legal Codes* for a complete listing of applicable laws.

Legal and Ethical Requirements

Purchasing Authority and Responsibility

The District's Material and Purchasing Services Department is the central purchasing authority for Foothill-De Anza Community College District. In addition, purchases may also be made directly by certain other college or District officials if the Board of Trustees has expressly delegated purchasing authority to such officials by resolution, and if such officials take full responsibility for their purchase transactions including the receiving function. It is not the role of the District's Material and Purchasing Services Department to approve or troubleshoot a purchase after others have made the purchase. Additionally, District Material and Purchasing Services only receives deliveries of purchases that are made pursuant to its District Purchase Orders.

Current Board Resolutions regarding purchasing authority (Purchasing Authority Grid) are posted at <http://purchasing.fhda.edu/policies>.

Requirement to File Statements of Economic Interest

District and campus employees, officials, or consultants who substantially influence the award of contracts, exercise contractual authority, or otherwise make or assist in making decisions that may have a material effect on the financial interests of the District or colleges are required to file an annual Statement of Economic Interests Form 730 in accordance with Board of Trustees policy and the California Code of Regulations, Title 2, Section 18730.

Required Compliance with Conflict of Interest Regulations

Government Code sections 1090-1099 prohibit any employee or officer from having any financial interest in any contract made by them in their official capacity or by any board or body of which they are members; this applies to personal financial interest and that of

family members. It also prohibits employees or officers from being “purchasers at any sale or vendors at any purchase made by them in their official capacity.” Furthermore, it is a crime for a public employee to influence the award of a contract in which he or she has an economic interest.

Government Code Section 1126 prohibits any employee or officer from engaging in any activity for compensation which is “inconsistent, incompatible, in conflict with or inimical to” his or her duties as an employee or officer or with the duties, functions or responsibilities of his or her employer.

For legal and ethical reasons and to avoid actual or apparent conflict of interest, District and campus employees or officers who substantially influence the award of contracts or who exercise contractual authority must avoid the acceptance of gifts, gratuities, offers of employment, commissions, fees, travel, or other personal economic gain from vendors or contractors who want or have a buyer-seller relationship with the District or its colleges.

Required Records and Audit

Regardless of whether Material and Purchasing Services or another authorized official makes the purchase, all purchases must be in writing and shall be reviewed by the Board within 60 days or as otherwise provided by law. The records must document compliance with this Board administrative procedure and all other applicable Federal, State, and Local laws as well as District policies. Any official who exercises purchasing authority is required to maintain his or her own written records of all Budgeter purchase requests, vendor quotations, contracts or order documents, and receiving reports for a minimum of three years after completion of the purchase or contract, and such records are subject to audit. Additionally, to facilitate the Accounts Payable process, purchase documents must be sequentially numbered and vendors must be instructed to show the appropriate purchase document number on related invoices.

Requirement to Solicit Bids

The bid limit for the purchase of materials, supplies, and services to be furnished, sold, or leased is established by the State of California Public Contract Code § 20651. The limit is subject to change on January 1 of each year. There are two distinct bid limits: **(1) Public Projects** (i.e., contracts with the licensed trades to perform construction, reconstruction, erection, alteration, renovation, improvement, demolition, landscaping, voice or data cabling, painting, or repair work involving any publicly owned, leased, or operated facility) have a bid limit of \$15,000 as of January 1, 2007; **(2) Materials, Supplies, and Miscellaneous Maintenance Services** have a bid limit of \$69,000 as of January 1, 2007. **Exemption:** Certain professional services or advice and insurance services are exempt from bidding requirements.

The amount subject to the bid limit requirements is the **total contract value** over the term of a written agreement including all costs for all years including all applicable taxes, shipping fees, and other associated charges. If the **total contract value** is below the applicable bid limit then the product or service may be purchased without the conducting an advertised formal competitive bid process. However, the purchase may be subject to a District requirement to obtain informal bids or quotations when the purchase cost is less

than the statutory bid limit (see procedures below). Informal bidding promotes free and open competition among sellers for public dollars and can substantially reduce acquisition cost for the needed goods or services.

Services Currently or Customarily Performed by Classified District Employees

Education Code Section 88003.1 establishes standards for the use of contractors to provide services that are currently or customarily performed by classified District employees

Limits on Contract Duration

Pursuant to Education Code Section 81644, contracts for services or equipment shall not exceed five years duration and contracts for materials or supplies shall not exceed three years duration.

Policy Requirements

Exception to Purchasing Delegations: Capital Equipment

Capital equipment with a life of one year or more and a cost of \$5,000 or more must be purchased pursuant to Administrative Procedure 3140 by the District Purchasing Services Department. Capital equipment must be tagged with a District Property Control Number and entered into the District's capital equipment inventory records immediately upon receipt.

Requirement to Purchase Standard Computer Equipment

Computer equipment purchases must comply with District-wide standards established by the Vice Chancellor for Educational Technology Services.

Contracts for Application of Toxic Chemicals

Contracts for the application of toxic chemicals such as pesticides or herbicides must be reviewed and approved by the Associate Director of Facilities and Operations (x6153) prior to execution.

All purchase transactions and contracts must be in writing: Board policy 3140 requires that all contracts and purchasing transactions shall be in writing.

All purchase transactions and contracts shall be reviewed by the Board of Trustees: Board policy 3140 requires that all contracts and purchasing transactions shall be reviewed by the Board within 60 days or as otherwise provided by law.

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Vendor Selection and Purchasing Procedures

Introduction

Choose one of the following procedures based upon the nature of the anticipated purchase. Choose the procedure under Section I if requesting equipment, materials, supplies, or maintenance services. Choose the procedure under Section II if requesting independent contractor services, professional services, or insurance services. Choose the procedure under Section III if requesting construction, reconstruction, erection, alteration, renovation, improvement, demolition, painting, voice/data cabling, or any type of repair work involving a publicly owned, leased, or operated facility.

Section I. Equipment, Materials, Supplies, and Maintenance Services

This section is applicable to the purchase or lease of equipment, materials, supplies and services including maintenance services as defined in Public Contract Code Section 20656 as “routine, recurring, and usual work for the preservation, protection and keeping of any publicly owned or publicly operated facility for its intended purposes in a safe and continually usable condition for which it was designed, improved, constructed, altered or repaired.” It is not applicable for the purchase of construction, public projects, insurance services, and professional services.

The requestor will submit to District Purchasing Services a Purchase Requisition that has been signed by the authorized Budgeter(s) for the account(s) to be charged for the purchase.

Expenditures that exceed the bid limits **(\$69,000 as of 1/1/07)** require formal bids obtained by District Purchasing Services. It may take 2-4 **MONTHS** or longer for District Purchasing Services to issue a purchase order under these circumstances. District Purchasing Services will collaborate with the requestor to establish a schedule (a bid calendar) for bidding the acquisition.

Certain items are specifically exempt from bid requirements. Perishable food stuffs and seasonal commodities needed in the operation of cafeterias and food services are exempt from bidding under Public Contract Code Section 20660. Supplementary textbooks, library books, and educational films, audiovisual materials, test materials, workbooks, instructional computer software packages, or periodicals in any amount needed for the operation of the schools of the district may be purchased without taking estimates or advertising for bids, provided, however, even purchase transactions that are exempt from bid requirements must, nevertheless, be approved by the Board of Trustees if their cost exceeds the current bid limit as established by California Public Contract Code §20651 (\$69,000 as of 1/1/07).

Under this section, the following additional competitive bidding practices are required as a matter of board policy:

- A. **Expenditures of \$0 to \$10,000** require at least one documented verbal or written price quotation obtained by an authorized budgeter of the account(s) to be charged or by Purchasing Services. The quotations and other applicable pricing information

should be sent to Purchasing Services along with an approved Purchase Requisition. If the Purchase Requisition is submitted without a valid quotation, Purchasing Services will solicit quotations based upon the item descriptions on the Purchase Requisition.

- B. **Expenditures from \$10,001 to the Public Contract Code §20651 bid limit (\$69,000 as of 1/1/07)** require at least three written price quotations obtained by District Purchasing Services. The Budgeter authorized to requisition such expenditure will supply applicable specifications with an approved Purchase Requisition to District Purchasing Services. Purchasing Services shall use the information to issue a Request for Quotations (RFQ). The RFQ will be posted online if practicable. It may take 2-4 **WEEKS** or longer for District Purchasing Services to issue a purchase order under these circumstances.

Section II. Independent Contracts Including Professional Services and Insurance Services

Any contract to purchase the services of a person, business, or corporation who is not an employee of the District or the colleges is an independent contract. Independent contracts should not be used to hire contractors to perform facility construction, modification, renovation, demolition, or repair or to make other purchases which are subject to the competitive bid requirements of the Education Code or the Public Contract Code.

A. Summary of Requirements

1. Officials with Board delegated purchasing authority pursuant to **Education Code 81656** are authorized to enter into contracts with independent contractors up to the amount of their delegated authority but not to exceed \$20,000.

NOTE: Refer to Board Policy 3143 and Board Administrative Policy 3143 regarding contracts with costs in excess of this statutory amount. Current Board Resolutions regarding purchasing authority (Purchasing Authority Grid) are posted at <http://purchasing.fhda.edu/policies>.

2. All contracts must be written in a format approved by District Business Services and the contractor must supply a completed IRS Form W-9.
3. Contracts for the application of toxic chemicals such as pesticides or herbicides must be reviewed and approved by the District Director of Environmental Health and Safety prior to execution.

B. Procedures for Independent Contracts if Contract Amount is \$20,000 or Less

1. Complete the 2-page Independent Contract Form which is available at our website, <http://purchasing.fhda.edu> (Foothill-De Anza Community College District). Ensure that all fields of the form are filled with clear and precise information including description of services, beginning and ending dates of the contract, fee schedule, and maximum total cost.

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2. Before services begin, obtain contractor signature on the Independent Contract Form and obtain an IRS Form W-9 from the contractor.
 3. Before services begin, obtain signature of your authorized campus or district representative.
 4. If more than one payment will be made to contractor, see Step C below.
 5. Payment instructions: After services are satisfactorily completed, submit the vendor's invoice, the completed and signed 2-page Independent Contract Form from step 1 above, and the W-9 to District Accounts Payable. Make sure that the invoice has been signed by the responsible Budgeter as "approved for payment" and that it shows the account code(s) to be charged, and a description of the work including date(s) performed. The invoiced amount cannot exceed the contract amount.
 6. Changes to the contract dates, scope of work, dollar amount or other terms and conditions must be in the form of written contract amendments, sequentially numbered, dated, and signed by both the contractor and the authorized District representative who originally entered into the contract.
 - If the amendment increases the cost of the contract, it must clearly explain the reason for the cost increase.
 - The total amount of the contract including all amendments cannot exceed \$20,000.
- C. Recommended additional step following B4 above in order to facilitate and track payments if the Contractor will be paid two or more times for the contractual services.

If used, the steps below replace B5 payment instructions. If not used, a copy of the independent contract must be sent to Accounts Payable with each request for payment.

1. After the form of contract has been generated and signed by the contractor and a authorized campus or district representative pursuant to B above, submit a Purchase Requisition (form 23260) along with the completed signed Contract form and IRS Form W-9 to District Purchasing Services. Purchasing Services will issue a Purchase Order to facilitate payments for the services and will send a copy of the Purchase Order to the requestor, the contractor, and District Accounts Payable. Contractor should indicate the District's Purchase Order number on all invoices.
2. After the invoiced services associated with that payment are satisfactorily completed, submit each vendor invoice to District Accounts Payable. Make sure that the invoice has been signed by the responsible Budgeter as "approved for payment," that it indicates the correct Purchase Order number, and that it

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includes a description of the work billed including the date(s) performed. The total of all invoices cannot exceed the contract amount.

3. To request a Purchase Order revision consistent with a contract amendment, submit the properly authorized signed amendment along with a Purchase Requisition to District Purchasing Services and reference the contract's existing Purchase Order Number.

D. If the Contract Amount Will Exceed \$20,000

Refer to Board Policy 3143 and Board Administrative Policy 3143 for requirements. Any contract in excess of \$20,000 must be presented to the Board of Trustees for approval prior to contract commencement unless the contract has been authorized by the Chancellor or the Vice Chancellor of Business Services prior to contract commencement as well as ratified by the Board of Trustees within 60 days thereafter.

Section III. Public Projects

California Public Contract Code §22002 defines "Public Project" as construction, reconstruction, erection, alteration, renovation, improvement, demolition, painting, and repair work involving any publicly owned, leased, or operated facility. **The installation of voice or data cabling is defined as a public project.** Public Project contractors must pay prevailing wages to their workers in accordance with California Labor Code (sections 1720-1815) and the California Code of Regulations, Title 8.

- A. Public Projects require Plant Services review, approval and project coordination.
- B. The requestor will submit to District Purchasing Services a Purchase Requisition that has been signed by the authorized Budgeter(s) for the account(s) to be charged for the purchase.
- C. The following competitive selection processes are required:
 1. Expenditures with a total cost of \$0 to \$1,000 require at least one price quotation obtained from a licensed contractor by Plant Services staff in conjunction with specifications prepared by Division/Department manager. In accordance with Public Contract Code section 20657, all contractors included on the District's informal bidding list shall be given notice of all requests for quotations in any manner as the district deems appropriate.
 2. Expenditures with a total cost of \$1,001 to \$14,999 require that Plant Services staff invite at least three licensed contractors to submit written price quotations using public project quotation forms provided by District Purchasing Services. In accordance with Public Contract Code section 20657, all contractors included on the District's informal bidding list shall be given notice of all requests for quotations in any manner as the district deems appropriate.

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3. Expenditures with a total cost of \$15,000 and more require formal bids obtained by District Purchasing Services staff using specifications prepared by Plant Services staff and the requesting staff or Division/Department manager. It may take 2-4 months to issue a purchase order under these circumstances. District Purchasing Services staff will work with the requestor to establish a schedule (a bid calendar) for bidding the project.

See Public Contract Code sections 20651-20660 and 22002

Education Code sections 81641-81656

Government Code sections 1090 and 1126

Labor Code sections 1720-1815

California Code of Regulations, Title 8

Section IV. Other Acquisition Methods

Several options are available to the end user to purchase materials or supplies when the cost is less than the regulated limits listed above. Please refer to the current "Quick Reference Guide" which is posted on the District Purchasing Services website at <http://purchasing.fhda.edu>.

See Board Policy 3140

Reviewed 8/16/99

Updated 5/28/02, 1/1/04, 12/6/04, 3/17/06

Reviewed by Chancellor's Advisory Council 4/27/07

Overview of Legal and Policy Requirements

Overview of Applicable Laws and Policies

The State of California Education Code, Sections 81655 and 81656, empowers the Board of Trustees to enter into contracts on behalf of the District and to delegate such contractual authority to one or more District officers or employees by resolution of the Board. The Foothill-De Anza Community College District's Board Policies 3140 and 3143 and the District's Administrative Procedures AP3140 and AP3143 have been written to comply with Education Code Sections 81655 and 81656 as well as with public bidding requirements mandated by Public Contract Code Section 20651; conflict of interest regulations mandated by Government Code Sections 1090 and 1126; and applicable Internal Revenue Service regulations. Board policies 3140 and 3143 require that all contracts and purchasing transactions shall be in writing. Refer to the most current version of the California Association of School Business Officials (CASBO) *Purchasing Agents Guide to Legal Codes* for a complete listing of applicable laws.

Legal and Ethical Requirements

Board of Trustees Delegations of Contractual Authority

Contracts may be signed by certain college or District officials if the Board of Trustees has expressly delegated contractual authority to such officials by written resolution. An official with the right to exercise delegated authority pursuant to Education Code 81655 can choose to sign contracts in advance of Board authorization. However, the official is responsible to ensure that the contract complies with all applicable laws and that it is submitted to the Board of Trustees for ratification within 60 days after the official signs it. Education Code Section 81655 requires the District's Board of Trustees to approve or ratify all contracts regardless of price in order to establish their legal validity.

Statutory Requirement for Board Approval or Ratification

In order to comply with Education Code Section 81655, contracts let pursuant to Board Policy 3143 and Administrative Procedure 3143 shall be valid and constitute an enforceable obligation against the District only when they have been approved or ratified by the Board of Trustees by a formal action of said Board duly passed and adopted by majority vote. Contracts shall be presented for adoption or ratification by the Board within sixty (60) days after execution.

Services Currently or Customarily Performed by Classified District Employees

Education Code Section 88003.1 establishes standards for the use of contractors to provide services that are currently or customarily performed by classified District employees.

Competitive Bidding Requirements

The delegation by the Board of Trustees of the authority to contract pursuant to Board Policy 3143, Education Code Section 81655, and this Administrative Procedure 3143 requires compliance with all applicable laws that require contracts to be let through a competitive process. The required competitive bidding processes are the same as those required by Board Policy 3140 and Board Administrative Procedure 3140. Please refer to Administrative Procedure 3140 and the applicable state codes for details about competitive bidding requirements.

Requirement to File Statements of Economic Interest

District and campus employees, officials, or consultants who substantially influence the award of contracts, exercise contractual authority, or otherwise make or assist in making decisions that may have a material effect on the financial interests of the District or colleges are required to file an annual Statement of Economic Interests Form 730 in accordance with Board of Trustees policy and the California code of Regulations, Title 2, Section 18730.

Required Compliance with Conflict of Interest Regulations

Government Code 1090 prohibits any employee or officer from having any financial interest in any contract made by them in their official capacity or by any board or body of which they are members; this applies to personal financial interest and that of family members. It also prohibits employees or officers from being “purchasers at any sale or vendors at any purchase made by them in their official capacity.” Furthermore, it is a crime under Government Code 1090 for a public employee to influence the award of a contract in which he or she has an economic interest.

Government Code Section 1126 prohibits any employee or officer from engaging in any activity for compensation which is “inconsistent, incompatible, in conflict with or inimical to” his or her duties as an employee or officer or with the duties, functions or responsibilities of his or her employer.

For legal and ethical reasons and to avoid actual or apparent conflict of interest, District and campus employees or officers who substantially influence the award of contracts or who exercise contractual authority must avoid the acceptance of gifts, gratuities, offers of employment, commissions, fees, travel, or other personal economic gain from vendors or contractors who have or want to have a buyer-seller relationship with the District or its colleges.

Statutory Limits on Contract Duration

Contract duration shall not exceed three years for materials or supplies or five years for equipment, work, or services per Education Code section 81644.

Required Records and Audit

All contracts must be in writing and shall be approved or ratified by the Board within 90 days or as otherwise provided by law. The records must document compliance with this Board administrative procedure and all other applicable Federal, State, and Local laws as well as District policies. Any official who exercises contractual authority is required to maintain his or her own written records of all Budgeter purchase requests, vendor quotations, contracts or order documents, and receiving reports for a minimum of three years after completion of the purchase or contract, and such records are subject to audit. Additionally, to facilitate the Accounts Payable process, purchase documents must be sequentially numbered and vendors must be instructed to show the appropriate purchase document number on related invoices.

Contractors must send invoices to the person who authorized the contract so that the invoices can be reviewed and approved prior to payment by District Accounts Payable.

Policy Requirements

Form of Contract

All contracts must be written in a format approved by District Business Services. The signature block on a contract form signed pursuant to delegated authority under Education Code Section 81655 must state: "SIGNED IN ADVANCE OF BUT VALIDITY OF CONTRACT DEPENDENT UPON FORMAL APPROVAL BY GOVERNING BOARD PER EDUCATION CODE SECTION 81655."

Contractor Must Submit IRS Form W-9

The contractor must supply a completed IRS Form W-9 before the contract is signed.

Exception to Purchasing Delegations: Capital Equipment

Capital equipment with a life of one year or more and a cost of \$5,000 or more must be purchased pursuant to Administrative Procedure 3140 by the District Purchasing Services Department. Capital equipment must be tagged with a District Property Control Number and entered into the District's capital equipment inventory records immediately upon receipt.

Requirement to Purchase Standard Computers

Computer equipment purchases must comply with District-wide standards established by the Vice Chancellor for Educational Technology Services.

Review by Fire/Life Safety and Hazardous Materials Coordinator

Contracts for the application of toxic chemicals such as pesticides or herbicides must be reviewed and approved by the District Plant Services Fire/Life Safety and Hazardous Materials Coordinator prior to execution.

Procedures for Contracts including Professional Services and Insurance Services

Any contract to purchase the services of a person, business, or corporation who is not an employee of the District or the colleges is an independent contract.

A. Procedure

1. Submit the completed Independent Contract or other District-approved Agreement for Services form to the Board of Trustees for authorization before the contract services begin **OR** submit the contract to the Board of Trustees within 60 days after an official with delegated Board authority under Education Code 81655 signed the contract. Indicate the date of Board of Trustees approval on the contract form.
2. Obtain contractor signature on the Board authorized Contract and obtain an IRS Form W-9 from the contractor.
3. Obtain signature of your authorized campus or district representative.
4. If more than one payment will be made to the contractor, see step B below.
5. Payment Instructions: After services are satisfactorily completed, submit the vendor's invoice, the completed and signed 2-page Independent Contract Form from step 1 above, and the W-9 to District Accounts Payable. Make sure that the invoice has been signed by the responsible Budgeter as "approved for payment" and that it shows the account code(s) to be charged and a description of the work including date(s) performed. The invoiced amount cannot exceed the contract amount.
6. Contract Amendments: Changes to the contract dates, scope of work, dollar amount or other terms and conditions must be in the form of written amendments, sequentially numbered, dated, and signed by both the contractor and an authorized District representative.
 - If the amendment increases the cost of the contract, it must clearly explain the reason for the cost increase.
 - Board Approval or Ratification of Contract Amendments: If the contract scope is changed or if the total dollar amount of an amended contract, including cumulative contract changes or amendments, will exceed the original dollar amount authorized by the Board of Trustees by more than 10 percent, Board authorization of the increased contract amount is required. It is the responsibility of the requesting Division/Department manager or college president to submit contracts and contract changes to the Chancellor's office for placement on a board agenda.

- B. Recommended additional step following A3 above in order to facilitate and track payments if the Contractor will be paid two or more times for the contractual services.

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If used, the steps below replace A5 payment instructions. If not used, a copy of the independent contract must be sent to Accounts Payable with each request for payment.

1. After the form of contract has been created, approved or ratified by the Board of Trustees, and signed by the contractor and a authorized campus or district representative pursuant to A above, submit a Purchase Requisition (form 23260) along with the completed signed Contract form and IRS Form W-9 to District Purchasing Services. The Purchase Requisition must state the date that the Board of Trustees approved or ratified the contract. Purchasing Services will issue a Purchase Order to facilitate payments for the services and will send a copy of the Purchase Order to the requestor, the contractor, and District Accounts Payable. Contractor should indicate the District's Purchase Order number on all invoices.
2. After services associated with the payment are satisfactorily completed, submit each vendor invoice to District Accounts Payable. Ensure that the invoice has been signed by the responsible Budgeter as "approved for payment," that it indicates the correct Purchase Order number, and that it includes a description of the work billed including the date(s) performed. The invoiced amount cannot exceed the contract amount.
3. To request a Purchase Order revision consistent with a contract amendment, submit the properly authorized signed amendment along with a Purchase Requisition to District Purchasing Services and reference the contract's existing Purchase Order Number.

See Board Policy 3143

Education Code sections 81641-81656 and 88003.1
Public Contract Code sections 20651-20660
Government Code sections 1090 and 1126

Updated 1/1/03, 12/6/04

Administrative Travel Procedures

AP 3152

Board Policy § 3152 states that District employees are reimbursed for expenses incurred while away on district business. The purpose of this administrative procedure is to highlight allowable travel expenses under that policy. These procedures apply only to District employees and trustees and does not pertain to students or independent contractors who seek similar reimbursement.

It is the intent of the Board of Trustees that no employee suffer financial loss or produce personal gain as a result of being on district business. It is further intended by the Board that when an employee is away from home on district business, a standard of living be sustained comparable to what are normally maintained under conventional living conditions.

Expenses of a personal nature are not reimbursable.

General Travel Guidelines and Allowable Expenditures:

Below are examples of general travel guidelines and allowable travel expenditures; however, these examples are not intended to be all-inclusive nor fully refined.

Hotel Accommodations:

While traveling on district business, employees are encouraged to stay at good hotels. Premium accommodations should be avoided unless no other suitable arrangements are available or special circumstances justify their use. Hotel arrangements should only be sought when staying overnight and the hotel is outside a 75 mile radius from the District.

Air Transportation:

The standard for domestic air travel is coach class and for international travel is business class. Reservations should be made early to obtain the lowest rates. Employees should ensure plans are confirmed prior to purchasing tickets with flight restrictions or no-refund clauses.

Car Rental:

The standard car rental is a compact automobile; however, a larger a car can be used if more than two employees share a single automobile.

Generally, rental agencies provide insurance coverage at a premium. The District recommends you elect such coverage. If you use certain credit cards (i.e., “gold cards”) for payment, collision coverage is sometimes provided for under their policy. Before declining the insurance coverage, verify that the credit card does indeed provide such advantages.

Personal Automobile Transportation:

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When an employee elects to use a personal automobile for out-of-district transportation, the employee will be reimbursed at the current IRS statutory limit for the first 300 miles. Beyond that mileage, the employee will be reimbursed at the “economy” airfare to/from that location.

Business Travel Accompanied by a Spouse:

Expenses incurred by a spouse while traveling with an employee are not recoverable. Furthermore, any premium induced as a result of the spouse (i.e., additional room charge) will be borne by the employee.

Telephone Calls:

All business related calls are reimbursable. A reasonable amount (one or two per day) of personal calls are also reimbursable.

Receipts:

Except when claiming per-diem, all “original” receipts must accompany a claim for reimbursement. In certain instances, (i.e., toll, taxi, etc.) receipts are not furnished. In these situations, the reimbursement request must clearly explain the nature of the charge and why a receipt was not provided. Limitations exist on meals, see per-diem below. Claims for reimbursement are to be submitted within 90 calendar days following the trip, but no later than July 15 following the end of the fiscal year. Claims from a prior fiscal year will not be paid.

Per-Diem:

The meal per-diem, periodically adjusted for inflation, is \$55.00, as follows:

Breakfast	\$ 10.00
Lunch	\$ 15.00
Dinner	<u>\$ 30.00</u>
Total	<u>\$ 55.00</u>

Unless specifically authorized by the Chancellor or College President's, meal amounts exceeding the per-diem limit will not be reimbursed. Moreover, if a conference registration includes meals as part of the fee, then per-diem for that meal may not be additionally claimed.

See Board Policies 3152, 4170 & 4175

Reviewed by Board 8/16/99, 4/7/03

Distribution of Tickets or Passes

AP 3201

From time to time, the district receives tickets or passes to community facilities, events, shows, or performances for an entertainment, amusement, recreational or similar purpose. The District will distribute these tickets or passes when attendance at the event will further the District's mission or will significantly contribute to the professional development of an employee or a member of the Board of Trustees.

The District will distribute the ticket or pass to the person who will benefit most directly or whose regular role in the District most directly relates to the facility, event, show or performance. If more than one person would benefit equally or their role relates equally to the facility, event, show, or performance, the District will select one person to receive the ticket or pass by lot or rotation. The person receiving a ticket or pass pursuant to this procedure may not transfer the ticket or pass to any other person.

When the District provides a ticket or pass to an official of the District, the ticket or pass is not subject to the provisions of this procedure, so long as the official treats the ticket or pass as income consistent with applicable state and federal income tax laws and the District reports the distribution of the ticket or pass as income to the official and on its website as set forth below.

For each ticket or pass distributed, including those which the recipient treats the ticket or pass as income consistent with applicable state and federal income tax laws according to the paragraph above, the District will complete the California Fair Political Practices Commission (FPPC) Form 802. The District will post these completed forms on its website.

Title 2 Section 18944.1
Approved CAC 1/28/11

Capitalization of District Property

AP 3210

1. Real or personal property acquired by gift or purchase with an estimated useful life greater than one fiscal year shall be capitalized and depreciated according to the capitalization thresholds and estimated useful lives assigned to each category of capital assets. Property, plant and equipment will be categorized by the following broad asset types and depreciated using straight line depreciation in accordance with the following established capitalization thresholds and estimated useful lives:

<u>Asset Type</u>	<u>Capitalization Threshold</u>	<u>Useful Life</u>
Land	\$150,000.00	N/A
Land Improvements	150,000.00	10 yrs
Buildings	150,000.00	50 yrs
Building Improvements	150,000.00	10 yrs
Construction in Progress	150,000.00	N/A
Machinery and Equipment	5,000.00	8 yrs
Furniture, Fixtures and Office Equipment	5,000.00	8 yrs
Computer Equipment	5,000.00	3 yrs

The capitalization thresholds listed above will apply to all District assets with the exception of assets acquired through State Economic Development Funds. The capitalization threshold for machinery and equipment, furniture, fixtures and office equipment, and computer equipment is \$1,000.00 for assets acquired using State Economic Development Funds.

Expenditures incurred in construction such as materials, labor, engineering, supervision, legal, insurance, and overhead will be capitalized as “construction in progress” until the project is completed and placed in service. No depreciation will be taken on construction in progress.

2. Accurate records will be maintained of the location, cost and accumulated depreciation of capital assets. Cost includes the acquisition cost as well as any ancillary costs, such as freight, installation and setup costs, associated with preparing the asset for its intended use. Detailed capital asset ledgers will be maintained to include the following asset information:

- Asset Type
- Description
- Tag Number
- Serial Number
- Location
- Account Code
- Cost (Original/Historical)
- Useful Life
- Depreciation Expense
- Accumulated Depreciation

The physical existence of capital assets will be verified and reconciled to the fixed assets records. An inventory of assets will be performed on a periodic basis based

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on a random selection of assets listed on the capital asset ledgers. If an asset is moved from one location to another, management approval will be required on the "Property Transfer Form." Property Transfer Forms need to be mailed to District Accounting whenever an asset is moved in order to enter the appropriate information in the capital asset ledgers.

3. The cost (less salvage value) of all capitalizable assets, with the exceptions of land and construction in progress, will be allocated (depreciated) over the estimated useful lives in a rational and systematic manner. The District will use the straight line method and the half-year convention to allocate depreciation. The straight line method allows for an equal amount of the cost of an asset to be allocated to each accounting period in its useful life. The half-year convention allows for a half year of depreciation expense in the first year and a half year of depreciation expense in the final year of an assets useful life, without regard to the actual date that the asset was acquired or placed in service during the fiscal year.
4. Control over the disposition of property will be maintained not only to preserve the accuracy of the capital assets records but also to ensure that assets are safeguarded, improper disposal is avoided, and the best possible terms are received for disposal. If a department wants to dispose of a capital asset, they must prepare a "Surplus Disposal Form" and submit it to the Director of Purchasing. Purchasing will ensure that the asset is picked up and disposed of in accordance with Board Policy 3211. Purchasing will send a copy of the Surplus Disposal Form to District Accounting in order that the capital asset records may be updated to reflect the retirement and disposition of the specified capital assets.

See Board Policy 3210, "Capitalization of District Property"

Implementing Procedures for the Control of Major and Minor Construction Projects

AP 3213

The Chancellor will ensure that the following precautions are taken in the pre-bid and bid process:

1. cost estimate updates shall accompany each phase of architectural development that comes to the Board for approval.
2. an appropriate contingency, generally about 5 to 9 percent of the estimated construction cost, shall be included in estimates;
3. both additive and deductive alternates may be included in the bid documents.

Once the project is under construction, the Chancellor will assure that the following guidelines are followed:

1. a Districtwide Executive Leadership Team shall be formed to monitor progress, change orders, and expenditures to keep costs within the construction contracts and the project budget for projects in excess of \$1 million. The colleges shall establish their own review and approval processes through College Council (De Anza) or President's Cabinet (Foothill);
2. the Team will be formed and will serve until the project Measure C and Measure E construction projects are completed;
3. the Team shall meet as often as necessary to perform its oversight function and to facilitate and to expedite construction;
4. the Vice Chancellor, Business Services will make at least quarterly reports to the Trustees, the Audit & Finance Committee and the Citizens Bond Oversight Committee;
5. in order to avoid expensive delays, the Chancellor, the Vice Chancellor Business Services and the Executive Director Facilities Operations and Construction, may authorize proposed change orders (PCO's) which are less than \$50,000 and immediate need to proceed exists; these proposed change orders, once approved by one of the above designated positions, can be grouped together and presented to the board for ratification;
6. the Chancellor with the advice of the Executive Director Facilities Construction and Operations must seek Board approval of changes orders over \$50,000;
7. all costs that fall outside of change order, such as consultants and testing, must also be reviewed by the CCRC and approved by the Board.

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See Board Policy 3213, "Control of Major Construction Project Costs and Approval of Construction Change Orders"

Reviewed 4/20/92, 8/16/99
Amended 8/16/99; 8/27/07

Guidelines for Administering Environmentally Sustainable Practices

AP 3214

The long-term goals set forth below for the Foothill-De Anza Community College District are intended to achieve reduction in energy use, achieve increased environmental sustainability, and comply with the State Chancellor's Office policy regarding environmental sustainability.

The Vice Chancellor of Business Services shall facilitate the preparation of annual plans by the Colleges and Central Services for implementation of these goals. Annual reviews to evaluate the success of College and Central Services plans to meet these goals shall be conducted. The results of these reviews will be communicated widely to District and College staff and students and to the Board of Trustees. Updates and/or changes to the annual plans shall be made as needed to achieve the goals set forth herein.

The following goals are designed to implement Board Policy 3214, Environmentally Sustainable Practices.

- Reduce energy consumption use as compared to a 2007-08 baseline.
- Design and construct new facilities to meet or exceed LEED Certified Certification.
- Design and construct renovation projects to outperform the current Title 24 Standards.
- Increase self-generated energy capacity.
- Reduce water usage.
- Set Districtwide guidelines for heating and cooling of facilities.
- Increase the number of District vehicles that run on alternative fuels.
- Minimize waste generation and increase the volume of waste that is diverted from landfills.
- Maximize the use of recyclable material in food service operations.
- Commit our institutions to initiate tangible actions to reduce greenhouse gasses.
- Develop methods to monitor consumption activity and routinely report it to the campus community and at least annually to the Board of Trustees.

See Board Policy 3214—Environmentally Sustainable Practices

Reviewed 9/21/92, 8/16/99
Revised by Chancellor's Staff 2/6/09

Procedures for the Naming of College and District Buildings or Facilities

AP 3216

This procedure outlines the process for naming District properties, programs and facilities in accordance with *Board Policy 3216*.

The Foothill-De Anza Community College District has a tradition of naming college or District properties and facilities in honor of persons or entities that have made important contributions to enable the teaching, learning and public service missions of the District and its colleges. All naming in recognition of an honoree must be consistent with the District's role as a public trust. Accordingly, all such proposals will be reviewed and approved in accordance with District policies and these procedures.

Commitments regarding naming shall only be made to a donor or a non-donor honoree based upon prior approval of the related proposal for naming. Each proposal for naming will be considered on its merit and not because a gift meets a particular predetermined goal. Research on the proposed name will be submitted with the proposal so that all due attention can be given to both the long-term and short-term appropriateness for naming.

In accordance with these guidelines, naming proposals will be reviewed by the Foothill-De Anza Foundation for possible conflicts, and submitted for approval through the following procedures:

Procedure for Naming or Renaming College Facilities

Requests for naming college facilities and significant land features, including buildings and the components of buildings (classrooms, laboratories, auditoria, conference and seminar rooms; etc.), will be submitted to the appropriate college president. The college president will submit proposals in favor of naming through the college's governance process to make a recommendation on the request. The college president will then forward a recommendation to the chancellor for approval. The chancellor will forward favorable recommendations to the Board of Trustees for final approval.

Procedure for Naming or Renaming District Facilities

Requests for naming District facilities, centers, campuses and land features, including buildings and the components of buildings (classrooms, laboratories, auditoria, conference and seminar rooms, etc.), will be submitted to the chancellor who will, in turn, forward favorable recommendations to the Chancellor's Advisory Council for review. The chancellor will then forward a recommendation to the Board of Trustees for information and action.

Procedures for Ornamental Structures, Fountains, Courts; Plazas, Gardens, Benches, Trees and Other Memorials

Requests for memorials may emanate from any source and should have the sponsorship of the senior administrator in whose jurisdiction the memorial will exist, and must have the approval of the appropriate college president. The college president will submit proposals in favor of naming through the college's governance process to make a

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recommendation on the request. College or District facilities directors will be consulted regarding the appropriateness of the site, the aesthetic impact, relationship to the campus landscape, and maintenance obligations. When a facility or area is named in recognition of a donor or a non-donor honoree, that name will generally be effective for the useful life of the facility or the designated use of the area. If a facility must be replaced or substantially renovated, or the use of an area redesignated, it may be submitted for new naming, subject to the specific terms and conditions set forth in any gift agreements related to the prior naming action.

When a facility or area is proposed for renaming, college and/or District representatives will make all reasonable efforts to inform in advance the original donors or honorees and their immediate families.

Criteria

A. Criteria for naming in honor of an individual with no gift involved

1. A proposed honoree shall have achieved distinction in one or more of the following ways:
 - a. While serving the colleges or District in an important employee capacity, the individual has rendered distinguished service that warrants recognition of the individual's exceptional contributions to the welfare of the colleges and/or District.
 - b. The individual has contributed in truly exceptional ways to the welfare of the institution or achieved such unique distinction as to warrant recognition.
2. When an individual has achieved distinction as recognized above, a proposal may be made for naming in honor of the individual on the earlier of the following:
 - a. Two years after retirement or other separation from the colleges or District or from elected or appointed office; or,
 - b. Two years after the person's death, if the person had not yet retired or otherwise separated from the colleges or District.

B. Criteria for naming involving a gift

1. In reviewing a request for approval of naming, consideration shall be given to:
 - a. The significance of the proposed gift as it relates to the realization and/or success of the project or to the enhancement of the project's usefulness to the colleges or the District;
 - b. The urgency of need for the project or for support funds for the project;

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- c. The eminence, reputation and integrity of the individual or entity whose name is proposed; and,
 - d. The relationship of the individual or entity to the colleges or District.
- 2. The gift shall constitute a significant portion of the total cost of the project to be named: 1) representing 25–50 percent of the total cost of a building or project to be named, or (2) providing substantial funding for that portion of the total cost which would not have been available from another source (such as state or federal appropriations, bond issues, or loans).
 - 3. Donor names proposed for fountains, ornamental structures, landscaping or similar features will normally require a gift to cover the full cost of the project as well as a maintenance fund for long-term preservation.
 - 4. A naming conferred in recognition of a pledge is contingent upon the gift agreement that makes every effort to ensure fulfillment of the pledge. Naming may be removed if the pledge is not fulfilled.
 - 5. To avoid any appearance of commercial influence or conflict of interest, due diligence should be taken before recommending the naming of a major program or area, building, open space, or roadway that involves the name of a corporation or corporate funding. The naming for an individual associated with a corporation should be handled as any naming for an individual.
 - 6. The size, design, and wording of any signs acknowledging corporate generosity and acknowledging District appreciation should exclude logos to avoid the appearance of advertising.
- C. Changed Circumstances:
- 1. If the colleges or District proposes to change the function of a named facility or area, it must document the review of related gift agreements in consultation with the District's Foundation to determine if the proposed use is consistent with the restrictions that may have been previously stipulated. If the proposal for change in use is inconsistent, District counsel shall be consulted.
 - 2. If at any time following the approval of a naming circumstances change so that the continued use of that name may compromise public trust, the District counsel will consult with the California Attorney General regarding future action.

See Board Policy 3216, "Naming of College and District Buildings or Facilities"

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Approved 2/21/80 (added to Board Policy 11/91)

Amended 5/2/94

Reviewed 8/16/99; 8/27/01

Amended by Chancellor's Staff 2/26/08

Reviewed by Chancellor's Advisory Council 2/29/08

Procedures for Enforcement of Non-Smoking Areas

3217

Provisions

- 1.0 Each college will identify designated smoking areas. It will ensure that clear and consistent signage are displayed at all entrances to the campus, as well as other conspicuous locations, to notify the public that smoking is permitted only in the officially designated areas and is otherwise prohibited on the campus grounds or in campus buildings.
- 2.0 The smoking prohibition applies to District owned vehicles and all other District owned mobile equipment. "Smoking" means engaging in an act that generates smoke, such as possessing a lighted pipe; a lighted hookah pipe; operating an electronic cigarette; a lighted cigar; a lighted cigarette of any kind; or lighting or igniting a pipe, a hookah pipe, a cigar, or a cigarette of any kind.
- 3.0 No tobacco related advertising or marketing shall be permitted at FHDA or in publications produced by FHDA. "Tobacco Product" means any substance containing tobacco leaf and any product or formulation of matter containing biologically active amounts of nicotine that is manufactured, sold, offered for sale, or otherwise distributed with the expectation that the product or matter will be introduced into a human body, but does not include any cessation product specifically approved by the United States Food and Drug Administration for use in treating nicotine or tobacco dependence.
- 4.0 The sale of tobacco products on campus is prohibited.
- 5.0 Each college has the responsibility of communicating the Non-Smoking Policy to students and staff of the District. This policy shall be communicated to all students, employees and visitors annually and published in the colleges' Course Catalogues, handbooks, Web sites, and other appropriate locations.

Enforcement

- 1.0 Smoking violations shall be subject to issuance of citations by the District Safety and Security Department as provided for by state law.
- 2.0 An appeal process will ensure the due process of any person cited in accordance with District Policy.

See Board Policy 3217, "Non-Smoking Areas"

California Government Code Sections 7597-7598
Health and Safety Code Sections 118875-118915
Labor Code 6404.5

Approved 4/13/12

Procedures Regarding Signage on District Property

AP 3222

1. All advertising and/or sponsorship contracts pertaining to signage shall be reviewed and approved by the Vice Chancellor for Business Services.
2. Before approval, the contracts shall be carefully examined to assure that overhead costs are included, that all unrelated business income tax implications are prevented, and that formal bidding routines have been followed in accordance with District and State regulations.
3. All revenue generated through business signs and other forms of campus business advertising, excluding student publications, shall be received by and processed through the District Business Office.
4. Policies and procedures for the distribution of such revenue at the campus level shall be developed by the budget development committee of the respective college, awarding at least 85 percent of revenues to the program that obtained the advertising, the balance going to related educational support services.

See Board Policy 3220—Signage on District Property

Reviewed by Board 3/18/93; 8/16/99

ISSUANCE OF KEYS

All persons issued District keys and/or electronic access codes shall at all times be held responsible and accountable for all keys/access codes that are issued to them. Appropriate administrators may request and delegate the issuance of keys/access codes only as necessary and in accordance with the Access Eligibility Criteria below.

Type of Key and Systems	Eligibility to Carry*	Responsibility to Authorize*
Master	Chancellor, Vice Chancellors President, Vice President, Police Chief, Police Officers, Designated Plant Services staff, Designated ETS employees	Chancellor, Vice Chancellors Police Chief, President, Executive Director of Facilities
Division Master	Appropriate Plant Services staff, employees as needed to perform their duties	Division Dean
Change Key (lowest level operating key)	Employees	Division Dean
Change Key (lowest level operating key)	Student Employees	Division Dean
Contractor Keys/Access Code	Eligible Contractors	VP Educational Resources & Instruction, VP Finance & College Services
Access for Construction	Eligible Contractors	Executive Director of Facilities

*Chancellor, Vice Chancellors, Presidents, and Vice Presidents may authorize other individuals at any level at their discretion.

Types of key systems currently on campus:

Primus Everest key system

Keyed locks

Electronic Access

KEY CONTROL PROCEDURES

Ordering Keys

Keys can be ordered through a campus(es) designated office. Individuals ordering the key(s) are responsible for completing the form and obtaining the proper authorization. The completed form is then forwarded to the Lock Shop for processing. After which the keys are sent to the designated on campus office for distribution.

Key Issuance

Key(s) must be picked up by the individual defined on the authorized Key Request Form. The individual signs the Key Receipt Form and returns the form to the designated campus office.

Electronic Access

Electronic access is considered the same as keys because it allows access to buildings, rooms etc. All requests for electronic access will be handled as those for hard keys. Upon delivery of the request to the Lock Shop, the access will be activated or deactivated depending on the need.

The Lock Shop will perform an audit of the electronic lock upon request from the department (times, dates and credentials used).

Employee Separation from the District / Inactive Employee

Separating employee(s) will return all keys/credentials to the Human Resources Department or Responsible Person, who then completes the Human Resources Employee Separation process confirming that all keys assigned to that individual are accounted for and have been returned to the District's possession.

Fabrication

Unauthorized fabrication, duplication, possession or use of keys to facilities of the Foothill-De Anza Community College District is a crime (California Penal Code 469). District keys are State property and may be recovered at any time by Police, DPS, or an employee's supervisor. To ensure compliance with applicable fire, life and safety codes, non-District locks or keys shall not be used. The Lock Shop will also maintain serial numbers which are stamped on designated keys.

RESPONSIBILITIES

Individuals

Individuals are personally responsible for the use of all keys issued to them until the keys are returned to the department's Responsible Person or Human Resources upon separation. Individuals must personally sign for their keys and shall not transfer or loan their keys to another individual. Key holders are not to unlock buildings or rooms in order to allow entry by unauthorized persons. Employees may be issued keys for the duration of employment. The employee's final paycheck may be held pending the return or clearance of outstanding keys.

Students should not be issued keys to buildings or offices outside of business hours, unless special circumstances dictate. Students with access who are working after hours must possess written authorization from the college President and have it available to be shown to the District Police upon request. Student records and registration may be held pending clearance of keys at the end of each quarter.

Lost Keys

Employees must inform the department head immediately. Employees must then complete a Lost Key Report with the District Police.

Deans, Department Heads or Authorized Representatives

Authorization for the issuance of keys to college and departmental staff and students is based on the need to have access to an area.

Special Requirements for High Security Areas

Any High Security area will receive electronic access. Request for electronic access must be approved by the Division Dean or Department Head before the request is made to District Plant Services.

DISTRICT PLANT SERVICES (DPS)

Keying System

The Keying System and Electronic Access System design will ensure security and reasonable convenience to personnel occupying campus facilities. DPS maintains up-to-date records of all keying systems and authorized usage of all campus keys.

Facilities Management:

Facilities Management must authorize keys needed by contractors or other non-District users. Key requests should be made by the department needing access. Facilities Management will inform the Lock Shop of the authorized individual, the firm name and the specific return date. Contractors or other non-District personnel will fill out a key request form at the District Police Department which is responsible for key issuance, collection of keys and maintenance of up-to-date records of contractor keys. Final payment will not be made to the firm until all District keys are returned.

See Board Policy 3225, "Access Control Policy"

Reviewed by Chancellor's Advisory Council 5/30/08

Procedures Regarding Misuse of Computer Information

AP 3250

This administrative procedure implements Board Policy 3250.

Abuse of computing, networking or information resources contained in or part of the District Network may result in the loss of computing privileges. Additionally, abuse can be prosecuted under applicable statutes. Users may be held accountable for their conduct under any applicable District or college policies, procedures, or collective bargaining agreements. Complaints alleging abuse of the District Network will be directed to those responsible for taking appropriate disciplinary action. Illegal reproduction of material protected by U.S. Copyright Law is subject to civil damages and criminal penalties including fines and imprisonment.

Examples of behaviors constituting abuse which violate District Board Policy 3250 include, but are not limited to, the following activities:

System abuse

- Using a computer account that one is not authorized to use.
- Obtaining a password for a computer account that one is not authorized to have.
- Using the District Network to gain unauthorized access to any computer systems.
- Knowingly performing an act which will interfere with the normal operation of computers, terminals, peripherals or networks.
- Knowingly running or installing on any computer system or network, or giving to another user, a program intended to damage or to place excessive load on a computer system or network. This includes but is not limited to programs known as computer viruses, Trojan horses and worms.
- Knowingly or carelessly allowing someone else to use your account who engages in any misuse in violation of Board Policy 3250 or of this AP 3250.
- Forging e-mail messages.
- Attempting to circumvent data protection schemes or uncover or exploit security loopholes.
- Masking the identity of an account or machine.
- Deliberately wasting computing resources.
- Downloading, displaying, uploading or transmitting obscenity or pornography, as legally defined.
- Attempting without District authorization to monitor or tamper with another user's electronic communications, or changing, or deleting another user's files or software without the explicit agreement of the owner, or any activity which is illegal under California Computer Crime Laws.
- Personal use which is excessive or interferes with the user's or others' performance of job duties, or otherwise burdens the intended use of the Network.
- Illegal downloading and/or distribution of copyright-protected materials, including but not limited to music and videos.

Harassment

- Using the telephone, e-mail or voice mail to harass or threaten others.

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- Knowingly downloading, displaying or transmitting by use of the District Network, communications, pictures, drawings or depictions that contain ethnic slurs, racial epithets, or anything that may be construed as harassment or disparagement of others based on their race, national origin, sex, sexual orientation, age, disability, religious or political belief.
- Knowingly downloading, displaying or transmitting by use of the District Network sexually explicit images, messages, pictures, or cartoons when done to harass or for the purposes of harassment.
- Knowingly downloading, displaying or transmitting by use of the District Network sexually harassing images or text in a public computer facility, or location that can potentially be in view of other individuals.
- Posting on electronic bulletin boards material that violates existing laws or the colleges' Codes of Conduct.
- Using the District Network to publish false or defamatory information about another person.

Commercial use

- Using the District Network for any commercial activity, without written authorization from the District. "Commercial activity" means for financial remuneration or designed to lead to financial remuneration.

Copyright

- Violating terms of applicable software licensing agreements or copyright laws.
- Publishing copyrighted material without the consent of the owner on District Web sites in violation of copyright laws.

Exceptions

Activities by technical staff, as authorized by appropriate District or college officials, to take action for security, enforcement, technical support, troubleshooting or performance testing purposes will not be considered abuse of the Network.

Although personal use is not an intended use, the District recognizes that the Network will be used for incidental personal activities and will take no disciplinary action provided that such use is within reason and provided that such usage is ordinarily on an employee's own time; is occasional and does not interfere with or burden the District's operation. Likewise, the District will not purposefully surveil or punish reasonable use of the network for union business-related communication between employees and their unions.

Complaints

A user who asserts that the District or District personnel have violated this policy shall file a complaint with his or her immediate supervisor with a copy to the Vice Chancellor of Human Resources, and a copy to the employee's bargaining unit. The supervisor shall notify the supervisor of the alleged violator to discuss the complaint. The supervisor of the complainant shall initiate an investigation if necessary and determine an appropriate

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remedy/resolution in consultation with the Vice Chancellor of Human Resources. In cases where the supervisor is part of the complaint, the complaint shall be filed with the next level of supervision for investigation and resolution and/or remedy. The complainant shall be informed in writing 1) of the initiation of the investigation, and 2) of its outcome as appropriate, with copies to the Vice Chancellor of Human Resources and the employee's bargaining unit. Complainants dissatisfied with the resolution/remedy have full recourse to relevant contractual protections and/or legal action.

See Board Policy 3250, "Computer Use: Rights and Responsibilities"

Approved 11/17/97
Reviewed 8/16/99, 7/7/03
Revised 10/28/05, 2/6/09

Electronic Information Security Procedures

AP 3260

If you suspect that a security breach has occurred in a district-owned computing system, contact the:	
Call Center at x8324 during work hours	District police at x7313 after work hours / on holidays

PURPOSE

The purpose of this procedure is to enhance the security of stored, transmitted, and distributed personal information that could be used to impersonate an individual and cause serious loss of privacy and/or financial damage.

In addition to this procedure, colleges and departments are urged to establish best practices that reduce the collection, distribution, and retention of personal data, which is not necessary to perform the educational and business needs of the institution.

Legal requirements and local policy require that District personnel take appropriate measures to protect personal information from inadvertent or illegal exposure to unauthorized individuals. Other legal requirements require that if certain personal information is inadvertently disclosed, the district/college must notify all individuals whose information was compromised. Refer to the table below for further details regarding legal and local requirements.

Legal and Local Requirements for Safeguarding Personal Information

Reference*	Applies to	Required by applicable law	Requires <u>protection</u> ?	Requires <u>notification</u> ?
A - 1.	All individuals	California Civil Code 1798.85, 1798.29	Yes	**
A - 2.	Students	Family Educational Rights and Privacy Act (FERPA)	Yes	No
A - 3.	Employees	District procedure	Yes	No

*refer to *Personal Information* definitions below

**Civil Code 1798.29 requires “state agencies, businesses and persons conducting business in California” to notify affected persons in event of a breach. This section of code may not apply to California Community Colleges.

DEFINITIONS

A. Personal Information:

Personal information includes:

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1. For all individuals, an individual's first and last name in combination with any of the following:
 - social security number
 - driver's license number
 - financial account or credit card number in combination with any password that would permit access to the individual's financial account
 - medical information
2. For students, all personally identifiable information not included as *directory information*. This would include the student's name in conjunction with:
 - the name of the student's parent(s) or other family members
 - the address of the student's family
 - a personal identifier, such as a social security number or student number
 - the race or ethnicity of the student
 - the gender of the student
 - a list of personal characteristics of the student
 - academic evaluations and grades of the student
 - transcripts and other academic records of the student
 - scores on tests required for new students
 - the student's class schedule
3. For employees, an individual's first and last name in combination with the:
 - employee's ID number

B. Directory Information (FERPA Definition):

Information that is generally not considered harmful or an invasion of privacy if released. The primary purpose of directory information is to allow the district/college to include this type of information from a student's education records in certain school publications. Examples include:

- A playbill, showing the student's role in a drama production
- The annual yearbook
- Honor roll or other recognition lists
- Graduation programs
- Sports activity sheets, such as for wrestling, showing weight and height of team members

C. Security Breach:

An incident when an individual's unencrypted personal information has been (or is reasonably believed to have been) exposed to or acquired by an unauthorized person. (Good faith acquisition of *personal information* by an employee or agent for district / college purposes does not constitute a *security breach*, provided that the *personal information* is not further disclosed to unauthorized persons.) The theft of a *computing system* that contains or may contain *personal information* will be considered a potential *security breach*. Inadvertent access to *personal information* that occurs in the course of performing technical services on a *computing system* by an authorized technical staff member will not be considered a *security breach*.

D. Computing System:

Any server, desktop or laptop computer, or PDA that contains (or provides network access to) data files.

E. Computer-Based Information System:

Any computing system that is used in the acquisition, storage, manipulation, management, movement, control, display, transmission, or reception of data (including software, firmware, and hardware), which is used to provide services to persons other than the owner.

F. Computer-Based Information System Manager (CBIS Manager):

An individual who maintains and manages an information system, server, or other technology device that stores or transmits data.

G. Data Resource

Data (information) that is stored on a *computer-based information system*.

H. Data Resource Manager:

An individual who controls the use of and access to a *data resource*.

I. Lead Authority:

An administrator who has been delegated responsibility for oversight of data security at a college or Central Services. Each president will designate a person to act as the *lead authority* for their college. The Vice Chancellor of Technology is the *lead authority* for Central Services.

J. Control Records:

The records contained in a database, spreadsheet, or other electronic file that document system and application level access methods into those *computer-based information systems* containing *personal information*. Control records must contain the following for each computer-based information system:

- name of the *computer-based information system*
- physical location of *computer-based information system*
- name of the *CBIS manager*
- name of the *data resource manager(s)* who have responsibility for any data containing *personal information* on the *computer-based information system*
- description of logical access methods and security controls (user IDs, passwords, encryption keys, etc.) necessary to gain access to the *computer-based information systems* and its data or, the name of another employee (in addition to the *CBIS manager*) who has knowledge of logical access methods and security controls (e.g. who can gain access to the system and applications as a systems administrator)

K. ETS Incident Response Team

A team of designated Educational Technology Services (ETS) members who investigate and respond to security incidents.

RESPONSIBILITIES

A. The *lead authority* has oversight responsibilities to:

- identify *computer-based information systems* under their jurisdiction that contain *personal information* or that provide to access to *personal information*
- ensure that data resource managers and *CBIS managers* perform their functions as specified in this document
- create a secure central repository to contain control records on *computer-based information systems* that contain *personal information*
- know where to rapidly locate contact information (email and postal addresses) for individuals of whom *personal information* is retained or transmitted. (Contact information on all students and employees is kept in the district's administrative information system.)
- ensure that the incident response process delineated in these procedures is followed (if a security breach occurs on a *computer-based information system* or a *data resource* managed by an individual in his/her organization [college or Central Services])
- rapidly notify affected individuals whose personal information may have been compromised as the result of a *security breach* of a *computing system* or actions of an employee under the jurisdiction of the *lead authority* as required by this procedure. Current law (as of April 2008) requires that notification be made in *the most expedient time possible and without unreasonable delay*. (Refer to California Civil Code 1798.29).

B. The *CBIS manager* has responsibilities to:

- develop security measures, including District published best practices to reduce vulnerabilities of *personal information* contained in *computer-based information systems* within their jurisdiction including the use of appropriate encryption strategies for both transmission and storage of *personal information*
- create, retain and secure *control records* for *computer-based information systems* that contain *personal information*
- annually update *control records* as necessary including those kept in the central repository
- implement procedures and tools to monitor access to *computer-based information systems* that contain *personal information* and to indicate if unauthorized access occurs
- remove files containing *personal information* (using an industry standard secure data removal tool) from servers, which are identified to be salvaged or repurposed

C. The *data resource manager* has responsibilities to:

- grant access to a data resource or data to individuals/positions on a “need to know” basis
- inform individuals who have access to the *data resource* (and any downstream users of distributed data) of their responsibilities to secure and protect *personal information* as well as to destroy it when no longer needed. Include applicable:
 - district and college policies and procedures
 - best practices

D. All employees have responsibilities to:

- abide by the established procedures with regard to accessing and using *personal information*
- protect and secure *personal information* under their control using best practices as outlined in the publication *Information Security Best Practices* which is available on the Foothill-De Anza Website
- destroy data containing *personal information* when no longer needed
- *See also: Computer and Network Use: Rights and Responsibilities Policy / Procedures 3250 / AP 3250*

E. Other responsibilities

- Foothill-De Anza District Police will act as the point of contact between the district and external law enforcement agencies when external law enforcement agencies are involved
- Educational Technology Services shall remove *personal information* (using an industry standard secure data removal tool) from desktop/laptop computers, which are designated to be salvaged or repurposed
 - System hard drives may be destroyed as an alternate method of removing sensitive information

INCIDENT RESPONSE PROCESS

The incident response process consists of the following steps that must be implemented in the event that a *security breach* occurs:

A. Notify key persons

If a person suspects that a *security breach* has occurred on a *computing system* that contains or has network access to unencrypted *personal information*, the person identifying the incident must immediately contact the ETS Call Center (during work hours) or the district police (after work hours). If the security breach is reported after work hours have ended, then district police will notify the Vice Chancellor of Technology. The Vice Chancellor of Technology or designee will notify the appropriate Lead Authority.

B. Isolate the system

For Computer Based Information Systems:

The *CBIS manager* will disconnect the *computing system* from the campus network without modifying any settings, files, etc. on the *computing system*, and leave the system powered up.

For employee assigned desktop or laptop computers:

If the computer is turned on, the employee should immediately disconnect the computer from the network (by removing the network cable or disconnecting from a wireless connection). The computer should not be turned on or off or otherwise modified in any way.

For Stolen Computing Systems:

If a stolen *computing system* is recovered, the person gaining possession of the system will notify the Call Center, which will arrange for the system to be picked up. The *computing system* should not be turned on or otherwise modified in any way.

C. Analyze the breach

The *ETS Incident Response Team*, in cooperation with District Police (if involved) and the *CBIS manager*, will look for evidence of a *security breach* to assess the possibility that *personal information* has been compromised

D. Report the incident

If the *ETS Incident Response Team*, in cooperation with District Police (if involved) and the *CBIS manager*, has sufficient reason to believe that *personal information* may have been acquired by or exposed to unauthorized individuals, the *ETS Incident Response Team* will submit written notification describing the nature of the *security breach* and estimated number of affected individuals to the:

- Chancellor
- President of the college (if applicable)
- Vice Chancellor of Technology
- Lead authority
- District and college (as applicable) communication coordinators
- District Police

E. Restore and reconnect the System

The *CBIS manager* may repair and restore system functionality to the *computing system* when:

- The computing system is no longer needed for forensic analysis or police investigation and
- It has been cleaned of all known malware.

The *ETS Incident Response Team* will work with the *CBIS manager* and District Police (if involved) to determine when the *computing system* can be reconnected to the campus network.

- Special consideration for rapid restoration and reconnection will be given to computing systems that provide time sensitive functionality to support critical campus services.

F. Notify individuals whose personal information has been compromised

1. Decide if notification is required and how notification will be made

The district/college communication coordinators (as appropriate), the Vice Chancellor of Technology, the lead authority and the district's attorney will confer to determine whether or not the criteria for notification under California Civil Code 1798.29 and 1798.82 has been met and to determine which means of notification to use (e. g., email, postal mail, or website notice).

2. *Personal information* not involved

If information beyond the data elements defined herein as *personal information* is accessed by an unauthorized person, the appropriate district/college communications coordinator in coordination with the district's attorney will determine what notification will be made to affected individuals.

3. Required information

If notification is required, the appropriate district/college communication coordinator shall notify affected individuals of the *security breach* and include the following information:

- The date(s) on which the personal information was (or could have been) acquired.
- A description of the personal information, which was (or could have been) acquired.
- The name of the department or unit responsible for the information and the relationship that the affected individual has (had) to the department (in such a way that the person receiving the notification will understand why that department or unit had their information).
- An indication of the likelihood that the personal information was acquired or used.
- An email address and phone number of a suitable college or Central Services representative with sufficient knowledge of the incident to be able to handle questions from affected individuals.
- A list of resources that affected individuals can use to check for potential misuse of their information.
 - This list should include the following flyer (either as a link or a hardcopy attachment): "What to Do If Your Personal Information is Compromised" (<http://www.privacy.ca.gov/financial/sbfs021205.pdf>), produced by the California Office of Privacy Protection

The appropriate district/college communications coordinator will also determine what additional advice or assistance will be given to the affected individuals.

4. Timeliness of notification

Notification must occur without unreasonable delay, except when a law enforcement agency has determined that notification will impede a criminal investigation. (In this case, notification must occur as soon as the law enforcement agency determines that it will not compromise the investigation.)

5. Substitute method of notification

If sufficient contact information is not available for direct hard copy or e-mail notice for some affected individuals, a substitute method of notice may be used. The substitute notice should include a prominent display on the campus Web site or other commonly used Web site for at least forty-five days.

6. Submit the After Notification Report

The district/college communication coordinator will provide a written report describing the number of individuals successfully notified, the number of individuals for unsuccessful notifications, and which methods were used for notification, along with any issues that have arisen as a result of the breach such as press coverage, complaints from affected individuals, etc. The report will be sent to the following individuals:

- Chancellor
- President of the college (if applicable)
- Vice Chancellor of Technology
- Lead authority
- District communication coordinators

REFERENCES

- Information on privacy laws applicable to California
<http://www.privacy.ca.gov/lawenforcement/laws.htm#twelve>
- Important legislation governing the security of confidential information
 - Health Insurance Portability and Accountability Act of 1996 (HIPAA) - 45 CFR Parts 160 and 164
 - Family Educational Rights and Privacy Act of 1974 (FERPA) - 20 U.S. Code section 1232g
 - Breach Notification Law: California Civil Code - 1798.29 (previously SB1386)
 - Security of Personal Information: California Civil Code - 1798.85 (previously SB 25)
- FHDA - AP 3410 Guidelines for Classification, Retention and Destruction of Records
<http://fhdafiles.fhda.edu/downloads/aboutfhda/3410ap.pdf>
- FHDA - Policy 3250 / AP 3250 Computer and Network Use: Rights and Responsibilities
<http://153.18.96.19/downloads/etac/Policy3250.doc%20>
- Board Policy 5050 — Furnishing Information Concerning Students
- Board Policy 4150 — Personnel Files
- Information Security Best Practices www.fhda.edu/security

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See Board Policy 3260, "Electronic Information Security"

Reviewed by Chancellor's Advisory Council 11/21/08

Guidelines for Classification, Retention and Destruction of Records

AP 3410

SCOPE

The Board of Trustees establishes this policy, in accordance with Title 5, Division 6, Chapter 10, Sub-chapter 2.5 of the California Code of Regulations (CCR), to govern procedures for the classification, retention and destruction of all District records. Annually, the Chancellor or designee shall review documents and papers received or produced during the prior academic year and classify them as Class 1 (Permanent), Class 2 (Optional), or Class 3 (Disposable) if appropriate.

Records originating during a current academic year shall not be classified during that year. Records of a continuing nature, such as active and useful for administrative, legal, fiscal, or other purposes over a period of years, shall not be classified until such usefulness has ceased. All records not classified prior to July 1, 1976, are subject to the same review and classification. If such records are three or more years old and classified as Class 3 (Disposable), they may be destroyed without further delay, in accordance with Article 3, Section 59029 of the CCR.

The responsibility for Records Management shall be as specified in Appendix A.

Each year the appropriate official, as identified in Appendix A, shall submit to the office of the Chancellor or designee, a list of records scheduled for destruction the following year.

The list shall include Class 3 records and those, if any, Class 1 and 2 records to be reclassified to Class 3.

The Chancellor or designee, then submits to the Governing Board the list of Class 1 and Class 2 records recommended for reclassification to Class 3 and requests approval for the destruction of all Class 3 records and shall verify that no records included in the list are in conflict with this policy.

Upon approval of the Governing Board for the destruction of the specified records, such records shall be permanently destroyed by such foolproof methods as recycling, shredding, burning, or pulping, and such destruction shall be supervised by the appropriate official, Chancellor or designee.

Whenever records are kept electronically, a certification copy for evidence shall be completed (form 4cd-137) and filmed preceding the referenced records. (Reference Section 59022(e) of Title 5 and Section 1531, Evidence Code.)

The appropriate official and designated District personnel shall provide for the permanent and safe storage of paper and electronic records during the retention period.

The retention and destruction of records related to Federal and State categorical programs are subject to the regulations covering the program if they are more restricted than District policy.

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The retention and destruction of records related to Proposition 39 bond measures are subject to the regulations required by statute if they are more restricted than District policy.

For records that are photographed, micro-photographed, or otherwise reproduced on film or electronically, the copy thus made is hereby classified as Class 1 (Permanent). The original record, unless classified as Class 2 (Optional), may be classified as Class 3 (Disposable), and may then be destroyed in accordance with law if the following conditions are met:

1. The reproduction is accurate in detail.
2. The Chancellor or designee has attached to or incorporated in the copy or system a signed and dated certification of compliance with the provisions of Section 1531 of the Evidence Code, stating in substance that the copy is a correct copy of the original, or a specified part thereof, as appropriate.
3. The copy was placed in an accessible location and provision was made for preserving permanently, examining and using same.
4. In addition, 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.

DEFINITIONS

For the purpose of this Board policy, the following definitions apply:

1. **Records:** all District maps, books, papers, data processing output, and electronic documents that are required by law to prepare or retain by law or official duty, including student records as defined in section 76210 of the Education Code.

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.
- Textbooks used for instruction, and other instructional materials, including library books, pamphlets and magazines.

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2. **Class 1 (Permanent Records)** – The original of each of the records, or one exact copy when the original is required by law to be filed with another agency, and must be retained indefinitely unless copied or reproduced on film or electronically.

The following District records are in Class 1:

Annual reports:

- Official budget
- Financial reports of all funds, including cafeteria and student body funds
- Audit reports of all funds
- Average daily attendance/full-time equivalent student including Period 1 and Period 2 reports.
- Other major annual reports, including:
 - Those containing information relating to property, activities, financial condition, or transactions; and
 - Those declared by Board minutes to be permanent.

The following official actions:

- Minutes of the Board or committee meetings thereof, including the text of a rule, regulation, policy, or resolution not set forth verbatim in the 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 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.
- Records transmitted by another agency that pertain to that agency's action with respect to District organizations.

The following employee personnel records:

- All 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, salary 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).

The following payroll records:

- Absence/Attendance Reports (Certificated & Classified)
- Salary Continuance/Adjustments (Medical, Dental, Life)
- Earnings Reports
- Quarterly Reports (Unemployment Insurance, Federal & State)
- Payroll Registers
- Payroll Adjustments & Employee/Employer Payment Detail
- Tax Shelter Annuities
- Time Cards (Classified, Certificated & Students)
- W-2 Form
- Warrant Cancellation (Documentation)

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- Garnishments and Levies

The following student records:

Enrollment and scholarship for each student, including but not limited to:

- Name of student
- Date of birth
- 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 session or other extra session.
- Subjects taken during each year, half year, summer session, or quarter.
- If grades or credits are given, the grades and number of credits toward graduation allowed for work taken.
- Provided, however, that the District will not treat as Class 1 every document containing some or all of the foregoing items of student record information. Annually, each District employee responsible for generating records which contain any of the foregoing items of information shall also generate, or participate in the creation of, a single record which to the extent reasonably possible consolidates each of the foregoing items of student record information into a single document per student, or per other reasonable category. Such consolidated records shall then be treated as Class 1 pursuant to this Administrative Procedure, and the separate individual records from which the information on the consolidated records was taken shall be treated as Class 3 records.
- 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) one year after the claim has been settled or applicable statute of limitations has run.

The following property records:

All detail property 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 capital assets
- For each unit of property, the date of acquisition or augmentation, the person from whom acquired, an adequate description or identification, and the amount paid, and comparable data if the unit is disposed of by sale, loss or otherwise.

The following archival records:

Not required by law to be kept permanently but a District policy to retain documents related to historical events of the District, yearbooks, plaques, awards, photographs, etc.

The following Foundation records (District and Colleges):

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All documents of incorporation, governing by-laws and amendments, and all state and federal exemption designations and corresponding regulations governing operation of Title 26, USCA, Section 501(c)(3) tax exempt non-for-profit organizations.

3. **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 then be retained until reclassified as Class 3 (Disposable). If the Chancellor or designee determines that classification should not be made by the specified time, all records of the prior year may be classified as Class 2 (Optional), pending further review and classification within one year.
4. **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), including, but not limited to:
 - Records basic to audit, including those relating to attendance, full-time equivalent student, or a business or financial transaction (purchase requisitions, purchase orders, invoices, warrants, ledger sheets, cancelled checks and stubs, student body and cafeteria fund records, etc.), and detail records used in the preparation of any other report.
 - Periodic reports, including daily, weekly, and monthly reports, bulletins, and instructions.

Generally, a Class 3 (Disposable) record, unless otherwise specified in this procedure, should be destroyed during the third college year after the college year in which it originated (e.g., 2003-04 plus 3 equals destruction in 2006-07). Federal programs, including various student aid programs, may require longer retention periods and such program requirements shall take precedence over the requirements contained herein.

With respect to records basic to an audit, a Class 3 (Disposable) record shall not be destroyed until after the third July 1 succeeding the completion of the audit required by Education Code Section 84040 or of any other legally required audit, or that period specified by Section 59118 of the CCR, or after the ending date of any retention period required by any agency other than the State of California, whichever date is later.

With respect to continuing records, a continuing record shall not be destroyed until the third year after it has been classified as Class 3 (Disposable).

Approved 10/2/09