

# **Section Seven**

## **General Personnel**

### **Administration**

# Section Seven

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### POLICY

*\*\* Section 7 was reviewed and revised by the Board of Trustees February 2013, February 2015 and October 2017.*

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**Section Seven—General Personnel Administration  
Governance Processes Relative to the  
District Board Policy Manual  
and Collegial Consultation  
With Academic Senates**

**Employ the Process of Mutual Agreement**

**Policies:** None

**Procedures:** None

**Appendices:** None

**Rely Primarily Upon the Advice and Judgment**

**Policies:** None

**Procedures:** None

**Appendices:** None

**Policy**

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**7A**    **Compensation Philosophy Statement**

**7A1**    **Umbrella Statement**--Compensation programs will be designed and administered to support the District in its mission to provide outstanding educational programs and services that are responsive to the educational needs of diverse students and communities. The foundation of all compensation programs will be a commitment to attract, retain, and reward the quality and quantity of employees needed to meet the District's mission. The compensation programs will be based upon principles of fairness, equity, accountability, and established standards of responsibilities and job performance. The compensation programs will be administered with sound fiscal discipline.

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**7A2 Component Statements**

- 7A2A** The Board will be accountable for the establishment of the compensation philosophy and for its periodic review to ensure that there is continued alignment between the District’s mission, goals, human resources objectives, and compensation philosophy. Implementation of compensation programs within the philosophy is a delegated authority of the Chancellor.
- 7A2B** The compensation program will be based on consistent principles of equity throughout the District. This will allow for multiple pay plans to reflect both the teaching and non-teaching business of the District.
- 7A2C** Establishing the value of compensation for faculty will reflect both the qualifications and experience of the incumbent, as well as the teaching role. Establishing the value of compensation for classified staff and management team employees will reflect both the internal value of a position and the value placed on that role in the appropriate market. The internal value will be measured through the sound and consistent application of a proven method of job classification evaluation.
- 7A2D** The primary pay delivery mechanisms for faculty will be based on the educational qualifications of the incumbent and the years of service with the District. This does not preclude the District from establishing other bases for pay delivery. While recognizing that service and tenure yields valued experience, the primary pay delivery mechanisms for classified staff and management team employees will be based on pay for differences in job content (knowledge, accountability, and complexity/problem-solving); satisfactory performance; demonstration of behavioral competencies.
- 7A2E** All aspects of compensation (base salary, benefits and if applicable, lump sum payments and allowances) will be considered as a total compensation package for District employees.
- 7A2F** Total compensation, as defined above, will be targeted at a competitive level when compared to the appropriate labor markets. For faculty, this will include other educational institutions in defined geographic locations and of similar size. For classified staff and management team employees, this will include other educational institutions in defined geographic locations and similar size, as well as other public sector employers and private sector employers in defined geographic locations. Compensation will be targeted

at such a level as to allow the District to attract and retain the quality and quantity of employees it needs to meet or exceed its goals and objectives.

**7A2G** While recognizing the role of Bargaining Units, the District is committed to ensuring that its salary structures are up-to-date through market surveys. There will be a planned approach to ensure that internal equity is maintained.

**7A2H** Compensation will be affordable within the overall fiscal accountability of the Board and in the best interests of the District as an employer and provider of services.



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**7B Personnel Transactions**

**7B1** The Chancellor shall nominate or recommend employees, and the Board shall employ from those who have been nominated or recommended by the Chancellor. It shall be the responsibility of the Chancellor to employ and retain well-qualified, competent staff members. The Chancellor may authorize interim employment and payment prior to Board action to accommodate payroll processing; however, Board action is required to ratify employment at the next regularly scheduled Board meeting.

**7B2** The suspension or dismissal of an employee of the District shall be made by the Board on the Chancellor's recommendation. The Chancellor may suspend an employee at any time until the next meeting of the Board under provisions of the law.

**7B3** The Chancellor is authorized by the Board of Trustees to accept the resignation of any employee. The Chancellor may delegate this responsibility by written designation to District Officers or College Presidents.

**7B4 Designation of Emeritus Status**

In recognition of years of valued service and contributions to the Kern Community College District, the Board of Trustees has established the title of "Emeritus" to be granted to those who meet the standards as set forth in this Board policy. The objective of this policy is to honor past services and encourage and maximize the inclusion of Emeriti in District and College activities after retirement.

**7B4A** The Board shall have the sole responsibility for officially honoring and recognizing District Faculty and Educational Administrator retirees by granting the designation of Emeritus. The Emeritus designation shall have no contractual obligations, nor shall there be any compensation connected with the title.

**7B4B** District Human Resources shall have the responsibility of verifying eligibility for Emeritus designation and notifying the College President.

**7B4C** For consideration of Emeritus designation, the faculty or educational administrator must have served the District for at least twenty (20) years in full-time status; and shall be retiring or resigning without cause by the end of the academic year in which the Emeritus designation is

granted; or must have previously retired from the Kern Community College District.

Emeritus designation may be bestowed on the following groups of Kern Community College District employees:

Faculty – upon retirement or resignation after twenty (20) years of full-time service

Educational Administrator – includes presidents and other educational administrators; upon retirement or resignation after twenty (20) years of full-time service.

**7B4D** Official recognition of Emeritus status shall be given during an appropriate meeting or ceremony of the Board of Trustees close to the time of the qualifying retirement or resignation.

No public announcement regarding an employee's Emeritus status shall be made prior to designation by the Board of Trustees.

**7B4E** Official recognition of Emeritus status shall provide certain privileges, benefits, and courtesies as defined in **Procedure 7B4** of this Manual.

**7B4F** District Human Resources shall maintain a file with contact information of all District employees for whom the status of Emeritus has been granted by the Board of Trustees.

**7B4G** The title of Emeritus may be granted under exceptional circumstances to full-time faculty or administrators who have served fewer than twenty (20) years at the institution and are concluding, or have concluded, a career that demonstrates exceptionally dedicated, honorable and distinguished service to the institution, as determined by the Board of Trustees. Consideration may be initiated by the instructional or service area, or by the College President.

**7B4H** The Emeritus designation shall be acted upon individually in each case upon recommendation of the College President. Consideration may be initiated by the instructional or service area, or by the College President. The College President shall make recommendations to the District Chancellor for consideration, and the Chancellor shall make a recommendation to the Board of Trustees for action with respect to Emeritus designation.

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**7C Student Employment**

- 7C1 For the purposes of this policy a student worker must be a student in good standing and currently enrolled in six (6) units or more.
- 7C2 Student work should be integrated as part of an academic program or curriculum requirement.
- 7C3 Student workers are not part of the classified service and are not covered by the collective bargaining agreement between the District and its classified employees.
- 7C4 Student workers shall not supplant or replace classified employees. (The Kern Community College District will comply with Education Codes 69950 – 69967 in terms of student employment.)
- 7C5 A student worker assignment may not exceed 19 hours per week, except during instructional recess as designated in the Academic Calendar. The student worker shall be compensated at an hourly rate based on the State and Federal minimum wage laws, whichever is the higher rate.
- 7C6 Student workers are not eligible for District-paid benefits, except for workers' compensation.

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**7D Equal Employment Opportunity and Unlawful Discrimination**

**7D1 Equal Employment Opportunity in the Employment of Personnel**

It shall be the policy of the Kern Community College District that equal opportunity to seek, obtain, hold, and advance in employment in the District shall be afforded to all who qualify without discrimination because of race, color, ethnic group identification, ancestry, religion, national origin, sex (gender), sexual orientation, age, and/or physical or mental disability. Appropriate qualifications for the performance of specific duties are the basic criteria for the employment and promotion of personnel. Additional efforts will be made to recruit, develop, and to promote qualified members of groups that are underrepresented in the District workforce, even if that underrepresentation cannot be traced to particular discriminatory actions on the part of the District.

**7D1A** The District will continuously review its policies, procedures, practices, pool and workforce statistics, and any other factor that might contribute to workforce imbalance or adversely impact employment opportunities of members of protected groups.

**7D1A1** The District will annually review the Equal Employment Opportunity Plan and revise as appropriate to address any problems with regard to recruiting a diverse workforce on the schedule provided by the State Chancellor's Office.

**7D1A2** Information regarding Equal Employment Opportunity will be made available annually to the staff and community.

**7D1A3** The District's Human Resources Department will continue to assure reasonable accommodation for applicants and employees with disabilities upon request.

**7D1A4** Pre-employment physicals or drug testing shall be conducted only following an offer of employment. This offer of employment is conditioned on the employee either passing these tests, or providing proof of disability [as defined in the Americans with Disabilities Act (ADA)]. The District will provide reasonable accommodation upon request to applicants and employees in accordance with Federal Americans with Disabilities Act (ADA).

- 7D1A5** Whenever possible the names, titles, office locations, and office telephone numbers of individuals serving as liaisons of Equal Employment Opportunity programs, Equal Employment Opportunity officers, receivers of unlawful discrimination complaints, responsible personnel, ADA coordinators, and others responsible for Equal Employment Opportunity functions shall be identified and made public to employees and students.
- 7D1B** The Board of Trustees recognizes and accepts its responsibilities under the California Education Code and the California Code of Regulations (Title 5) to:

  - 7D1B1** Assume overall responsibility for the success of the District's effort to achieve Equal Employment Opportunity.
  - 7D1B2** Approve the District and College Staff Availability Data as well as any revisions; and assure that these are submitted to appropriate agencies in a timely fashion.
  - 7D1B3** Assure that in all employment procedures for all positions there is no unlawful discrimination.
  - 7D1B4** Provide a supportive environment free of cultural bias for all staff and students.
- 7D1C** An Equal Employment Opportunity Advisory Committee shall be established to advise the District on personnel matters relating to equal employment opportunities.

  - 7D1C1** The Equal Employment Opportunity Advisory Committee will review Staff Availability Data and other relevant data for the purpose of advising the District and assisting in its commitment and goals in achieving equal employment opportunities.
  - 7D1C2** Composition of the Equal Employment Opportunity Advisory Committee shall approximate a balance between District employees and Community members and shall provide for wide representation, including ethnic minorities, women, and the disabled whenever possible.
  - 7D1C3** The District Equal Employment Opportunity Advisory Committee members shall be appointed by the District Equal Employment Opportunity Officer and shall serve for a period of three (3) years. The Committee shall meet at least once in every calendar year.
- 7D1D** The following District officers shall be responsible and accountable for providing District-wide leadership in Equal Employment Opportunity:

  - 7D1D1** The Vice Chancellor, Human Resources shall assume administrative responsibility for implementation of the Equal Employment Opportunity Policy.

**7D1D2** The Vice Chancellor, Human Resources or his/her designee shall be responsible for the ongoing administration of this policy. This ongoing administration, in cooperation with the College Equal Employment Opportunity officers, shall include:

- Monitoring the employment process to ensure that selection or elimination of candidates for employment is based on job-related criteria.
- Providing Multi-college District Staff Availability Data, as it is made available to the District from the California Community Colleges Chancellor's Office.
- Initiating action to correct any identified Equal Employment Opportunity concerns.
- Receiving, investigating, and seeking resolution of unlawful discrimination complaints. (See [Procedure 7D4A](#))

**7D1D3** The faculty and staff of this District shall be responsible and accountable as follows:

**7D1D3A** Foster and promote a positive environment and overall hospitable atmosphere to staff and students of all cultures and heritages, encouraging the appreciation and value of diversity to the College communities.

**7D1D3B** Act on behalf of the District in recruitment and selection of personnel. In this capacity, faculty and staff shall comply with all applicable state and federal laws and regulations.

**7D1E** The District and Equal Employment Opportunity Officer(s) shall conduct periodic internal auditing, reporting, and evaluating of the effectiveness of the Equal Employment Opportunity Program.

**7D1E1** The Equal Employment Opportunity Liaisons shall compile an annual workforce and utilization analysis of District personnel and shall use the data to recruit a diverse applicant pool and workforce.

**7D1E2** College Equal Employment Opportunity Liaisons shall monitor the ethnicity and gender make-up as well as data concerning promotions of positions on a continual basis.

**7D1F** The District and Colleges shall provide faculty/staff in-service training on diversity.

**7D1F1** Each College's Human Resources Department is responsible for providing training to all staff on Equal Employment Opportunity programs and issues.

**7D1F2** The District's Equal Employment Opportunity Advisory Committee shall work cooperatively with Human Resources to effectively utilize Equal Employment Opportunity funds allocated to the District.

**7D1G** The District shall pursue hiring practices, which effect Equal Employment Opportunity policies.

**7D1G1** All employment practices will be based on job-related factors, considering seniority only where required by law.

**7D1G2** Recruitment for positions shall include verifiable efforts to attract a diverse applicant pool.

**7D1G3** The Human Resources Department, in consultation with the screening committee chair, shall determine the adequacy of the applicant pool relative to its protected class composition.

**7D1G4** Each College will maintain a standard procedure for selecting qualified applicants. College procedures must conform to the following:

**7D1G4A** Applicants will be screened by the screening committee for minimum qualifications.

**7D1G4B** Screening committees shall include a diverse membership that will bring a variety of perspectives to the assessment of applicant qualifications whenever possible.

**7D1G4C** Screening committees are to be trained by a Human Resources Director or Manager in appropriate selection and interviewing techniques and in Equal Employment Opportunity programs and procedures. Selection and interviewing will conform to these techniques and procedures. The Human Resources Director or Human Resources Manager shall work with the screening committee chair to ensure that the employment process complies with the District's Equal Employment Opportunity Policies.

**7D1G4D** A reasonable number of candidates as determined by the College President or designee are to be interviewed for each position.

**7D1G4E** All materials related to the selection process for a position shall be incorporated into a single file and be maintained for at least three (3) years.

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**7D2    Unlawful Discrimination**

All forms of discrimination and harassment are contrary to basic standards of conduct between individuals and are prohibited by state and federal law, as well as this policy, and will not be tolerated. The District is committed to providing an academic and work environment that respects the dignity of individuals and groups. The District shall be free of sexual harassment and all forms of sexual intimidation and exploitation. It shall also be free of other unlawful discrimination, including that which is based on any of the following statuses: national origin, religion, age, sex (gender), race, color, medical condition, ancestry, sexual orientation, marital status, physical or mental disability, or because he or she is perceived to have one or more of the foregoing characteristics.



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**7D2A Sexual Harassment**

**7D2A1** The Board of Trustees of the Kern Community College District will not tolerate any behavior which constitutes sexual harassment of staff or students. It is the policy of the Kern Community College District that members of the college community, including visitors, guests, and contractors, may not sexually harass another person employed or contracted to do business by or on District property.

**7D2A1A** For the purpose of this policy, sexual harassment is defined as unwelcome sexual advances; requests for sexual favors; and/or physical conduct or oral/written communication of an intimidating, hostile, or offensive sexual nature where:

Submission to such conduct is made either explicitly or implicitly a term or condition of employment or a student's status in a course, program, or activity; or

Submission to or rejection of such conduct is used as a basis for employment decisions or as a basis for academic or other decisions affecting a student; or

Such conduct has the purpose or effect of substantially interfering with an employee's work performance or a student's educational experience, or creates an intimidating, hostile or offensive working or academic environment.

**7D2A2** The Kern Community College District is committed to maintaining a working and educational environment free of sexual harassment.

**7D2A3** When an allegation of sexual harassment is brought to the attention of a supervisor, whether reported by the individual who is the subject of the alleged harassment, or by a witness, the supervisor shall report the allegation to the College Human Resources Manager. The College Human Resources Manager shall investigate the allegation according to **Procedure 7D4A**.

**7D2A4** An employee or student may be subject to disciplinary action for violation of this policy.

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**7D3    Students and Staff with Disabilities**

**7D3A**    The Kern Community College District shall adhere to the wording and the spirit of the Federal Americans with Disabilities Act (ADA) and accompanying laws and regulations that protect persons with disabilities in the State of California.

**7D3A1**    The Kern Community College District shall consider or retain for employment all qualified individuals who satisfy the requisite skills, experience, education, and other job related requirements and can perform the essential functions of the position with or without reasonable accommodations. Pre-employment physicals or drug testing shall be conducted after an offer of employment has been made. This offer of employment is conditioned on the employee either passing these tests, or providing proof of disability [as defined in the Federal Americans with Disabilities Act (ADA)]. The District will provide reasonable accommodation upon request to applicants and employees in accordance with the Federal Americans with Disabilities Act (ADA).

**7D3A2**    The District’s goal is to remove barriers to ensure that all qualified employees or students with disabilities are not excluded from or denied the benefits of services, programs, or activities because District facilities are inaccessible or unusable. The District, in terms of existing structures or new construction, shall make every reasonable effort to remove existing architectural barriers to the disabled and/or provide architectural access.

**7D3A3**    To the best of its ability, the District shall also furnish disabled students and staff with appropriate aids and instructional services in order to provide an equal opportunity to participate in the services, programs, or activities conducted by the Colleges.

**7D3A4**    The District shall designate a coordinator for the ADA related activity at each of its Colleges. The coordinator shall monitor compliance efforts, investigate complaints, complete an initial ADA self-evaluation, and update this evaluation at least every three (3) years.

**7D3A5**    The ADA complaint procedure to be utilized shall be that described in **Procedure 7D4A**.

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**7D3B**      **Access to Electronic and Information Technology**

**7D3B1**      Whenever the Kern Community College District enters into a contract for the purchase, development, procurement, maintenance, or use of any electronic or information technology, the equipment or services purchased shall comply with, or be capable of conversion to meet accessibility requirements of Section 504 of the Rehabilitation Act of 1973, as amended, and its implementing regulations. This requirement shall apply to software applications, operating systems, web-based intranet and internet information and applications, telecommunication products, video or multimedia products, and self-contained closed products such as copiers, and desktop and portable computers.

**7D3B2**      The District will negotiate with vendors with the intention of having them certify to the following provisions:

**7D3B2A**      “The vendor warrants that the products or services to be provided under this agreement comply with, or be capable of conversion to meet, the accessibility requirements of Section 504 of the Rehabilitation Act of 1973, as amended, and its implementing regulations. Vendor agrees to respond promptly to and resolve any complaints regarding accessibility of its products or services that are brought to its attention. Vendor further agrees to indemnify and hold harmless the Kern Community College District from and against any claim arising out of its failure to comply with these requirements. Failure to comply with these requirements shall constitute a breach, and be grounds for termination of the agreement.”

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**7D4 Discrimination Complaint Process**

7D4A The Kern Community College District shall provide an expeditious and effective process for resolution of complaints by staff and students of unlawful discrimination and/or harassment in violation of this policy by staff and students. This process, as described below, will apply to discrimination based on military and veteran status, national origin, religion, age, sex (gender, including Title IX, Gender Equity Violations), gender identity, gender expression, race or ethnicity, color, medical condition, genetic information, ancestry, sexual orientation, marital status, physical or mental disability, or pregnancy, or because he or she is perceived to have one or more of the foregoing characteristics, or based on association with a person or group with one or more of these actual or perceived characteristics. In accordance the State law, the District shall accept complaints filed within one (1) year of the alleged discrimination. See [Procedure 7D4A](#) of this Manual for the guidelines to the Unlawful Discrimination Complaint Process.

7D4A1 Where complaints are filed directly with State and Federal agencies, the District Vice Chancellor, Human Resources or his/her designee will investigate and respond to the complaint in the manner provided by the agency and in accordance with the process provided for in [Procedure 7D4A](#).

7D4A2 When complaints are filed directly with the College or District, the Vice Chancellor, Human Resources shall be responsible for ensuring District compliance with rules and regulations adopted by the California Community Colleges and will assure that the College or District investigation shall be completed within ninety (90) calendar days.

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**7E Code of Ethics**

The Kern Community College District recognizes that a commitment to the highest ethical and professional standards on the part of all persons associated with the District is necessary to fulfilling our mission and realizing our vision, which are policies of the District. This code of ethics is based on two (2) fundamental principles.

The first is recognition of the dignity of all persons, which respects the inherent value and worth of each person. The second principle is a commitment to fulfilling our obligations to others using fair and honest means. All associates in the Kern Community College District, faculty, students, management, classified staff, and trustees, as well as volunteers and vendors, each bear personal responsibility for their own ethical behavior and for the ethical stature of our organization. We are committed to fulfilling the Kern Community College District's mission. While we recognize the relationship between law and ethics, we further understand that legal requirements are necessary but not sufficient, and we endeavor always to do what is right and just, even when no one is watching, compelling, or evaluating our actions.

**7E1 Respect for Persons and Academic Freedom**

**7E1A** The inherent dignity of all persons requires that we conduct ourselves with civility in all circumstances of our professional lives. This means that we do not participate in or accept, condone, or tolerate physical or verbal forms of aggression, threat, harassment, ridicule, or intimidation. The District is an institution of higher education and especially values a spirit of free inquiry and free speech. The District encourages the expression of a range of points of view, but we expect all expressions of content to be conducted in a manner respectful of persons. The District nurtures an atmosphere of mutual respect by treating everyone with dignity, even when the values, beliefs, or behavior of a person or group is different from our own. The District recognizes this foundation of mutual respect to be the basis of civil discourse in an academic environment.

**7E1B** The District further protects the dignity of persons by maintaining the boundaries of both necessary and appropriate confidentiality, and by prohibiting the exploitation of all persons through sexual harassment or financial, professional, or any other form of exploitation. The District seeks to develop policies, procedures, and practices which are both compassionate and fair. In order to assure that we are fair in our policies,

procedures, and practices regarding the dignity and worth of persons, the District specifically prohibits discrimination based on race, color, ethnic group identification, ancestry, religion, gender, sexual orientation, national origin, age, and physical or mental disability. While this prohibition is necessary, it is the genuine valuing of diversity that serves to create the general atmosphere in which persons can thrive and realize their potential.

## **7E2 Fairness and Honesty**

**7E2A** The District desires to participate in a healthy work environment which emphasizes the achievement of our common purpose and the development of our potential as individuals and as an organization.

**7E2B** The District will actively work to build the trust necessary to conduct its mission through open, honest, and fair practices and communications at all levels.

**7E2C** The District values and practices the sharing of information, transparency of policy, and consistency of practice in all its dealings.

**7E2D** The District does not tolerate or condone dishonest practices, such as lying, stealing, plagiarizing, cheating, or deliberate misrepresentation of self, program, or information.

**7E2E** The District does not tolerate the misappropriation of resources of any kind, either through misuse of property, time, equipment, or systems, or through inaccurate reporting which results in personal or group gain.

**7E2F** The District develops and uses systems for the prohibition of bias, and for the reporting of conflict of interest, including conflicts resulting from work relationships in which employees have more than one (1) role in relation to another person, resulting in social pressures on professional conduct.

In those circumstances where such conflicts cannot be avoided and/or are considered minor in scope, we will commit to open and transparent consultation with supervisors and colleagues in order to protect individual rights, professional reputations, and the ethical reputation of our institution.

**7E2G** The District will engage in self-monitoring and open information sharing to assure fairness in the distribution of resources necessary to support its mission.

## **7E3 Competence**

**7E3A** The Kern Community College District recognizes the importance of competence to the effectiveness and trustworthiness of its endeavors. The District maintains currency in all areas of responsibility and seeks and uses feedback for improved performance, while also recognizing and celebrating performance achievements. The District is aware of and will behave in accordance with the policies and practices of its various

professional associations and share these practices with students and colleagues.

**7E3B** The District will further acknowledge and seek intervention related to impediments to competent performance, including but not limited to continuing education needs, drug and alcohol abuse, and physical or mental impediments to competent performance of our duties. The District will use appropriate systems to support rehabilitation and/or accommodation.

#### **7E4 Conclusion**

**7E4A** The Kern Community College District celebrates its existence as a unique institution for the realization of human potential in the geographic area it serves and through the global connections fostered by its online programs.

**7E4B** The District prizes most highly the education and achievements of students, and the fostering of lifelong learning throughout its organization.

**7E4C** The District allows this value not only to direct our positive behavior and limit our potentially negative behavior, but to inspire us with a sense of shared purpose and a willingness to cooperate with one another in developing the highest potential in individuals and communities.

#### **7E5 The Binding Nature of Ethical Standards of Kern Community College District**

**7E5A** This statement of ethics articulates mutual expectations related to the employment or participation in providing services in the District, including service on the Board of Trustees and community advisory boards, and as volunteers and contracted service providers.

#### **7E6 Definitions**

Bias – a partiality that prevents objective consideration; influence in an unfair way.

Civil Discourse – engagement in courteous and polite conversation intended to enhance understanding; a moral interaction that presupposes ethical standards.

Civility – courtesy; politeness.

Competence – the act of performing tasks and roles to an expected standard based on the possession of required skills, knowledge, qualifications, or capacity.

Dignity – bearing, conduct, or speech indicative of self-respect or appreciation of the formality or gravity of an occasion or situation; the quality or state of being worthy of esteem or respect.

District – the Kern Community College District (referred to as “we” or “our”) is a political subdivision of the State of California and includes all Colleges, Centers, satellites, online, and all sites and persons governed by the Kern Community College District Board of Trustees.

Ethical standard – the principles and norms of proper professional and moral conduct concerning the rights and duties of professionals themselves and their conduct toward others.

Ethical Stature – The reputation for achieving and maintaining the highest level of professional and moral conduct.

Ethics – a system of moral principles; moral principles, as of an individual; a set of principles of right conduct.

Exploitation – the act of using another for personal gain; the practice of treating someone badly

Inherent – existing in someone or something as a permanent and inseparable element, quality, or attribute; existing as an essential constituent or characteristics; intrinsic.

Just – guided by truth, reason, justice, and fairness; done or made according to principle; equitable; property.

Reputation – the estimation in which a person or thing is held by others; the state or situation of being held in high esteem.

Right – in accordance with what is good or proper; in conformity with fact, reason, truth, or some standard or principle; correct in judgment, opinion, or action.



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**7F Whistleblower Protection**

California Labor Code Section 1102.5; Government Code Section 53296;  
Private Attorney General Act of 2004 (Labor Code Section 2698)

- 7F1** The Chancellor or Designee shall establish procedures regarding the reporting and investigation of suspected unlawful activities by Kern Community College District employees, and the protection from retaliation of those who make such reports in good faith and/or assist in the investigation of such reports. For the purposes of this policy and any implementing procedures, “unlawful activity” refers to any activity – intentional or negligent – that violates state or federal law, local ordinances, or Kern Community College District Board policy.
- 7F2** Procedures shall provide that individuals are encouraged to report suspected incidents of unlawful activities without fear of retaliation; that such reports are investigated thoroughly and promptly; that remedies are applied for any unlawful practices; and protections are provided to those employees who, in good faith, report these activities and/or assist the Kern Community College District in its investigation. (See **Procedure 7F** of this Manual)
- 7F3** Kern Community College District employees shall not retaliate against an employee or applicant for employment who has made a protected disclosure, assisted in an investigation, or refused to obey an illegal order, or directly or indirectly use or attempt to use the official authority or influence of his or her position for the purpose of interfering with the right of an applicant or an employee to make a protected disclosure to the Kern Community College District.
- 7F4** The Kern Community College District will not tolerate retaliation and will take whatever action may be needed to prevent and correct activities that violate this policy, including discipline of those who violate it up to and including termination.

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**7G Wellness of Employees**

**7G1** The Kern Community College District is committed to the development and maintenance of physical and mental health of all its employees. Accordingly, the District encourages physical and mental wellness activities on behalf of employees.

**7G2** In order to assure that employees are physically capable of performing their assigned job responsibilities and task, the District requires that candidates, as a condition of employment, under consideration to fill positions in the following areas take and pass a pre-employment physical examination:

- Child Care
- Food Service
- Custodial
- Maintenance
- Grounds
- Security
- Mechanical Skilled Workers
- Bus Drivers

A candidate who is not physically capable of performing the requirements of the job will not be hired for the position. The physical examination will be provided at District expense. See **Procedure 7G2** of this Manual for the listing of Position Classifications for Mandatory Physical Examinations.

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**7H Drug-Free Workplace**

**7H1** The Kern Community College District is committed to the development and maintenance of a drug-free environment in accordance with the Drug-Free Workplace Act. Accordingly, the District will not tolerate any unlawful activity such as the possession, use, manufacture, distribution and/or dispensation of a controlled substance on District owned or controlled property.

**7H1A** Substances as referred to in this policy statement include any and/or all of the following:

Illegal Drugs.

Legal drugs (either by prescription or over-the-counter) if illegally possessed or misused or overused to such an extent as to cause the impairment of job performance.

Other mind altering chemicals, materials or substances.

Intoxicating beverages.

A description of the health risks associated with the use of these controlled substances shall be posted on all bulletin boards at the three (3) Colleges and the District Office.

**7H2** Violation of this prohibition by employees may result in disciplinary action, up to and including dismissal. In addition, violation may constitute an infraction of the California Education Code and other State laws and may result in immediate suspension without pay in the event criminal charges are filed. As a condition of being employed to work under any federal grant received this District, employees are required to abide by the terms of this statement. These employees are further required to notify the Campus or District Personnel officer of any conviction for a criminal drug statute violation occurring in the workplace within five (5) days after such conviction.

**7H3** In accordance with the District's focus on wellness, the District expects employees to cooperate with supervisors in remedying performance problems associated with drug and alcohol use and to encourage other employees and students to seek help with drug and alcohol problems.

**7H4** Employees with a substance abuse problem may receive assistance through the District Employee Assistance Program. This service is part of the health care program provided by the Kern Community College District.

**7H5** In order to encourage a drug-free work force, the Kern Community College District requires that, as a condition of employment, all individuals to fill positions in the following areas take a drug screen test as part of their pre-employment physical examination.

- Child Care
- Custodial
- Maintenance
- Grounds
- Security
- Mechanical Skilled Workers
- Bus Drivers
- Allied Health Instructors

The drug screen will be provided at District expense. Any employee candidate testing positive for drugs will not be hired by the Kern Community College District. See **Procedure 7H5** of this Manual for the listing of Position Classifications for Mandatory Drug Screening.

**7H6** If the Kern Community College District has a contractual arrangement with an outside organization and the outside organization requires drug screening of the Kern Community College District employees in that contractual program, these employees must submit to and pass a drug screen.

**7H7** Pursuant to Federal Code of regulations Part 382, Department of Transportation, the Kern Community College District has established **Procedure 7H7(a-c)**, of this Manual, to help prevent accidents and injuries resulting from misuse of alcohol or use of controlled substances by District employees who drive commercial motor vehicles. The District requires the following alcohol and controlled substance testing for drivers and applicants.

- Pre-employment
- Random
- Reasonable suspicion

No driver found to have an alcohol concentration of .02 or higher or who tests positive for controlled substances shall be allowed to perform safety sensitive functions and may not be allowed to continue employment with the Kern Community College District.

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**71 Employees with Chronic Communicable Diseases or Infectious Conditions**

- 711** An employee with identified chronic communicable disease or infectious condition shall be permitted to continue in the workplace whenever, through reasonable accommodation, the employee is physically and mentally capable of fulfilling his/her duties satisfactorily and so long as the best available medical evidence indicates that continued employment does not present a health and safety threat to themselves or to others.
- 712** Employment decisions by the Board of Trustees will be made after using available public health department guidelines concerning the particular disease or condition, the physician's recommendation, the law and the factual assessment of the following:
- the risks associated with how the disease or condition is transmitted;
  - the risks associated with how long the carrier is infectious;
  - the risks associated with the disease's or condition's potential harm to others;
  - the risks associated with the probability of the disease or condition being transmitted in the work setting; and
  - whether, after taking into account the above, the College can reasonably accommodate the individual who carries the disease or condition without incurring undue financial or administrative burdens.
- 713** Individual cases will not be prejudged; rather, decisions will be made based upon the facts of the particular case.
- 714** The District shall respect the right of privacy of any employee who has a chronic communicable disease or infectious condition. The employee's medical condition shall be disclosed only to the extent necessary and permitted under law to minimize the health risks to others.
- 715** Employees with chronic communicable disease or infectious condition shall remain subject to Board of Trustees policies, including the applicable current collective bargaining agreement.
- 716** The District shall provide an educational program for employees to communicate the sources, transmittal and prevention of the major chronic communicable diseases and infectious conditions.

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**7J Emergency Planning, Preparedness, and Response Policy (Education Code Sections 32280 et seq. and 71095; California Government Code Sections 3100 et seq., 8558, 8559, 8600, 8605, and 8607(a); Homeland Security Act of 2002;**

National Fire Protection Association 1600; Homeland Security Presidential Directive-5; Executive Order S-2-05; California Code of Regulations (CCR) Sections 2400-2450)

**7J1 Policy Statement**

The Kern Community College District strongly supports creating a safe working environment for all of its employees. The purpose of this policy is to provide a reasonable and organized method of maintaining a safe environment for students, faculty, visitors, and staff of the District and Colleges during emergency situations.

The Chancellor and/or President shall establish an emergency response plan and procedures that ensure that the District and/or College implement a plan to be activated in the event of an emergency, or when a natural disaster or hazardous condition occurs. The District and Colleges shall maintain an incident command team to aid in the creation, maintenance, updating, and implementation of its emergency plan and procedures.

In the event of an emergency, natural disaster, or the occurrence of a hazardous condition the District and Colleges will activate its emergency response plan and procedures to protect and govern employees, students, visitors, and children in childcare programs in district-owned or operated facilities.

This policy shall be used in conjunction with the procedures currently in place and being utilized by the local jurisdictions having emergency response responsibilities.

The District and College emergency response plans shall provide for the implementation of California’s Standardized Emergency Management System (SEMS) & National Incident Management System (NIMS); and incorporate the functions and principles of the Incident Command System (ICS), the Master Mutual Aid Agreement (MMAA), and any other relevant programs. The District and Colleges will comply with SEMS and NIMS to be eligible for state or federal funding of response-related costs. Field operations during an incident will be organized and conducted using the Incident Command System (ICS).

**7J2** Standardized Emergency Management System (SEMS) and National Incident Management System (NIMS) DEFINITIONS (See [Procedure 7J2](#) of this Manual)

**7J3** Public Employee Disaster Service Worker (DSW) Designation

As public employees, District and College personnel are disaster service workers during national, state, and local emergencies. (California Government Code Sections 3100 - 3109)

**7J4** Incident Command System (ICS)

Management of significant emergency situations is accomplished through implementation of a response framework as specified by SEMS and NIMS through the Incident Command System (ICS), recognized as the standard for management of crisis situations in the United States. (See [Procedure 7J4](#) of this Manual)

**7J5** Roles and Responsibilities

In an emergency, lines of authority may change. Employees may be assigned to report to any member of the Incident Command System (ICS) team. This may or may not be the employees' regular supervisor or manager. Employees will follow the direction of the ICS team members during an emergency. All employees will follow the directions of uniformed responders (law enforcement, fire, etc.) at all times.

Emergency response often requires decisions to be made quickly under adverse conditions. Emergency or disaster conditions may require actions which are not listed in the emergency response plan, or which run counter to guidelines suggested. The District, its management, employees, students, and volunteers duly pressed into service during a local emergency or disaster shall act prudently while being protected by the privileges and immunities from liability as provided by law.

**7J6** Training and Preparedness

The District shall determine the appropriate level(s) of SEMS and NIMS training for each of its employees. The determination shall be dependent upon an employee's potential assignment during an emergency response situation.

**7J7** Emergency Response Plan

In the event of an emergency, natural disaster, or the occurrence of a hazardous condition, the District and/or College will activate its emergency response plan and procedures to protect and govern employees, students, visitors, and children in childcare programs on a college campus and in district-owned or operated facilities. (See [Procedure 7J7](#) of this Manual)

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**7K Automated External Defibrillator Program**

**7K1** Training shall be provided in the use of Automated External Defibrillator devices in compliance with the Health and Safety Code of the California Code of Regulations, Title 22, Sections 1797.107 and 1797.190, and the American Heart Association Cardiopulmonary Resuscitation Guidelines. (See [Procedure 7K](#) of this Manual)

Only those individuals who have successfully completed and maintained their certification in Automated External Defibrillator Training Standards established by the District may use the Automated External Defibrillator units.

**7K2 Definitions**

**7K2A** Automated External Defibrillator (AED) – A life saving device capable of cardiac rhythm analysis which will charge and deliver a shock after electronically detecting and assessing ventricular fibrillation or pulseless rapid ventricular tachycardia. The Automated External Defibrillator is a user-friendly portable device that is lightweight and small in size.

**7K2B** Cardiopulmonary Resuscitation (CPR) – A means of establishing and maintaining adequate respiration and circulation. This is done by ensuring the patient has an open airway through the use of rescue breathing. Circulation is maintained by means of closed chest cardiac compressions.

**7K2C** Sudden Cardiac Arrest (SCA) – A condition in which the victim is unconscious, apnea (not breathing), or has agonal breaths (false breaths) and pulseless, and does not show signs of circulation.

**7K2D** Contracted Agency – The Contracted Agency refers to the Agency that the Kern Community College District has contracted with to provide required training and administration of the Automated External Defibrillator Program.



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**7L Safety**

**7L1** The Kern Community College District is committed to establishing and maintaining a safe and healthful workplace for all employees and students. The prevention of accidents and prevention of exposure to a hazardous environment will be accomplished by means of a Board of Trustees approved Injury and Illness Prevention Program containing the following elements:

Identification of the person or persons responsible for implementing the program.

A system for identifying and evaluating workplace hazards, including scheduled periodic inspections to identify unsafe conditions and work practices.

Methods and procedures for correcting unsafe or unhealthy conditions and work practices in a timely manner.

An occupational health and safety training program designed to instruct employees in general safe and healthy work practices and to provide specific instruction with respect to hazards specific to each employee's job assignment.

A system for communicating with employees on occupational health and safety matters, including provisions designed to encourage employees to inform the employer of hazards at the worksite without fear of reprisal.

A system for ensuring that employees comply with safe and healthy work practices, which may include disciplinary action.

Correction of unsafe and unhealthy conditions and work practices in a timely manner based on the severity of the hazard.

Training of: (a) all employees when the training program is first established, (b) all new employees, (c) all employees given a new job assignment, and (d) employees whenever new substances, processes, procedures, or equipment are introduced to the workplace and represent a new hazard, and whenever the District receives notification of a new or previously unrecognized hazard.

Maintenance or appropriate records of steps taken to implement and maintain the program.

- 7L2** The District Chancellor or designee and the respective College Presidents are responsible for ensuring compliance with the Kern Community College District Injury and Illness Prevention Program.
- 7L3** Through the District Injury and Illness Prevention Program, the District shall provide employees with information about Bloodborne Pathogen exposure. The District shall provide protection from blood or Other Potentially Infectious Materials (OPIM).
- 7L4** All machines in instructional and maintenance shops shall be operated in accordance with the recommendations of CAL OSHA. Particular care shall be given to the proper use of the safety devices installed on these machines.
- 7L5** Eye protective devices must be worn by students and instructors in courses in which the individual is engaged in, or observing an activity or the use of hazardous substances likely to cause injury to the eyes.

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**7M   Nepotism**

- 7M1** The District does not prohibit the employment of relatives (or domestic partners as defined by District Collective Bargaining Agreement or Family Code Section 297 et seq.) in the same department or division, with the exception that they shall not be assigned to a regular position within the same department, division, or site that has an immediate family member who is in a position to recommend or influence employee decisions.
- 7M2** Employee decisions include appointment, retention, evaluation, tenure, work assignment, promotion, demotion, or salary of the relative (or domestic partner as defined by District Collective Bargaining Agreement or Family Code Section 297 et seq.).
- 7M3** Immediate family means spouse, domestic partner, parents, grandparents, siblings, children, grandchildren and in-laws or any other relative living in the employee's home.
- 7M4** The District will make reasonable efforts to assign job duties to minimize the potential for creating an adverse impact on supervision, safety, security, or morale, or creating other potential conflicts of interest.
- 7M5** Notwithstanding the above, the District retains the right where such placement has the potential for creating an adverse impact on supervision, safety, security, or morale, or involves other potential conflicts of interest, to refuse to place immediate family members in the same department, division, or facility. The District retains the right to reassign or transfer any person to eliminate the potential to create an adverse impact on supervision, safety, security, or morale, or involve other potential conflicts of interest.

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**7N Security**

- 7N1** The Kern Community College District is committed to establishing and maintaining a secure workplace for all employees, students, and campus guests.
- 7N2** Each College and the District Office shall have a security program as approved by the Board of Trustees.
- 7N3** Security notification requirements will be fulfilled by means of a student right-to-know and campus security program as follows:

Compile records of incidents and arrests for crimes of violence, hate violence (criminal and non-criminal), theft or destruction of property, illegal drugs, or alcohol intoxication.

Compile hate violence data to include a description of the act, victim characteristics, offender characteristics and make available the data on request to any employee or student or applicant. Post and distribute: the availability and location of security personnel; methods for summoning security personnel; any special safeguards for particular facilities or activities; and any actions taken in the preceding eighteen (18) months to increase safety and any changes in safety to be made during the next twenty-four (24) months.

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**AP 7B4**      **Emeritus Status**

Recognition of Emeritus status for District employee groups as defined in Policy [7B4E](#) may include, but not necessarily be limited to, the following privileges, benefits, and courtesies:

- 1) An official document which certifies Emeritus status signed by the President of the Board of Trustees, the Chancellor, and the College President;
- 2) Listing in all appropriate District and/or College publications;
- 3) A District or College card which indicates Emeritus status and therefore, free or discounted rates for selected District or College events;
- 4) Participation, by invitation of the District or College, in the District's or College's public ceremonies;
- 5) Library and Learning Resource Center privileges comparable to those of current Faculty or Educational Administrators subject to District Policy and administrative regulations;
- 6) Eligibility to participate, by invitation, in the District's or College's professional development activities; and,
- 7) Parking privileges comparable to those of current Faculty or Educational Administrators subject to District Policy and administrative regulations.

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**AP 7D4A     Discrimination Complaint Process**

In the event of the notification of an unlawful discrimination complaint, pursuant to Policy 7D4 with the college, the process shall be as indicated below:

As is indicated in Policy 7D4, this process covers alleged unlawful discrimination on the basis of age, race, color, national origin, gender, disability, religion, sexual orientation, marital status, or other forms of unlawful discrimination. Complaints may be filed within one (1) year of the alleged unlawful discrimination.

- 1) Any student or employee who feels that he or she is being unlawfully discriminated against is encouraged to informally notify and resolve the complaint with any of the following Responsible Personnel:
  - Instructor
  - Advisor or Counselor
  - Department/Division Chair
  - Dean or Vice President
  - Title IX Coordinator
  - College Human Resources Manager or District Human Resources Director
- 2) Any student or employee who feels that he or she is being unlawfully discriminated against is entitled to file a formal complaint with any of the following Responsible Personnel for resolution:
  - College Vice President
  - College Human Resources Manager or District Human Resources Director
  - Vice Chancellor, Human Resources
- 3) Supervisors shall take immediate action to report and/or remedy any perceived unlawful discrimination based on age, race, color, national origin, gender, disability, religion, sexual orientation, marital status, or other forms of unlawful discrimination.
- 4) At any point in the investigation, the student or the employee has the right to involve more than one (1) of the persons listed above.
- 5) The responsibilities of the person to whom the complaint has been made will include a written description of the complaint as described by the complainant.

Based on the information in the complaint, the recipient of the complaint will implement one (1) of the following courses of action:

- Informal Complaint Procedure, or
- Formal Complaint Procedure

### **Informal Complaint Procedure**

The purpose of the informal complaint process is to allow an individual who believes he/she has been unlawfully discriminated against to resolve the issue through a consultation process rather than the more formal investigative process provided by the College.

The steps of the informal procedure are:

- 1) If the complainant believes that discussions of alleged unlawful discrimination with the alleged perpetrator/respondent or his/her supervisor would be unproductive or inappropriate, the complainant should consult with the Responsible Personnel or designee who shall ascertain as much detail as possible including date(s), time(s), description of incident(s), party(ies) involved, witness(es), etc.
- 2) The Responsible Personnel or designee will counsel the complainant regarding the Unlawful Discrimination Complaint procedure. Complainant shall be advised that the informal procedure is not a pre-requisite for filing a formal Unlawful Discrimination complaint. [California Code of Regulations, Section 59327(2)]
- 3) The complainant's allegation of unlawful discrimination shall be kept as confidential as possible by the Responsible Personnel or designee and shall be used only to provide a factual basis for resolving the complaint.
- 4) Within ten (10) days of receipt of the informal complaint, the Responsible Personnel or designee shall contact the alleged perpetrator/respondent in an attempt to resolve the matter informally. The alleged perpetrator/respondent will be asked to respond to the allegations.
- 5) Within ten (10) days of discussing the matter with the alleged perpetrator/respondent, the Responsible Personnel or designee will review the statements of both the complainant and the alleged perpetrator/respondent and meet individually with each party, and if necessary, meet with witnesses in an attempt to resolve the matter.
- 6) Steps One (1) through Five (5) of this informal procedure shall not exceed the ninety (90) days afforded to complainants filing a formal complaint. [California Code of Regulations, Section 59336]



### **Possible Outcomes of the Informal Complaint Procedure**

- 1) If the matter is resolved, the Responsible Personnel or designee will put the resolution in writing and meet with both parties who will review and sign the agreement.
- 2) If the parties agree there has been no unlawful discrimination and are satisfied with the resolution, the documents connected with the allegation shall be destroyed by the Responsible Personnel or designee and the complaint will be considered resolved.
- 3) If the parties agree that unlawful discrimination has occurred, but are satisfied with the resolution, then the documentation connected with the allegations and resolution will be placed in an employee's official personnel file in the District Office of Human Resources and shall be considered sealed after a period of three (3) years.
- 4) If, after negotiations between the parties, it becomes clear to the Responsible Personnel or designee that an informal resolution cannot be reached, he/she will convey the determination to both parties. The Responsible Personnel or designee will also inform the complainant of the right to file a formal unlawful discrimination complaint under this procedure.

### **Formal Complaint Procedure**

- 1) The complainant shall initiate the formal complaint procedure by filing a complaint in writing on the District's Unlawful Discrimination Formal Complaint form.
- 2) Within ten (10) days of receipt of the formal complaint, the Responsible Personnel or designee shall contact the alleged perpetrator/respondent in an attempt to resolve the matter informally. The alleged perpetrator/respondent will be asked to respond to the allegations.
- 3) Within ten (10) days of discussing the matter with the alleged perpetrator/respondent, the Responsible Personnel or designee will review the statements of both the complainant and the alleged perpetrator/respondent and meet individually with each party, and if necessary, meet with witnesses in an attempt to resolve the matter.
- 4) Both parties have a right to be accompanied by a representative at each step in this procedure and shall have the right to present documentary evidence and witness statements.
- 5) Within ninety (90) days of receiving the formal complaint, the following shall be completed:
  - a) Investigation of the unlawful discrimination complaint.

- b) A written administrative determination letter to both the complainant and alleged perpetrator/respondent specifying the following:
1. All behaviors that were alleged to constitute the unlawful discrimination.
  2. A decision that the unlawful discrimination complaint is substantiated or unsubstantiated.
  3. A description of any corrective action to be taken by the College or District administration. Notice of the complainant's appeal rights.
- 6) Only if the investigation substantiates the alleged unlawful discrimination the written administrative letter shall be placed in the perpetrator's personnel file. The administrative letter placed in the perpetrator's official personnel file in the District Office of Human Resources shall be considered sealed after a period of three (3) years.
- 7) If complainant is not satisfied with the results of the administrative determination, he/she may submit a written appeal to the Board of Trustees within fifteen (15) days of the date of notice of the administrative determination. The Board shall review the original complaint, the investigative report, administrative determination, and the appeal, and shall issue a decision within forty-five (45) days after the filing of the appeal.
- 8) For complaints filed by students, if the complainant is not satisfied with the Board's decision, he/she may file an appeal with the State Chancellor's Office as prescribed in the Education Code. Students may also file a complaint with Office for Civil Rights of the U.S. Department of Education (OCR) during any step in the unlawful discrimination investigative process.
- 9) Within one hundred and fifty (150) days after receiving a written formal complaint, the District will forward to the State Chancellor's Office the results of the investigation as described in this Procedure.
- 10) For complaints filed by employees, the employee may file a complaint with the Department of Fair Employment and Housing or the Equal Opportunity Commission during any step in the unlawful discrimination complaint investigative process.

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**AP 7F**      **Administrative Procedure for Whistleblower Protection**

References: Labor Code Section 702.5; Government Code Section 53296; Private Attorney General Act of 2004 (Labor Code Section 2698)

Individuals are encouraged to report suspected incidents of unlawful activities by District employees in the performance of their duties. Reports will be investigated promptly and appropriate remedies applied. Employees who, in good faith, report such activities and/or assist the Kern Community College District in the investigation, will be protected from retaliation.

This procedure sets out the processes for responding to and investigating reports of unlawful activities, as defined in Kern Community College District Board Policy **7F**, Whistleblower Protection, and for addressing complaints of retaliation for making such reports.

- 1) Filing a Report of Suspected Unlawful Activities
  - a) Any person may report allegations of suspected unlawful activities. Knowledge of suspicion of such unlawful activities may originate from academic personnel, staff, or administrators carrying out their assigned duties, internal or external auditors, law enforcement, regulatory agencies, customers, vendors, students, or other third parties.
  - b) Anonymous reports will be investigated to the extent possible. However, employees are strongly encouraged not to report anonymously because doing so impedes the District's ability to thoroughly investigate the claim and take appropriate remedial measures. As set forth fully below, retaliation against individuals who report suspected unlawful activities will not be tolerated.
  - c) Normally, a report by a District employee of allegations of a suspected unlawful activity should be made to the reporting employee's immediate supervisor or other appropriate administrator or supervisor within the operating unit. However, if the report involves or implicates the direct supervisor or others in the operating unit, the report may be made to any other District official whom the reporting employee believes to have either responsibility over the affected area or the authority to review the alleged unlawful activity on behalf of the District. When the alleged unlawful activity involves the College President, the report should be made to the Chancellor. When the alleged unlawful activity

involves the Chancellor, the report should be made to the President of the Board of Trustees. When the alleged unlawful activity involves the Board of Trustees or one of its members, the report should be made to the Chancellor who will confer with the President of the Board and/or legal counsel on how to proceed. Allegations of suspected unlawful activities should be made in writing so as to assure a clear understanding of the issues raised, but may be made orally. Such reports should be factual and contain as much specific information as possible. The receiving supervisor or administrator should elicit as much information as possible. If the report is made orally, the receiving supervisor or administrator shall reduce it to writing and make every attempt to get the reporter to confirm by his or her signature that it is accurate and complete.

- d) Once the receiving supervisor or administrator has received and/or prepared a written report of the alleged unlawful activity, he or she must immediately forward to the President of the college where the alleged activity has occurred. However, if this process would require submitting the report to an employee implicated in the report, the receiving supervisor or administrator should follow the reporting options outlined above. The high-level administrator or trustee who receives the written report pursuant to this paragraph is responsible for ensuring that a prompt and complete investigation is made by an individual with the competence and objectivity to conduct the investigation, and that the assistance of counsel and/or an outside investigator is secured if deemed necessary.
- e) In the course of investigating allegations of unlawful conduct, all individuals who are contacted and/or interviewed shall be advised of the District's no-retaliation policy. Each individual shall be: 1) warned that retaliation against the reporter(s) and/or others participating in the investigation will subject the employee to discipline up to and including termination; and 2) advised that if he or she experiences retaliation for cooperating in the investigation, then it must be reported immediately.
- f) In the event that an investigation into alleged unlawful activity determines that the allegations are accurate, prompt and appropriate, corrective action shall be taken.

## 2) Protection from Retaliation

- a) When a person makes a good-faith report of suspected unlawful activities to an appropriate authority, the report is known as a protected disclosure. District employees and applicants for employment who make a protected disclosure are protected from retaliation.
- b) Any employee who believes he or she has been (1) subjected to or affected by retaliatory conduct for reporting suspected unlawful activities, or (2) for refusing to engage in activity that would result in a violation of law, should report such conduct to the appropriate supervisory personnel (if such supervisory personnel is not the source of or otherwise involved in the retaliatory conduct). Any

supervisory employee who receives such a report, or who otherwise is aware of retaliatory conduct, is required to advise the College President. If the allegations of retaliation or the underlying allegation of unlawful conduct involve the President, the supervisor shall report to the highest level administrator and/or trustee who is not implicated in the reports of unlawful activity and retaliation.

- c) All allegations of retaliation shall be investigated promptly and with discretion, and all information obtained will be handled on a “need to know” basis. At the conclusion of an investigation, as appropriate, remedial and/or disciplinary action will be taken where the allegations are verified and/or otherwise substantiated.

3) Requirement to Post Whistleblower Hotline

- a) The District shall prominently display in lettering larger than size 14 point type a list of employees’ rights and responsibilities under the whistleblower laws referenced in this procedure. The list shall include a telephone number of the whistleblower hotline, (888) 304-7794, for employees who have information regarding possible violations of state or federal statutes, rules or regulations, or violations of fiduciary responsibility by a cooperation or limited liability company to its shareholders, investors, or employees.

4) Other Remedies and Appropriate Agencies

- a) In addition to the internal complaint process set forth above, any employee who has information concerning allegedly unlawful conduct may contact the appropriate government agency.

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**AP 7G2      Pre-Placement Physical Assessment Testing**

The Kern Community College District Human Resources Office will coordinate all arrangements for pre-placement assessment testing with a provider, including communication on any follow-up resulting from an employee candidate's pre-placement physical assessment test.

Following is the procedure for arranging pre-placement physical assessment testing:

- 1) The Human Resources Office from a District college will contact the District Personnel Office to initiate a request for pre-placement physical assessment testing.
- 2) The District Human Resources Office will contact a provider to arrange an appointment for the employee candidate.
- 3) The District Human Resources Office will receive verbal results of the pre-placement physical assessment test and convey the results to the College Personnel Office.
- 4) The District will provide reasonable accommodation to applicants and employees in accordance with the ADA.

Candidates for the following positions will undergo pre-placement assessment testing:

**Bus Driver**

- Bus Driver

**Child Development**

- Child Daycare Center Assistant
- Child Development Center Teacher

**Classified Management**

- Director, Custodial and Grounds Operations--Bakersfield College
- Director, Plant Operations and Building Trades--Bakersfield College
- Director, Maintenance and Operations--Cerro Coso College
- Director, Maintenance and Operations--Porterville College

### **Custodial**

- Athletic Complex Manager
- Facility Custodial Coordinator
- Custodian II
- Custodian I

### **Food Service**

- Food Service Manager
- Cook/Baker
- Manager--Cerro Coso College
- Food Service Assistant I
- Food Service Assistant II
- Food Service Assistant III
- Stock Clerk

### **Grounds**

#### **Grounds Maintenance Supervisor**

- Groundswoker I
- Groundswoker II
- Horticulture Laboratory Technician

### **Maintenance**

- Facilities Electrician
- Facilities and Grounds Maintenance Supervisor
- Maintenance Worker
- Plant Engineer
- Skilled Craftsworker

### **Mechanic**

- Automotive Technician
- Automotive/Plant Equipment Technician

### **Miscellaneous Classified Position(s)**

- Aerobics Facilitator
- Delivery Clerk
- Receiving Clerk

### **Security**

- Campus Guard
- Safety Assistant/Dispatcher
- Security Officer I
- Security Officer II
- Security, Sergeant of

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**AP 7H5      Pre-Placement Drug Testing**

The Kern Community College District Human Resources Office will coordinate all arrangements for pre-placement drug testing with a provider, including communication on any follow-up resulting from an employee candidate's pre- placement drug screen.

Following is the procedure for arranging pre-placement drug testing:

- 1) The Human Resources Office from a District college will contact the District Human Resources Office to initiate a request for pre- placement drug test.
- 2) The District Human Resources Office will contact a provider to arrange an appointment for the employee candidate.
- 3) The District Human Resources Office will receive verbal results of the pre-placement drug test and convey the results to the College Personnel Office.

If the candidate tests positive for any of the drugs screened, that candidate will not be hired by the Kern Community College District.

Candidates for the following positions will undergo pre-placement drug testing:

**Allied Health Instructors**

- Nursing-ADN
- Nursing-VN
- Radiological Technology
- Psychiatric Technician

**Bus Driver**

- Bus Driver

**Child Development**

- Child Day Care Center Assistant
- Child Development Center Teacher



## **Custodial**

- Athletic Complex Manager
- Facility Custodial Coordinator
- Custodian I
- Custodian II

## **Grounds**

- Grounds Maintenance Supervisor
- Groundswoker I
- Groundswoker II
- Horticulture Laboratory Technician

## **Maintenance**

- Facilities Electrician
- Facilities and Grounds Maintenance Supervisor
- Maintenance Worker
- Painter
- Plant Engineer I
- Skilled Craftsworker

## **Mechanic**

- Automotive Technician
- Automotive/Plant Equipment Technician

## **Miscellaneous Certificated Position(s)**

- College Nurse

## **Miscellaneous Classified Positions**

- Aerobics Facilitator
- College Nurse
- Delivery Clerk

## **Security**

- Campus Guard
- Security Officer I
- Security Officer II
- Security, Sergeant of

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**AP 7H7(a) Alcohol and Controlled Substances Testing**

Procedure **7H7** shall be applicable only to employees who hold a commercial driver's license which is necessary to perform job related duties such, as but not limited to, operating a commercial motor vehicle for the Kern Community College District.

Definitions pursuant to Procedure **7H7** are as follows:

- 1) **Alcohol** is the intoxicating agent in beverage alcohol, ethyl alcohol or other low molecular weight alcohols including methyl and isopropyl alcohol.
- 2) **Alcohol use** is the consumption of any beverage, mixture, or preparation, including any medication containing alcohol.
- 3) **Breath alcohol technician (BAT)** is an individual who instructs and assists individuals in the alcohol testing process and operates an evidential breath testing device (EBT).
- 4) **Commercial motor vehicle** is a motor vehicle or combination of motor vehicles used in commerce to transport passengers or property if the motor vehicle:
  - a) Has a gross combination weight of twenty-six thousand, one (26,001) or more pounds inclusive of a towed unit with a gross vehicle weight rating of more than ten thousand (10,000) pounds,
  - b) Has a gross vehicle weight rating of twenty-six thousand, one (26,001) or more pounds,
  - c) Is designed to transport sixteen (16) or more passengers, including the driver, or
  - d) Is of any size and is used in the transportation of hazardous materials requiring placards.

- 5) **Screening test** (aka initial test) in alcohol testing, is an analytical procedure to determine whether a driver may have a prohibited concentration of alcohol in his or her system. In controlled substance testing, it is an immunoassay screen to eliminate negative urine specimens from further consideration.
- 6) **Confirmation test**, for alcohol testing, is a second test that provides quantitative data of alcohol concentration following a screening test with a result of 0.02 grams or greater of alcohol per two hundred, ten (210) liters of breath. For controlled substances testing, it is a second analytical procedure to identify the presence of a specific drug or metabolite which is independent of the screen test and which uses a different technique and chemical principal from that of the screen test in order to ensure reliability and accuracy.
- 7) **Covered employee** is an employee subject to the requirements of applicable Federal law and policy. Covered employee is an employee who holds a commercial driver's license which is necessary to perform job related duties such as, but not limited to, operating a commercial motor vehicle.
- 8) **Driver** is any person who operates a commercial motor vehicle. For the purposes of pre-employment testing, the term driver includes a person applying to drive a commercial motor vehicle.
- 9) **Evidential breath testing** (EBT) device is a device approved by the National Highway Traffic Safety Administration (NHTSA) for the evidential testing of breath and placed on NHTSA's Conforming Products List of Evidential Breath Measurement Devices (CPL).
- 10) **Medical review officer** (MRO) is a licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by an employer's drug testing program who has knowledge of substance abuse disorders and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result together with his or her medical history and any other relevant biomedical information.
- 11) **On-duty time**, as that phrase is defined by Federal regulations and this procedure, means all of the time from the time a covered employee begins to work, is required to be in readiness to work, until the time he or she is relieved for work and all responsibility for performing work.
- 12) **Performing** (a safety-sensitive function) is any period in which the driver is actually performing, ready to perform, or immediately able to perform any safety-sensitive functions.
- 13) **Refusal to submit** (to an alcohol or controlled substance test) is when a driver (a) fails to provide adequate breath for testing without a valid medical explanation after he or she has received notice of the requirement of breath testing; (b) fails to provide adequate urine for controlled substances testing without a valid medical

explanation after he or she has received notice of the requirement for urine testing; or (c) engages in conduct that clearly obstructs the testing process.

- 14) **Safety-sensitive function**, for purposes of this procedure, shall mean any of the functions defined in Title 49 of the Code of Federal Regulations. More specifically, safety-sensitive functions include all functions performed by a covered employee during on-duty time and include:
- a) All time at a carrier or shipper plant, terminal, facility, or other property waiting to be dispatched, unless the driver has been relieved from duty by the employer,
  - b) All time inspecting equipment as required by the Federal Motor Carrier Safety Regulations (FMCSRs) or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time,
  - c) All time spent at the driving controls of a commercial motor vehicle,
  - d) All time, other than driving time, spent on or in a commercial motor vehicle (except for time spent resting in the sleeper berth),
  - e) All time loading or unloading a commercial motor vehicle, supervising or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded,
  - f) All time spent performing the driver requirements associated with an accident, or
  - g) All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

On-duty time also includes:

- h) All time spent providing a breath sample or urine specimen, including travel time to and from the collection site, in order to comply with the testing requirements.
- 15) **Screening test** (aka initial test) in alcohol testing is an analytical procedure to determine whether a driver may have a prohibited concentration of alcohol in his or her system. In controlled substance testing, it is an immunoassay screen to eliminate negative urine specimens from further consideration.
- 16) **Substance abuse professional** is a licensed physician (medical doctor or doctor of osteopathy), or a licensed or certified psychologist, social worker, employee assistance professional, or addiction counselor (certified by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission)

with knowledge of a clinical experience in the diagnosis and treatment of alcohol and controlled substances-related disorders.

### **Prohibited Conduct**

- 1) No covered employee shall report for duty, or remain on duty requiring the performance of safety-sensitive functions, while having an alcohol concentration of 0.02 or greater.
- 2) No covered employee shall remain on duty, or operate a commercial motor vehicle, while that employee possesses alcohol, unless the alcohol is manifested and transported as part of a shipment. This includes the possession of medicines containing alcohol (prescription or over-the-counter), unless the packaging seal is unbroken.
- 3) No covered employee shall use alcohol during on-duty time while performing safety-sensitive functions.
- 4) No covered employee shall perform safety-sensitive functions within four (4) hours after using alcohol.
- 5) No covered employee required to take a post-accident alcohol test shall use alcohol for eight (8) hours following the accident or until he or she undergoes a post-accident alcohol test.
- 6) No covered employee shall refuse to submit to any test required by law or this procedure.
- 7) No covered employee shall report for duty, or remain on duty requiring the performance of safety-sensitive functions, when the covered employee uses any controlled substances, except when the use is pursuant to the instructions of a physician who has advised the driver that the substances does not adversely affect the driver's ability to safely operate a commercial vehicle. Covered employees are required to report any therapeutic drug use to their department supervisor. Drivers may also be required to provide the District with a written statement from a physician stating that the medication does not adversely affect the driver's ability to safely operate a commercial motor vehicle.

### **Transportation**

- 1) If an applicant or covered employee produces a test result indicating an alcohol concentration equal to or greater than 0.04, that employee shall be transported to his or her residence by the Employer.

### **Compensation**

- 1) A covered employee who fails a required test shall not receive his or her normal compensation for hours during which the employee is prohibited by Federal law,

and this procedure, from performing a safety-sensitive function. Failure is defined as a verified positive result by an MRO for controlled substances and/or an alcohol concentration of .02 or greater. The employee may not utilize sick time, vacation or compensatory time during the period the prohibition is in place.

### **Consequences of Prohibited Conduct**

- 1) No covered employee shall return to duty or remain on duty to perform safety-sensitive functions if the covered employee has engaged in conduct prohibited by this procedure.
- 2) Every covered employee who is subject to the requirements of this procedure shall be advised of the resources available to that employee in evaluating and resolving problems associated with the misuse of alcohol and controlled substances.

### **Testing Procedures**

All tests conducted pursuant to this procedure shall comply with the requirements of applicable Federal law. See [Procedure ZH7\(b\)](#).

### **Pre-employment Testing**

- 1) Prior to employment in a position, which requires performance of safety-sensitive functions for the Kern Community College District, the employee shall undergo testing for controlled substances.
- 2) The Kern Community College District shall not allow any covered employee to perform safety-sensitive functions unless the covered employee has produced a controlled substance test result indicating a verified negative test result.
- 3) The District shall pay for the costs associated with pre-employment testing.
- 4) The Kern Community College District reserves the right not to employ an applicant who has received an alcohol and controlled substances test indicating a verified positive test result.

### **Previous Employment Information**

- 1) Upon application to a covered position, applicants will be required to sign a release authorizing the Kern Community College District to obtain testing information from the applicant's previous employers. The applicant's signature on the release shall be a condition of employment.
- 2) The information shall include: any alcohol test results with a concentration greater than .04, any positive controlled substances test results, and any refusals to be tested.

- 3) The information shall be obtained from the applicants previous employers from the past two (2) years.
- 4) Upon offering an applicant a position, the Employer shall obtain the required information. The Kern Community College District shall endeavor to obtain the information within fourteen (14) days.
- 5) Should the information reveal that the applicant is not eligible to perform safety-sensitive functions (pursuant to 49 CFR pt. 382.413 (g)), the Employer shall withdraw the employment offer.

### **Post-Accident Testing**

- 1) As soon as practicable following an accident involving a commercial motor vehicle, the Kern Community College District shall test the following individuals for alcohol and controlled substances: (1) any covered employee who was performing safety-sensitive functions with respect to the vehicle, if the accident involved the loss of human life; and/or (2) any covered employee who receives a citation under state or local law for a moving violation arising from the accident.

For the purposes of this procedure, an accident is defined as an incident involving a commercial motor vehicle in which there is either a fatality, an injury treated away from the scene, or a vehicle is required to be towed from the scene.

- 2) If the alcohol test is not administered within two (2) hours following the accident, the Kern Community College District shall document the reasons the test was not promptly administered. If the alcohol test is not administered within eight (8) hours following the accident, the Employer shall cease attempts to administer the test and shall document the reasons the test was not administered.
- 3) If the controlled substances test is not administered within thirty-two (32) hours following the accident, the Kern Community College District shall cease attempts to administer the test and document the reasons the test was not administered.
- 4) Drivers who are subject to post-accident testing shall remain readily available for such testing or may be deemed by the Kern Community College District to have refused testing.

### **Random Testing**

- 1) The Kern Community College District shall randomly select covered employees for alcohol and controlled substances testing during each calendar year, in accordance with applicable Federal law. The minimum annual percentage rate for random alcohol testing shall be twenty-five percent (25%) of the average number of covered employees, until further notification is received from the Federal Department of Transportation. The minimum annual percentage rate for controlled substances testing shall be fifty percent (50%) of the average number of covered

employees, until further notification is received from the Federal Department of Transportation.

- 2) The selection of covered employees for random alcohol and controlled substances testing shall be made by a scientifically valid method. Under the selection process used, every covered employee shall have an equal chance of being tested each time selections are made.
- 3) The Kern Community College District shall ensure that the random tests are unannounced and that the dates for administering the random tests are spread reasonably throughout the calendar year.
- 4) A covered employee shall be subject to random testing at the following times: while the covered employee is performing safety-sensitive functions, just before the covered employee is performing safety-sensitive functions, or just after the covered employee has ceased performing such functions. Every covered employee who is notified of selection for random testing shall cease to perform safety-sensitive functions and shall immediately proceed to the test site according to established procedures for notifying appropriate supervisory personnel.
- 5) Substitute employees, if they are also covered employees, are subject to random testing.

Substitute drivers will be required to sign a release authorizing the District to release testing information/results to other school districts for which the driver is employed. Substitute drivers will be required to sign the release as a condition of being placed on the District's substitute driver list.

- 6) In the event a covered employee who is selected for a random test is on vacation or off-duty, the Kern Community College District will keep the original selection confidential until the driver returns. Testing of the selected employee will commence according to the procedure outlined in number four.

### **Reasonable Suspicion Testing**

- 1) The Kern Community College District shall require a covered employee to submit to an alcohol or controlled substances test, as appropriate, when the Kern Community College District has reasonable suspicion to believe that the employee has engaged in prohibited conduct.
- 2) The Kern Community College District's determination that reasonable suspicion exists must be based on specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, and/or body odors of the covered employee.
- 3) Reasonable suspicion testing is permitted only if the required observations are made during, just preceding, or just after the period of the workday that the



covered employee is performing a safety-sensitive function or required to be in compliance.

- 4) The observation and determination that a reasonable suspicion exists will be made by a supervisor trained in detecting the symptoms of alcohol misuse and use of controlled substances as per the regulations. The training shall consist of at least sixty (60) minutes of training on alcohol misuse and at least an additional sixty (60) minutes of training on controlled substances use. The observations shall be documented and signed by the official who made the observations within twenty-four (24) hours of the observed behavior or before the results of the controlled substances test are released, whichever is earlier.
- 5) If the alcohol test is not administered within two (2) hours following the determination that a test is required, the Kern Community College District shall document the reasons the alcohol test was not promptly administered. If the alcohol test is not administered within eight (8) hours, the Kern Community College District shall cease attempts to test and document the reasons the test was not administered.
- 6) Notwithstanding the absence of a reasonable suspicion alcohol test, no employee shall remain on duty requiring the performance of safety sensitive functions if the Kern Community College District has reasonable suspicion to believe that the employee is impaired by alcohol, until:
  - a) An alcohol test is administered and the driver's alcohol concentration measures less than .02; or
  - b) Twenty-four (24) hours have elapsed following the determination that reasonable suspicion exists.

### **Discipline and Term**

- 1) Any employee who engages in prohibited conduct shall be subject to disciplinary action up to and including termination.

### **Employee Information**

- 1) The Kern Community College District shall distribute this procedure to every covered employee, on an individual basis, prior to the start of alcohol and controlled substances testing. The Kern Community College District shall also distribute this procedure to every covered employee hired after the adoption of the procedure, and to every covered employee transferred into a position requiring possession of a commercial driver's license.
- 2) Employees will be required to sign a statement acknowledging receipt of the procedure.

- 3) The person responsible for answering employee questions concerning this procedure shall be the Assistant Chancellor, Personnel Services.

### **Records Retention**

The Kern Community College District shall retain all records in accordance with applicable Federal law, as set forth in [Procedure 7H7\(c\)](#).

### **Effect**

This policy and procedure shall take effect January 1, 1996.

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**AP 7H7(b) Alcohol and Controlled Substances Testing Procedures and Policy**

**Introduction**

The Kern Community College District shall implement and enforce the procedures for transportation workplace testing as set forth in 49 CFR Part 40. These procedures include, but are not limited to, the following information. In all cases, the requirements of 49 CFR Part 40 shall be followed. Comprehensive Drug Testing (CDT) shall administer the testing on behalf of the District.

**Controlled Substances Testing**

**Applicable Drugs**

- 1) Employees subject to controlled substances testing shall be tested for the following substances:
  - Marijuana
  - Cocaine
  - Opiates
  - Amphetamines
  - Phencyclidine (PCP)
- 2) Although the specimen will not be analyzed specifically for adulterants, the lab may conduct adulteration checks (PH, specific gravity or creatinine). The lab is permitted to check for adulterants as per Federal Department of Transportation (DOT) guidelines.

**Specimen Collection Procedures**

- 1) The collection shall take place in a secure location to prevent unauthorized access during the collection process.
- 2) The specimen shall be kept in sight of the employee and the collection site person until it is sealed and ready for shipment.
- 3) Employees shall have individual privacy when providing a specimen except when:

- a) The employee presents a specimen that is outside the accepted temperature range and he/she refuses to have an oral body temperature measurement, or the body temperature measurement varies more than 1.0 C OR 1.8o F from the specimen temperature,
  - b) The collector observes the employee attempting to adulterate or substitute the specimen, or
  - c) The employee's last provided specimen was determined to be diluted.
  - d) The employee has previously has a verified positive test.
  - e) In (a) and (b) above, the employee must provide a specimen under direct observation. In (c) and (d) above, the employer may require a direct observation collection.
- 4) The following specific procedures will be followed during the collection process:
- a) The employee must submit identification to the collector. The collection shall not proceed until a positive identification is made.
  - b) The employee will not be required to undress, or to change into an examination gown. Only outer garments should be removed, i.e., jackets, etc.
  - c) The donor shall be required to wash his/her hands prior to urination, and shall not have access to any water sources until the specimen has been collected.
  - d) A bluing agent shall be added to the toilet bowl and the donor may flush the toilet only after releasing the specimen to the collector.
  - e) The specimen must be at least forty-five (45) ml to be acceptable.
  - f) The collector must measure the specimen temperature within four (4) minutes of urination to determine sample acceptability
- 5) If the donor cannot provide a sufficient volume of urine, he/she shall remain at the collection site and be provided not more than twenty-four (24) ounces of fluids to drink. The donor shall have a period of up to two (2) hours to produce an acceptable sample.
- 6) The specimen shall be divided into two (2) parts. The collector shall pour thirty (30) ml of urine from the specimen bottle into a second specimen bottle, to be used as the primary specimen. The remainder of the urine, at least fifteen (15) ml, shall be poured into another container to be used as the split sample.
- 7) Both samples shall be shipped in a single shipping container with the appropriate chain of custody forms.

- 8) The collector and donor must be present together to complete the following process:
  - a) Seal and label the specimen bottle,
  - b) Donor initials the bottle label or seal, and
  - c) The chain of custody forms must be signed and dated.
- 9) If an employee refuses to cooperate with the collection process the collector shall notify the employer representative and note the non-cooperation on the custody and control form.

### **Split Sample**

- 1) If the test result of the primary specimen is positive, the employee may request that the Medical Review Officer (MRO) direct that the split specimen be analyzed.
- 2) The split sample analysis will be conducted by a DHHS-certified laboratory who will analyze the sample for presence of the drug(s) for which a positive result was obtained in the primary sample.
- 3) If the result of the test of the split sample fails to reconfirm the presence of the drug(s) or drug metabolites(s) found in the primary specimen, the MRO shall cancel the test and report the cancellation to the District.
- 4) After the MRO notifies the employee of a positive result for the presence of a drug(s) in the primary sample, the employee has up to seventy-two (72) hours to request analysis of the split sample.
- 5) All costs associated with the analysis of the split sample shall be the responsibility of the employee. If the analysis of the split sample results in a cancellation of the test, the District shall reimburse the employee for the cost of the split sample analysis.
- 6) In the event the outcome of a test is cancellation, the driver shall be returned to duty and no further action against the employee shall be taken. Any lost time and/or compensation shall be returned to the employee.

### **Inability to Provide Adequate Urine**

- 1) If the employee fails to provide an adequate sample, he/she shall provide the District with an evaluation from a licensed physician designated by the District, who is acceptable to the District, concerning the employee's ability to provide a sample.

- 2) If the physician determines there is a valid medical reason precluding the employee from providing adequate urine, then the employee's failure shall not be deemed a refusal to test.
- 3) If the physician is unable to determine a valid medical reason, the employee's failure to provide adequate urine shall be considered a refusal to test.

## **Alcohol Testing**

### **Testing Procedures**

- 1) The test shall take place in a secure location that affords visual and aural privacy to prevent unauthorized persons from seeing or hearing test results.
- 2) When an employee enters the testing location, the Breath Alcohol Technician (BAT) will require him/her to provide positive identification. The test shall not proceed until positive identification of the employee is made.
- 3) An individually-sealed mouthpiece shall be opened in view of the employee and then attached to the testing unit.
- 4) The employee shall be required to blow forcefully into the mouthpiece for at least six (6) seconds or until an adequate amount of breath has been obtained.
- 5) The employee shall be shown the result both on the testing unit and the recording form. The employee shall verify both results are the same. If a result printed by the testing unit does not match the displayed result, the BAT shall declare the test invalid.
- 6) If the result of the screening test is less than 0.02 breath alcohol concentration no other testing will be conducted.
- 7) If the result of the screening test reflects an alcohol concentration of 0.02 or greater, a confirmation test shall be performed.
- 8) Prior to conducting the confirmation test the employee may not eat, drink, or place anything in his/her mouth. If possible, the employee should not belch during the waiting period. The confirmation test shall be conducted no less than fifteen (15) minutes and no more than twenty (20) minutes from the screening test.

The fifteen (15) minutes waiting period is provided for the employee's benefit. This time period allows for the dissipation of any mouth alcohol, thereby helping to prevent an artificially high reading.

- 9) In the event the screening and the confirmation test results do not match, the confirmation results will be considered the final results.

- 10) If the employee refuses to sign the breath alcohol testing form or fails to provide an adequate amount of breath without a valid medical reason, the District may determine the circumstance to be a refusal to test.

**Inability to Provide Adequate Breath**

- 1) If the employee fails to provide an adequate amount of breath he/she shall provide the District with an evaluation from a licensed physician, who is acceptable to the District, concerning the employee's medical ability to provide adequate breath.
- 2) If the physician determines there is a valid medical reason precluding the employee from providing adequate breath then the employee's failure shall not be deemed a refusal to test.
- 3) If the physician is unable to determine a valid medical reason, the employee's failure to provide adequate breath shall be considered a refusal to test.

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**AP 7H7(c) Alcohol and Drug Testing Regulations for Commercial Motor Vehicle Drivers**

**Retention of Records**

This section explains which controlled substance and alcohol test records must be completed and maintained, where they must be maintained and for how long. All records shall be maintained in a secure location with controlled access.

<b>Document To Be Maintained</b>	<b>Period Required To Be Maintained</b>
Alcohol test results indicating a breath alcohol concentration of 0.02 or greater  Verified positive controlled substance test results  Refusal to submit to required alcohol or controlled substance tests  Required calibration of Evidential Breath Testing Devices (EBT's)  Substance Abuse Professional's (SAP's) evaluations and referrals  Annual Calendar year summary	5 years
Records related to the collection process (except calibration) and required training	2 years
Negative and cancelled controlled substance test results  Alcohol test results indicating a breath alcohol concentration less than 0.02	1 year



## **Types of records required to be maintained**

- 1) Records related to the collection process:
  - Collection logbooks (if used)
  - Documents related to the random selection process
  - Calibration documentation for EBT's
  - Documentation of Breath Alcohol Technician (BAT) training
  - Documentation of reasoning for reasonable suspicion testing
  - Documentation of reasoning for post-accident testing
  - Documents verifying a medical explanation for the inability to provide adequate breath or urine for testing
  - Consolidated annual calendar year summaries
- 2) Records related to the driver's test results:
  - Employer's copy of the alcohol test form, including results
  - Employer's copy of the drug test chain of custody and control form
  - Documents sent to the employer by the Medical Review Officer
  - Documentation of any driver's refusal to submit to a required alcohol or controlled substance test
  - Documents provided by a driver to dispute results of test
- 3) Documentation of any other violation or controlled substance use or alcohol misuse rules
- 4) Records related to evaluations and training:
  - Records pertaining to substance abuse professional's (SAP's) determination of driver's need for assistance
  - Records concerning a driver's compliance with SAP's recommendations
- 5) Records related to education and training:
  - Materials on drug and alcohol awareness, including a copy of the employer's policy on drug use and alcohol misuse
  - Documentation of compliance with requirement to provide drivers with educational material, including driver's signed receipt of materials
  - Documentation of supervisor training
  - Certification that training conducted under this rule complies with all requirements of the rule
- 6) Records related to drug testing:
  - Agreements with collection site facilities, laboratories, MROs, and consortia

- Names and positions of officials and their role in the employer's alcohol and controlled substance testing program
- Monthly statistical summaries of urinalysis (40.29(g)(6))
- The employer's drug testing policy and procedures

**Location of records:**

All required records shall be maintained in a secure location with limited access. Records shall be made available for inspection at the employer's principal place of business within two (2) business days after a request has been made by an authorized representative of the Federal Highway Administration.

For example: Specific records may be maintained on computer or at a regional or terminal office, provided the records can be made available upon request from FHWA within two (2) working days.

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**AP 7J2      Emergency Planning, Preparedness, and Response Definitions**

**DEFINITIONS**

**Command Staff** – in an incident management organization, the Command Staff consists of the Incident Commander and the special staff positions of Public Information Officer, Safety Officer, Liaison Officer, and other positions as required, who report directly to the Incident Commander.

**Disaster Service Worker** – includes public employees and any unregistered person impressed into service during a State of War Emergency, a State of Emergency, or a Local Emergency by a person having authority to command the aid of citizens in the execution of his or her duties.

**Emergency** – a condition of disaster or of extreme peril to the safety of persons and property caused by such conditions as air pollution, fire, flood, hazardous material incident, storm, epidemic, riot, drought, sudden and severe energy shortage, plant or animal infestation or disease, the Governor's warning of an earthquake or volcanic prediction, or an earthquake or other conditions, other than conditions resulting from a labor controversy.

**Emergency Operations Center (EOC)** – a location from which centralized emergency management can be performed. It is the physical location at which the coordination of information and resources to support domestic incident management activities will normally take place. EOC facilities are found at the local government, operational area, region, and state levels in SEMS. An EOC may be a temporary facility or may be located in a more central or permanently established facility, perhaps at a higher level of organization with a jurisdiction. EOCs may be organized by major functional disciplines (e.g., fire, law enforcement, and medical services), by jurisdiction (e.g., federal, state, regional, county, city, tribal), or some combination thereof.

**General Staff** – a group of incident management personnel organized according to function and reporting to the Incident Commander. The General Staff normally consists of the Operations Section Chief; Planning and Intelligence Section Chief; Logistics Section Chief; and Finance and Administration Section Chief.

**Incident** – an occurrence or event, either human-caused or by natural phenomena, that requires action by emergency response personnel to prevent or minimize loss of life or

damage to property and/or natural resources. Incidents may, for example, include major disasters, emergencies, terrorist attacks, terrorist threats, wild-land and urban fires, floods, hazardous materials spills, nuclear accidents, aircraft accidents, earthquakes, hurricanes, tornadoes, tropical storms, war-related disasters, public health and medical emergencies, and other occurrences requiring an emergency response.

**Incident Command System (ICS)** – the nationally used standardized on-scene emergency management concept specifically designed to allow its user(s) to adopt an integrated organizational structure equal to the complexity and demands of single or multiple incidents without being hindered by jurisdictional boundaries. ICS is the combination of facilities, equipment, personnel, procedures, and communications operating within a common organizational structure, with responsibility for the management of resources to effectively accomplish stated objectives pertinent to an incident. It is used for all kinds of emergencies and is applicable to small, as well as large and complex, incidents. ICS is used by various jurisdictions and functional agencies, both public and private, to organize field-level incident management operations.

**Incident Commander (IC)** – the individual responsible for all incident activities, including the development of strategies and tactics and the ordering and the release of resources. The IC has overall authority and responsibility for conducting incident operations and is responsible for the management of all incident operations at the incident site.

**Inter-agency Coordination** – as it applies to SEMS, means the participation of various agencies and disciplines involved at any level of the SEMS organization working together in a coordinated effort to facilitate decisions for overall emergency response activities, including the sharing of critical resources and the prioritization of incidents.

**Master Mutual Aid Agreement (MMAA)** – Mutual Aid is provided between and among local jurisdictions and the state under the terms of the California Disaster and Civil Defense Master Mutual Aid Agreement. This agreement was developed in 1950 and has been adopted by California's incorporated cities, all fifty-eight (58) counties, and the State. Under this agreement, cities, counties, and the State joined together to provide for a comprehensive program of voluntarily providing services, resources, and facilities to jurisdictions when local resources prove to be inadequate to cope with a given situation. The agreement states that each party agrees to furnish resources and facilities and to render services to each and every other party to combat any type of disaster. However, no party is required to unreasonably deplete its own resources, facilities, and services in the process of furnishing Mutual Aid. The mutual aid systems, current and planned, form the essential links within SEMS.

**National Incident Management System (NIMS)** – a comprehensive, national approach to incident management that is applicable at all jurisdictional levels and across functional disciplines. NIMS provides for a consistent nationwide template to enable all government, private-sector, and nongovernmental organizations to work together during domestic incidents. (Homeland Security Presidential Directive-5 directed the Secretary

of Homeland Security to develop and administer a National Incident Management System – NIMS).

**Operational Area** – one of the five organizational levels in SEMS. An Operational Area consists of a county, and all political subdivisions within the county area. Operational Areas facilitate the coordination of resources between its member jurisdictions. Operational Areas also serve as a communication and coordination link between the Region and State level EOCs and local government EOCs within the Operational Area.

**Standardized Emergency Management System (SEMS)** – provides for a five-level emergency response organization, activated as needed, to provide an effective response to emergencies involving multiple agencies or jurisdictions. SEMS provides an organizational framework and guidance for operations at each level of the State’s emergency management system. It provides the umbrella under which all response agencies may function in an integrated fashion. SEMS is designed to be flexible and adaptable to the varied emergencies that can occur in California, and to meet the emergency management needs of all responders.

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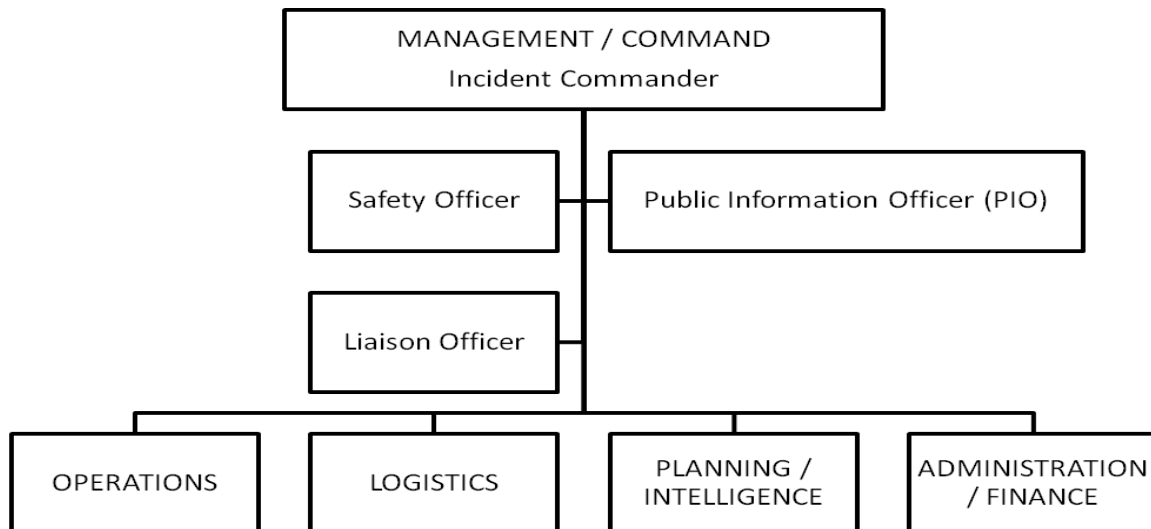
**AP 7J4      Emergency Planning, Preparedness, and Response Procedure**  
**Incident Command System**

**Incident Command System (ICS)**

1) ICS Structure

Within SEMS and NIMS, an emergency response organization consists of five Sections. Each one of the five functions has certain roles and responsibilities during a disaster or campus emergency. The Management Division oversees response activities in consultation with the section chiefs of the Operations; Logistics; Planning and Intelligence; and Finance and Administration. Each of these Sections, in turn, has a team or teams tasked with implementing very specific components of the District and College emergency response plan. These teams and their affiliate sections are outlined in the figure below.

Figure – Sample ICS Organizational Chart



2) BICS Command Staff Responsibilities

**Management and Command** — responsible for policymaking with respect to disaster planning and preparedness and for overall coordination of emergency response and recovery activities. This section has four team members, the Incident Commander, the Public Information Officer (PIO), the Safety Officer, and the Liaison Officer. During a campus emergency, the Management Team is responsible for coordinating all response activities.

**Incident Commander (IC)** — responsible for assessing the severity of the incident, establishing management objectives, tracking resource availability, developing and monitoring the response action plan, ensuring proper incident documentation, and assigning and releasing staff as needed.

**Public Information Officer (PIO)** — acts as the liaison between the school, the media, and the public. The PIO must be aware of all incident response activities and is the only person authorized to speak to the media.

**Safety Officer (SO)** — charged with the safety of students, staff, and others on campus during response activities. The SO has the authority to stop any response activity that would create an unsafe situation or put anyone at risk.

**Liaison Officer (LO)** — is the point of contact and coordination between the IC and public agencies and organizations (such as the American Red Cross, or the local utility company) working on campus in support of response activities.

3) CS General Staff (Section Chiefs)

**Operations** — responsible for response preparedness of Communications, Search and Rescue, First Aid, Student Release/Staff Accounting, Assembly/Shelter, and Maintenance/Fire Teams. During a disaster, this Section directs response activities of all of these teams and coordinates that response with Management and Command.

**Logistics** — prior to a disaster, this Section is in charge of creating a transportation plan, and insuring that there are adequate supplies of food, water, and equipment for crisis response. During an emergency, the Section's two teams, the Supplies and Staffing Team and the Transportation Team provide services, personnel, equipment, materials, and facilities, as needed.

**Planning and Intelligence** — responsible for creating the action plans and checklists that will be used by all Sections during crisis response and recovery. This Section is comprised of two teams: the Situation Status Team and the Documentation Team. During an emergency, these teams gather, analyze, disseminate, and record information critical to the operation of the Management and Command section.

**Finance and Administration** — in charge of creating policy and procedure for documenting costs associated with emergency response. This Section has one team, called the Recordkeeping Team. During a disaster they activate contracts with vendors, keep pay records, track receipts, and account for expenditures. Their efforts make it possible for schools to reclaim costs associated with response and recovery activities from the state.

The Kern Community College District does not have a law enforcement department and is dependent on local, state, and federal responders. In most major emergencies, the District is subordinate to the designated incident commander who will be assigned by local, state, or federal responders. Only organizational Sections that are required will be activated. The size of the District and/or College Incident Command Team supporting the incident will be dictated by the size and complexity of the incident.



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**AP 7J7     Emergency Planning, Preparedness, and Response Procedures**

1) Emergencies and Incidents

The District and/or College Incident Command Structure shall provide for the combination of facilities, equipment, personnel, procedures, and communications, operating within a common organizational structure, which is responsible for the management of resources to effectively accomplish the District and/or College stated objectives in response to an incident.

The District and Colleges' emergency response plans shall provide information on preparedness, prevention, response, recovery, and mitigation policies and procedures. The District and College emergency response plans shall also provide information on coordinating with the appropriate local, state, and federal government authorities and nongovernmental entities on comprehensive emergency management and preparedness activities.

The types of emergencies and incidents covered by the District and College emergency response plans include, but are not limited to the following:

- Adverse Weather
- Armed Gunman; Active Shooter; Hostage Situation
- Civil Disturbance
- Criminal; Violent Behavior
- Earthquakes
- Explosion; Bomb; Suspicious Package; Terrorist Threat
- Fire and Threat of Fire
- Flood
- Hazardous Material Incident
- Major Utility Failure or Power Outage (prolonged)

Action related to specific emergency or disaster incidents shall be in accordance with the District and/or College emergency response plan. Nothing in the emergency response plan shall limit the use of good judgment and common sense in dealing with matters not fully covered therein. The District and College emergency response plans shall be subordinate to local, state, or federal incident action plans during a disaster declared by those authorities.

## 2) Emergency Response Priorities

During an incident, emergency response priorities shall be designated as Priority One, Priority Two, or Priority Three according to the following:

- a) Priority One — Preservation of Life Safety (e.g., evacuation, medical care, shelter, etc.)
- b) Priority Two — Protection and Maintenance of Property
- c) Priority Three — Recovery and Return to Pre-emergency Operations

## 3) Emergency Response Levels

An emergency event or incident at the District and/or College shall be designated as a Level 1, Level 2, or Level 3 situation according to the following:

- a) Level 1 — a localized, contained incident that is quickly resolved with internal resources or limited help.

### 1. Emergency Level 1: Minor Emergency

This is defined as any isolated incident, which will not seriously affect the overall functional operation of the District and/or College site. These may include minor electrical failures, individual medical incidents, or a minor hazardous material spill. The District and/or College Emergency Operations Center (EOC) may not be activated. The primary response coordination is by the first responding personnel, a building emergency team member, or public safety. During an Emergency Level 1 situation, single building evacuations may occur and the involved personnel may call 9-1-1. In all cases, Public Safety shall be called for assistance and to document the incident.

- b) Level 2 — a major emergency that impacts portions of the District and/or College campus, and that may affect mission-critical functions or life safety.

### 1. Emergency Level 2: Major Emergency

This is defined as any on- or off-District or College site incident that could disrupt the operation of the District and/or College site. Major emergencies are typified by campus impact, including disruption of instruction or key services. These may include an uncontrolled fire, an explosion, an uncontained hazardous materials accident, an earthquake, a major utility outage or disruption, a bomb threat, and certain criminal acts or civil unrest. The District and/or College Emergency Operation Center (EOC) may be activated during Level 2 emergencies.

- c) Level 3 — an emergency that involves the entire District and/or College and surrounding community.

1. Emergency Level 3: Disaster

This is defined as any event or occurrence on- or off-District or College site that has seriously disrupted, or has the potential to seriously disrupt, District and/or College operations and functions. These may include a regional utility outage, a major earthquake, a major hazardous materials accident, community flooding, uncontrolled wildfire, or large-scale civil unrest. At this emergency level, it is anticipated the response and resource capabilities will be exceeded and overwhelmed.

4) Emergency Response Plan Evaluation

Yearly reviews of the District and College emergency response plans shall be conducted to insure the plans are up-to-date and accurate. This review shall include legislative updates, updates of relevant operational procedures, a review of practical applications, and updates of informational materials to all Kern Community College District staff at all sites. Each year the District and College shall update telephone and fax directories, emails, personnel rosters, resource lists, and physical plant changes affecting the implementation of the Emergency Response Plan. Changes to the plan shall be made and distributed immediately.

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**AP 7K**      **Automated External Defibrillator Program Procedures**

In the event of Sudden Cardiac Arrest, the procedures for the use of an Automated External Defibrillator device, pursuant to [Policy 7K](#) of the Kern Community College District, shall be as indicated below:

1. Emergency Procedures

A designated District or College Liaison who receives a report of or encounters a possible Sudden Cardiac Arrest victim shall do the following:

- a. Immediately call 9-1-1, then notify the designated District or College Liaison who will respond with the nearest Automated Defibrillator device to the scene.
- b. Provide first aid, including use of Automated External Defibrillator, as needed, until relieved by paramedics.
- c. Collect information for completion of Contracted Agency Injury/Illness Report. All reports are submitted through the designated District or College Liaison chain of command.

2. Post Automated External Defibrillator Deployment Procedures

The designated District or College Liaisons who deploy an Automated External Defibrillator device shall do the following:

- a. Data collection:
  - Complete the Contracted Agency Injury/Illness Report form.
- b. Event Automated External Defibrillator Data Download:
  - In every event in which an Automated External Defibrillator is deployed and used, even if a no shock decision is made (electrode pads applied), the designated District or College Liaison deploying the Automated External Defibrillator shall notify the Contracted Agency of the deployment. A

Contracted Agency employee will be deployed to the scene to conduct the mandatory on-site downloading of data from the Automated External Defibrillator. Do not return the Automated External Defibrillator to its original location until all pertinent event information has been downloaded, and the data card and Automated External Defibrillator has been restocked and inspected for further use.

### 3. Roles and Responsibilities

#### a. Contracted Agency

The Contracted Agency refers to the Agency that the Kern Community College District has contracted with to provide required training and administration of the Automated External Defibrillator Program.

#### b. Program Medical Director

The Program Medical Director, provided by the Contracted Agency, oversees the Automated External Defibrillator Program for the Kern Community College District. This includes ensuring that the training content is of high quality and the proper procedures are followed. The Program Medical Director is also responsible for reporting to the Kern Community College District Program Liaison any changes in legal requirements related to the Automated External Defibrillator training and use.

#### c. Contracted Agency Coordinator

The Contracted Agency Coordinator oversees the Automated External Defibrillator Program and coordinates the development and maintenance of the Automated External Defibrillator Program by ensuring compliance with all legal requirements. The Contracted Agency Coordinator has the responsibility of reviewing and maintaining all Automated External Defibrillator equipment inspection records provided by the designated District or College Liaison.

#### d. Program Oversight/ Program Liaisons

The site Liaison responsibility will be assigned to an administrator for overall management and administration of the Automated External Defibrillator at the District or College site. The Kern Community College District shall contract with a professional services agency to provide program and medical oversight, training, and on-call services. Each site will assign one primary Liaison and a back-up Liaison.

e. District Program Liaison

The Kern Community College District Program Liaison shall be the Director, Human Resources and shall be the responsible person for ensuring Kern Community College District compliance with inspection procedures for Automated External Defibrillator equipment as established in the Automated External Defibrillator Standard Operating Procedures Manual. Any discrepancies in the Automated External Defibrillator equipment shall be reported to the Contracted Agency Program Medical Director immediately.

The District Program Liaison shall ensure that the designated College Liaison's Automated External Defibrillator certification is kept current by coordinating with the Contracted Agency Coordinator to receive any required and refresher training. The Kern Community College District Program Liaison shall facilitate required training and provide Automated External Defibrillator inspection documentation to the Contracted Agency Coordinator for Contracted Agency records.

4. Automated External Defibrillator Daily Check List

- a. An Automated External Defibrillator Daily Check List shall be maintained and kept with each Automated External Defibrillator device.
- b. Each designated District and College Liaison will ensure that each available Automated External Defibrillator in their area of responsibility is checked daily and the results so noted on the Automated External Defibrillator Daily Check List.
- c. If an Automated External Defibrillator is not available for use, i.e. closed office, vehicle not in use, etc., it need not be checked. The reason for not checking the Automated External Defibrillator must be noted on the Automated External Defibrillator Daily Check List at the next check.
- d. At the completion of each month, each Automated External Defibrillator Daily Check List will be sent, original by mail and copy by fax, to the Kern Community College District Program Liaison. The Kern Community College District Program Liaison will ensure the forms are completed and forwarded to the Contracted Agency Coordinator who provides training for the program.