

## **AR 5500 Standards of Student and Academic Conduct (new AR#)**

❖ **From former AR 4410 Rules for Student Conduct (old AR#)**

❖ **From former AR 4411 Code of Academic Conduct**

**NOTE:** *The standards of conduct for students may be included in board policy (see BP 5500) or delegated to the [ **CEO** ] for inclusion in these administrative procedures. **If delegated, this procedure is legally required, and the following standards or similar ones are legally advised:** This is League's template dated October 2020*

**Definitions:** The following conduct shall constitute good cause for discipline, including but not limited to the removal, suspension or expulsion of a student, except for conduct that constitutes sexual harassment under Title IX, which shall be addressed under AP 3433 Prohibition of Sexual Harassment under Title IX, and AP 3434 Responding to Harassment Based on Sex under Title IX.

- Causing, attempting to cause, or threatening to cause physical injury to another person.
- Possession, sale or otherwise furnishing any firearm, knife, explosive or other dangerous object, including but not limited to any facsimile firearm, knife or explosive, unless, in the case of possession of any object of this type, the student has obtained written permission to possess the item from a District employee, which is concurred in by the [ **designate position** ].
- Unlawful possession, use, sale, offer to sell, or furnishing, or being under the influence of, any controlled substance listed in California Health and Safety Code Sections 11053 et seq., an alcoholic beverage, or an intoxicant of any kind; or unlawful possession of, or offering, arranging or negotiating the sale of any drug paraphernalia, as defined in California Health and Safety Code Section 11014.5.
- Committing or attempting to commit robbery or extortion.
- Causing or attempting to cause damage to District property or to private property on campus.
- Stealing or attempting to steal District property or private property on campus, or knowingly receiving stolen District property or private property on campus.
- Willful or persistent smoking in any area where smoking has been prohibited by law or by regulation of the college or the District.
- Sexual assault or sexual exploitation regardless of the victim's affiliation with the District.
- Committing sexual harassment as defined by law or by District policies and procedures.
- Engaging in harassing or discriminatory behavior based on disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or any other status protected by law.
- Engaging in intimidating conduct or bullying against another student through words or actions, including direct physical contact; verbal assaults, such as teasing or name-calling; social isolation or manipulation; and cyberbullying.

- Willful misconduct that results in injury or death to a student or to District personnel or which results in cutting, defacing, or other injury to any real or personal property owned by the District or on campus.
- Disruptive behavior, willful disobedience, habitual profanity or vulgarity, or the open and persistent defiance of the authority of, or persistent abuse of, college personnel.
- Cheating, plagiarism (including plagiarism in a student publication), or engaging in other academic dishonesty as defined by [ **insert local practice** ]. **AR 4412/5500.1 Honor Code/Honor Council**
- Dishonesty; forgery; alteration or misuse of District documents, records or identification; or knowingly furnishing false information to the District.
- Unauthorized entry upon or use of District facilities.
- Lewd, indecent or obscene conduct or expression on District-owned or controlled property, or at District sponsored or supervised functions.
- Engaging in expression which is obscene, libelous or slanderous, or which so incites students as to create a clear and present danger of the commission of unlawful acts on District premises, or the violation of lawful District regulations, or the substantial disruption of the orderly operation of the District.
- Persistent, serious misconduct where other means of correction have failed to bring about proper conduct.
- Unauthorized preparation, giving, selling, transfer, distribution, or publication, for any commercial purpose, of any contemporaneous recording of an academic presentation in a classroom or equivalent site of instruction, including but not limited to handwritten or typewritten class notes, except as permitted by any District policy or administrative procedure.

Students who engage in any of the above are subject to the procedures outlined in AR 5520 Student Discipline Procedures.

#### **References:**

Education Code Sections 66300-66303

**Revised 10/29/20**

## **AR 4410 RULES FOR STUDENT CONDUCT**

### **1. Rules for Student Conduct**

Students enrolling in the college assume an obligation to conduct themselves in a manner compatible with the college's function as an educational institution. Misconduct or "good cause" for which students are subject to discipline falls into the following categories:

- A. Continued disruptive behavior, continued willful disobedience, habitual profanity or vulgarity, persistent abuse of other students, or the open and persistent defiance of the authority of, or persistent abuse of, college personnel. [E.C. §76033(a)]
- B. Assault, battery, or any threat of force or violence upon a student or college personnel. [E.C. §76033(b)]
- C. Willful misconduct which results in injury or death to a student, college personnel, or college visitor, or which results in cutting, defacing, or other injury to any real or personal property owned by the District. [E.C. §76033(c)]
- D. The use, sale, or possession of any controlled substance while on campus, or at any college-sponsored event, or being under the influence of any controlled substance or any poison classified as such by Schedule D in Section 4160 of the State of California Business and Professions Code while on campus or any college-sponsored event. [E. C. §76033 (d)]
- E. Willful or persistent smoking in any area where smoking has been prohibited by law or by regulation of the Board of Trustees. [E. C. §76033 (e)]
- F. Persistent, serious misconduct where other means of correction have failed to bring about proper conduct. [E.C. §76033 (f)]
- G. Sexual assault, defined as actual or attempted sexual contact with another person without that person's consent, regardless of the victim's affiliation with the community college, including, but not limited to, any of the following:
  - (1) Intentional touching of another person's intimate parts without that person's consent or other intentional sexual contact with another person without that person's consent.
  - (2) Coercing, forcing, or attempting to coerce or force a person to touch another person's intimate parts without that person's consent.
  - (3) Rape, which includes penetration, no matter how slight, without the person's consent, of either of the following:
    - (a) The vagina or anus of a person by any body part of another person or by an object.
    - (b) The mouth of a person by a sex organ of another person.
- H. Sexual exploitation, defined as a person taking sexual advantage of another person for the benefit of anyone other than that person without that person's consent, regardless of the victim's affiliation with the community college, including, but not limited to, any of the following:
  - (1) Prostituting another person

- (2) Recording images, including video or photograph, or audio of another person's sexual activity, intimate body parts, or nakedness without that person's consent.
  - (3) Distributing images, including video or photograph, or audio of another person's sexual activity, intimate body parts, or nakedness, if the individual distributing the images or audio knows or should have known that the person depicted in the images or audio did not consent to the disclosure and objected to the disclosure.
  - (4) Viewing another person's sexual activity, intimate body parts, or nakedness in a place where that person would have a reasonable expectation of privacy, without that person's consent, and for the purpose of arousing or gratifying sexual desire.
- I. Dishonesty, including, but not limited to, cheating, plagiarism, or knowingly furnishing false information to the college.
  - J. Forgery, alteration, or misuses of college documents, records, or identification.
  - K. Obstruction or disruption of teaching, research, administration, disciplinary procedures, or any other authorized college activities.
  - L. Theft of or damage to property of the college or of a member of the college community or campus visitor.
  - M. Willful or blatant misuse of email or other inappropriate forms of communication towards faculty, staff or students including but not limited to phone, voicemail, written notes and any form of electronic communication.
  - N. Unauthorized entry to college facilities or unauthorized use of college supplies, equipment including computer hardware, and licensed software.
  - O. Violation of college policies or of campus regulations, including, but not limited to, campus regulations concerning student organizations, the use of college facilities, responsible computer use policy, or the time, place, and manner of public expression, library procedures, college bills and debts, or residence.
  - P. Disorderly conduct or lewd, indecent, or obscene conduct or expression on college-owned or controlled property or at college-sponsored or supervised functions.
  - Q. Failure to comply with directions of college officials acting in the performance of their duties.
  - R. Possession or use of alcoholic beverages on the campus property, at any college-sponsored event, or presence on campus or at any college-sponsored event while under the influence of alcohol.

- S. Illegal possession or use of firearms, explosives, dangerous chemicals or other weapons on college property or at college-sponsored activities.
- T. The act or crime of willfully and repeatedly following or harassing another person in circumstances that would cause a reasonable person to fear injury or death especially because of expressed or implied threats.
- U. Hate crimes or hate incidents: A hate crime or hate incident is any act or attempted act directed against a person(s) based on the victim's actual or perceived race, nationality, religion, sexual orientation, disability or gender. The difference between a hate incident and a hate crime is that a hate incident is a non-criminal act.
- V. Except as authorized by the College, the sale, purchase, exchange, distribution or receipt of add codes, class seats and academic work (lab reports, term papers, exams, extra credit, etc.), including, but not limited to, misconduct described in AR 4411 (Code of Academic Conduct) and AR 4435 (Responsible Use of Computer Resources).
- W. Any other offense set forth in the State of California Education Code which constitutes "good cause."

76034 (a) Except in response to conduct specified in subdivisions (g) and (h) of Section 76033, no student shall be removed, suspended, or expelled unless the conduct for which the student is disciplined is related to college activity or attendance. [E.C. §76034]

76034(b) This section is not intended to limit provisions of federal law, or limit the ability of community college districts to take appropriate action under federal law.

## 2. Disciplinary Sanctions to Enforce Adequate Standards of Student Conduct [E.C. §§76030, 76031, 76032]

### A. Sanctions

Disciplinary sanctions include, but are not limited to, verbal or written reprimand, disciplinary probation, removal from class, ineligibility to participate in extracurricular activities, temporary disciplinary holds, suspension, and expulsion. Repeated and/or multiple infractions may lead to a greater disciplinary sanction.

Subsequent to investigation of allegations made against a student, the College Conduct Administrator ~~Disciplinarian~~ is authorized to impose the sanctions listed above for good cause as set forth in Section 1 of this administrative regulation.

B. Right to Inspect

If a written report is placed in the student's disciplinary file, the student shall have the right to inspect and appeal the information as specified in Education Code Section 76232.

C. Definitions

When the term "College Conduct Administrator ~~Disciplinarian~~" is used, it shall refer to the designee of the Superintendent/President.

The term "school day" is used in this Administrative Regulation for the purpose of calculating deadlines and shall mean any day that classes are in session except Saturdays and Sundays.

A copy of this administrative regulation shall be made available to students upon request.

D. Written Reprimand

- (1) A written reprimand, issued by the College Conduct Administrator ~~Disciplinarian~~, serves to place in a student's disciplinary records (not the academic records) a statement that he/she has not met the standards of conduct as set forth in Section 1 of this administrative regulation.
- (2) A student receiving a written reprimand shall be notified that:
  - a. the reprimand serves only as a warning that continued conduct of the type described in the written reprimand may result in further disciplinary action against the student;
  - b. such records are not part of a student's academic record at the college and that the disciplinary records will be destroyed three years after the date of the reprimand;
  - c. the student has an opportunity to write a response to the reprimand and that the response shall be placed on record with the reprimand; and
  - d. with respect to reprimands, there shall be no hearing or appeal to the Student Conduct Appeals Committee.

E. Disciplinary Probation

- (1) A student who fails to meet the standards of conduct as set forth in Section 1 of this administrative regulation may be placed on disciplinary probation by the College Conduct Administrator~~Disciplinarian~~. The student shall be notified in writing that continued conduct of the type described in a "notice of probation" will result in a greater sanction. The notice of disciplinary probation must include:
  - a. the sanction that will be imposed if the conduct described in the notice of probation continues. The sanction must be authorized by this administrative regulation.
  - b. the period of time the student is to be on probation. This period may not exceed one year.
- (2) A student placed on disciplinary probation shall be notified that:
  - a. the imposition of disciplinary probation serves as notice that continued conduct of the type described in the notice of probation will result in the imposition of sanction;
  - b. the disciplinary probation is not part of a student's academic record at the college and that the disciplinary records will be destroyed three years after the probation ends;
  - c. the student has an opportunity to write a response to the notice of disciplinary probation and that the response shall be placed on record with the notice of disciplinary probation; and
  - d. with respect to disciplinary probation, there shall be no hearing or appeal to the Student Conduct Appeals Committee. However, before the sanction set forth in the notice of probation is imposed, the student shall be given notice and an opportunity to appeal to the Student Conduct Appeals Committee.  
However, before the sanction set forth in the notice of probation is imposed, the student shall be given notice and an opportunity to appeal to the Student Conduct Appeals Committee

F. Removal from Campus Activities

- (1) Removal from Class [E.C. §76032]

- a. An instructor is authorized to remove a student from class for cause for the day of the incident and the next class meeting. The instructor shall immediately report the removal to the College ~~Conduct Administrator~~Disciplinarian. During the period of removal, a student shall not be returned to the class without the concurrence of the instructor.
- b. ~~If the student requests, the~~ College ~~Conduct Administrator~~Disciplinarian shall hold a conference with the student and other appropriate personnel regarding the removal from class.
- c. If the student removed is a dependent minor for federal income tax purposes, the parent or guardian shall be notified in writing by the College ~~Conduct Administrator~~Disciplinarian.
- d. With respect to removal from class, there shall be no hearing or appeal to the Student Conduct Appeals Committee.

(2) Removal from Extra-Curricular Activities [E.C. §76030]

- a. The College ~~Conduct Administrator~~Disciplinarian may remove a student from extracurricular activities for a period not to exceed one (1) year. One or more of the following may be imposed for good cause as set forth in Section 1 of this administrative regulation:
  1. Removal from all college organization offices;
    - a. Ineligibility to participate in or attend all college-sponsored activities, including public performances; Nothing in this administrative regulation shall restrict the College Disciplinarian from imposing lesser sanctions than those described.
    - b. Before removal from the above-mentioned activities is imposed, the student shall have a right to pursue the Hearing and Appeal Process as set forth in Section 2~~7~~<sup>F</sup> of this administrative regulation. Removal from activities imposed pursuant to interim/immediate suspension as described in Section H(4) of this administrative regulation shall be governed by the



appeal rights afforded in cases of interim/immediate suspension.

#### G. Temporary Disciplinary Holds

A disciplinary hold prevents a student from conducting any transactions with the college, such as enrollment ~~and fee payment~~, use of library privileges or any other college business.

The College ~~Conduct Administrator Disciplinary~~ may place a temporary disciplinary hold on a student's college record to:

- (1) Enforce a suspension or expulsion after the appeal process has been exhausted and the suspension or expulsion becomes final. The College ~~Conduct Administrator Disciplinary~~ may remove a temporary disciplinary hold after a student has served a suspension provided that the Student Conduct Appeals Committee reviews and approves the student's petition to be readmitted.
- (2) Enable the College ~~Conduct Administrator Disciplinary~~ to conduct a thorough investigation of an alleged violation of the Student Conduct Code. In such cases, the College ~~Conduct Administrator Disciplinary~~ shall remove the temporary disciplinary hold
  - a. as soon as the investigation is complete, and the student completes any assignments or stipulations outlined during the student's hearing, examples include completing required assignments, meeting with a case manager, restitution, etc. and the student in question is exonerated, or
  - b. when the student enters the appeal process. In such cases the College ~~Conduct Administrator Disciplinary~~ may opt to lift temporarily the disciplinary hold to enable the student to conduct a specific transaction with the college, while the appeal process is underway.

#### H. Suspension [E.C. §§76031, 66017]

- (1) The College ~~Conduct Administrator Disciplinary~~ is authorized to suspend a student for good cause as set forth in Section 1 of this administrative regulation.

- (2) The period of suspension may be:
  - a. For a period of up to ten (10) days of instruction from one or more classes.
  - b. For the remainder of the school term from one or more classes.
  - c. For one (1) or more terms from all classes and activities of the college.
- (2) Whenever the student suspended is a dependent minor for federal income tax purposes, the parent or guardian shall be notified in writing by the College ~~Conduct Administrator~~ ~~Disciplinarian~~.
- (3) Before a suspension becomes effective, the student shall have the right to pursue the Hearing and Appeal Process as set forth in Section 3 of this administrative regulation, except that an interim suspension may be imposed by the College ~~Conduct Administrator~~ ~~Disciplinarian~~ where an immediate suspension is required in order to protect the safety or welfare of persons or property pending a hearing. As soon as practical, the College ~~Conduct Administrator~~ ~~Disciplinarian~~ shall hold a formal conference with the student to give the student an opportunity to respond to the charges against him or her.
- (4) The College ~~Conduct Administrator~~ ~~Disciplinarian~~ shall, upon the suspension of any student, notify the appropriate law enforcement authorities of any acts of the student which may be in violation of Penal Code Section 245 (assault with a deadly weapon or instrument). [E.C. §76035]

I. Expulsion [E.C. §76030]

A student may be expelled by the Board of Trustees for good cause as set forth in Section 1 of these rules. Expulsion is authorized when other means of correction fail to bring about proper conduct, or when the presence of the student causes a continuing danger to the safety of the student or others.

3. Hearing and Appeal Process

A. Notice

- (1) The student shall be given written notice of the disciplinary action to be taken, if any. Such notice shall include:
  - a. a statement of the specific facts and charges upon which the disciplinary action is based;
  - b. a copy of the disciplinary rules of the District which relate to the alleged violation; and
  - c. a statement that the student has the right to file with the office of the College Conduct Administrator ~~Disciplinarian~~ a *Notice of Intention to Appeal* the decision to the Student Conduct Appeals Committee and that such notice must be filed within two (2) school days following receipt of the notice of disciplinary action.
- (2) Prior to giving notice, the College Conduct Administrator ~~Disciplinarian~~ may schedule a formal conference regarding the basis for possible disciplinary action.
- (3) The student shall be deemed to have accepted the disciplinary action, unless within two (2) school days following written notice of the specific facts and charges, the student files with the College Conduct Administrator ~~Disciplinarian~~ written *Notice of Intention to Appeal*.
- (4) Within five (5) school days after filing a *Notice of Intention to Appeal*, the student shall file with the College Conduct Administrator ~~Disciplinarian~~ a written response to the charges. Only charges to which the student responds may be reviewed by the Appeals Committee.

## B. Student Conduct Appeals Committee and Procedures

### (1) Statement of Purpose

- a. The committee is established to hear appeals of students regarding decisions made by the College Conduct Administrator ~~Disciplinarian~~.
- b. Specifically, the committee will hear appeals concerning disciplinary action involving removal from extra-curricular activities, suspensions, and expulsions.

### (2) Selection

At the beginning of each academic year or as needed, the Superintendent/President or designee shall establish a standing

panel from which members of individual Student Conduct Appeals Committee panels may be constituted.

(3) Standing Panel

The standing panel of the Student Conduct Appeals Committee shall consist of:

- a. At least five (5) students appointed by the Associated Students President;
- b. At least five (5) faculty members appointed by the Academic Senate President;
- c. At least five (5) classified employees appointed by the CSEA President; and
- d. At least five (5) academic managers appointed by the Superintendent/President one of whom will chair the committee and will only vote in the case of a tie.

(4) Individual Hearing Panel

Each individual panel will be drawn from the standing panel by the Superintendent/President or designee.

To hear each appeal, the Superintendent/President or designee will appoint a hearing committee consisting of **two** (2) students, **two** (2) faculty members, **two** (2) classified employees, and one (1) manager.

To conduct business, the panel must have a quorum of at least one member from each of the four constituent groups.

Decisions of the committee shall be made by simple majority vote.

(5) Time Frame

- a. The committee shall convene for an appeal hearing prior to the sanction taking effect and not more than thirty (30) school days after receipt of the notice of intent to appeal.
- b. In cases where suspension is immediately effective, the committee shall convene for an appeal hearing not more than ten (10) school days after receiving the notice of intent to appeal.
- c. The student shall be given written notice of the time and place of the hearing. If the student fails to appear for the hearing, the decision of the College Conduct Administrator ~~Disciplinarian~~

shall stand. The Committee shall allow a 15 minute grace period before the adjournment of the hearing.

#### (6) Hearing Order

- a. At the beginning of the hearing, the designated college academic management member, or attorney or college representative, shall present the college case, first with an initial summary that includes the evidence to be presented, followed by a detailed presentation of the findings, including presentation of evidence and witnesses. The student and/or attorney or representative may cross-examine the college's witnesses, and examine the evidence.
- b. Next, the student or ~~their~~his/her attorney or representative shall present ~~their~~his/her case, including any evidence or witnesses. The college's representative may cross-examine the student's witnesses, and examine the evidence.
- c. Examination and cross-examination must be limited to issues and matters relevant to the case.
- d. The designated college management member, attorney or representative may present a closing argument summarizing the college's findings.
- e. The student or ~~their~~his/her attorney or representative may present closing argument, summarizing ~~their~~his/her case.
- f. The committee may question witnesses but should limit its inquiries to eliminating confusion, uncertainty or lack of clarity in the witness' statements.
- g. All hearings shall be recorded, except for closed deliberations.
- h. All hearings shall be closed to the public.

#### (7) Evidence

The committee may review any relevant evidence presented during the hearing. The committee is not required to give validity to any written testimony/evidence if the witness or writer of the evidence does not personally appear at the hearing. Hearsay evidence is admissible but no decision may be made based solely on hearsay.

#### (8) Rights of the Committee

The basic rights of the committee shall include, but not be limited to the following:

- a. The committee has the right to decide:
  1. Relevance
  2. Materiality
  3. Competency
  4. Number of witnesses
  5. Time allocation
- b. The committee has the right to:
  1. Instruct the witness
  2. Question the witness
  3. Examine the evidence

On failure of the witness to follow directions, the committee may dismiss the witness.

(9) Rights of the Student

- a. The student may, with the permission of the hearing committee, have a translator or qualified interpreter if the student's command of the English language prevents him/her from being able to fully participate in the proceedings.
- b. The student may have legal counsel or representation, but must notify the College Conduct Administrator Disciplinarian at least two (2) school days prior to the hearing.

(10) Standard of Proof

The District will instruct the Committee that the District bears the burden of proof by a preponderance of the evidence and that preponderance of the evidence means "more likely to be true than not true."

(11) Decisions

- a. The Student Conduct Appeals Committee shall have the power to accept, reject or modify the decision of the College Conduct Administrator Disciplinarian, but in no case shall impose a more stringent sanction.
- b. Decisions should include:

1. Findings of facts (what the student did);
2. Conclusions (with relation to the rules of conduct); and
3. A decision (disciplinary action affirmed, rejected, or modified)

- (12) In the hearing, the committee should decide the following issues:
- a. Does the alleged act constitute a violation of the Student Conduct Code?
  - b. Did the student involved commit the act with which he/she is charged?
  - c. If the acts are found to have been committed by the student, and are also found to constitute a violation of the Student Conduct Code, were there any “attendant circumstances” shown in mitigation and/or in aggregation?
  - d. The facts in each individual case shall be considered when making a determination on the appropriateness of the sanction imposed.

- (13) The decision of the Student Conduct Appeals Committee shall be sent to the student ~~and the Superintendent/President~~ in writing within six (6) school days of the hearing. This decision shall include the findings and conclusions of the Student Conduct Appeals Committee.

### C. Readmission of Suspended Students

- (1) Any student who has served a suspension for a period of at least one (1) full term, shall submit a petition for readmission to the Office of the College ~~Conduct Administrator~~ ~~Disciplinarian~~. The petition for readmission shall document the steps that the student has taken since the suspension to eliminate the behavior that caused the suspension. The student shall meet with the College Conduct Administrator prior to the scheduling of a readmission hearing. Said petition shall be completely separate, apart and in addition to any procedures required by the Admissions and Records Office.
- (2) Within ten (10) school days of the petition for readmission submittal, the Student Conduct Appeals Committee panel shall review the petition for readmission to determine whether the student has made reasonable adjustment in the behavior or that the student has received the appropriate guidance, counseling and/or attention necessary to avoid the behavior that brought about the suspension. The Student Conduct Appeals Committee panel may delegate the decision to the College ~~Conduct Administrator~~ ~~Disciplinarian~~ or may conduct its review by email or teleconference.

(3) The Student Conduct Appeals Committee panel may request a hearing with the student to ascertain whether the student's claim regarding the behavioral adjustment is accurate. The student shall be notified of the date, time and place of the hearing within ten (10) school days of the petition for readmission submittal. The student may present further evidence or documentation in support of ~~their~~his/her claim. The College ~~Conduct Administrator~~ Disciplinarian shall notify the student within ~~six~~five (65) school days of the committee's decision. The Student Conduct Appeals Committee panel may:

- a. Approve the student's request to be readmitted with a statement to include conditions of re-admission, if any.
- b. Deny the student's request to be readmitted due to lack of supporting evidence and/or documentation indicating that a behavioral adjustment has occurred.

#### D. Appeal of Committee Decision

Within two (2) school days after receiving the written decision of the Student Conduct Appeals Committee, the student may request a review of the decision by the Superintendent/President. A copy of said request shall be sent to the College ~~Conduct Administrator~~ Disciplinarian. The student shall state in writing the grounds for review, basing the request upon one or more of the following provisions:

- (1) The required procedures have not been followed and that the student has been demonstrably damaged; and/or
- (2) There is insufficient evidence to support the committee decision; and/or
- (3) The penalty imposed is inappropriate.

#### E. Superintendent/President Review

In cases of suspension and/or lesser sanction:

Within thirty (30) school days of receipt of the request for review, the Superintendent/President shall review the decision of the Student Conduct Appeals Committee, the basis upon which it was made, and the student's appeal based on D.(1), (2) and/or (3). The Superintendent/President has the sole authority to:



- a. Adopt the recommended discipline of the Student Conduct Appeals Committee;
- b. Modify or reduce the discipline recommended by the Student Conduct Appeals Committee; or
- c. Reverse the discipline recommended by the Student Conduct Appeals Committee.

The decision of the Superintendent/President shall be communicated to the student in writing, and a copy sent to the College Conduct Administrator Disciplinarian. In cases of suspension and/or lesser sanction, the decision of the Superintendent/President is final.

(1) In cases where expulsion has been recommended:

- a. The recommendation of the Student Conduct Appeals Committee shall be forwarded to the Superintendent/ President or designee for review and decision.
- b. The Superintendent/President's decision shall be based upon evidence presented at the expulsion hearing or the facts of the case as presented by the College Conduct Administrator Disciplinarian.
- c. The Superintendent/President or designee may accept the recommendation of the Student Conduct Appeals Committee and recommend to the Board of Trustees that the student be expelled, or impose a lesser sanction. The Superintendent/President or designee shall render a decision within ten (10) business days of receipt of the recommendation of the Student Conduct Appeals Committee. Notice of the Superintendent/President or designee's recommendation shall be mailed to the student, and, in cases where expulsion is recommended, forwarded to the Board of Trustees for final action.
- d. The Board of Trustees' decision to expel a student shall be based upon evidence presented at the expulsion hearing or the facts of the case as presented by the College Conduct Administrator Disciplinarian.
- e. The Superintendent/President or designee shall, upon the expulsion of any student, notify the appropriate law enforcement authorities of any acts of the student which may be in violation of Penal Code Section 245 (assault with a deadly weapon or instrument) [E.C. §76035] and additional code sections.
- f. Whenever the student expelled is a dependent minor for federal income tax purposes, the parent or guardian shall be notified in

writing by the College Conduct Administrator ~~Disciplinarian~~  
within five (5) school days.

Reference: Education Codes §66017, 66300-66303, 76020, 76030, 76033-76034, 76038, 76120, 76121, 76224

*Reviewed and/or Updated: 12/11/01, 8/8/11, 6/2015, 7/11/2016*

*Reviewed 3/9/2022 by Lina*

## **AR 4411 Standards Code of Academic Conduct**

To maintain the academic integrity of Santa Monica College, faculty and students must take responsibility for maintaining an educational environment characterized by academic honesty. Therefore, under no circumstances will academic dishonesty be tolerated.

### **1. Faculty Responsibilities**

In order to maintain an environment of academic integrity, faculty will:

- A. Make every attempt to conduct classes in a manner that encourages honorable behavior, ensures equal opportunity for student success, and discourages academic dishonesty.
- B. Inform students in writing and, whenever possible, verbally, of the course requirements, grading procedures, and expectations for acceptable academic conduct and behavior.
- C. Inform students of the SMC Code of Academic Conduct and the consequences of behavior in violation of the Code.
- D. In instances where alleged academic integrity violations are filed, inform students of their right to due process.
- E. Ensure that the appropriate process for reporting a violation of the Code of Academic Conduct is followed (see Reporting a Violation).

### **2. Student Responsibilities**

In order to maintain an environment of academic integrity, students will:

- A. Familiarize themselves with the Code of Academic Conduct, Honor Code, and Student Conduct Code.

- B. Behave in a manner that encourages learning and upholds the Code of Academic Conduct and Honor Code.
- C. Act with fairness (i.e., not seek undue advantage) towards other students in classroom interactions, completion of assignments, examinations, or any other academic activity.
- D. Make every attempt to prevent the unauthorized use of their work.

3. Academic Dishonesty Conduct Defined

Santa Monica College defines academic dishonesty as an act of fraud or deception, in any academic exercise. This includes, but is not limited to, the following actions or attempted actions:

- A. Using unauthorized testing aids such as calculators, recorders, electronic devices or notes on any examination or assessment, or the failure to observe the expressed procedures or instructions of an academic exercise (e.g., examination instructions regarding alternate seating or conversation during an examination).
- B. Allowing another individual to assume one's identity for the purpose of satisfying course requirements or enhancing one's grade or score in any of the following: testing, assessment, on-line classes, field trips, or attendance.
- C. Falsifying attendance records or grade rosters.
- D. Representing the words, ideas or work of another as one's own (plagiarism) in any academic exercise, including the use of commercial term papers, solution manuals, or any other work of another regardless of how it is created or published.
- E. Changing answers on a previously scored test, assignment, or experiment.
- F. Copying or allowing another student to copy from one's paper or answer sheet during an examination or for a graded assignment.
- G. Inventing information for the purpose of completing a laboratory experiment, a case study analysis, or field trip.
- H. Giving or receiving information during an examination by any means including sign language, hand signals, secret codes, or electronic transmission.

- I. Accessing or reproducing exams in any form without the prior authorization of the instructor with the purpose of sharing, selling, or publishing them.
- J. Intentionally or knowingly helping another to violate any provision of this Code.
- K. Forging or altering academic documentation (including transcripts, assessment scores/results, letters of recommendation, enrollment certifications, registration forms, and medical certification) concerning oneself or others.

4. Reporting a Violation

Given an incident of academic dishonesty, faculty should adhere to the following procedures:

- A. Inform the student of the nature of the alleged violation and the impending course of action. Provide the student with the opportunity for a conference with the campus Ombudsperson or designee in an effort to resolve the accusation informally. As part of the informal resolution process, the Ombudsperson or designee may confer with the faculty member and department chair or designee.
- B. Complete and submit the Academic Dishonesty Report Form, along with any related evidence, to the College Conduct Administrator ~~Disciplinarian~~ within ten (10) school days of the allegation. The term “school day” is used in this Administrative Regulation for the purpose of calculating deadlines and shall mean any day that classes are in session except Saturdays and Sundays.
- C. Faculty may review previous assignments and/or tests to determine if there have been additional violations.

5. Consequences for Violating Academic Conduct

- A. Given an alleged violation of academic honesty, the instructor may impose one or both of the following sanctions, subject to appeal to the Santa Monica College Honor Council:
  - (1) Dismiss the student from the class or activity for up to two class sessions; and submit a Classroom Removal Report.
  - (2) Assign a failing grade to the examination or assignment in which the alleged cheating or plagiarism occurred.

B. Upon receiving a report of alleged academic dishonesty, the College Conduct Administrator ~~Disciplinarian~~ will notify the student, the campus Ombudsperson, and the department chair of the content of the alleged violation. The College Conduct Administrator ~~ampus Disciplinarian~~ will then conduct such investigation as they ~~he/she~~ deems necessary. Subsequent to investigation, the College Conduct Administrator ~~Disciplinarian~~ may:

(1) Confirm the sanction imposed by the instructor and notify the student of their ~~his/her~~ right to appeal the sanction to the SMC Honor Council.

(2) ~~Provide the student with the opportunity for a conference with the campus Ombudsperson or designee in an effort to resolve the accusation informally. As part of the informal resolution process, the Ombudsperson or designee may confer with the faculty member and department chair or designee.~~ (moved up to 4. B)

(~~23~~) Impose sanction under AR 4410. In severe incidents of academic dishonesty, including but not limited to impersonation, presentation of falsified documents, stealing exams or research papers, or repeated violations, the College Conduct Administrator ~~Disciplinarian~~ may suspend or recommend expulsion of a student from the College in accordance with the procedures set forth in AR 4410.

C. In any case where the College Conduct Administrator ~~Disciplinarian~~ confirms the alleged incident of academic dishonesty, ~~he/she~~ they shall place in the student's disciplinary records: a copy of the Academic Dishonesty Report Form; a summary of the College Conduct Administrator's ~~Disciplinarian's~~ investigative findings; and a description of the sanction imposed by the Instructor or College Conduct Administrator ~~Disciplinarian~~.

A student whose disciplinary records contain a report of academic dishonesty shall be informed that:

(1) The information placed in the student's disciplinary record is not part of their ~~his/her~~ academic record at the college and that the disciplinary records will be destroyed within three (3) years, providing there are no further acts of misconduct.

- (2) The student has an opportunity to write a response to each document included in their ~~his/her~~ disciplinary record, and that the response shall be placed on record with the original document.
- (3) The inclusion of these documents in the student's disciplinary records may be challenged if a student appeals the alleged incident upon which they are based to the SMC Honor Council.

D. The College Conduct Administrator ~~Disciplinarian~~ and the SMC Honor Council may recommend to the Superintendent/President and Board of Trustees the revocation of any degrees, certificates, course credits awarded to a student when findings indicate that a severe incident of academic dishonesty with direct bearing on the award of the degree, certificate or course credit has occurred.

#### 6. Appeal Procedure

A student has the right to appeal sanctions imposed by the instructor or College Conduct Administrator ~~Disciplinarian~~ under AR 4411 through the procedure set forth in AR 4412

Reference: Education Codes §66017, 66300-66303, 76020, 76030, 76033-76034, 76038, 76120, 76121, 76224

Reviewed and/or Updated: 12/12/06, 12/09/08

Revised: 9/26/2011 Reviewed by Lina 3/10/22

Education Code 66300-66303  
66300.

The Regents of the University of California, the Trustees of the California State University, and the governing board of every community college district, shall adopt or provide for the adoption of **specific rules and regulations governing student behavior along with applicable penalties for violation of the rules and regulations.** The institutions shall adopt procedures by which all students are informed of such rules and regulations, with applicable penalties, and any revisions thereof.

66301.

(a) Neither the Regents of the University of California, the Trustees of the California State University, the governing board of a community college district, nor an administrator of any campus of those institutions, shall make or enforce a rule

subjecting a student to disciplinary sanction solely on the basis of conduct that is speech or other communication that, when engaged in outside a campus of those institutions, is protected from governmental restriction by the First Amendment to the United States Constitution or Section 2 of Article I of the California Constitution.

(b) A student enrolled in an institution, as specified in subdivision (a), at the time that the institution has made or enforced a rule in violation of subdivision (a) may commence a civil action to obtain appropriate injunctive and declaratory relief as determined by the court. Upon a motion, a court may award attorney's fees to a prevailing plaintiff in a civil action pursuant to this section.

(c) This section does not authorize a prior restraint of student speech or the student press.

(d) This section does not prohibit the imposition of discipline for harassment, threats, or intimidation, unless constitutionally protected.

(e) This section does not prohibit an institution from adopting rules and regulations that are designed to prevent hate violence, as defined in subdivision (a) of Section 4 of Chapter 1363 of the Statutes of 1992, from being directed at students in a manner that denies them their full participation in the educational process, if the rules and regulations conform to standards established by the First Amendment to the United States Constitution and Section 2 of Article I of the California Constitution for citizens generally.

(f) An employee shall not be dismissed, suspended, disciplined, reassigned, transferred, or otherwise retaliated against solely for acting to protect a student engaged in conduct authorized under this section, or refusing to infringe upon conduct that is protected by this section, the First Amendment to the United States Constitution, or Section 2 of Article I of the California Constitution.

#### 66302.

The Trustees of the California State University, the Regents of the University of California, and the governing board of each community college district are requested to adopt and publish policies on harassment, intimidation, and bullying to be included within the rules and regulations governing student behavior within their respective segments of public postsecondary education. It is the intent of the Legislature that rules and regulations governing student conduct be published, at a minimum, on the Internet Web site of each public postsecondary educational campus and as part of any printed material covering those rules and regulations within the respective public postsecondary education system.

#### 66302.5.

The Trustees of the California State University shall provide, and the Regents of the University of California are requested to provide, as a part of established campus orientations, educational and preventive information about cyberbullying to students at all campuses of their respective segments.

#### 66303.

For purposes of promoting peaceful campus demonstrations, the Trustees of the California State University shall require each campus of the California State University to designate an individual to serve as a liaison between campus law enforcement agencies and students exercising rights guaranteed by the First Amendment to the United States Constitution or Section 2 of Article I of the California Constitution, or both. The Regents of the University of California are requested to designate an individual at each campus of the University of California to serve as a liaison between campus law enforcement agencies and students exercising rights guaranteed by the First Amendment to the United States Constitution or Section 2 of Article I of the California Constitution, or both.

#### 66017.

The respective governing boards of the California Community Colleges, the California State University, or the University of California shall adopt appropriate procedures and designate appropriate persons to take disciplinary action against any student, member of the faculty, member of the support staff, or member of the administration of the community college, state college, or state university who, after a prompt hearing by a campus body, has been found to have willfully disrupted the orderly operation of the campus. Nothing in this section shall be construed to prohibit, where an immediate suspension is required in order to protect lives or property and to ensure the maintenance of order, interim suspension pending a hearing; provided that a reasonable opportunity be afforded the suspended person for a hearing within 10 days. The disciplinary action may include, but need not be limited to, suspension, dismissal, or expulsion. Sections 89538 to 89540, inclusive, shall be applicable to any state university or college employee dismissed pursuant to this section.

#### 76020.

- (a) The governing body of any community college district may exclude students of filthy or vicious habits, or students suffering from contagious or infectious diseases.
- (b) The governing board of the community college may exclude from attendance on regular classes any student whose physical or mental disability is such as to cause his or her attendance to be inimical to the welfare of other students.

#### 76030

(a) Consistent with requirements of due process of law, with this article, and with the rules of student conduct adopted by the governing board under Section 66300, the governing board, the president of a community college or the president's designee, or an instructor shall suspend a student for good cause. In addition, the governing board is authorized to expel a student for good cause when other means of correction fail to bring about proper conduct, or when the presence of the student causes a continuing danger to the physical safety of the student or others. The suspension or expulsion of a student shall be accompanied by a hearing conducted pursuant to the requirements of Section 66017.

(b) (1) Notwithstanding any other law, if an order requested by a community college district to protect a campus of a community college district or any person regularly present on a campus of that district is issued upon a finding of good cause by a court



against a student of that community college district, and the order prevents that student from attending classes and maintaining his or her academic standing, the community college district may require the student to apply for reinstatement after the expiration of that order. If the district requires the student to apply for reinstatement, it shall do so before the expiration of the protective order. If a student applies for reinstatement under this paragraph, a review with respect to the application shall be conducted. This review, at a minimum, shall include consideration of all of the following issues:

(A) The gravity of the offense.

(B) Evidence of subsequent offenses, if any.

(C) The likelihood that the student would cause substantial disruption if he or she is reinstated.

(2) The governing board of the community college district, or the person to whom authority is delegated pursuant to subdivision (f) of Section 76038, shall take one of the following actions after conducting a review under paragraph (1):

(A) Deny reinstatement.

(B) Permit reinstatement.

(C) Permit conditional reinstatement and specify the conditions under which reinstatement will be permitted.

#### 76033.

As used in this article, "good cause" includes, but is not limited to, the following offenses, occurring while enrolled as a student:

(a) Continued disruptive behavior, continued willful disobedience, habitual profanity or vulgarity, or the open and persistent defiance of the authority of, or persistent abuse of, college personnel.

(b) Assault, battery, or any threat of force or violence upon a student or college personnel.

(c) Willful misconduct which results in injury or death to a student or college personnel or which results in cutting, defacing, or other injury to any real or personal property owned by the district.

(d) The use, sale, or possession on campus of, or presence on campus under the influence of, any controlled substance, or any poison classified as such by Schedule D in Section 4160 of the Business and Professions Code.

(e) Willful or persistent smoking in any area where smoking has been prohibited by law or by regulation of the governing board.

(f) Persistent, serious misconduct where other means of correction have failed to bring about proper conduct.

(g) Sexual assault, defined as actual or attempted sexual contact with another person without that person's consent, regardless of the victim's affiliation with the community college, including, but not limited to, any of the following:

(1) Intentional touching of another person's intimate parts without that person's consent or other intentional sexual contact with another person without that person's consent.

(2) Coercing, forcing, or attempting to coerce or force a person to touch another person's intimate parts without that person's consent.

(3) Rape, which includes penetration, no matter how slight, without the person's consent, of either of the following:

(A) The vagina or anus of a person by any body part of another person or by an object.

(B) The mouth of a person by a sex organ of another person.

(h) Sexual exploitation, defined as a person taking sexual advantage of another person for the benefit of anyone other than that person without that person's consent, regardless of the victim's affiliation with the community college, including, but not limited to, any of the following:

(1) Prostituting another person.

(2) Recording images, including video or photograph, or audio of another person's sexual activity, intimate body parts, or nakedness without that person's consent.

(3) Distributing images, including video or photograph, or audio of another person's sexual activity, intimate body parts, or nakedness, if the individual distributing the images or audio knows or should have known that the person depicted in the images or audio did not consent to the disclosure and objected to the disclosure.

(4) Viewing another person's sexual activity, intimate body parts, or nakedness in a place where that person would have a reasonable expectation of privacy, without that person's consent, and for the purpose of arousing or gratifying sexual desire.

#### 76034.

(a) Except in response to conduct specified in subdivisions (g) and (h) of Section 76033, no student shall be removed, suspended, or expelled unless the conduct for which the student is disciplined is related to college activity or college attendance.

(b) This section is not intended to limit provisions of federal law, or limit the ability of community college districts to take appropriate action under federal law.

#### 76038.

(a) If the governing board of a community college district receives an application for admission from an individual who has been expelled from another district pursuant to this article within the preceding five years, or who is undergoing expulsion procedures in another district, for any of the offenses listed in subdivision (b), before taking action to deny enrollment or permit conditional enrollment as authorized by subdivision (e),

the governing board or delegate pursuant to subdivision (f) shall hold a hearing, conducted in accordance with this section and the applicable rules and regulations governing enrollment hearings authorized by this section and adopted in accordance with Section 66300, to determine whether that individual poses a continuing danger to the physical safety of the students and employees of the district.

(b) For purposes of this section, "offense" means one of the following:

(1) Committed or attempted to commit murder.

(2) Caused, attempted to cause serious, or threatened to cause physical injury to another person, including assault or battery as defined in Section 240 or 242 of the Penal Code, except in self-defense.

(3) Committed or attempted to commit a sexual assault as defined in Section 261, 266c, 286, 287, 288, or 289 of, or former Section 288a of, the Penal Code or committed sexual battery as defined in Section 243.4 of the Penal Code.

(4) Committed or attempted to commit kidnapping, or seized, confined, inveigled, enticed, decoyed, abducted, concealed, kidnapped, or carried away another person by any means with the intent to hold or detain that person for ransom or reward.

(5) Committed or attempted to commit robbery or extortion.

(6) Committed stalking as defined in Section 646.9 of the Penal Code.

(7) Unlawfully possessed, sold, or otherwise furnished a firearm, knife, explosive, or other dangerous object.

(c) A community college district may request information, and respond to a request for information, from another community college district to determine whether an applicant continues to pose a danger to the physical safety of others.

(d) A community college district may require a student seeking admission who has been previously expelled from a community college in the state for any of the actions listed in subdivision (b) to inform the district of his or her prior expulsion. Failure to do so may be considered by the district in determining whether to grant admission, and a written record of the fact may be maintained by the district with the applicant's file.

(e) The governing board of a community college district, upon making a determination pursuant to subdivision (a), shall take into consideration evidence of subsequent offenses and rehabilitative efforts since the offense and may take any of the following actions:

(1) Deny enrollment.

(2) Permit enrollment.

(3) Permit conditional enrollment.

(f) The governing board of a community college district may delegate any authority under this section to the superintendent or president of a community college district, or his or her designee, or a threat assessment crisis response team pursuant to rules and regulations adopted pursuant to Section 66300.

(g) Before the governing board of a community college district takes action as authorized under this section, the governing board shall establish a formal appeals process for students denied enrollment to appeal the decision to the governing board. A student who is denied enrollment under subdivision (e) may appeal the decision to deny enrollment to the governing board of the community college district.

(h) This section shall not be construed to impose any duty on a community college district to review applicants for admission or review previously enrolled students, whether returning or continuing, or to conduct a hearing in response to the receipt of any information regarding a potential, former, or existing student.

(i) In accordance with Sections 815.2 and 820.2 of the Government Code, a community college district, a member of the governing board of a community college district, an officer or employee of a community college district, including a superintendent of a community college district, a president of a community college district, and the designee of a president or a superintendent, shall not be liable for an injury resulting from an exercise of discretion pursuant to this section, including, but not limited to, an exercise of discretion not to conduct a hearing when a hearing is not required.

(j) This section shall not apply to the admission of students for whom a community college district has discretion to admit pursuant to Section 76000.

#### 76224.

(a) When grades are given for any course of instruction taught in a community college district, the grade given to each student shall be the grade determined by the instructor of the course and the determination of the student's grade by the instructor, in the absence of mistake, fraud, bad faith, or incompetency, shall be final.

(b) No grade of a student participating in a physical education class, however, may be adversely affected due to the fact that the student does not wear standardized physical education apparel where the failure to wear such apparel arises from circumstances beyond the control of the student.

#### 76120.

The governing board of a community college district shall adopt rules and regulations relating to the exercise of free expression by students upon the premises of each community college maintained by the district, which shall include reasonable provisions for the time, place, and manner of conducting such activities.

Such rules and regulations shall not prohibit the right of students to exercise free expression including, but not limited to, the use of bulletin boards, the distribution of printed materials or petitions, and the wearing of buttons, badges, or other insignia, except that expression which is obscene, libelous or slanderous according to current legal standards, or which so incites students as to create a clear and present danger of the commission of unlawful acts on community college premises, or the violation of lawful community college regulations, or the substantial disruption of the orderly operation of the community college, shall be prohibited.

#### 76121.

The governing board of each community college district shall require each community college maintained by the district, in administering any test or examination, to permit any student who is eligible to undergo the test or examination to do so, without penalty, at a time when that activity would not violate the student's religious creed. This requirement shall not apply in the event that administering the test or examination at an alternate time would impose an undue hardship which could not reasonably have been avoided. In any court proceeding in which the existence of an undue hardship which could not reasonably have been avoided is an issue, the burden of proof shall be upon the institution.