

## AR 5530 STUDENT RIGHTS AND GRIEVANCES

### ❖ From current SMC AR 4405 Student Bill of Rights

#### Student Bill of Rights (see page 7) Should we have two or three regulations?

##### **Preamble**

~~Academic institutions exist for the transmission of knowledge, the pursuit of truth, the intellectual and social development of students, and the general well-being of society. Free inquiry and free expression are indispensable to the attainment of these goals. As members of the academic community, students should be encouraged to develop the capacity for critical judgment and to engage in a sustained and independent search for truth. (see BP/AR 4030 Academic Freedom)~~

~~Freedom to teach and freedom to learn are inseparable facets of academic freedom. The freedom to learn depends upon appropriate opportunities and conditions in the classroom, on the campus, and in the larger community. Students should exercise their freedom with responsibility. Students are entitled to the following rights.~~

In the pursuit of their educational goals, students should be free of unfair and improper action by any member of the academic community. A grievance may be initiated by students when they believe that they have been subject to unjust action or denied their rights as stipulated in published district regulations, state laws, or federal laws. Such action may be instituted by students against a faculty member, staff member or administrator. When students believe an injustice has been done to them, they may seek redress through the following procedures.

The purpose of this procedure is to provide a prompt and equitable means of resolving student grievances.

These procedures shall be available to any student who believes a district decision or action has adversely affected the student's status, rights, or privileges.

A **Grievance** includes, but is not limited to, claims regarding:

- Discrimination based on protected classes established by statute (See AR 3430 Prohibition of Harassment and BP 3410 Nondiscrimination.)
- Financial aid
- Course grades, to the extent permitted by Education Code Section 76224(a), which provides: "When grades are given for any course of instruction taught in a 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." (See AR 4312 Faculty Initiated Grade Changes, AR 4313 Grade Appeals Committee)
- The exercise of free expression rights protected by state and federal constitutions and Education Code Section 76120.

A student may **not** file a Grievance for:

- Student disciplinary actions, which are covered under separate board policies and administrative regulations.
- Police citations (i.e. "tickets"); complaints about citations must be directed to the County Courthouse in the same way as any traffic violation.
- Sex discrimination in education programs and activities as prohibited by Title IX of the Higher Education Amendments of 1972

**Grievant** – A student who has filed a Grievance.

**Party** – The student or any persons claimed to have been responsible for the student's alleged Grievance, together with their representatives. "Party" shall not include the Grievance Hearing Committee or the District Grievance Officer (CEO or a designee).

**Superintendent/President** -- The Superintendent/President or a designee of the Superintendent/President.

**Student** – A currently enrolled student, a person who has filed an application for admission to the college, or a former student. A Grievance by an applicant shall be limited to a complaint regarding the admission process. Former students shall be limited to Grievances relating to course grades to the extent permitted by Education Code Section 76224(a).

**Respondent(s)** – Any person or persons the Grievant claims to be responsible for the alleged Grievance.

**Day** – Unless otherwise provided, day shall mean a day during which the college is in session and regular classes are held, excluding Saturdays and Sundays.

**Informal Resolution** – Each student who has a Grievance shall make a reasonable effort to resolve the matter on an informal basis prior to requesting a Grievance hearing and shall attempt to solve the problem with the person with whom the student has the Grievance, that person's immediate supervisor, or a college administrator.

The Superintendent/President or designee shall assist students in seeking resolution by informal means. This person shall be called the Grievance Officer. The Grievance Officer is the Chief Student Services Officer or designee. The Grievance Officer and the student may also seek the assistance of the Associated Student Organization in attempting to resolve a Grievance informally.

Informal meetings and discussion between persons directly involved in a Grievance are essential at the outset of a dispute and should be encouraged at all stages. An equitable solution should be sought before persons directly involved in the case have stated official or public positions that

might tend to polarize the dispute and render a solution more difficult. At no time shall any of the persons directly or indirectly involved in the case use the fact of such informal discussion, the fact that a Grievance has been filed, or the character of the informal discussion for the purpose of strengthening the case for or against persons directly involved in the dispute or for any purpose other than the settlement of the Grievance.

### **Preliminary Action**

Students who believe an injustice has been done to them shall first attempt to resolve their grievances by consultation with the following persons in sequence:

- A. Accused faculty, staff, or administrator(s).
- B. Department Chairperson of accused faculty member, or direct supervisor of accused staff member, or direct supervisor of accused administrator as appropriate. If the faculty Departmental Chairperson is the accused party, the students shall consult instead with the area dean for this step.
- C. The area dean for an academic grievance issue.

Any student who still believes that there is a basis for a Grievance shall contact the Chief Student Services Officer or designee via email, in person, or by completing the Statement of Grievance form within 30 days of the incident on which the Grievance is based. The Grievance must be filed whether or not the student has already initiated efforts at informal resolution if the student wishes the Grievance to become official. Within three business days following receipt of the Grievance, the Chief Student Services Officer or designee shall meet with and advise the student of the student's rights and responsibilities under these procedures, and assist the student, if necessary, in the final preparation of the Grievance.

If, at the end of 30 days following the student's first meeting with the Chief Student Services Officer or designee, there is no informal resolution of the complaint which is satisfactory to the student, the student shall have the right to request a Grievance hearing.

### **Grievance Hearing Committee**

The Superintendent/President shall at the beginning of each semester, including any summer session, establish a standing panel of two students appointed by the Associated Student Government, two faculty members appointed by the Academic Senate, and one manager appointed by the Chief Student Services Officer or designee. The panel will be established with the advice and assistance of the Associated Students Organization and the Academic Senate, who shall each submit names to the Chief Student Services Officer for inclusion on the panel. A Grievance Hearing Committee shall be constituted in accordance with the following:

- It shall include [ **number** ] students, [ **number** ] faculty members, and [ **number** ] college administrator selected from the panel described above.

- No person shall serve as a member of a Grievance Hearing Committee if that person has been personally involved in any matter giving rise to the Grievance, has made any statement on the matters at issue, or could otherwise not act in a neutral manner. Any Party to the Grievance may challenge for cause any member of the hearing committee prior to the beginning of the hearing by addressing a challenge to the Chief Student Services Officer who shall determine whether cause for disqualification has been shown. If the Chief Student Services Officer feels that sufficient ground for removal of a member of the committee has been presented, the Chief Student Services Officer shall remove the challenged member or members and substitute a member or members from the panel described above. This determination is subject to appeal as defined below.
- The Grievance Officer shall sit with the Grievance Hearing Committee but shall not serve as a member nor vote. The Grievance Officer shall coordinate all scheduling of hearings, shall serve to assist all Parties and the Hearing Committee to facilitate a full, fair, and efficient resolution of the Grievance, and shall avoid an adversary role.

### Request for Grievance Hearing

Any request for a Grievance hearing shall be filed on a Request for a Grievance Hearing Form within 30 days after filing the Statement of Grievance as described above. (where to?)

Within fifteen (15) days following receipt of the request for Grievance hearing, the Grievance Hearing Committee shall meet in private and without the Parties present to determine on the basis of the Statement of Grievance whether it presents sufficient grounds for a hearing.

The determination of whether the Statement of Grievance presents sufficient grounds for a hearing shall be based on the following:

- The statement contains facts which, if true, would constitute a grievance under these procedures;
- The Grievant is a student as defined in these procedures, which include applicants and former students;
- The Grievant is personally and directly affected by the alleged grievance;
- The Grievance was filed in a timely manner;
- The Grievance is not clearly frivolous, clearly without foundation, or clearly filed for purposes of harassment.

If the grievance does not meet each of the requirements, the Hearing Committee Chair shall notify the student in writing of the rejection of the Request for a Grievance Hearing, together with the specific reasons for the rejection and the procedures for appeal. This notice will be provided within ten (10) days of the date the Grievance Hearing Committee makes its decision.

If the Request for Grievance Hearing satisfies each of the requirements, the Grievance Officer shall schedule a Grievance hearing. The hearing will begin within 10 days following the decision

to grant a Grievance Hearing. All parties to the grievance shall be given not less than five (5) days' notice of the date, time, and place of the hearing.

## **Hearing Procedure**

A hearing must comply with principles of due process, including the right to confront and cross-examine witnesses.

The decision of the Grievance Hearing Committee chair shall be final on all matters relating to the conduct of the hearing unless there is a vote of a majority of the other members of the panel to the contrary.

The Grievance Officer will provide members of the Grievance Hearing Committee with a copy of the Grievance and any written response provided by the respondent before the hearing begins.

Each Party to the Grievance may call witnesses and introduce oral and written testimony relevant to the issues of the matter.

Formal rules of evidence shall not apply. Any relevant evidence shall be admitted.

Unless the Grievance Hearing Committee determines to proceed otherwise, each Party to the Grievance shall be permitted to make an opening statement. Thereafter, the Grievant or Grievants shall make the first presentation, followed by the respondent or respondents. The Grievant(s) may present rebuttal evidence after the respondent(s)' evidence. The burden shall be on the Grievant or Grievants to prove by substantial evidence that the facts alleged are true and that a Grievance has been established as specified above.

All Parties to the Grievance may represent themselves and may also have the right to be represented by a person of their choice. The Parties may each be represented by legal counsel. If a Party wishes to be represented by an attorney, a request must be presented not less than three days prior to the date of the hearing. If one Party is permitted to be represented by an attorney, any other Party shall have the right to be represented by an attorney. The hearing committee may also request legal assistance through the Superintendent/President's Office. Any legal advisor provided to the hearing committee may sit with the committee in an advisory capacity to provide legal counsel but shall not be a member of the panel nor vote with it.

Hearings shall be closed and confidential unless all Parties request that they be open to the public. Any such request must be made no less than three days prior to the date of the hearing.

In a closed hearing, witnesses shall not be present at the hearing when not testifying, unless all Parties and the committee agree to the contrary.

The Grievance Officer will record the hearing by audio recording and this will be the only recording made. No witness who refuses to be recorded may be permitted to give testimony. The Grievance Hearing Committee Chair shall, at the beginning of the hearing, ask all person present to identify themselves by name, and thereafter shall ask witnesses to identify themselves by name. The audio recording shall remain in the custody of the District, either at the college or the district office, at all times, unless released to a professional transcribing service. Any Party may request a copy of the audio recording.

All witnesses must testify under oath; the Grievance Hearing Committee Chair will administer the oath. The Grievance Hearing Committee will only admit written statements of witnesses under penalty of perjury if the witness is unavailable to testify. A witness who refuses to be audio recorded shall be considered to be unavailable.

Within five days following the close of the hearing, the Grievance Hearing Committee shall prepare and send to the Superintendent/President a written decision. The decision shall include specific factual findings regarding the Grievance and shall include specific conclusions regarding whether the hearing established a Grievance as defined above. The decision shall also include a specific recommendation regarding the relief for the Grievant, if any. The Grievance Hearing Committee will base its decision only on the record of the hearing and not on matters outside of that record. The record consists of the original Grievance, any written response, and the oral and written evidence produced at the hearing.

### **Appeal:**

Any appeal relating to a Grievance Hearing Committee decision that the Statement of Grievance does not present a Grievance as defined in these procedures shall be made in writing to the Superintendent/President within five days of notification of that decision. The Superintendent/President shall review the Statement of Grievance and Request for Grievance Hearing in accordance with the requirements for a Grievance provided in these procedures, but shall not consider any other matters. The Superintendent/President's decision whether or not to grant a Grievance hearing shall be final and not subject to further appeal.

### **Superintendent/President's Decision**

Within 10 days following receipt of the Grievance Hearing Committee's decision and recommendation(s), the Superintendent/President shall send to all Parties the Superintendent/President's written decision, together with the Hearing Committee's decision and recommendations. The Superintendent/President may accept or reject the findings, decisions, and recommendations of the Hearing Committee. The factual findings of the Hearing Committee shall be accorded great weight; if the Superintendent/President does not accept the decision or a finding or recommendation of the Hearing Committee, the Superintendent/ President shall review the record of the hearing and shall prepare a new written decision which contains specific

factual findings and conclusions. The decision of the Superintendent/President shall be final and not subject to appeal.

**Time Limits:**

Any times specified in these procedures may be shortened or lengthened if there is mutual concurrence by all Parties.

Additional Information

Also see AR 4312 Faculty Initiated Grade Changes, AR 4313 Grade Appeals Committee, BP 3410 Nondiscrimination, BP/AP 3430 Prohibition of Harassment, and BP 3540 Sexual and Other Assaults on Campus & in Campus Programs.

The District website has additional information, resources, and links on its Student Rights and Grievances webpage which can be accessed from the homepage at [www.smc.edu](http://www.smc.edu).

**Student Bill of Rights** (different regulation #?)

**Preamble**

Academic institutions exist for the transmission of knowledge, the pursuit of truth, the intellectual and social development of students, and the general well-being of society. Free inquiry and free expression are indispensable to the attainment of these goals. As members of the academic community, students should be encouraged to develop the capacity for critical judgment and to engage in a sustained and independent search for truth. ([see BP/AR 4030 Academic Freedom](#))

Freedom to teach and freedom to learn are inseparable facets of academic freedom. The freedom to learn depends upon appropriate opportunities and conditions in the classroom, on the campus, and in the larger community. Students should exercise their freedom with responsibility. Students are entitled to the following rights.

**1. Access to Higher Education**

Consistent with state law, Santa Monica College provides access to services, classes, and programs without regard to race, ethnicity, gender, gender identity, [gender expression](#), age, religion, national origin, disability, or sexual orientation. ([see BP/AR 3410 Nondiscrimination](#))

Reference: Education Code [Section](#) 72011

**2. Student Rights In the Classroom and Student Activities**

The professor, in the classroom and in conference with the student, should encourage free discussion, inquiry, and expression. Student performance should be evaluated solely on an academic basis.

**A. Protection of Freedom of Expression**

Students should be free to take reasoned exception to the data or views offered in any courses of study and to reserve judgment about matters of opinion, but they are responsible for learning the content of any course of study for which they are enrolled.



## **B. Protection Against Improper Academic Evaluation**

Students shall have protection through orderly procedures against prejudiced or capricious academic evaluations. At the same time, they are responsible for maintaining standards of academic performance established for each course in which they are enrolled. Any student shall have access to a hearing before an unbiased academic appeals committee, as provided for under [b](#)Board policy.

## **C. Protection Against Disclosure**

Information about student views, beliefs, and political associations which professors and administrators acquire in the course of their work as instructors, advisors and counselors, should be considered confidential. Protection against improper disclosure is a serious professional obligation. Judgments of ability and character may be provided under appropriate circumstances, always with the knowledge or consent of the student. Nothing in this section shall prevent disclosure of information as provided for in state or federal law.

## **3. Confidentiality of Student Records ([see BP/AR 5040 Student Records, Directory Information, and Privacy](#))**

Transcripts, health records, disciplinary records, library records and counseling records are confidential except under judicial process or in cases where the safety of persons or property is involved.

References: Education Code [Sections](#) 76210, [and](#) 76240-76246

## **4. Student Activities**

In student activities, the [D](#)istrict guarantees the right of students to organize, to exercise freedom of speech, to participate in student government and recognized college governance processes, and to prepare and distribute student publications.

## **A. Freedom of Association**

Students bring to the campus a variety of interests previously acquired and develop many new interests as members of the academic community. They should be free to organize and join associations to promote their common interests. Any group of six associated students may form such an organization as stipulated in AR 4445 [5430 Student Clubs, Organizations, and Activities](#).

- (i) The membership, policies and actions of a student organization usually will be determined by vote of only those persons who hold bona fide membership in that organization. No student should be barred from any organization because of race, ethnicity, gender, gender identity, [gender expression](#), age, religion, national origin, disability, or sexual orientation. ([see BP/AR 3410 Nondiscrimination](#))
- (ii) Affiliation with an extramural organization should not, of itself, disqualify a student organization from institutional recognition.



(iii) Since campus advisors are required, each organization should be free to choose its own advisor. Campus advisors may advise organizations in the exercise of responsibility, but they should not have the authority to control the policy of such organizations. However, it is understood that the governing board must retain responsibility under the education code for supervision and regulation of student affairs.

(iv) Student organizations may be required to submit a statement of purpose, criteria for membership, rules of procedure, and a current list of officers and advisors. They shall be required to submit a membership list as a condition of institutional recognition.

References: Education Code [Sections](#) 76060, [and](#) 76062

## **B. Freedom of Inquiry and Expression**

(i) Students and student organizations should be free to examine and to discuss all questions of interest to them and to express opinions publicly and privately. They should always be free to support causes by orderly means which do not disrupt the essential operation of the institution. At the same time, it should be made clear to the academic and the larger community that, in their public expressions or demonstrations, students, or student organizations, only speak for themselves. ([see BP/AR 3900 Speech: Time, Place, and Manner](#))

(ii) Students should be allowed to invite and to hear any person of their own choosing, provided that there is compliance with the laws of the State of California, orderly scheduling of facilities, and adequate preparation for the event, and that the occasion is conducted in a manner appropriate to an academic community. The institutional control of campus facilities should not be used as a device of censorship. It should be made clear to the academic and larger community that sponsorship of guest speakers does not necessarily imply approval or endorsement of the views expressed, either by sponsoring group or the institution.

Reference: Education Code [Section](#) 76120

## **C. Student Participation in Institutional Government**

As constituents of the academic community, students should be free, individually and collectively, to express their views on issues of institutional policy and on matters of general interest to the student body. The student body should have clearly defined means to participate in the formulation and application of institutional policy affecting academic and student affairs. The role of the student government and both its general and specific responsibilities should be made explicit, and the actions of the student government within the areas of its jurisdiction should be reviewed only through orderly and prescribed procedures.

Reference: Education Code [Section](#) 76067

## **D. Student Publications ([see AR 4500 Student News Media](#))**

Student publications and the student press are a valuable aid in establishing and maintaining an atmosphere of free and responsible discussion and of intellectual exploration the campus. They are a means of bringing student concerns to the attention of the faculty and the institutional authorities and of formulating student opinion on various issues on the campus and in the world at large.

Whenever possible, the student publications should be independent entities, financially and legally separate from the college. Where financial and legal autonomy are not possible, the institution, as the publisher of student publications, may have to bear the legal responsibility for the contents of the publications.

Student publications which are published as laboratory work for the journalism department will be subject to the same faculty and administrative direction as any other laboratory course in the college and should explicitly state on the editorial page that the opinions there expressed are not necessarily those of the college or student body. In the delegation of editorial responsibility to the editorial board, the college, through the journalism instructor, should provide sufficient editorial freedom for the student publications to maintain their integrity of purpose as vehicles for free inquiry and free expression in an academic community. At the same time, the editorial freedom of student editors and managers entails corollary responsibilities to be governed by the canons of responsible journalism, such as avoidance of libel, indecency, undocumented allegations, attacks on personal integrity, and the techniques of harassment and innuendo.

The editorial freedom of student editors and managers of student publications not connected with the Journalism Department also entails the responsibilities listed above. As safeguards for the editorial freedom of such publications, the following provisions are necessary:

- (i) The student press should be free of censorship and advance approval of copy, and its editors and managers should be free to develop their own editorial policies and news coverage.
- (ii) Editors and managers should be protected from arbitrary suspension and removal because of student, faculty, administrative, or public disapproval of editorial policy or content. Only for proper and stated causes should editors and managers be subject to removal and then, by orderly and prescribed procedures, as outlined in Board of Trustees policy.
- (iii) All student publications should explicitly state on the editorial page that the opinions there expressed are not necessarily those of the college or student body.

## **5. Enactment**

This Bill of Rights is a separate entity and apart from any Constitution, and it shall stand by itself. This Bill of Rights shall become effective upon passage by the student body and the Board of Trustees. All amendments to this Bill of Rights shall be ratified by the student body and the Board of Trustees.

Reference: Education Code [Section](#) 72023.5

## Ombuds Office

### **1. Establishment of Ombuds Office**

The Ombuds Office at Santa Monica College shall provide informal dispute resolution and mediation services to students. The Ombuds Office shall be a place where students can seek guidance regarding the addressing or resolution of disputes or concerns through a resource which is confidential, neutral, informal and independent. Services of the Ombuds Offices do not replace other processes at the College. The Office works to facilitate communication and assist parties in reaching mutually acceptable, fair and equitable resolutions that are consistent with the ideals and objectives of the College. The Ombudsperson is appointed by the Superintendent/President.

### **2. Standards of Practice and Code of Ethics**

The Ombuds Office shall adhere to the International Ombudsman Association (“IOA”) Standards of Practice and Code of Ethics. These tenets require that Ombuds Office function independently of the organization, shall be confidential and neutral, and shall limit the scope of their services to informal means of dispute resolution.

### **3. Confidentiality**

The Ombuds Offices shall not disclose or be required to disclose any information provided in confidence, except to address an imminent risk of serious harm. The Ombuds Offices shall not confirm communicating with any party or parties, or disclose any confidential information without the party’s or parties’ express permission provided in the course of discussions with the Ombuds Office, and at the discretion of the Ombuds Office. The Ombuds Offices shall not participate as witnesses with respect to any confidential communication, nor shall they participate in any formal process inside or outside the College.

### **4. Receiving Notice for the College**

Communication to the Ombuds Offices shall not constitute notice to the College or Santa Monica Community College District. This includes allegations that may be perceived to be violations of laws, regulations or policies, such as sexual harassment, issues covered by the Whistleblower policy, or incidents subject to reporting under the Clery Act. Because the Ombuds does not function as part of the administration of the College, even if the Ombuds becomes aware of such allegations, the Ombuds is not required to report them to the College. If someone would like to put the College on notice regarding a specific situation, or wishes for information to be provided to the College, the Ombuds will provide the visitor with information so that the visitor may do so themselves.

### **5. Record Keeping**

The Ombuds Office does not keep records for the College and shall not create or maintain documents or records for the College about individual cases.

[Also see BP/AR 3410 Nondiscrimination, BP/AR titled Prohibition of Harassment, AR 3435 Discrimination and Harassment Investigations, BP/AR 5500 Standards of Student Conduct, and AR 5520 Student Discipline Procedures.](#)

## **References:**

Education Code Section 72023.5, 76060, 76062, 76067, 76210, 76224(a), 76230-76234, 76240-46 ;  
Title IX, Education Amendments of 1972;

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**NOTE:** The **red ink** signifies language that is **legally required** and recommended by the Policy & Procedure Service and its legal counsel (Liebert Cassidy Whitmore). This regulation reflects updates/revisions from the Policy & Procedure Service in August 2007 and April 2015. The language in **black ink** is from current SMC AR 2427 Ombuds Office approved on February 2014 and AR 4405 Student Bill of Rights approved on April 29, 2003 and revised on May 19, 2015. The language in **blue ink** is included for consideration. The language in **yellow highlighting** is included to draw the reviewers' attention, and this language will be removed upon final approval.

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**Approved:** April 29, 2003 (for AR 4405) and February 2014 (for AR 2427)

**Revised:** May 19, 2015 (for AR 4405)

(Replaces SMC AR 2427 and AR 4405)

**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.

**76230.** Any currently enrolled or former student has a right to access to any and all student records relating to him maintained by community colleges. The editing or withholding of any such records, except as provided for in this chapter, is prohibited. Each community college district shall adopt procedures for the granting of requests by students to inspect and review records during regular school hours, provided that access shall be granted no later than 15 working days following the date of the request. Procedures shall include notification of the location of all official student records if not centrally located and the providing of qualified personnel to interpret records where appropriate.

**76231.** A student may waive his or her right to access to student records devoted solely to confidential recommendations for career placement, postsecondary admission, or the receipt of an honor or honorary recognition. However, the recommendations shall be used solely for the purpose for which they were specifically intended, and the student shall be notified, upon request, of the names of all persons making confidential recommendations. A waiver may not be required as a condition for admission to, receipt of financial aid from, or receipt of any other services or benefits from a community college.

**76232.** (a) Any student may file a written request with the chief administrative officer of a community college district to correct or remove information recorded in his or her student records which the student alleges to be: (1) inaccurate; (2) an unsubstantiated personal conclusion or inference; (3) a conclusion or inference outside of the observer's area of

competence; or (4) not based on the personal observation of a named person with the time and place of the observation noted.

(b) Within 30 days of receipt of the request, the chief administrative officer, or his or her designee, shall meet with the student and the employee who recorded the information in question, if any, if the employee is presently employed by the community college district. The chief administrative officer or his or her designee shall then sustain or deny the allegations.

If the chief administrative officer, or his or her designee, sustains any or all of the allegations, he or she shall order the correction or removal and destruction of the information.

If the chief administrative officer, or his or her designee, denies any or all of the allegations and refuses to order the correction or removal of the information, the student, within 30 days of the refusal, may appeal the decision in writing to the governing board of the community college district.

(c) Within 30 days of receipt of an appeal, the governing board shall, in closed session with the student and the employee who recorded the information in question, if any, and if that employee is presently employed by the community college district, determine whether to sustain or deny the allegations.

If the governing board sustains any or all of the allegations, it shall order the chief administrative officer, or his or her designee, to immediately correct or remove and destroy the information.

The decision of the governing board shall be final.

Records of these administrative proceedings shall be maintained in a confidential manner and shall be destroyed one year after the decision of the governing board unless the student initiates legal proceedings relative to the disputed information within the prescribed period.

(d) If the final decision of the governing board is unfavorable to the student or if the student accepts an unfavorable decision by the chief administrative officer, the student shall have the right to submit a written statement of his or her objections to the information. This statement shall become a part of the student's record until the information objected to is corrected or removed.

**76233.** Whenever there is included in any student record information concerning any disciplinary action taken by community college personnel in connection with the student, the student shall be allowed to include in such record a written statement or response concerning the disciplinary action.

**76234.** Whenever there is included in any student record information concerning any disciplinary action taken by a community college in connection with any alleged sexual assault or physical abuse, including rape, forced sodomy, forced oral copulation, rape by a foreign object, sexual battery, or threat of sexual assault, or any conduct that threatens the health and safety of the alleged victim, the alleged victim of that sexual assault or physical abuse shall be informed within three days of the results of any disciplinary action by the community college and the results of any appeal. The alleged victim shall keep the results of that disciplinary action and appeal confidential.

**76242.** A community college district may permit access to student records to any person for whom the student has executed written consent specifying the records to be released and identifying the party or class of parties to whom the records may be released. The recipient must be notified that the transmission of the information to others without the written consent of the student is prohibited. The consent notice shall be permanently kept with the record file.

**76243.** (a) A community college or community college district is not authorized to permit access to student records to any person without the written consent of the student or unless pursuant to judicial order, except that access may be permitted to the following:

(1) Officials and employees of the community college, if they have a legitimate educational interest to inspect a record.

(2) Authorized representatives of the Comptroller General of the United States, the Secretary of Health, Education, and Welfare, an administrative head of an education agency, state education officials, or their respective designees or the United States Office of Civil Rights, where that information is necessary to audit or evaluate a state or federally supported education program or pursuant to a federal or state law, except that when the collection of personally identifiable information is specifically authorized by federal law, any data collected by those officials shall be protected in a manner that will not permit the personal identification of students or their parents by other than those officials, and any personally identifiable data shall be destroyed when no longer needed for that audit, evaluation, and enforcement of federal legal requirements.

(3) Other state and local officials or authorities to the extent that information is specifically required to be reported pursuant to state law adopted prior to November 19, 1974.

(4) Officials of other public or private schools or school systems, including local, county, or state correctional facilities where educational programs are provided, where the student seeks or intends to enroll, or is directed to enroll, subject to the rights of students as provided in Section 76225.

(5) Agencies or organizations in connection with a student's application for, or receipt of, financial aid, provided that information permitting the personal identification of students may be disclosed only as may be necessary for those purposes as to determine the eligibility of the student for financial aid, to determine the amount of the financial aid, to determine the conditions that will be imposed regarding the financial aid, or to enforce the terms or conditions of the financial aid.

(6) Accrediting organizations in order to carry out their accrediting functions.

(7) Organizations conducting studies for, or on behalf of, educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction, if those studies are conducted in such a manner as will not permit the personal identification of students or their parents by persons other than representatives of those organizations and the information will be destroyed when no longer needed for the purpose for which it is conducted.

(8) (A) Appropriate persons in connection with an emergency if the knowledge of that information is necessary to protect the health or safety of a student or other persons, or subject to any regulations issued by the Secretary of Health, Education, and Welfare.

(B) A person, persons, agency, or organization permitted access to student records pursuant to this section shall not permit access to any information obtained from those records by any other person, persons, agency, or organization, except to the extent permitted under the federal Family Educational Rights and Privacy Act (20 U.S.C. Sec. 1232g) and state law, without the written consent of the student, provided that this subparagraph shall not require prior student consent when information obtained pursuant to this section is shared with other persons within the educational institution, agency or organization obtaining access, so long as those persons have a legitimate educational interest in the information.

(b) The alleged victim of any sexual assault or physical abuse, including rape, forced sodomy, forced oral copulation, rape by a foreign object, sexual battery, or threat or assault, or any conduct that threatens the health and safety of the alleged victim, which is the basis of any disciplinary action taken by a community college, shall be permitted access to that information. For the purposes of this subdivision, access to student record information shall be in the form



of notice of the results of any disciplinary action by the community college and the results of any appeal, which shall be provided to the alleged victim within three days following that disciplinary action or appeal. The alleged victim shall keep the results of that disciplinary action and appeal confidential.

**72023.5.** (a) (1) The governing board of each community college district shall order the inclusion within the membership of the governing board, in addition to the number of members otherwise prescribed, of one or more nonvoting students. These students shall have the right to attend each and all meetings of the governing board, except that student members shall not have the right, or be afforded the opportunity, to attend executive sessions of the governing board.

(2) The students selected to serve on the governing board, shall be enrolled in a community college of the district and shall be chosen, and shall be recalled, by the students enrolled in the community colleges of the district in accordance with procedures prescribed by the governing board. If the seat of a student member becomes vacant during his or her term, the governing board may authorize the officers of student body associations established pursuant to Section 76060 at each community college in the district to appoint a student to serve the remainder of the term in accordance with procedures established by the governing board. A student member shall be required throughout the term of his or her appointment to be enrolled in a community college of the district for at least five semester units, or its equivalent, and shall meet and maintain the minimum standards of scholarship for community college students prescribed by the community college district. The term of the student members shall be one year commencing on June 1 of each year.

(3) The nonvoting student members appointed pursuant to this section shall be entitled to mileage allowance to the same extent as regular members, but are not entitled to the compensation prescribed by Section 72024.

(4) A nonvoting student member shall be seated with the members of the governing board and shall be recognized as a full member of the board at the meetings, including receiving all materials presented to the board members and participating in the questioning of witnesses and the discussion of issues.

(5) A nonvoting student member shall not be included in determining the vote required to carry any measure before the board.

(6) A nonvoting student member shall not be liable for any acts of the governing board.

(b) Notwithstanding subdivision (a), the nonvoting student member or members selected to serve on the governing board of a community college district pursuant to subdivision (a) may do any of the following:

(1) Make and second motions at the discretion of the governing board.

(2) Attend closed sessions, other than closed sessions on personnel matters or collective bargaining matters, at the discretion of the governing board.

(3) Receive compensation, at the discretion of the governing board, up to the amount prescribed by Section 72024.

(4) Serve a term of one year commencing on May 15 of each year, at the discretion of the governing board.

(c) It is the intent of the Legislature that any decision or action, including any contract entered into pursuant thereto, upon the motion or second of a motion of a student member, shall be fully legal and enforceable against the district or any party thereto.

(d) The governing board of each community college district that affords the student member or members of the board any of the privileges enumerated in subdivision (b) shall, by May 15 of each year, adopt rules and regulations implementing this section. These rules and regulations shall be effective until May 15 of the following year.



(e) If a state court finds this section is unlawful, the court may order, as equitable relief, that the administering entity that is the subject of the lawsuit terminate any waiver awarded under this statute or provision, but no money damages, tuition refund or waiver, or other retroactive relief may be awarded. In any action in which the court finds this section is unlawful, the California Community Colleges are immune from the imposition of any award of money damages, tuition refund or waiver, or other retroactive relief.

**76210.** As used in this chapter, the following definitions shall apply:

(a) (1) "Student record" means any item of information directly related to an identifiable student, other than directory information, which is maintained by a community college or required to be maintained by any employee in the performance of his or her duties, whether recorded by handwriting, print, tapes, film, microfilm or other means.

(2) "Student record" does not include (A) confidential letters and statements of recommendations maintained by a community college on or before January 1, 1975, if these letters or statements are not used for purposes other than those for which they were specifically intended, (B) information provided by a student's parents relating to applications for financial aid or scholarships, or (C) information related to a student compiled by a community college officer or employee that remains in the sole possession of the maker and is not accessible or revealed to any other person except a substitute. For purposes of this paragraph, "substitute" means a person who performs, on a temporary basis, the duties of the individual who made the notes and does not refer to a person who permanently succeeds the maker of the notes in his or her position.

(3) "Student record" also does not include information related to a student created or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional or paraprofessional capacity, or assisting in that capacity, and that is created, maintained, or used only in connection with the provision of treatment to the student and is not available to anyone other than persons providing that treatment. However, that record may be personally reviewed by a physician or other appropriate professional of the student's choice.

(4) "Student record" does not include information maintained by a community college law enforcement unit, if the personnel of the unit do not have access to student records pursuant to Section 76243, the information maintained by the unit is kept apart from information maintained pursuant to subdivision (a), the information is maintained solely for law enforcement purposes, and the information is not made available to persons other than law enforcement officials of the same jurisdiction. "Student record" does not include information maintained in the normal course of business pertaining to persons who are employed by a community college, if the information relates exclusively to the person in that person's capacity as an employee and is not available for use for any other purpose.

(b) "Directory information" means one or more of the following items: a student's name, address, telephone number, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, the most recent previous public or private school attended by the student, and any other information authorized in writing by the student.

(c) "Access" means a personal inspection and review of a record or an accurate copy of a record, or an oral description or communication of a record or an accurate copy of a record, and a request to release a copy of any record.