

AR 5520 Student Discipline Procedures (New AR#)

Remove sections of AR 4410, AR 4411, AR 4412 renumbered to AR 5500/5500.1/5500.2?

NOTE: This procedure is **legally required**, except as specifically noted. Local practice may be inserted, but it must comply with the standards of due process reflected in this example. Should the procedures be in this regulation and not in AR 5500 or 5500.1 so that they align or are specifically delineated if different? We also have AR 5530 which needs to be included in regulations.

The purpose of this procedure is to provide a prompt and equitable means to address violations of the Standards of Student Conduct, which guarantees to the student or students involved the due process rights guaranteed them by state and federal constitutional protections. This procedure will be used in a fair and equitable manner, and not for purposes of retaliation. It is not intended to substitute for criminal or civil proceedings that may be initiated by other agencies.

This administrative procedure is specifically not intended to infringe in any way on the rights of students to engage in free expression as protected by the state and federal constitutions, and by Education Code Section 76120, and will not be used to punish expression that is protected.

For discipline resulting from a sexual harassment complaint under Title IX, the procedure in AR 3434 Responding to Harassment Based on Sex under Title IX, must be used.

Definitions

District – The [**insert name of district**].

Student – Any person currently enrolled as a student at any college or in any program offered by the District who was also enrolled at the time of the alleged violation of the Standards of Student Conduct.

Instructor – Any academic employee of the District in whose class a student subject to discipline is enrolled, or counselor who is providing or has provided services to the student, or other academic employee who has responsibility for the student's educational program.

Short-term Suspension – Exclusion of the student by the [**CEO**] for good cause from one or more classes for a period of up to ten consecutive days of instruction.

Long-term Suspension – Exclusion of the student by the [**CEO**] for good cause from one or more classes for the remainder of the school term, or from all classes and activities of the college for one or more terms.

Expulsion – Exclusion of the student by the Board of Trustees from all colleges in the District for one or more terms.

Removal from class – Exclusion of the student by an instructor for the day of the removal and the **next class meeting**.

Written or verbal reprimand – An admonition to the student to cease and desist from conduct determined to violate the Standards of Student Conduct. Written reprimands may become part of a student's permanent record at the college. A record of the fact that a verbal reprimand has been given may become part of a student's record at the college for a period of up to one year.

Withdrawal of Consent to Remain on Campus – Withdrawal of consent by the [**designate authority**] for any person to remain on campus in accordance with California Penal Code Section 626.4 where the [**designate authority**] has reasonable cause to believe that such person has willfully disrupted the orderly operation of the campus.

Day – Days during which the District is in session and regular classes are held, excluding Saturdays and Sundays.

Short-term Suspensions, Long-term Suspensions, and Expulsions: Before any disciplinary action to suspend, or expel is taken against a student, the following procedures will apply:

- **Notice** – The [**designated position**] will provide the student with written notice of the conduct warranting the discipline. The written notice will include the following:
 - the specific section of the Standards of Student Conduct that the student is accused of violating.
 - a short statement of the facts supporting the accusation.
 - the right of the student to meet with the [**designated position**] or designee to discuss the accusation, or to respond in writing.
 - the nature of the discipline that is being considered.
- **Time limits** – The notice must be provided to the student within [**number of days**] of the date on which the conduct took place; in the case of continuous, repeated, or ongoing conduct, the notice must be provided within [**number of days**] of the date on which conduct occurred which led to the decision to take disciplinary action.
- **Meeting** – If the student chooses to meet with the [**designated position**], the meeting must occur no sooner than [**number of days**] after the notice is provided. At the meeting, the student must again be told the facts leading to the accusation, and must be given an opportunity to respond verbally or in writing to the accusation.

Short-term Suspension – Within [**number of days**] after the meeting described above, the [**CEO**] shall, pursuant to a recommendation from the [**designate position**], decide whether to impose a short-term suspension, whether to impose some lesser disciplinary action, or whether to end the matter. Written notice of the [**CEO's**] decision shall be provided to the student. The notice will include the length of time of the suspension, or the nature of the lesser disciplinary action. The [**CEO's**] decision on a short-term suspension shall be final.

Long-term Suspension – Within [**number of days**] after the meeting described above, the [**CEO**] shall, pursuant to a recommendation from the [**designated position**], decide whether to impose a long-term suspension. Written notice of the [**CEO**] decision shall be provided to the student. The notice will include the right of the student to request a formal hearing before a long-

term suspension is imposed, and a copy of AP 5520 Student Discipline Procedures describing the procedures for a hearing.

Expulsion – Within [**number of days**] days after the meeting described above, the [**CEO**] shall, pursuant to a recommendation from the [**designated position**], decide whether to recommend expulsion to the Board of Trustees. Written notice of the [**CEO's**] decision shall be provided to the student. The notice will include the right of the student to request a formal hearing before expulsion is imposed, and a copy of AP 5520 Student Discipline Procedures describing the procedures for a hearing.

Hearing Procedures – Request for Hearing.

NOTE: *Timelines may be locally determined. Five days is usually the minimum notice time accepted by courts.*

Within [**number**] days after receipt of the [**CEO's**] decision regarding a long-term suspension or expulsion, the student may request a formal hearing. The request must be made in writing to the [**CEO**] or designee.

Schedule of Hearing – The formal hearing shall be held within [**number**] days after a formal request for hearing is received.

NOTE: *The Board of Trustees may hear these matters itself, or it may use the services of a hearing officer or a panel. If the hearing panel format is adopted, the following is suggested.*

Taken from AR 4412 Honor Council

A. Appeal Procedure

- (1) Given an alleged violation of the SMC Honor Code, a student has the right to appeal any sanction imposed by a faculty member or the College Disciplinarian through the appeal procedures established by the College. Upon formal notification of imposed consequences for alleged academic dishonesty violation, the accused student has ten (10) school days to appeal such decision to the Honor Council. 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.*
- (2) Once the student initiates the appeal process, he or she will be provided the opportunity for a conference with the campus Ombudsperson or designee in an effort to resolve the accusation informally.*
- (3) If no resolution is reached after an informal conference, the student may proceed with a formal appeal to the Honor Council. An appeal petition, along with any supporting documentation, must be filed with the Office of Student Judicial Affairs within ten (10) school days of the informal conference or refusal to participate in such conference.*

(4) In all cases where the alleged violations are subject to sanctions less than immediate suspension, alleged violations of the SMC Honor Code are subject to review by the SMC Honor Council as stipulated in AR 4412. In cases where a violation is subject to interim/immediate suspension, appeal shall be governed by the appeal rights afforded in cases of interim/immediate suspension as described in AR 4410.

(5) Final grade disputes for alleged instructor mistake, bad faith, fraud, or incompetence are subject to AR 4313 (Grade Appeals Committee). The Grade Appeals Committee will not adjudicate issues pertaining to academic dishonesty.

Hearing Panel – The hearing panel for any disciplinary action shall be composed of **[insert composition, such as one administrator, one faculty member and one student.]**

The **[CEO]**, the president of the Academic Senate, and the Associated Students president shall each, at the beginning of the academic year, establish a list of at least five persons who will serve

(2) The Honor Council may remove any member on grounds of malfeasance, misfeasance or nonfeasance by two-thirds vote of the membership appointed.

(3) The Honor Council Chair shall be appointed annually by the Academic Senate President. The Co-Chair shall be the College Disciplinarian or other academic administrator appointed by the Superintendent/President. The Chair will work closely with the Office of Student Judicial Affairs. on student disciplinary hearing panels. The **[CEO]** shall appoint the hearing panel from the names on these lists. However, no administrator, faculty member, or student who has any personal involvement in the matter to be decided, who is a necessary witness, or who could not otherwise act in a neutral manner shall serve on a hearing panel.

Hearing Panel Chair – The **[CEO]** shall appoint one member of the panel to serve as the chair. The decision of the hearing panel chair shall be final on all matters relating to the conduct of the hearing unless there is a vote by both other members of the panel to the contrary.

Below taken from AR 4412 Honor Council / Academic Conduct

Membership

Honor Council membership is extended to up to 17 members of the college community who are committed to upholding the Mission and Principles of the Honor Code.

The Honor Council shall consist of the following:

- (1) a. A minimum of one (1) and up to five (5) students appointed by the Associated Students President.
- b. A minimum of two (2) and up to five (5) faculty members appointed by the Academic Senate President.
- c. A minimum of one (1) and up to five (5) classified employees appointed

by the Honor Council Membership.

d. The College Disciplinarian and one (1) academic manager appointed by the Superintendent/President.

- (2) The Honor Council may remove any member on grounds of malfeasance, misfeasance or nonfeasance by two-thirds vote of the membership appointed.
- (3) The Honor Council Chair shall be appointed annually by the Academic Senate President. The Co-Chair shall be the College Disciplinarian or other academic administrator appointed by the Superintendent/President. The Chair will work closely with the Office of Student Judicial Affairs.

From Responsibilities

- (8) To appoint from its members two faculty, two students, and two classified staff to an Honor Council Hearing Board ("Hearing Board") to adjudicate cases of alleged violations of the Honor Code. The Hearing Board will be chaired by an academic administrator appointed by the Superintendent/President (or designee).

Hearing Boards

(1) A quorum for a Hearing Board will be established by a minimum of three hearing board members which must include at least two (2) faculty and one (1) student. The Chair may vote in the case of a tie. Members appointed to a hearing panel must notify the Honor Council Chair of potential conflicts of interest and are strongly encouraged to recuse themselves from any such proceedings and deliberations.

Conduct of the Hearing

NOTE: *The hearing must comply with principles of due process, including the right to confront and cross examine witnesses. The following language is **legally advised**.*

The members of the hearing panel shall be provided with a copy of the accusation against the student and any written response provided by the student before the hearing begins.

The facts supporting the accusation shall be presented by a college representative who shall be the [**designate position**].

The college representative and **the student 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.

Taken from AR 4412 Honor Council

(3) Standard of Proof

The District will instruct the Hearing Board 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."

(4) Any materials related to the hearing, including electronic recordings of the proceedings, may not be released to the student requesting the appeal or to any other individual or group. In accordance with the Family Education Rights and Privacy Act (FERPA) the student may submit a written request to the College Disciplinarian or designee to inspect and review these materials. The request must be made no less than one week in advance.

Unless the hearing panel determines to proceed otherwise, the college representative and the student shall each be permitted to make an opening statement. Thereafter, the college representative shall make the first presentation, followed by the student. The college representative may present rebuttal evidence after the student completes his/her/their evidence. The burden shall be on the college representative to prove by the preponderance of the evidence that the facts alleged are true.

The student may represent themselves, and may also have the right to be represented by a person of their choice. **[Suggested language: except that the student shall not be represented by an attorney unless, in the judgment of the hearing panel, complex legal issues are involved. If the student wishes to be represented by an attorney, a request must be presented not less than five days prior to the date of the hearing. If the student is permitted to be represented by an attorney, the college representative may request legal assistance. The hearing panel may also request legal assistance; any legal advisor provided to the panel may sit with it in an advisory capacity to provide legal counsel but shall not be a member of the panel nor vote with it.]**

(2) Hearing Board hearings are closed to the public. The student may bring legal counsel or other representatives, however, these individuals may not participate in the proceedings. Counsel participation will terminate the hearing. Students are required to notify the College of counsel/guest(s) presence to these proceedings within 48 hours of the scheduled hearing. Each party will have the right to present written statements, witnesses, if appropriate, and any other forms of evidence. Each party will have the right to question evidence and supportive documents.

Hearings shall be closed and confidential unless the student requests that it be open to the public. Any such request must be made no less than **[number of 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 panel agree to the contrary.

The hearing shall be recorded by the District either by tape recording or stenographic recording. The official recording shall be the only recording made. No witness who refuses to be recorded may be permitted to give testimony. In the event the recording is by tape recording, the hearing panel chair shall, at the beginning of the hearing, ask each person present to identify themselves by name, and thereafter shall ask witnesses to identify themselves by name. Tape recording shall remain in the custody of the District at all times, unless released to a professional transcribing service. The student may request a copy of the tape recording.

All testimony shall be taken under oath; the oath shall be administered by the hearing panel chair. Written statements of witnesses under penalty of perjury shall not be used unless the witness is unavailable to testify. A witness who refuses to be tape recorded is not unavailable.

Within [**number**] days following the close of the hearing, the hearing panel shall prepare and send to the [**CEO**] a written decision. The decision shall include specific factual findings regarding the accusation, and shall include specific conclusions regarding whether any specific section of the Standards of Student Conduct were violated. The decision shall also include a specific recommendation regarding the disciplinary action to be imposed, if any. The decision shall be based only on the record of the hearing, and not on matter outside of that record. The record consists of the original accusation, the written response, if any, of the student, and the oral and written evidence produced at the hearing.

(5) The Hearing Board is empowered with the authority to:

- a. Affirm or deny the alleged violation.
- b. Where appropriate, educate the student and/or faculty on issues related to academic integrity.
- c. Recommend sanctions commensurate with the violations, including, but not limited to: failure in assignment, test, course; reprimand, suspension, or expulsion.
- d. Reverse instructor-imposed sanctions in the absence of substantive evidence of alleged academic violation. Substantive evidence may include or consist of instructor's account of academic violation.

Appeal of Hearing Board Recommendation

A. Within five (5) school days after receiving the written decision of the Hearing Board, the student or faculty member may request a review of the decision to the Superintendent/President. A copy of said request shall be sent to the Honor Council Chair and the College Disciplinarian. The request will state in writing the grounds for review and will be based upon one or more of the following provisions:

- (1) The required procedures were not followed;
- (2) There is insufficient evidence to support the Hearing Board's decision;
- (3) The penalty imposed is inappropriate.

B. Superintendent/President Review

(1) Within thirty (30) school days of receipt of the request for review, the Superintendent/President will review the decision of the Hearing Board and the basis upon which it was made. The Superintendent/President has the sole authority to:

- a. Adopt the decision of the Hearing Board;
- b. Modify the decision of the Hearing Board; or
- c. Reverse the decision of the Hearing Board.

(2) The decision of the Superintendent/President will be communicated to the student

in writing, and a copy sent to the Honor Council Chair and College Disciplinarian. In all cases the decision of the Superintendent/President is final.

[CEO's] Decision:

Long-term suspension – Within [**number of days**] following receipt of the hearing panel's recommended decision, the [**CEO**] shall render a final written decision. The [**CEO**] may accept, modify, or reject the findings, decisions and recommendations of the hearing panel. If the [**CEO**] modifies, or rejects the hearing panel's decision, the [**CEO**] 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 [**CEO**] shall be final.

Expulsion – Within [**number of days**] following receipt of the hearing panel's recommended decision, the [**CEO**] shall render a written recommended decision to the Board of Trustees. The [**CEO**] may accept, modify, or reject the findings, decisions and recommendations of the hearing panel. If the [**CEO**] modifies, or rejects the hearing panel's decision, he/she/they shall review the record of the hearing, and shall prepare a new written decision which contains specific factual findings and conclusions. The [**CEO's**] decision shall be forwarded to the Board of Trustees.

Board of Trustees Decision: The Board of Trustees shall consider any recommendation from the [**CEO**] for expulsion at the next regularly scheduled meeting of the Board after receipt of the recommended decision.

The Board shall consider an expulsion recommendation in closed session, unless the student has requested that the matter be considered in a public meeting in accordance with these procedures. (Education Code Section 72122.)

The student shall be notified in writing, by registered or certified mail to the address last on file with the District, or by personal service, at least three days prior to the meeting, of the date, time, and place of the Board's meeting.

The student may, within 48 hours after receipt of the notice, request that the hearing be held as a public meeting.

Even if a student has requested that the Board consider an expulsion recommendation in a public meeting, the Board will hold any discussion that might be in conflict with the right to privacy of any student other than the student requesting the public meeting in closed session.

The Board may accept, modify, or reject the findings, decisions and recommendations of the [**CEO**] or the hearing panel. If the Board modifies or rejects the decision, the Board 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 Board shall be final.

The final action of the Board on the expulsion shall be taken at a public meeting, and the result of the action shall be a public record of the District.

Immediate Interim Suspension (Education Code Section 66017): The [**CEO**] may order immediate suspension of a student where he/she/they concludes that immediate suspension is

required to protect lives or property and to ensure the maintenance of order. In cases where an interim suspension has been ordered, the time limits contained in these procedures shall not apply, and all hearing rights, including the right to a formal hearing where a long-term suspension or expulsion is recommended, will be afforded to the student within ten (10) days.

Removal from Class (Education Code Section 76032): Any instructor may order a student removed from their class for the day of the removal and the next class meeting. The instructor shall immediately report the removal to the [**CEO**] and the [**designated position**]. The [**designate position**] shall arrange for a conference between the student and the instructor regarding the removal. If the instructor or the student requests, the [**designated position**] shall attend the conference. The student shall not be returned to the class during the period of the removal without the concurrence of the instructor. Nothing herein will prevent the [**designated position**] from recommending further disciplinary procedures in accordance with these procedures based on the facts which led to the removal.

Withdrawal of Consent to Remain on Campus: The [**designate position**] may notify any person for whom there is a reasonable belief that the person has willfully disrupted the orderly operation of the campus that consent to remain on campus has been withdrawn. If the person is on campus at the time, they must promptly leave or be escorted off campus. If consent is withdrawn by the [**designate position**] a written report must be promptly made to the [**CEO**].

The person from whom consent has been withdrawn may submit a written request for a hearing on the withdrawal within the period of the withdrawal. The request shall be granted not later than seven days from the date of receipt of the request. The hearing will be conducted in accordance with the provisions of this procedure relating to interim suspensions.

In no case shall consent be withdrawn for longer than [**number of days, no more than 14 days**] from the date upon which consent was initially withdrawn.

Any person as to whom consent to remain on campus has been withdrawn who knowingly reenters the campus during the period in which consent has been withdrawn, except to come for a meeting or hearing, is subject to arrest (Penal Code Section 626.4).

Time Limits: Any times specified in these procedures may be shortened or lengthened if there is mutual concurrence by all parties.

No Disciplinary Action against Complainants or Witnesses in Sexual Assault Investigations

An individual who participates as a Complainant or witness in an investigation of sexual assault, domestic violence, dating violence, or stalking will not be subject to disciplinary sanctions for a violation of the District's student conduct policy at or near the time of the incident, unless the District determines that the violation was egregious, including, but not limited to, an action that places the health or safety of any other person at risk or involves plagiarism, cheating, or academic dishonesty.

NOTE: *The following paragraph is optional.*

Student Discipline Data Reporting

The [**CEO**] shall develop and provide to the Board for review [**specify annual or other interval**] report of the number of students who were disciplined pursuant to this procedure. This report must disaggregate the students by race, age, gender, or any other characteristic identified by the Board.

References:

Education Code Sections 66017, 66300, 72122 and 76030 et seq.;
Penal Code Section 626.4

Updated: 12/12/06, 12/09/08

Below taken from AR 4410 Student Conduct

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 27-F 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 Disciplinarian~~ 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 Disciplinarian~~ 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 Disciplinarian~~ to conduct a thorough investigation of an alleged violation of the Student Conduct Code. In such cases, the College ~~Conduct Administrator Disciplinarian~~ 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 ~~Disciplinarian~~ 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 ~~Disciplinarian~~ 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 Disciplinary.
- 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 Disciplinary.
- 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 Disciplinary within five (5) school days.

Revised 12/11/01, 8/8/11, 6/15, 10/20, 7/11/16

AP 5520 Student Discipline Procedures

References:

Education Code Sections 66017, 66300, 72122, 76030, and 76030 et seq.;
Penal Code Section 626.4

NOTE: *This procedure is legally required, except as specifically noted. Local practice may be inserted below, but it must comply with the standards of due process reflected in this example.*

The purpose of this procedure is to provide a prompt and equitable means to address violations of the Standards of Student Conduct, which guarantees to the student or students involved the due process rights guaranteed them by state and federal constitutional protections. This

procedure will be used in a fair and equitable manner, and not for purposes of retaliation. It is not intended to substitute for criminal or civil proceedings that may be initiated by other agencies.

This administrative procedure is specifically not intended to infringe in any way on the rights of students to engage in free expression as protected by the state and federal constitutions, and by Education Code Section 76120, and will not be used to punish expression that is protected.

For discipline resulting from a sexual harassment complaint under Title IX, the procedure in AP 3434 Responding to Harassment Based on Sex under Title IX, must be used.

Definitions

District – The [*insert name of district*].

Student – Any person currently enrolled as a student at any college or in any program offered by the District who was also enrolled at the time of the alleged violation of the Standards of Student Conduct.

Instructor – Any academic employee of the District in whose class a student subject to discipline is enrolled, or counselor who is providing or has provided services to the student, or other academic employee who has responsibility for the student's educational program.

Short-term Suspension – Exclusion of the student by the [*CEO*] for good cause from one or more classes for a period of up to ten consecutive days of instruction.

Long-term Suspension – Exclusion of the student by the [*CEO*] for good cause from one or more classes for the remainder of the school term, or from all classes and activities of the college for one or more terms.

Expulsion – Exclusion of the student by the Board of Trustees from all colleges in the District for one or more terms.

Removal from class – Exclusion of the student by an instructor for the day of the removal and the next class meeting.

Written or verbal reprimand – An admonition to the student to cease and desist from conduct determined to violate the Standards of Student Conduct. Written reprimands may become part of a student's permanent record at the college. A record of the fact that a verbal reprimand has been given may become part of a student's record at the college for a period of up to one year.

Withdrawal of Consent to Remain on Campus – Withdrawal of consent by the [*designate authority*] for any person to remain on campus in accordance with California Penal Code Section 626.4 where the [*designate authority*] has reasonable cause to believe that such person has willfully disrupted the orderly operation of the campus.

Day – Days during which the District is in session and regular classes are held, excluding Saturdays and Sundays.

Disciplinary Procedures

Except in cases where immediate discipline pending a hearing is authorized, the following procedures will apply before disciplinary action is taken to suspend to expel a student:

Notice and Opportunity to Respond

- **Notice** – The [**designated position**] will provide the student with written notice of the conduct warranting the discipline. The written notice will include the following:
 - the specific section of the Standards of Student Conduct that the student is accused of violating.
 - a short statement of the facts supporting the accusation.
 - the right of the student to meet with the [**designated position**] or designee to discuss the accusation, or to respond in writing.
 - the nature of the discipline that is being considered.
- **Time limits** – The notice must be provided to the student within [**number of days**] of the date on which the conduct took place; in the case of continuous, repeated, or ongoing conduct, the notice must be provided within [**number of days**] of the date on which conduct occurred which led to the decision to take disciplinary action.
- **Meeting** – If the student chooses to meet with the [**designate position**], the meeting must occur no sooner than [**number of days**] after the notice is provided. At the meeting, the student must again be told the facts leading to the accusation, and must be given an opportunity to respond verbally or in writing to the accusation.

Determination of Discipline

Within [**number of days**] after the meeting described above, the [**CEO**] shall, pursuant to a recommendation from the [**designate position**], decide whether to impose discipline or whether to end the matter. Discipline may be:

- No discipline;
- Written or verbal reprimand;
- Short-term suspension;
- Long-term suspension; or
- Recommendation to the Board of Trustees for expulsion

Short-term Suspension

If the [**CEO**] imposes a short-term suspension, or some lesser disciplinary action, written notice of the [**CEO's**] decision shall be provided to the student. The notice will include the length of time of the suspension or the nature of the lesser disciplinary action. The [**CEO's**] decision shall be final.

Long-term Suspension or Expulsion

If the [**CEO**] imposes a long-term suspension or recommends expulsion, the following procedures shall be provided to the student:

- Written notice of the [**CEO**] decision shall be provided to the student.
- The notice shall identify the imposed discipline as either a long-term suspension or a recommendation to the Board of Trustees for expulsion.
- The notice shall inform the student of the right to request a formal hearing before a long-term suspension or expulsion is imposed.
- The notice shall include a copy of AP 5520 Student Discipline Procedures describing the procedures for a hearing.

Expulsion – Within [**number of days**] days after the meeting described above, the [**CEO**] shall decide whether to recommend expulsion to the Board of Trustees. The [**CEO**] will provide written notice of this decision to the student. The notice will include the right of the student to request a formal hearing before expulsion is imposed, and a copy of AP 5520 Student Discipline Procedures describing the procedures for a hearing.

Hearing Procedures – Request for Hearing.

NOTE: *Timelines may be locally determined. Five days is usually the minimum notice time accepted by courts.*

Within [**number**] days after receipt of the [**CEO's**] decision regarding a long-term suspension or expulsion, the student may request a formal hearing. The request must be made in writing to the [**CEO**] or designee.

Schedule of Hearing – The formal hearing shall be held within [**number**] days after a formal request for hearing is received.

NOTE: *The Board of Trustees may hear these matters itself, or it may use the services of a hearing officer or a panel. If the hearing panel format is adopted, the following is suggested.*

Hearing Panel – The hearing panel for any disciplinary action shall be composed of [**insert composition, such as one administrator, one faculty member and one student.**]

The [**CEO**], the president of the Academic Senate, and the Associated Students president shall each, at the beginning of the academic year, establish a list of at least five persons who will serve on student disciplinary hearing panels. The [**CEO**] shall appoint the hearing panel from the names on these lists. However, no administrator, faculty member, or student who has any personal involvement in the matter to be decided, who is a necessary witness, or who could not otherwise act in a neutral manner shall serve on a hearing panel.

Hearing Panel Chair – The [**CEO**] shall appoint one member of the panel to serve as the chair. The decision of the hearing panel chair shall be final on all matters relating to the conduct of the hearing unless there is a vote by both other members of the panel to the contrary.

Conduct of the Hearing

NOTE: *The hearing must comply with principles of due process, including the right to confront and cross examine witnesses. The following language is **legally advised**.*

The members of the hearing panel shall be provided with a copy of the accusation against the student and any written response provided by the student before the hearing begins.

The facts supporting the accusation shall be presented by a college representative who shall be the [**designate position**].

The college representative and the student 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 hearing panel determines to proceed otherwise, the college representative and the student shall each be permitted to make an opening statement. Thereafter, the college representative shall make the first presentation, followed by the student. The college representative may present rebuttal evidence after the student completes his/her/their evidence. The burden shall be on the college representative to prove by the preponderance of the evidence that the facts alleged are true.

The student may represent himself/herself/themself, and may also have the right to be represented by a person of his/her/their choice. **[Suggested language: except that the student shall not be represented by an attorney unless, in the judgment of the hearing panel, complex legal issues are involved. If the student wishes to be represented by an attorney, the student must submit a request to the Panel Chair not less than five days prior to the date of the hearing. If the student is permitted to be represented by an attorney, the college representative may request legal assistance. The hearing panel may also request legal assistance; any legal advisor provided to the panel may sit with it 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 the student requests that it be open to the public. Any such request must be made no less than [**number of 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 panel agree to the contrary.

The hearing shall be recorded by the District either by tape, digital, electronic, or stenographic recording. The official recording shall be the only recording made. No witness who refuses to be recorded may be permitted to give testimony. In the event the recording is by tape recording, the hearing panel chair shall, at the beginning of the hearing, ask each person present to identify themselves by name, and thereafter shall ask witnesses to identify themselves by name. The recording shall remain in the custody of the District at all times, unless released to a professional transcribing service. The student may request a copy of the recording.

All testimony shall be taken under oath; the oath shall be administered by the hearing panel chair. Written statements of witnesses under penalty of perjury shall not be used unless the witness is unavailable to testify. A witness who refuses to be recorded is not unavailable.

Within [**number**] days following the close of the hearing, the hearing panel shall prepare and send to the [**CEO**] a written decision. The decision shall include specific factual findings

regarding the accusation, and shall include specific conclusions regarding whether any specific section of the Standards of Student Conduct were violated. The decision shall also include a specific recommendation regarding the disciplinary action to be imposed, if any. The decision shall be based only on the record of the hearing, and not on matter outside of that record. The record consists of the original accusation, the written response, if any, of the student, and the oral and written evidence produced at the hearing.

[CEO's] Decision:

Long-term suspension – Within [**number of days**] following receipt of the hearing panel's recommended decision, the [**CEO**] shall render a final written decision. The [**CEO**] may accept, modify, or reject the findings, decisions and recommendations of the hearing panel. If the [**CEO**] modifies, or rejects the hearing panel's decision, the [**CEO**] 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 [**CEO**] shall be final.

Expulsion – Within [**number of days**] following receipt of the hearing panel's recommended decision, the [**CEO**] shall render a written recommended decision to the Board of Trustees. The [**CEO**] may accept, modify, or reject the findings, decisions and recommendations of the hearing panel. If the [**CEO**] modifies, or rejects the hearing panel's decision, he/she/they shall review the record of the hearing, and shall prepare a new written decision which contains specific factual findings and conclusions. The [**CEO's**] decision shall be forwarded to the Board of Trustees.

Board of Trustees Decision: The Board of Trustees shall consider any recommendation from the [**CEO**] for expulsion at the next regularly scheduled meeting of the Board after receipt of the recommended decision.

The Board shall consider an expulsion recommendation in closed session, unless the student has requested that the matter be considered in a public meeting in accordance with these procedures. (Education Code Section 72122.)

The student shall be notified in writing, by registered or certified mail to the address last on file with the District, or by personal service, at least three days prior to the meeting, of the date, time, and place of the Board's meeting.

The student may, within 48 hours after receipt of the notice, request that the hearing be held as a public meeting.

Even if a student has requested that the Board consider an expulsion recommendation in a public meeting, the Board will hold any discussion that might be in conflict with the right to privacy of any student other than the student requesting the public meeting in closed session.

The Board may accept, modify, or reject the findings, decisions and recommendations of the [**CEO**] or the hearing panel. If the Board modifies or rejects the decision, the Board 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 Board shall be final.

The final action of the Board on the expulsion shall be taken at a public meeting, and the result of the action shall be a public record of the District.

Immediate Interim Suspension (Education Code Section 66017): The [**CEO**] may order immediate suspension of a student where he/she/they concludes that immediate suspension is required to protect lives or property and to ensure the maintenance of order. In cases where an interim suspension has been ordered, the time limits contained in these procedures shall not apply, and all hearing rights, including the right to a formal hearing where a long-term suspension or expulsion is recommended, will be afforded to the student within ten (10) days.

Removal from Class (Education Code Section 76032): Any instructor may order a student removed from his/her/their class for the day of the removal and the next class meeting. The instructor shall immediately report the removal to the [**CEO**] and the [**designated position**]. The [**designate position**] shall arrange for a conference between the student and the instructor regarding the removal. If the instructor or the student requests, the [**designated position**] shall attend the conference. The student shall not be returned to the class during the period of the removal without the concurrence of the instructor. Nothing herein will prevent the [**designated position**] from recommending further disciplinary procedures in accordance with these procedures based on the facts which led to the removal.

Withdrawal of Consent to Remain on Campus: The [**designate position**] may notify any person for whom there is a reasonable belief that the person has willfully disrupted the orderly operation of the campus that consent to remain on campus has been withdrawn. If the person is on campus at the time, he/she/they must promptly leave or be escorted off campus. If consent is withdrawn by the [**designate position**] a written report must be promptly made to the [**CEO**].

The person from whom consent has been withdrawn may submit a written request for a hearing on the withdrawal within the period of the withdrawal. The request shall be granted not later than seven days from the date of receipt of the request. The hearing will be conducted in accordance with the provisions of this procedure relating to interim suspensions.

In no case shall consent be withdrawn for longer than [**number of days, no more than 14 days**] from the date upon which consent was initially withdrawn.

Any person as to whom consent to remain on campus has been withdrawn who knowingly reenters the campus during the period in which consent has been withdrawn, except to come for a meeting or hearing, is subject to arrest (Penal Code Section 626.4).

Time Limits: Any times specified in these procedures may be shortened or lengthened if there is mutual concurrence by all parties.

No Disciplinary Action against Complainants or Witnesses in Sexual Assault Investigations

An individual who participates as a Complainant or witness in an investigation of sexual assault, domestic violence, dating violence, or stalking will not be subject to disciplinary sanctions for a violation of the District's student conduct policy at or near the time of the incident, unless the District determines that the violation was egregious, including, but not limited to, an action that

places the health or safety of any other person at risk or involves plagiarism, cheating, or academic dishonesty.

NOTE: The following paragraph is optional.

Student Discipline Data Reporting

The [**CEO**] shall develop and provide to the Board for review [**specify annual or other interval**] report of the number of students who were disciplined pursuant to this procedure. This report must disaggregate the students by race, age, gender, or any other characteristic identified by the Board.

Revised 6/13, 4/14, 4/15, 10/15, 10/20, 4/21, 4/22, 4/24

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.

California Code, Penal Code - PEN § 626.4

Current as of January 01, 2023

(a) The chief administrative officer of a campus or other facility of a community college, a state university, the university, an independent institution of higher education, or a school, or an officer or employee designated by the chief administrative officer to maintain order on such campus or facility, may notify a person that consent to remain on the campus or other facility under the control of the chief administrative officer has been withdrawn whenever there is reasonable cause to believe that such person has willfully disrupted the orderly operation of such campus or facility.

(b) Whenever consent is withdrawn by any authorized officer or employee, other than the chief administrative officer, the officer or employee shall as soon as is reasonably possible submit a written report to the chief administrative officer or designee. The report shall contain all of the following:

(1) The description of the person from whom consent was withdrawn, including, if available, the person's name, address, and phone number.

(2) A statement of the facts giving rise to the withdrawal of consent.

If the chief administrative officer or, in the chief administrative officer's absence, a person designated by the chief administrative officer for this purpose, upon reviewing the report, finds that there was reasonable cause to believe that such person has willfully disrupted the orderly operation of the campus or facility, the chief administrative officer may enter written confirmation upon the report of the action taken by the officer or employee. If the chief administrative officer or, in the chief administrative officer's absence, the person designated by the chief administrative officer, does not confirm the action of the officer or employee within 24 hours after the time that consent was withdrawn, the action of the officer or employee shall be deemed void and of no force or effect, except that any arrest made during such period shall not for this reason be deemed not to have been made for probable cause.

(c) Consent shall be reinstated by the chief administrative officer whenever they have reason to believe that the presence of the person from whom consent was withdrawn will not constitute a substantial and material threat to the orderly operation of the campus or facility. In no case shall consent be withdrawn for longer than 14 days from the date upon which consent was initially withdrawn. The person from whom consent has been withdrawn may submit a written request for a hearing on the withdrawal within the two-week period. The written request shall state the address to which notice of hearing is to be sent. The chief administrative officer shall grant such a hearing not later than seven days from the date of receipt of the request and shall immediately mail a written notice of the time, place, and date of such hearing to such person.

(d) Any person who has been notified by the chief administrative officer of a campus or other facility of a community college, a state university, the university, an independent institution of higher education, or a school, or by an officer or employee designated by the chief administrative officer to maintain order on such campus or facility, that consent to remain on the campus or facility has been withdrawn pursuant to subdivision (a); who has not had such consent reinstated; and who willfully and knowingly enters or remains upon such campus or facility during the period for which consent has been withdrawn is guilty of a misdemeanor. This subdivision does not apply to any person who enters or remains on such campus or facility for the sole purpose of applying to the chief administrative officer for the reinstatement of consent or for the sole purpose of attending a hearing on the withdrawal.

(e) This section shall not affect the power of the duly constituted authorities of a community college, a state university, an independent institution of higher education, the university, or a school, to suspend, dismiss, or expel any student or employee at the college, state university, university, an independent institution of higher education, or school.

(f) Any person convicted under this section shall be punished by a fine not exceeding five hundred dollars (\$500), by imprisonment in a county jail for a period of not more than six months, or by both that fine and imprisonment.

(g) This section shall not affect the rights of representatives of employee organizations to enter, or remain upon, school grounds while actually engaged in activities related to representation, as provided for in Chapter 10.7 (commencing with [Section 3540](#)) of [Division 4 of Title 1 of the Government Code](#).

(a) If a person who is not a student, officer, or employee of a college, or university, or an independent institution of higher education, and who is not required by their employment to be on the campus or any other facility owned, operated, or controlled by the governing board of that college, university, or an independent institution of higher education enters a campus or facility, and it reasonably appears to the chief administrative officer of the campus or facility, or to an officer or employee designated by the chief administrative officer to maintain order on the campus or facility, that the person is committing any act likely to interfere with the peaceful conduct of the activities of the campus or facility, or has entered the campus or facility for the purpose of committing any such act, the chief administrative officer or their designee may direct the person to leave the campus or facility. If that person fails to do so or if the person willfully and knowingly reenters upon the campus or facility within seven days after being directed to leave, the person is guilty of a misdemeanor and shall be punished by a fine not exceeding five

hundred dollars (\$500), by imprisonment in a county jail for a period of not more than six months, or by both that fine and imprisonment.

(b) The provisions of this section shall not be utilized to impinge upon the lawful exercise of constitutionally protected rights of freedom of speech or assembly.

(c) When a person is directed to leave pursuant to subdivision (a), the individual directing the person to leave shall inform the person that if the person reenters the campus or facility within seven days the person will be guilty of a crime.

(e) This section shall not affect the power of the duly constituted authorities of a community college, a state university, an independent institution of higher education, the university, or a school, to suspend, dismiss, or expel any student or employee at the college, state university, university, an independent institution of higher education, or school.

(f) Any person convicted under this section shall be punished by a fine not exceeding five hundred dollars (\$500), by imprisonment in a county jail for a period of not more than six months, or by both that fine and imprisonment.

(g) This section shall not affect the rights of representatives of employee organizations to enter, or remain upon, school grounds while actually engaged in activities related to representation, as provided for in Chapter 10.7 (commencing with [Section 3540](#)) of Division 4 of Title 1 of the [Government Code](#).