

**ARTICLE 4400                    STUDENT CONDUCT, ACTIVITIES AND PROGRAMS**

**AR 4410                    Rules for Student Conduct**

(new number will be AR 5500)

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

- (4) Viewing another person's sexual activity, intimate body parts, or nakedness in a place where that person would have a reasonable expectation of privacy, without that person's consent, and for the purpose of arousing or gratifying sexual desire.
- I. Dishonesty, including, but not limited to, cheating, plagiarism, or knowingly furnishing false information to the college.
  - J. Forgery, alteration, or misuses of college documents, records, or identification.
  - K. Obstruction or disruption of teaching, research, administration, disciplinary procedures, or any other authorized college activities.
  - L. Theft of or damage to property of the college or of a member of the college community or campus visitor.
  - M. Willful or blatant misuse of email or other inappropriate forms of communication towards faculty, staff or students including but not limited to phone, voicemail, written notes and any form of electronic communication.
  - N. Unauthorized entry to college facilities or unauthorized use of college supplies, equipment including computer hardware, and licensed software.
  - O. Violation of college policies or of campus regulations, including, but not limited to, campus regulations concerning student organizations, the use of college facilities, responsible computer use policy, or the time, place, and manner of public expression, library procedures, college bills and debts, or residence.
  - P. Disorderly conduct or lewd, indecent, or obscene conduct or expression on college-owned or controlled property or at college-sponsored or supervised functions.
  - Q. Failure to comply with directions of college officials acting in the performance of their duties.
  - R. Possession or use of alcoholic beverages on the campus property, at any college-sponsored event, or presence on campus or at any college-sponsored event while under the influence of alcohol.
  - S. Illegal possession or use of firearms, explosives, dangerous chemicals or other weapons on college property or at college-sponsored activities.
  - T. The act or crime of willfully and repeatedly following or harassing another person in circumstances that would cause a reasonable person to fear injury or death especially because of expressed or implied threats.
  - U. Hate crimes or hate incidents: A hate crime or hate incident is any act or attempted act directed against a person(s) based on the victim's actual or perceived race, nationality, religion, sexual orientation, disability or gender. The difference between a hate incident and a hate crime is that a hate incident is a non-criminal act.
  - V. Except as authorized by the College, the sale, purchase, exchange, distribution or receipt of add codes, class seats and academic work (lab reports, term papers, exams, extra credit, etc.), including, but not limited to, misconduct described in AR 4411 (Code of Academic Conduct) and AR 4435 (Responsible Use of Computer Resources).
  - W. Any other offense set forth in the State of California Education Code which constitutes "good cause."

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

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

- 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 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 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 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 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.

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 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 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 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 Disciplinarian may remove a student from extracurricular activities for a period not to exceed one (1) year. One or more of the following may be imposed for good cause as set forth in Section 1 of this administrative regulation:
    1. Removal from all college organization offices;
      - a. Ineligibility to participate in or attend all college-sponsored activities, including public performances; Nothing in this administrative regulation shall restrict the College Disciplinarian from imposing lesser sanctions than those described.
    - b. Before removal from the above-mentioned activities is imposed, the student shall have a right to pursue the Hearing and Appeal Process as set forth in Section 2, 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 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 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 Disciplinarian to conduct a thorough investigation of an alleged violation of the Student Conduct Code. In such cases, the College Disciplinarian shall remove the temporary disciplinary hold
  - a. as soon as the investigation is complete and the student in question is exonerated, or
  - b. when the student enters the appeal process. In such cases the College 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 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.
- (3) 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 Disciplinarian.

- (4) 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 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 Disciplinarian shall hold a formal conference with the student to give the student an opportunity to respond to the charges against him or her.

- (5) The College 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.

2. 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 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 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 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 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 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 Disciplinarian shall stand.
- (6) Hearing Order
- a. At the beginning of the hearing, the designated college 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 his/her attorney or representative shall present 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 his/her attorney or representative may present closing argument, summarizing 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 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 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 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. 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 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 his/her claim. The College Disciplinarian shall notify the student within five (5) 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 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

- (1) 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 Disciplinarian. In cases of

suspension and/or lesser sanction, the decision of the Superintendent/President is final.

- (2) 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 Disciplinarian.
  - c. The Superintendent/President or designee may accept the recommendation of the Student Conduct Appeals Committee and recommend to the Board of Trustees that the student be expelled, or impose a lesser sanction. The Superintendent/President or designee shall render a decision within ten (10) business days of receipt of the recommendation of the Student Conduct Appeals Committee. Notice of the Superintendent/President or designee's recommendation shall be mailed to the student, and, in cases where expulsion is recommended, forwarded to the Board of Trustees for final action.
  - d. The Board of Trustees' decision to expel a student shall be based upon evidence presented at the expulsion hearing or the facts of the case as presented by the College Disciplinarian.
  - e. The Superintendent/President or designee shall, upon the expulsion of any student, notify the appropriate law enforcement authorities of any acts of the student which may be in violation of Penal Code Section 245 (assault with a deadly weapon or instrument) [E.C. §76035] and additional code sections.
  - f. Whenever the student expelled is a dependent minor for federal income tax purposes, the parent or guardian shall be notified in writing by the College Disciplinarian within five (5) school days.

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