



SAN DIEGO COMMUNITY COLLEGE DISTRICT

DRAFT

AS Deans 02/28/22
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Administrative Procedure

Chapter 5 – Student Services

AP ~~3400.2~~ 5520 – STUDENT DISCIPLINARY PROCEDURES

1. PURPOSE

These procedures are designed to provide uniform standards to assure due process when a student is charged with a violation of San Diego Community College District Student Code of Conduct as defined in Board of Trustees Policy, *BP ~~3400.5500~~*, *Student Rights, Responsibilities, Campus Safety and Administrative Due Process*. All proceedings held in accordance with these procedures shall relate only to an alleged violation of the established standards.

2. DEFINITIONS

District – The San Diego Community College District (SDCCD).

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.

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

Short-term Suspension – Exclusion of the student by the College President 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 College President 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.

Commented [MS1]: CCLC says "... for one or more terms."

No Edits from AS Deans.

SDCCD Practice: "...Indefinitely."

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

Commented [MS2]: Part of CCLC – Legally required.

AS Deans note: "Definition was not in previous AP (3100.2)."

The person from whom consent has been withdrawn may submit a written request for a hearing within the period of the withdrawal. The request shall be granted not later than seven (7) 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 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).

3. DISCIPLINARY OFFICER

- a. Each President will designate an administrator to process student disciplinary charges and serve as the Disciplinary Officer.
 - 1) The Disciplinary Officer shall be responsible for processing the alleged violation of the Student Code of Conduct in accordance with these procedures.
 - 2) In cases involving sex or gender-based misconduct, the Title IX Coordinator shall coordinate the District's response to the alleged misconduct and, for the purposes of the responsibilities allocated in Sections ~~3-4~~ and ~~4-5~~ of this Procedure, serve as the Disciplinary Officer. Such cases will be handled according to the process provided in Section ~~8-9~~ of this Procedure, which shall prevail and govern in the event of any conflict with Sections ~~44~~, ~~12~~, ~~and~~ ~~13~~ and ~~14~~. Sections ~~3~~, ~~4~~, 5, 6, 7, 8 and ~~10~~ ~~11~~ of this Procedure shall not apply in cases involving sex or gender-based misconduct.
 - 3) If the student has an actual or perceived disability and the behavior is not a violation of the Student Code of Conduct, the Disciplinary Officer will consult with a DSPS counselor to determine:
 - a) If the student is receiving services through the DSPS office;
 - b) If there is an accommodation that could mitigate the behavior; and/or
 - c) If a referral for professional services is appropriate.
 - d) The Disciplinary Officer will not be an individual who has a conflict of interest or bias for or against the accuser or the accused.

4. FACT FINDING INVESTIGATION

- a. Within twenty-five (25) instructional days from the time the Disciplinary Officer is informed of allegations which may constitute a violation of the Student Code of Conduct,

the Officer shall conduct a fact finding investigation to determine whether to pursue an administrative conference or disciplinary hearing. The investigation shall be documented as follows:

- 1) Interview with the student accused of the violation to gather facts, assuming the student is willing and available to participate. The interview shall be carefully documented as follows:
 - a) Date of interview:
 - b) Description of incident:
 - c) Name of witnesses:
 - d) Location of incident:
 - e) Any mitigating factors:
- 2) Based upon information obtained in the interview, the Disciplinary Officer shall determine whether to gather additional information or documentation or whether to proceed to an administrative conference or disciplinary hearing.
- 3) In the event the student is unwilling or unavailable to meet with the Disciplinary Officer, the Disciplinary Officer may determine to proceed with the hearing or administrative conference based upon available information.
- 4) For purposes of evaluating whether the student's conduct is a violation of the Student Code of Conduct, no consideration shall be given to a student's actual or perceived disability unless such disability is being asserted by the student as a defense to, or in mitigation of a potential violation.
- 5) Should the Disciplinary Officer gather additional information or interview other witnesses, the interviews must be documented as specified in this procedure.
- 6) The student shall have the right at any point in the process to accept responsibility for their actions and accept the recommended sanction which concludes the disciplinary process.

5. ADMINISTRATIVE CONFERENCE

- a. At a scheduled meeting, the Disciplinary Officer shall:
 - 1) Advise the student of the alleged offense, including the specific section(s) of the Student Code of Conduct and the facts constituting the alleged offense.
 - 2) Make reasonable effort to resolve the matter informally. The student is told what he or she is accused of doing and the basis of the accusation.
 - 3) Advise the student that he/she shall not have the right to a hearing before a Disciplinary Committee in connection with disciplinary sanctions including reprimand, disciplinary probation, and removal or suspension not exceeding 10 instructional

days.

- 4) Ensure the Administrative Conference includes a third party if the recommended disciplinary action is suspension of less than 10 days.
 - 5) Advise the student of his/her right to a formal hearing for sanctions exceeding 10 days.
 - 6) Advise the student that he/she may elect to waive the right to a formal hearing and accept the decision of the Disciplinary Officer at any time.
- b. If the student elects to waive the right to a hearing before the Disciplinary Committee and to accept the imposition of a sanction mutually agreed upon by the student and the Disciplinary Officer, any such waiver shall be in writing using the Student Waiver of Right of Disciplinary Hearing form and signed by both parties and a witness.

6. DISCIPLINARY HEARING PREPARATION

- a. The matter shall proceed to a formal hearing if the Disciplinary Officer has determined that the alleged offense is too serious to warrant an informal resolution or if an informal resolution cannot be reached. The Disciplinary Officer shall prepare the case as follows:
- 1) Notify the student of the charges, including the specific section(s) of the Student Code of Conduct and the facts constituting the alleged offense.
 - 2) Identify and interview witnesses necessary for the presentation of the case.
 - 3) If a witness is unavailable during the investigation or it is anticipated that the witness may not be available at the time of the disciplinary hearing, the Disciplinary Officer may attempt to obtain written statements. Witness statements may be used at the hearing, provided, however, that access to the witness statements is made available to the accused student at least three (3) instructional days prior to the hearing. The Disciplinary Officer may conduct additional questioning of the witness in person, telephonically or via additional written questions. The accused student may provide suggested written questions to the Disciplinary Officer at least two (2) days prior to the hearing. The Disciplinary Officer shall obtain a response at least one (1) day prior to the hearing. Written questions of an abusive nature shall not be allowed.
 - 4) Document interviews as identified in this procedure.
 - 5) Obtain relevant written documentation.
 - 6) Access to any tangible evidence, other than the written statement of a witness, anticipated to be presented at the disciplinary hearing shall be made available for review by the student at least two (2) instructional days prior to the hearing.
 - 7) The Disciplinary Officer may, at the Disciplinary Officer's sole discretion, delay the hearing at any time for good cause.
- b. Other Responsibilities of the Disciplinary Officer:

- 1) To advise the student of his/her right to representation. The student has the right of self-representation or representation by another party, except that the student shall not be represented by an attorney. If the student decides to have a representative, the Disciplinary Officer shall be notified, in writing by the student, who the representative will be no later than two (2) instructional days prior to the hearing. Representatives may not participate in the hearing, nor use any electronic devices during the hearing.
- 2) Advise the student of his/her right to be present at the hearing, and that the hearing shall proceed in the absence of the student unless a satisfactory explanation has been provided.
- 3) Assume responsibility for making the necessary arrangements for the hearing. Arrangements shall include scheduling a room, providing for a tape recorder, notifying members of the Disciplinary Committee and witnesses, and providing committee members with copies of these procedures.
- 4) Prepare and personally deliver or mail written notice to the student not less than five (5) instructional days prior to the hearing.
 - a) Notice shall specify the time and place of the hearing, a statement of charges against the student, recommended sanction, a list of members of the Disciplinary Committee, the date, time and location that the tangible evidence will be made available for inspection and (when applicable) a statement of possible financial aid suspension or termination. A copy of these procedures shall also be enclosed.
 - b) Notice shall also specify if there is to be an interim suspension from the college pursuant to Education Code Section 66017. In the event of an immediate suspension, the student shall remain suspended until the final disposition of the hearing.
 - c) The notice shall be presumed to have been received and read when sent to the last address available in the records of the college and deposited in the United States mail, postage prepaid and return receipt requested.

7. DISCIPLINARY COMMITTEE – CASES NOT INVOLVING SEX AND GENDER-BASED MISCONDUCT

- a. Each academic year, the Academic Senate shall nominate a minimum of eight (8) faculty members and the Associated Students organization shall nominate eight (8) students to form a pool for a one-year term, from which a Disciplinary Committee may be convened. In the event the pool needs to be augmented, appointments may be made by the Academic Senate and/or Associated Students.
- b. The Disciplinary Committee shall be constituted by the Chairperson in accordance with the following criteria:
 - 1) The Disciplinary Committee shall include at least one (1) student selected from the pool submitted by the Associated Students Organization governing body. In the event students identified in the pool are unavailable to serve, the President or

designee will select other students as appropriate. Hearings, where the recommended sanction is expulsion, shall include at least two (2) students.

- 2) The Disciplinary Committee shall include at least one (1) instructor selected from the pool submitted by the Academic Senate. In the event faculty identified in the pool are unable to serve, the faculty Senate President or designee will select other faculty as appropriate. Hearings, where the recommended sanction is expulsion, shall include at least two (2) instructors.

- 3) There shall be an equal number of students and faculty represented.

8. DISCIPLINARY HEARING PROCEDURES – CASES NOT INVOLVING SEX AND GENDER- BASED MISCONDUCT

- a. Students shall have the right to a hearing before the Disciplinary Committee as provided in these procedures in connection with restitution, suspension or expulsion exceeding 10 instructional days. The hearing shall take place prior to the imposition of the disciplinary sanction. An immediate interim suspension, pending a hearing may be imposed in order to protect lives or property and ensure the maintenance of order. In the case of an immediate interim suspension, the suspended student shall be afforded the opportunity for a hearing before the Disciplinary Committee within 10 instructional days of the suspension. In addition, the student's instructors and college police will be notified.
- b. The Chairperson of the Disciplinary Committee shall preside over the hearing and make rulings as to its conduct and shall ensure that the committee's representation is valid. All rulings of the Chairperson shall be final unless there is a two-thirds vote of the members of the Disciplinary Committee to the contrary.

The hearing shall be closed and confidential. A taped recording maintained by the chairperson, shall be the only taped recording maintained. Destruction of the records (tapes) shall be in accordance with *AP 6550.2, Storage and Disposition of Records*.

- c. Proceedings – Formal rules of process, procedure and/or technical rules of evidence as applied in a civil or criminal court, are not used in student discipline proceedings.
- d. Disciplinary Committee – To be a valid hearing, at least two (2) members of the Disciplinary Committee, plus the Chairperson must be present. At least four (4) members of the Disciplinary Committee plus the Chairperson must be present for expulsion hearings. In instances where more than one student is charged with a violation of the Student Code of Conduct for the same incident/case, every effort will be made to have the hearing conducted by the same Disciplinary Committee.
- e. Absence of the Student – The hearing shall proceed in the absence of the student unless a satisfactory explanation for the absence has been provided. The Chairperson shall decide whether to proceed in the absence of the student after considering the explanation for the absence. If the student leaves the hearing before its conclusion, the hearing shall proceed.
- f. Opening – The Chairperson shall preside and call the hearing to order, introduce the participants, and announce the purpose of the hearing, as follows: "this committee meets pursuant to ~~AP-3100.2~~ 5520 to hear charges against (student's name) and to make

findings of fact and recommendations for action to the President."

- g. Notice of Charges – The Chairperson shall distribute copies of the written notice to the members of the Disciplinary Committee. The Chairperson shall read aloud and affirm that the student has received a copy of the charges in accordance with this procedure. In the event that the student did not receive proper written notice of the charges, the Disciplinary Committee shall decide whether or not to proceed with the hearing. If the hearing must be rescheduled, it shall be within five (5) instructional days.
- h. Plea – The student shall admit or deny each charge. If the student admits each charge, and wishes to present no evidence of mitigating circumstances or other defense, the Disciplinary Committee shall retire to make its decision. If the student denies any or all of the charges, or wishes to present evidence of mitigating circumstances, the hearing shall proceed.
- i. Opening Statement – First, the Disciplinary Officer, and then the student, shall have the opportunity to present an opening statement.
- j. Burden of Proof – The Disciplinary Officer has the burden of proving that each charge is true. A preponderance of evidence (more likely than not) must be established by the Disciplinary Officer. The Disciplinary Officer will present relevant evidence and may call a witness in support of the charges first. Then, the student may present evidence to refute the Disciplinary Officer's evidence.

For purposes of evaluating whether the student's conduct is a violation of the Student Code of Conduct, no consideration shall be given to a student's actual or perceived disability unless such disability is being asserted by the student as a defense to, or in mitigation of a potential violation.

- k. Evidence – All relevant evidence is admissible, including but not limited to testimony of witnesses, physical objects, police reports, photographs, and copies of documents. Formal rules of evidence shall not apply. The chairperson shall rule on the relevance of all evidence.
- l. Witnesses – The Disciplinary Officer and the student shall be entitled to call witnesses and to question witnesses presented by the other. A member of the Disciplinary Committee may ask questions of witnesses at any time upon recognition by the Chairperson. Either side may recall a witness, who again, may be questioned by both parties and the Disciplinary Committee. Witnesses shall not be present at the hearing when not testifying unless all parties and the Disciplinary Committee agree to the contrary.

The Chairperson will swear in each witness as follows: "I (state your name) swear to tell the truth, the whole truth and nothing but the truth."

- m. Closing Arguments – First the Disciplinary Officer, and then the student, shall be afforded the opportunity to make a closing argument.
- n. Committee Deliberation – The Disciplinary Committee shall deliberate in closed session, with only the members of the Disciplinary Committee present. The deliberations shall not be tape recorded. The Disciplinary Committee shall reach its decision based only

upon the evidence presented and shall not consider matters outside of the record. The standard of evidence that shall be used is preponderance of evidence (more likely than not). The Committee shall determine the validity of each charge by majority vote. The Committee shall recommend disciplinary sanctions based upon its findings.

9. INVESTIGATION AND DISCIPLINARY HEARING IN CASES INVOLVING SEX OR GENDER-BASED MISCONDUCT

- a. In cases where disciplinary action could be required based on the nature of the allegations, if they are found to be true, ~~and where informal resolution is inappropriate or unsuccessful~~, a thorough, reliable, fair, and impartial investigation will be conducted by the Title IX ~~Investigator~~ Investigative Analyst.
- 1) Discipline resulting from a sexual harassment complaint under Title IX shall be addressed pursuant to Administrative Procedure, AP 3433, Prohibition of Sexual Harassment under Title IX, and Administrative Procedure, AP 3434, Responding to Harassment Based on Sex under Title IX.
- b. The Title IX Coordinator may at any time, but is not required to, attempt informal resolution of the complaint in a manner similar to an Administrative Conference as described in Section 4-5 of this Procedure, except in cases involving allegations of sexual assault or in cases in which the Complainant is a student and the Respondent is an employee.
- c. The Title IX ~~Investigator~~ Investigative Analyst will provide ~~the responding party both parties~~ with a Notice of Investigation and Allegations identifying the manner in which the responding party is alleged to have violated District Policy, including the alleged underlying facts constituting the violation(s).
- d. Both parties will be given an opportunity to provide what they believe is relevant information and identify persons they believe to be relevant, substantive witnesses. The Title IX ~~Investigator~~ Investigative Analyst will attempt to speak with such witnesses whose information in the ~~Investigator's~~ Investigative Analyst's determination may be relevant and substantive.
- e. Each party is permitted to bring an advisor or supportive individual of their choice to any meeting with the Coordinator or ~~Investigator~~ Investigative Analyst. The advisor or supportive individual should not be a witness to the matter and may not speak on the party's behalf.
- f. Each party will be permitted to identify lines of questioning for the Title IX ~~Investigator~~ Investigative Analyst to pursue when gathering information from the other party. The ~~Investigator~~ Investigative Analyst retains the ultimate authority to determine whether a line of questioning will be pursued, and will not pursue a line of questioning that is duplicative, irrelevant, or abusive.
- g. In order to provide the parties with an opportunity to place all relevant information in context, confront the information provided by witnesses, and/or challenge the information uncovered by the Title IX ~~Investigator~~ Investigative Analyst, both parties shall be provided with a ten (10) day review period, where they will have an opportunity to review a factual summary of the information gathered by the Title IX ~~investigator~~ Investigative

Analyst in the investigation and provide comment upon it or provide additional responsive information.

- h. Based upon the all relevant information gathered in the investigation, and considering the written responsive comments and/or information provided by both parties and witnesses, the Title IX Investigator Investigative Analyst shall render issue a finding regarding whether, by a preponderance of the evidence, the respondent violated District Policy final investigation report to both parties.
- i. After an investigation, and prior to completing a determination regarding responsibility, the District will hold a live hearing to provide the Complainant and Respondent an opportunity to respond to the evidence gathered before a Decision-Maker. Neither Party may choose to waive the right to a live hearing, but the Parties can choose whether to participate in the hearing or answer some or all cross-examination questions. The Title IX Investigator's finding shall be given in an Investigation Report. The Investigation Report will be provided immediately to the Title IX Coordinator.
 - 1) The Decision-Maker makes a determination of responsibility or non-responsibility based on the preponderance of the evidence standard. The Decision-Maker will issue a written determination regarding responsibility, provided simultaneously to both parties, no later than 20 business days after the date the hearing ends.
 - 2) In the event that the Title IX Investigator finds the respondent not responsible, both parties will be so notified in writing and the Investigation Report will be made available to both parties in redacted form.
 - 3) In the event that the Title IX Investigator finds the respondent responsible for a violation of District Policy or Procedure, the Coordinator shall refer the matter to the Vice Chancellor, Student Services Educational Services for a determination of the appropriate disciplinary action, if any. Written notification to the parties of the Investigator's determination regarding responsibility and the Vice Chancellor's determination regarding any disciplinary action shall be provided simultaneously to both parties, and the Investigation Report shall be made available to both parties with personal information not relevant to the final determination redacted from the report.
- j. In the event that the Respondent is found responsible for a violation of District Policy and/or Procedure, the District will take disciplinary action against the Respondent and any other remedial action determined to be appropriate. Possible disciplinary sanctions for student Respondents include written or verbal reprimand, required training or counseling, non-academic probation, suspension, and expulsion. The Vice Chancellor, Student Services Educational Services may impose any sanction identified in Section 14; for the sanction of expulsion, the Vice Chancellor, Student Services Educational Services will follow the procedures identified in Section 12.c., fulfilling the responsibilities allocated to the President.
- k. The Vice Chancellor, Student Services Educational Services, may, for good cause, impose an interim disciplinary action, which may include an immediate suspension for up to 10 days, pending resolution of the investigation and hearing process.

10. APPEAL HEARING IN CASES INVOLVING SEX OR GENDER-BASED MISCONDUCT

- a. After the ~~Title IX Investigator-Decision-Maker~~ renders a decision of no responsibility ~~or the Vice Chancellor, Student Services/Educational Services, makes a determination as to discipline to be imposed~~, either party may appeal the ~~Title IX Investigator's~~ determination ~~of regarding~~ responsibility and/or ~~the Vice Chancellor's decision as to discipline~~ disciplinary sanction, by requesting a hearing before the Title IX Coordinator submitting a written appeal within five (5) business days from the date of the notice of determination regarding responsibility and/or from the date of the District's notice of disciplinary sanction. ~~The Vice Chancellor, Educational Services will serve as the Decision-Maker on Appeal, party not requesting the Appeal Hearing shall be permitted to participate in the appeal to the same extent as the requesting party.~~
- b. If filing an appeal of the District's determination regarding responsibility, the party must state the grounds for appeal, and a statement of facts supporting those grounds. The grounds for appeal are as follows: -If the student has been criminally convicted in connection with the act or acts that are the subject of discipline imposed, and the decision of the criminal court has become final, no appeal shall be available.
 - 1) A procedural irregularity affected the outcome;
 - 2) New evidence was not reasonably available at the time the District's determination regarding responsibility or dismissal was made, and this new evidence could affect the outcome; and/or
 - 3) The District's Title IX Coordinator, Investigative Analyst, or Decision-Maker had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome.
- c. ~~If the Complainant or Respondent submit an appeal to the District, the District will: Within five (5) business days of the date the Title IX Coordinator provides written notification of the Title IX Investigator's determination, any party wishing to initiate an Appeal Hearing shall do so in writing, stating the reason(s) for the appeal, including the nature and basis of the claimed error as to the decision of the Title IX Investigator as to responsibility, the decision of the Vice Chancellor, Student Services/Educational Services, as to discipline, or both.~~
 - 1) Notify the other Party in writing within five (5) business days of receiving a Party's appeal; and The Statement of Appeal shall be submitted directly to the Title IX Coordinator who shall provide all other parties a copy of the Statement along with notification of their right to participate in the appeal. Each party so notified shall have five (5) business days from receipt of the opposing party's appeal statement to notify the Title IX Coordinator if that party also desires to participate in the appeal and, if desired, provide a written response.
 - 2) Allow the non-appealing Party at least ten (10) business days from the date of receipt of the appeal to submit a written statement in support of, or challenging, the outcome.
- d. ~~New information and witness(es) shall not be considered during the appeal unless the Title IX Coordinator determines that the new information or witness was not reasonably available to the presenting party at the time of the investigation conducted by the Title IX~~

~~Investigator. Any identified witness or information that the Title IX Coordinator determines would be irrelevant or duplicative shall be excluded.~~

- 1) ~~Witnesses previously identified in the investigation conducted by the Title IX Investigator shall not be permitted to appear or otherwise submit information unless it is anticipated they will offer information meeting these same criteria.~~
- e. ~~After consulting with each party wishing to take part in the Appeal Hearing, the Title IX Coordinator shall set a date and time for the hearing for the soonest practicable time taking into account any further action necessary based upon the grounds stated for the appeal and any other material considerations.~~
- f. ~~Each party wishing to take part in the Appeal Hearing shall be entitled to have a representative of that party's choice attend the hearing, provided that the party gives notice to the Title IX Coordinator identifying its representative at least one (1) business day prior to the hearing. The representative may attend with and advise that party, but shall not participate directly. Neither any party nor its representative may use any electronic or other recording device during the hearing.~~
- g. ~~The Title IX Coordinator shall have sole discretion to determine the reasonable procedure to be followed during the hearing, however such procedure shall, at a minimum, provide each party participating in the Appeal Hearing an opportunity to present in person to the Title IX Coordinator its argument(s) for or against the prior determination of responsibility, discipline to be imposed, or both. If any witness is permitted to appear at the hearing, the Title IX Coordinator shall have sole discretion to structure that appearance in accordance with the requirements of Title IX and required Due Process.~~
- h. ~~The written decision by the appeal Decision-Maker Within three (3) business days of the Appeal Hearing, the Title IX Coordinator shall render a written decision, a copy of which shall be provided to each party, which shall set forth any deviation from the previous determinations as to responsibility and disciplinary sanction and the reason(s) therefore. In this regard, the appeal Decision-Maker's Coordinator's decision may provide a finding of responsibility or no responsibility; may increase, decrease, modify or eliminate the previously imposed discipline; and may state that the decision is final or may remand the matter for further investigation or other processing as provided in this Procedure; for the sanction of expulsion, the Vice Chancellor, Student Services/Educational Services will follow the procedures identified in Section 4213.c., fulfilling the responsibilities allocated to the President.~~
- i. As appropriate, the Title IX Coordinator has discretion to remand the matter to the Title IX ~~Investigator~~ Investigative Analyst for further investigation at any point in the process set forth in Section 910 of this Procedure, as may be appropriate under the circumstances.

11. DISCIPLINARY COMMITTEE FINDINGS AND RECOMMENDED SANCTIONS

Within five (5) instructional days after the hearing, the Chairperson shall deliver to the President a written report that provides specific findings of fact as to each charge, and recommended sanctions. A minority opinion may be recorded as part of the report.

12. DISCIPLINARY CASES INVOLVING PROTECTIVE ORDERS

In cases where the severity of the student's action warrants that the District obtain a protective order from the court that prevents the student from attending classes, the student must apply for readmission under the provision of ~~AP-3000.2~~ 5010, *Student Admission Status*.

13. PRESIDENT'S DECISION

- a. The President shall review the findings and recommended sanctions based upon the record of the hearing. Matters outside of that record shall not be considered. If the President does not accept the sanctions recommended by the Disciplinary Committee, the reason shall be stated in writing. If the President decides to impose a sanction not recommended by the Disciplinary Committee, the reasons shall be stated in writing.
- b. The President shall prepare the final written report of findings and sanctions within five (5) working days following receipt of the Disciplinary Committee's report. A copy shall be sent to the Disciplinary Officer, the Chairperson and to the student by registered mail. If the student is a minor, the report shall be sent to the parent or guardian.
- c. When the decision is to expel a student, the President shall recommend expulsion to the Governing Board. Only the Board of Trustees shall be authorized to expel a student (Education Code Section 76030). The President may suspend the student pending expulsion action by the Board. The final decision of the Governing Board shall be disseminated to the Presidents and a hold placed on the student's record by the Vice Chancellor, ~~Student Services~~ Educational Services.
- d. When the decision is to suspend a student, the student shall be suspended from all colleges, campuses, sites, programs and activities of the District. The President shall notify the Chancellor, Vice Chancellor, ~~Student Services~~ Educational Services, and college Presidents of any decision to suspend a student.

The Vice President, Student Services at the colleges and ~~the College of~~ Continuing Education shall place an administrative hold on the student's record as follows: Policy ~~34095500~~ Violation Contact the Vice President, Student Services, college name.
- e. When the final decision is to suspend or terminate financial aid, the Disciplinary Officer will notify the College Financial Aid Appeals Committee. The College Financial Aid Appeals Committee will make all decisions regarding suspension or termination of financial aid.
- f. Once the President makes a decision, the disciplinary process has been completed. There is no appeal. Expulsion proceedings will be completed upon action by the Board of Trustees.
- g. Findings of the discipline hearing are confidential.

14. RECORDS MAINTENANCE

Upon closure of a disciplinary investigation, conference or hearing, all student disciplinary records shall be maintained in an office designated by the Vice President, Student Services at each college and ~~the College of~~ Continuing Education headquarters in accordance with

the Records Retention requirements of the California Education Code.

15. DISCIPLINARY SANCTIONS

Rights and responsibilities of students are not fundamentally different from those of other members of society. District officials administer the academic community under statutory authority in accordance with the directions of the Board. Discipline is administered outside civil authority or concurrent with civil authority in matters which affect the academic community. Examples of disciplinary sanctions for all incidents of misconduct may include, but are not limited to:

- a. Admonition – An oral statement to a student that he/she is violating or has violated the Student Code of Conduct.
- b. Reprimand – A written notice by the Disciplinary Officer of violation of the Student Code of Conduct. A reprimand may include the possibility of more severe disciplinary sanctions in the event of future infractions of the Student Code of Conduct.
- c. Community service or other educational sanctions.
- d. Disciplinary Probation – Formal written notice by the Disciplinary Officer of violation of the Student Code of Conduct which may include exclusion from participation in specified privileges for a period of time not exceeding one (1) calendar year, including conditions that must be met while on probation. Further violation of the Student Code of Conduct will result in more severe sanctions.
- e. Restitution – Formal action by the Disciplinary Officer to require reimbursement for damage to or misappropriation of property. This may take the form of appropriate service or other compensation.
- f. Removal from Class – Exclusion of a student by an instructor from a class for the day of an offense and/or the next class meeting. An instructor removing a student from class shall make a written report using the *Faculty Removal of Disruptive Student from Class* form. After-the-fact review by the President/designee shall be effective if the student alleges in writing that an instructor has abused his/her administrative discretion.

In accordance with Administrative Procedure, AP-3110-4.5070, *College Class Attendance*, absences pursuant to this definition shall be counted as excused and make-up assignments shall be at the discretion of the instructor.

- g. Suspension – Action by the President to exclude from all colleges, campuses, sites, programs and activities in the District for a definite period of time. This action shall be posted on the permanent record, but shall not be reflected on the academic transcript. This does not prohibit, where an immediate suspension is required in order to protect lives or property and to insure 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.
- h. Expulsion – Action by the Board of Trustees to terminate student status in the District indefinitely. The Board may 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 Board of Trustees shall accept or reject the panel's findings of fact and President's recommendations after careful review of the record.

The decision of the Board of Trustees must be supported by substantial evidence.

Final action shall be taken by the Board of Trustees at a public meeting. Action to expel a student will be posted on the academic record and transcript.

16. DISCIPLINE OF FORMER STUDENTS AND APPLICANTS

- a. Any person who is a student at the time of a violation, that is subject to discipline in accordance with this Administrative Procedure, may be disciplined notwithstanding that the person de-enrolls from some or all of the classes in which the person was enrolled at the time of the violation. A person who has been registered as a student may be disciplined in accordance with this Administrative Procedure whether or not the person has registered for any classes at the time of the violation.
- b. Any non-student, who would have been subject to discipline pursuant to the above provisions of this Administrative Procedure; if they were a student at the time of the violation, may be disciplined in accordance with this Administrative Procedure. Where the District is either (a) unaware of a past violation at the time of admission or enrollment, or (b) is aware of the conduct constituting the violation but unaware that the violator has applied for admission or enrollment, such discipline may be imposed subsequent to admission or enrollment and at any time while the person is a student.

Reference: Board of Trustee Policy 5500; Administrative Procedure 3433; Administrative Procedure 3434; Administrative Procedure 5070; Administrative Procedure 5520; Administrative Procedure 6550.2; Education Code Sections 66017 & 76030

Adopted: April 17, 2019

Supersedes: AP 3100.2 – 04/26/84; 06/16/86; 05/03/00; 10/14/10; Policy-AP 3100.3 – 05/10/79; 04/29/84 (Policy 3100.3 merged with Procedure 3100.2); 11/15/13; 12/12/14; 12/07/15; 11/09/16; 05/16/18; 04/17/19 (Renumbered AP 5520)