

# STANDARDS OF STUDENT CONDUCT

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**References:** (BP & AP 5500 - Standards of Student Conduct; Education Code Section 66300 and 66301; Accreditation Standard I.C.8 and 10, formerly 11.A.7.b)

Southwestern Community College District is committed to maintaining a safe and healthy learning environment for students, faculty, and staff. Each member of the campus community should choose behaviors that contribute to this end. Students are expected to be good citizens and to engage in responsible behaviors that reflect well upon the college, to be civil to one another and to others in the campus community, and to contribute positively to student and college life.

The Superintendent/President's designee, in consultation with the Academic Senate, shall establish procedures for the imposition of discipline of students in accordance with the requirements for due process of federal and state law and regulations. The procedures shall clearly define the conduct that is subject to discipline and shall identify potential disciplinary actions including, but not limited to, the removal, suspension or expulsion of a student.

The Governing Board shall consider any recommendation from the Superintendent/President for expulsion. The Board shall consider an expulsion recommendation in closed session unless the student requests that the matter be considered in a public meeting. Final action by the Board on the expulsion shall be taken at a public meeting.

These procedures shall be made widely available to students through the College Catalog and other means.

## Disciplinary Actions Violations

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

- Cheating, or engaging in other academic dishonesty, including copying from another's work; discussion prohibited by the instructor; obtaining exam copies without permission; and using notes, other information, or devices that have been prohibited.
- Plagiarism in individual or group work or in a student publication, including the act of taking the ideas, words or specific substantive materials of another and offering them as one's own without giving credit to the sources.
- Unauthorized preparation, giving, selling, transfer, distribution, or publication, for any commercial purpose, of any contemporaneous recording of an academic presentation in a classroom or equivalent site of instruction, including, but not limited to, handwritten or typewritten class notes, except as permitted by any College District policy or procedure.
- Disruptive behavior, willful disobedience, habitual profanity or vulgarity, or the open and persistent defiance of the authority of, or persistent abuse of, College District personnel.
- Assault or battery upon another person or any threat of force or violence or causing, attempting to cause or threatening to cause physical injury to another person.
- Possession, sale or otherwise furnishing any firearm, knife, explosive, or other dangerous object, including, but, not limited to, any facsimile firearm, knife or explosive, unless, in the case of possession of any object of this type, the student has obtained written permission to possess the item from the Superintendent/President or his/her/their designee.
- Unlawful possession, use, sale, offer to sell, furnishing, or being under the influence of, any controlled substance listed in California Health and Safety Code Sections 11053 et seq., an alcoholic beverage, or intoxicant of any kind; or unlawful possession of, or offering, arranging or negotiating the sale of any drug paraphernalia, as defined in California Health and Safety Code Section 11014.5.
- Committing or attempting to commit robbery or extortion.
- Causing or attempting to cause damage and/or defacing College District property or private property on College District controlled facilities.
- Stealing or attempting to steal College District property or private property on campus, or knowingly receiving stolen College District property or private property on campus.
- Willful or persistent smoking in any area where smoking has been prohibited by law or by regulation of the College District.
- Engaging in harassing or discriminatory behavior based on disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, age, or any other status protected by law.
- Engaging in intimidating conduct or bullying against another student through words or actions, including direct physical contact; verbal assaults, such as teasing or name-calling; social isolation or manipulation; and cyber-bullying.
- Committing sexual harassment as defined by law or by College District policies and procedures.
- Sexual assault or sexual exploitation regardless of the victim's affiliation with the College District.
- Willful misconduct which results in injury or death to a student or to College District personnel or which results in cutting, defacing, or other injury to any real or personal property owned by the College District or on campuses.
- Misrepresentation and/or impersonation, including arranging for or allowing another individual to impersonate or otherwise misrepresent the student, in person or in an online environment.
- Dishonesty, forgery, alteration or misuse of College District documents, records or identification, or knowingly furnishing false information to the College District.
- Unauthorized entry upon or use of College District facilities.
- Lewd, indecent or obscene conduct or expression on College District-owned or controlled property, or at College District sponsored or supervised functions.
- Engaging in expression which is obscene, libelous, or slanderous; or that incites students as to create a clear and present danger of the commission of unlawful acts on any College District premises, or the violation of lawful College District policies or procedures, or the substantial disruption of the orderly operation of the College District.
- Engaging in physical or verbal disruption of instructional or student services activities, administrative procedures, public service functions, authorized curricular or co-curricular activities or prevention of authorized guests from carrying out the purpose for which they are on College District property.
- Engaging in physical or verbal intimidation or harassment of such severity or pervasiveness as to have the purpose or effect of

unreasonably interfering with a student's academic performance, or a College District employee's work performance, or of creating an intimidating, hostile or offensive educational or work environment.

- Violation of College District policies and/or procedures governing the use of student user accounts, computers, and telecommunication devices, including, but not limited to, the unauthorized entry, opening or viewing of a file; the unauthorized use of another individual's identification and password; arranging for, allowing, and/or impersonation of one person by another; sending obscene or abusive messages or files; and/or use of computing facilities to interfere with the work of another student or employee of the College District.
- Violation of a duly issued restraining order, stalking, and/or a pattern of conduct with intent to follow, alarm, or harass another person, and/or which causes that person to reasonably fear for his or her safety, and where the pattern of conduct persisted after the person has demanded that the pattern of conduct cease.
- Persistent, serious misconduct where other means of correction have failed to bring about proper conduct or where the presence of the student causes a continuing danger to the physical safety of students or others.
- Violation of College District regulations or state laws.

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

## Student Discipline Procedures

**References:** (BP & AP 5520 - Student Discipline Procedures; Education Code Section 66017, 6630, 72122, 76030, and 76030 et seq.; and Penal Code Section 626.4)

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 to 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.

These Administrative Procedures are 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.

## Disruption in Classrooms, College Offices and/or College Events

In the event a student is involved in either unethical practice or displays of disruptive behavior which is considered not conducive to maintaining a proper learning environment in the classroom, and/or disrupting the business of the College District, the student will be disciplined as outlined in this Procedure.

The instructor has the right to exercise immediate disciplinary action with respect to disruptive actions in the classroom and may temporarily exclude the student from the classroom effective for the remainder of the class period and the following class session (Education Code Section 76032).

- The instructor shall immediately report the matter to their School/Center Dean and Dean of Student Services.
- The School/Center Dean shall arrange for a conference between the student and the instructor regarding the behavior. If the instructor or the student requests, the School/Center Dean shall attend the conference.
- The student shall not return to class during this time frame without the concurrence of the instructor.
- The School/Center Dean may recommend further disciplinary action in accordance with these procedures.

In the event a student is involved in the disruption of College business, the School/Center Dean has the right to exercise appropriate disciplinary action with respect to disruptive actions in a College District office, event or area within their purview. The Dean of Student Services will be notified of any disciplinary action taken by the School/Center Dean.

## Immediate Interim Suspension (Education Code Section 66017):

The Dean of Student Services 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.

## Pre-disciplinary Action

- a. The faculty, staff member, or administrator who believes disruptive behavior or a student conduct violation has occurred shall first attempt to resolve the misconduct by informal consultation with the student.
- b. If this does not resolve the matter, the faculty, staff member, or administrator will inform the cognizant School/Center Dean or Supervisor. The School/Center Dean or Supervisor should meet with the faculty, staff member or administrator, and then the student(s) involved, in an attempt to resolve the matter.
- c. If the faculty/staff member or administrator still believes that the issue has not been resolved satisfactorily at these levels, a completed "Report of Student Misconduct" shall be filed with the Dean of Student Services, the "Report of Student Misconduct" can be obtained at the Office of Student Services or on the Office of Student Services webpage.
- d. In cases where the College Police has become involved, or in situations that involve safety, steps 1 and 2 need not be followed.

## Student Disciplinary Procedures

### 1. SUBMITTING OF OFFICIAL FORMS

A report of alleged student misconduct may be made against a student by any faculty, staff or administrator by filing a "Report of Student Misconduct" form with the Office of Student Services. The Report of Student Misconduct form may be obtained at the Office of Student Services or on the Office of Student Services webpage.

### 2. NOTIFICATION OF ALLEGED VIOLATION(S)

The Dean of Student Services will provide the student with written notice of the conduct warranting possible discipline as recorded on the Report of Student Misconduct form. 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 alleged violation.
- The right of the student to meet with the Dean of Student Services or designee to discuss the alleged violation, or to respond in writing.
- The nature of the discipline that is being considered.

The written notice will be provided to the student within 5 days of the date on which the conduct took place, or from the date the District became aware of the conduct. In the case of continuous, repeated, or ongoing conduct, the notice will be provided within 5 days of the date of the conduct that led to the decision to take disciplinary action.

The written notice will first be sent to the student's official College District email address. If the student does not respond to this email, the written notice will then be mailed to the physical address on file with the College District via regular and certified U.S. Mail or overnight delivery service.

After the second attempt of mail delivery notification, a student who does not report to the Office of Student Services to address the student misconduct report will have an administrative hold placed on his/her/their records, in addition to possibly being dropped from his/her/their classes.

### 3. MEETING WITH THE DEAN OF STUDENT SERVICES

If the student chooses to meet with the Dean of Student Services, the meeting must occur no sooner than two (2) days after the notice is provided. The meeting with the Dean of Student Services shall consist of the following:

- The student is provided a copy of both College District Procedure No. 5500 AP - Standards of Student Conduct and this District procedure (AP 5520).
- The student is provided with a brief written statement of the facts supporting the alleged violation.
- The Dean of Student Services and the student will review the misconduct allegations.
- The student is provided with the opportunity to respond verbally, or in writing, to the allegations.
- The Dean of Student Services informs the student of the potential disciplinary action(s) that may be taken if the allegations are proven to be true.

### 4. DISCIPLINARY ACTIONS

The Dean of Student Services will obtain information relating to the alleged violation from the student and other persons involved in the matter. When appropriate, the Dean of Student Services shall assess damage to property and injury to persons. The Dean of Student Services may take any of the following actions and will notify the student within ten (10) days of that action:

- Dismiss the charge for lack of merit.
- Issue the student one or more of the following types of disciplinary actions, unless the Dean of Student Services and the student agree to another appropriate disciplinary action; for example, restitution,

formal apology, reflection paper, mediation, educational learning opportunity, restorative justice learning opportunity:

- a. **Written Reprimand:** A student receiving a written reprimand will have met with the Dean of Student Services to discuss the inappropriate behavior. The student is given written notification to cease and desist from conduct determined to violate the Standards of Student Conduct and that continuation or repetition of misconduct may result in further disciplinary action and may be considered in the event of future violations. Written reprimands may become part of a student's permanent record at the college.
- b. **Disciplinary Probation:** A student receiving disciplinary probation is placed on conditional participation in College District classes, activities and/or privileges for a specified period time, and is notified that any other misconduct during the probation period will be cause for other disciplinary action, including suspension. Disciplinary Probation may include ineligibility for student organization officer positions.
- c. **Short-Term Suspension:** A student receiving a short-term suspension is excluded for good cause from one or more classes for a period of up to ten (10) days of instruction.
- d. **Long-term Suspension:** A student receiving a long-term suspension is excluded for good cause from one or more classes, activities and/or privileges of the College District for the remainder of the school term, or from all classes, activities and/or privileges of the College District for one or more terms.
- e. **Expulsion:** The Dean of Student Services or the Assistant Superintendent/Vice President for Student Affairs may recommend expulsion to the Superintendent/President. Expulsion is the termination of student status and the exclusion of the student from the College District. Expulsion requires formal action by the Governing Board.
- f. **Remand the case to formal hearing.**

The Dean of Student Services shall have the power to impose suspension and to recommend expulsion to the Superintendent/President. If the student does not accept the action of the Dean of Student Services, the student has the right to appeal and request a formal hearing under the Appeal Procedures section as set forth below. A student who has been suspended and is waiting for a formal hearing will not be able to attend any on-campus or College District-sponsored activities.

If permissible, the student may contact his/her/their instructor(s) or appropriate District office by email or voicemail to receive class assignments or other information. Assignments or District documents can be turned into the College Police Office to be forwarded to the appropriate parties. If violation(s) of Student Conduct includes issues of campus or personal safety, the student may be prohibited from contacting any District staff, faculty, or students.

The Governing Board shall consider any recommendation from the Superintendent/President for expulsion. The Governing Board shall consider an expulsion recommendation in closed session unless the student requests that the matter be considered in a public meeting. Final action by the Governing Board shall be reported in a public meeting.

**Withdrawal of Consent to Remain on Campus:** The Superintendent/President or his/her/their designee, including the Dean of Student Services, may notify any person for whom there is 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 Superintendent/President's designee or the Dean of Student Services, a written report must be promptly made to the Superintendent/President.

The person for 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 no later than three (3) days from the date of receipt of the request. The hearing will be conducted in accordance with the provisions of this procedure relating to short-term suspensions.

In no case shall consent be withdrawn for longer than fourteen (14) days from the date upon which consent was initially withdrawn.

Any person for 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 to a related disciplinary meeting or hearing, is subject to arrest (Penal Code Section 626.4).

#### 5. NOTIFICATION OF DISCIPLINARY ACTION

Within ten (10) days of the meeting with the Dean of Student Services described above, the Dean of Student Services shall provide the student with a written notice of any decision for disciplinary action.

**Short-term Suspension** – Within ten (10) days after the meeting described above, the Dean of Student Services shall 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 decision shall be provided to the student. The notice will include the length of time of the suspension and the option to appeal the suspension to the Assistant Superintendent/Vice President for Student Affairs, or designee. The Assistant Superintendent/Vice President for Student Affairs' decision on a short-term suspension shall be final.

**Long-term Suspension** – Within ten (10) days after the meeting described above, the Dean of Student Services shall decide whether to impose a long-term suspension. Written notice of the decision shall be provided to the student. The notice will include the length of time of the suspension, the right of the student to request a formal appeal hearing before a long-term suspension is imposed, and a copy of AP 5520 Student Discipline Procedures describing the procedures for an appeal hearing.

**Expulsion** – Within ten (10) days after the meeting described above, the Superintendent/President shall, pursuant to a recommendation from the Dean of Student Services, decide whether to recommend expulsion to the Board of Trustees. Written notice of the decision shall be provided to the student. The notice will include the right of the student to request a formal appeal hearing before expulsion is imposed, and a copy of AP 5520 Student Discipline Procedures describing the procedures for an appeal hearing.

Students will be notified that any additional violation(s) of District policies, procedures and/or state, federal regulations may be subject to the extension or addition of disciplinary sanctions. If an additional Report of Student Misconduct (s) is filed while a student is on disciplinary action, these due process procedures may be repeated.

## Appeal Procedures: Request for an Appeal of Disciplinary Action

### Appeal of a Short-Term Suspension or Withdrawal of Consent to Remain on Campus

Any student may request an appeal of a short-term suspension or withdrawal of consent to remain on campus by submitting a written request for an appeal, within three (3) days of the receipt of the disciplinary action, to the Assistant Superintendent/Vice President for Student Affairs, or designee.

The Assistant Superintendent/Vice President for Student Affairs will meet with the student to review the facts supporting the short-term suspension or removal from campus. The student is provided the opportunity to respond verbally, or in writing, to the allegations. The Assistant Superintendent/Vice President will consider any written records and obtain information relating to the alleged violation from the student and other persons involved in the matter.

The Assistant Superintendent/Vice President for Student Affairs will render a decision based on the totality of the record, and the Assistant Superintendent/Vice President's decision is final. The Assistant Superintendent/Vice President may:

- Dismiss the short-term suspension or allow the student access to the College District campus.
- Shorten the suspension or removal time period.
- Maintain the 10-day short-term suspension or removal for the College District campus.
- Remand the case to the Dean of Student Services for a formal hearing.

### Appeal Hearing Procedures for Disciplinary Probation, Long-Term Suspension or Recommendation for Expulsion

Any student may request an appeal of the Dean of Student Services' disciplinary action of disciplinary probation, long-term suspension or recommendation for expulsion by submitting a written request for an appeal to the Dean of Student Services within five (5) days of the written notification from the Dean.

Upon receipt of a written request for an appeal hearing, the Dean of Student Services will convene a Hearing Panel to conduct a formal appeal hearing within 30 calendar days during the fall and spring semesters. If the fall or spring semester ends before the hearing is scheduled, both parties will be notified of any delay.

After the hearing date has been established and each party has been notified via official College District email address and/or regular and certified U.S. Mail or overnight delivery service, copies of the written case materials will be available for each party to pick up from the Office of Student Services seven (7) working days prior to the hearing. If the student has been suspended, copies of the written case materials will be available for pick up at the College Police office.

In addition to copies of the written case materials, the names of the Hearing Panel members will be provided to each party. Each party involved in the Report of Student Misconduct may challenge the participation of any member of the Hearing Panel for cause. The person must submit their request in writing to the Dean of Student Services no later than three (3) working days prior to the hearing. The grounds for

cause shall be limited to any personal involvement in the situation or issue, or any other act or statement indicating that person could not act in a neutral manner. After submitting the request to the Dean of Student Services, the validity of any such challenges shall be determined by the Chairperson of the Hearing Panel.

## Appeal Procedures: Hearing Panel Procedures

Hearing Panel - The Hearing Panel is the College District's administrative due process procedure to resolve student disciplinary actions. Parties are allowed to present testimony and witnesses to support their position. All communication and actions taken during this process are confidential. There will be a sworn College Police representative present at all hearings regardless of the type of Student Misconduct.

### 1. THE HEARING PANEL

Each academic year, the Dean of Student Services shall request and receive appointments of at least four members from each constituent group to serve on the Hearing Panel pool; as follows:

- Four students (enrolled in 5 or more units) appointed by Associated Student Organization (ASO) president, and;
- Four full-time tenured faculty appointed by the Academic Senate president, and;
- Four full-time classified personnel, except those designated as management, appointed by the Classified Union president, and;
- Four full-time administrative personnel, with the exception of any of the Assistant Superintendent/Vice Presidents and the Dean of Student Services, appointed by the Southwestern Community College District Administrators Association (SCCDAA) president.

When a Hearing Panel is required to be assembled, the Dean of Student Services will contact the President of each constituent group to appoint a member to the Hearing Panel.

Five (5) panel members shall be the minimum number to conduct a hearing, with one representative from each constituent group, plus the faculty chairperson.

No administrator, faculty member, staff, 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.

The Hearing Panel pool will be provided with annual training on this procedure, due process rights, and hearing procedures.

### 2. SCOPE OF THE HEARING PANEL

The Hearing Panel members shall be provided with a copy of the alleged violation, any written response provided by the student, and a copy of all written case materials at least seven (7) days before the Hearing Panel procedures begin.

The Hearing Panel shall limit the scope of its appeal hearing to the following:

- Determine if the evidence supports the findings of the Dean of Student Services.
- Determine if the disciplinary action imposed by the Dean of Student Services is within range of disciplinary actions delineated in Procedure No. 5520 AP - Student Discipline Procedures.

- Make recommendation(s) to the Assistant Superintendent/Vice President for Student Affairs or designee.

### 3. RESPONSIBILITIES OF THE CHAIRPERSON

The Academic Senate President shall appoint one faculty member from the Hearing Panel pool to serve as the Chairperson. The Chairperson shall preside over the hearing and make rulings as to its conduct. Disruptive behavior will not be tolerated and will result in exclusion of the disruptive person(s) from the proceedings. The decision of the Hearing Panel chairperson shall be final on all matters relating to the conduct of the hearing unless there is a vote by a majority of the other members of the panel to the contrary.

### 4. RIGHT TO REPRESENTATION

This is an internal due process hearing conducted by Southwestern Community College District. The student may represent himself/herself/ herself, and may also have the right to be represented by a person of his/her/their choice, 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 to the Dean of Student Services at least five (5) 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 Hearing Panel may sit with it in an advisory capacity to provide legal counsel but shall not be a member of the Hearing Panel or vote with it.

Each party may bring one non-contributing support person to the hearing for the purpose of moral support. The support person may not represent or provide testimony.

### 5. CLOSED HEARINGS

All Hearing Panel proceedings shall be closed and confidential, unless the student requests that it be open to the public. Any such request must be made in writing to the Dean of Student Services at least five (5) 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 Hearing Panel agree to the contrary.

### 6. ABSENCE OF THE COMPLAINANT AND/OR THE RESPONDENT

It is imperative that all parties be present during the hearing process. If the student(s) and/or the College District employee(s) who are involved in the Report of Student Misconduct do not appear, or leave the hearing before its conclusion, the hearing shall proceed without the absent parties, and the Hearing Panel shall reach a decision based on the evidence presented. Disruptive behavior will not be tolerated, and will result in removal of the person(s) with the hearing continuing in their absence.

### 7. RECORDING

The Hearing Panel proceedings shall be recorded by the District by voice recording. The official recording shall be the only recording made. No witness who refuses to be recorded may be permitted to give testimony. The voice 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 voice recording.

## 8. FORMAL ORDER OF HEARING PANEL PROCEEDINGS

### Opening

The Chairperson shall call the hearing to order, explain that the hearing is being recorded and that the proceedings are confidential, ask each person present to identify themselves by name, and announce the purpose of the hearing, e.g., "The Committee meets to hear an appeal of disciplinary action against (student's name) and/or to submit its findings to the Assistant Superintendent/Vice President for Student Affairs."

### Swearing in of both parties

All testimony shall be taken under oath; the oath shall be administered by the Hearing Panel Chairperson. 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.

### Opening Statements

Unless the Hearing Panel determines to proceed otherwise, the college representative and the student shall each be permitted to make a ten (10) minute opening statement.

Thereafter, the college representative shall make the first presentation of facts supporting the disciplinary action. The student then presents his/her/their evidence. The college representative may present rebuttal evidence after the student completes his/her/their evidence.

### Evidence for Hearing

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. All relevant evidence shall be admitted and will be entered for the record. Irrelevant and unduly repetitious evidence shall be excluded.

### Questioning Protocol

Each party shall be entitled to question the other party or any witnesses. Questions shall be directed to the Chairperson, who will then pose the question to the appropriate party. Members of the Hearing Panel may direct questions to either party upon recognition by the Chairperson. Either party may recall a witness, who may again be questioned by the Hearing Panel.

### Calling for Caucus

A brief caucus may be called by the Chairperson or any member, with all other persons excused except for the Hearing Panel members.

### Closing Statements

Both parties shall be entitled to make a closing statement. The District representative will make the first closing statement. Each party will be given five (5) minutes.

## 9. BURDEN OF PROOF

The burden shall be on the college representative to prove by the preponderance of the evidence that the facts alleged are true.

The student appealing has the burden of proving that the Dean of Student Services acted outside the scope of his/her/their authority or acted arbitrarily in imposing the appealed disciplinary measure.

## 10. HEARING PANEL DECISION

The Hearing Panel shall recess to deliberate in closed session with all members. College District legal counsel, if appropriate, may be present to advise. The Hearing Panel shall reach its decision based solely on the record of the hearing and shall not consider matters outside of that record. The record consists of the original Report of Student Misconduct, the written response, if any, of the student and the oral and written evidence produced at the hearing.

Within five (5) working days of the hearing, the Chairperson shall deliver to the Assistant Superintendent/Vice President for Student Affairs a written decision arrived at by majority vote of the Hearing Panel. The faculty Chairperson will vote in case of a tie. 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 any disciplinary action to be imposed, if any.

The Hearing Panel's decision may include any of the following recommendations:

- Exoneration
- Written warning
- Disciplinary Probation: conditional continued enrollment
- Disciplinary Suspension: specified period of time
- Expulsion (see below )
- Any other recommendation(s) that the committee members deem necessary for a successful resolution.

## 11. FINAL ACTION

Upon receiving the findings and recommendations of the Hearing Panel, the Assistant Superintendent/Vice President for Student Affairs shall render a decision within five (5) working days and will deliver the decision in writing to the student, the Hearing Panel members, the Dean of Student Services, and other appropriate administrative officers.

The Assistant Superintendent/Vice President for Student Affairs may accept, modify, or reject the findings, decisions and recommendations of the Hearing Panel. If the Assistant Superintendent/Vice President modifies or rejects the Hearing Panel's decision, the Assistant Superintendent/Vice President for Student Affairs shall review the record of the hearing, and shall prepare a new written decision which contains specific factual findings and conclusions. If the Assistant Superintendent/Vice President for Student Affairs decision is for Expulsion, the decision shall be forwarded to the Superintendent/President.

## Appeal to the Superintendent/President

From the date the student is notified of the Assistant Superintendent/Vice President for Student Affairs decision, any request for an appeal to the Superintendent/President must be received in writing to the Superintendent/President within five (5) working days.

The Superintendent/President may accept, modify, or reject the findings, decisions and recommendations of the Assistant Superintendent/Vice President for Student Affairs. If the Superintendent/President modifies or rejects the Assistant Superintendent/Vice President's decision, the Superintendent/President shall review the record of the hearing, and shall prepare a new written decision which contains specific factual

findings and conclusions. If the Superintendent/President's decision is for Expulsion, the decision shall be forwarded to the Governing Board.

The Superintendent/President's action shall be final and binding on all parties.

## Expulsion

According to Education Code §76030: A student may be expelled "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."

In the case of expulsion, the Superintendent/President's recommendation (see above) must be forwarded to the Governing Board.

The Governing Board shall consider any recommendation from the Superintendent/President for expulsion at the next regularly scheduled meeting of the Governing Board after receipt of the recommended decision.

The Governing Board shall consider an expulsion recommendation in closed session unless the student has requested that the matter be considered in open session (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 (3) days prior to the meeting, of the date, time, and place of the Board's meeting.

The student may, within forty-eight (48) hours after receipt of the notice, request that the matter be considered in an open meeting.

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

The Governing Board may accept, modify, or reject the findings, decisions and recommendations of the Superintendent/President or the Hearing Panel. If the Governing Board modifies or rejects the decision, the Governing 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 Governing Board shall be final.

The final action of the Governing Board on the expulsion shall be reported in a public meeting in accordance with student privacy rights and the result of that action shall be a public record of the College District, and must include:

- The duration of the expulsion may be indefinite.
- The expulsion shall be noted in the student's disciplinary file.
- Re-admittance after expulsion requires action by the Governing Board.

### MAINTENANCE OF STUDENT RECORDS

The facts of any disciplinary action shall be documented in the student's disciplinary record, subject to access, review, and comment by the student as authorized by the Family Educational Rights and Privacy Act (10 USC Section 2332g) and Education Code Section 76200 et seq. All access to, or release of such records to members of the public shall also be in accordance with State and Federal law. The student's disciplinary record will be maintained in the office of the Dean of Student Services for up to three years for a minor offense of written reprimand or less, and for

ten years for disciplinary probation and suspension. The condition for an expulsion will be stated in the student's disciplinary record.

### 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.

## DEFINITIONS

College District – Southwestern Community College District

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

Disciplinary Probation – A specific period of conditional participation in campus and academic affairs, which may include ineligibility for student organization officer positions. Any misconduct during the probation period will be cause for other disciplinary action, including suspension.

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

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 the responsibility for the student's educational program.

Notice – Delivery of written notice shall be emailed to College District student email account. Secondary notices may be delivered by United States (US) mail. Three business days are allowed for US mail delivery.

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

Report of Student Misconduct – Official filing against student(s) for an alleged violation of the Standards of Student Conduct (SCCD Policy No. 5500 BP and AP – Standards of Student Conduct).

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.

Suspension (Short-Term) – Exclusion of the student by the Dean of Student Services for good cause from one or more classes of the College District for a period of up to ten consecutive days of instruction. Exclusion may also include athletics, and/or co-curricular activities.

Suspension (Long-term) – Exclusion of the student by the Dean of Student Services for good cause from one or more classes for the remainder of the school term, or from all classes and activities of the College District for one or more terms.

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 in Campus – Withdrawal of consent by the Superintendent/President or his/her/their designee for any person to remain on campus in accordance with California Penal Code Section 626.4 where the Superintendent/President or his/her/their designee has reasonable cause to believe that such person has willfully disrupted the orderly operation of the campus.