



AP 5520

STUDENT DISCIPLINE PROCEDURES

References:

Education Code Sections 66017, 66300, 72122, 76030 et seq.;
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 them by state and federal constitutional protections. This procedure will be used in a fair and equitable manner, and not for purposes of retaliation. It is not intended to substitute for criminal or civil proceedings that may be initiated by other agencies.

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

For discipline resulting from a sexual harassment complaint under Title IX, the procedure in AP 3434 – Responding to Harassment Based on Sex under Title IX, must be used. For the procedure for responding to complaints and the rights of parties in matters of non-Title IX allegations of harassment, discrimination, or retaliation, see AP3435.

A. Definitions and Guidelines Governing These Procedures

The following guidelines govern the procedures described in this Administrative Procedure.

1. Definitions

The following terms have these meanings whether or not they are capitalized:

- a. ***District*** means the Santa Barbara Community College District.
- b. ***Student*** means any person currently enrolled as a student in any program offered by the District who was also enrolled at the time the alleged violation of the Standards of Student Conduct.
- c. ***Faculty Member*** means any academic employee of the District and includes non-instructional faculty who provide services to students or have responsibility for a student's educational program.
- d. ***Administrator*** means Dean, Educational Programs.



- e. **Property** means (i) any District-owned or controlled property, including off-campus leased facilities; and (ii) other facilities owned or controlled by entities other than the District where district-sponsored activities take place, including but not limited to performances, concerts, and sporting events.
- f. **Chief Conduct Officer** means the Dean or administrator who oversees student discipline or designee.
- g. When determining response time, **day** means any day, excluding Saturdays, Sundays, and holidays, during which the District is open and conducting business.
- h. **Standards of Student Conduct** mean the rules listed in AP 5500 Standards of Student Conduct.
- i. **External Adjudicator** means a person selected by the Chief Conduct Officer to be a member of the Student Disciplinary Committee or to decide a matter involving an alleged violation of the Standards of Student Conduct in lieu of convening the Student Disciplinary Committee pursuant to Section 5.a. In Title IX cases the adjudicator will be selected by the Title IX Coordinator.

2. Guidelines

a. Proceeding in Absentia

In any proceeding or hearing at which the student has a right to attend and participate, if the student fails to attend or participate, the proceeding or hearing may take place in the student's absence and the student will be bound by the result of the proceeding or hearing as if the student had attended and participated.

b. Continuances

The District or student(s) directly involved in the violation of the Standards of Student Conduct may seek a continuance (extension of time) of any hearing date or deadline based upon a showing of good cause. Requests for a continuance shall be decided by the Chief Conduct Officer, unless the continuance concerns an expulsion hearing by the Board of Trustees, in which case the continuance request shall be decided by the President of the Board.

c. Repeat Offense(s)

Subsequent violations of the Standards of Student Conduct by a student who has been previously disciplined will ordinarily be subject to more



severe disciplinary actions than might be imposed for a first offense.

d. Notices to a Student's Parent

Where a student who is the subject of a disciplinary proceeding is a minor, notices and disciplinary decisions served upon the student shall also be sent to the parents or guardian of the student in the same manner and with the same effect as set forth in paragraph e, below.

e. Manner and Place to Which Notice is Sent

Whenever notice or disciplinary decision is required to be served upon a student, it shall be sent via email to the student's district-assigned email. Additionally, it may be sent via certified mail, postage paid and addressed to the last mailing address of the student on file with the District. Notice served by any of these methods shall be presumed to have been received by the student. Notice may also be served by personal service.

B. Jurisdiction

The District may discipline students who have violated the Standards of Student Conduct. Students may be disciplined (including removal, suspension, or expulsion) where, based upon the facts and circumstances of the offense, the District determines that the violation is related to college activity or college attendance.

For a violation of the Standards of Student Conduct pertaining to sexual assault and sexual exploitation, students may be disciplined (including removal, suspension, or expulsion) regardless of the victim's affiliation with the District and regardless of whether the offense is or is not related to a district activity or attendance and even if the conduct does not take place on district property.

C. Commencing the Disciplinary Process

Any district employee or student may file a written complaint with the Chief Conduct Officer against any student for violating the Standards of Student Conduct. It is encouraged but not required that all parties use the district's Report a Concern form, located on the college's website homepage. Before any formal disciplinary proceeding is commenced, the complaining party and student alleged to have violated the Standards of Student Conduct are encouraged to try to informally resolve the complaint. The Chief Conduct Officer is available to assist the parties in mediating this informal process.

D. Disciplinary Action



If a student violates the Standards of Student Conduct, the District may initiate the disciplinary actions listed below. These disciplinary actions are listed in order of severity but are not sequential steps which must be followed in the discipline process. The District will determine which disciplinary action is appropriate in each case based upon the severity of the student misconduct and the prior discipline record of the student.

1. Warning

A warning is a verbal or written notice to the student that continuing or repeating the student's misconduct may be cause for more severe disciplinary action. A faculty member or administrator shall issue such a warning. A student has no right to appeal or to a due process hearing (Education Code Section 76031).

2. Removal by Instructor

A faculty member may remove a student from class when the student's conduct interferes with the instructional process on the day the interference occurs and, at the option of the faculty member, for the next class meeting. The faculty member shall immediately report the removal in writing to the Chief Conduct Officer by completing the Report a Concern form. Records of the removal shall be retained in the office of the Chief Conduct Officer. A student who has been removed has no right to appeal or to a due process hearing (Education Code Section 76032). The student is responsible for any assignments or academic work missed as a result of the removal.

3. Official Reprimand

An official reprimand is a record that a student violated the Standards of Student Conduct. The reprimanded student shall be notified in writing that a further violation of the Standards of Student Conduct may result in additional disciplinary action. The Chief Conduct Officer shall issue the official reprimand. Records of official reprimands shall be retained in the office of the Chief Conduct Officer and in the student's file. A student who has been issued an official reprimand has no right to appeal or to a due process hearing (Education Code Section 76031).

4. Restitution

Monetary restitution may be imposed whenever district property has been damaged or destroyed and/or whenever district funds have been fraudulently received or used for an unauthorized purpose. The Chief Conduct Officer will place a hold on all student records until the monetary restitution is cleared.



5. Hold on Records

The Chief Conduct Officer may place a hold on all student records. Such holds are removed once the Preliminary Meeting is held (see Section E.2).

6. Disciplinary Probation

Disciplinary probation may consist of removal from all college clubs and organizations and denial of privileges of participating in all district or student-sponsored activities including public performances. Disciplinary probation may be imposed for a period not to exceed one year and can be rendered by an administrator. Notification of disciplinary probation actions shall be immediately reported in writing to the Chief Conduct Officer. A student placed on disciplinary probation may appeal to the Chief Conduct Officer. Records of disciplinary probation actions shall be retained in the office of the Chief Conduct Officer and in the student's file. A student has no right to appeal or to a due process hearing (Education Code Section 76031).

7. Summary Suspension

Where an immediate suspension is required in order to protect lives or property and to ensure the maintenance of order, the Chief Conduct Officer may summarily suspend a student. The notice must be provided to the student within ten (10) days of the date the conduct took place; in continuous, repeated, or ongoing conduct, the notice must be provided within the (10) days of the date on which conduct occurred which led to the decision to take disciplinary action. A preliminary meeting shall be conducted within ten (10) days from the date the student is suspended utilizing the procedures set forth in Section E.2, Preliminary Meeting. At the preliminary meeting, if the District determines to reverse the summary suspension, the student will be allowed to make up any coursework missed during the summary suspension. If the District determines to uphold the summary suspension, the District may also decide to impose additional discipline. Records of the interim suspension shall be retained in the office of the Chief Conduct Officer and in the student's file (Education Code Section 66017).

8. Administrative Withdrawal from a Course

Administrative Withdrawal from a course is a penalty for repeated, continued, or serious violations of the Standards of Student Conduct that have negatively impacted the learning and teaching environment within a specific course. Additionally, this penalty is utilized for students who have been subject to Summary Suspension. A "W" grade symbol will be reflected on the student's



academic record. The student shall not be eligible for a refund.

9. Mandated Community Service

Mandated Community Service is a penalty for serious violation of the Standards of Student Conduct. Generally, this penalty is intended in lieu of Disciplinary Suspension when the Chief Conduct Officer has determined that the students' presence does not pose a risk to students, employees, and/or property.

10. Disciplinary Suspension

Disciplinary suspension is a penalty for repeated, continued, or serious violations of the Standards of Student Conduct. A student may be suspended from one or more classes for a period of up to ten (10) days of instruction; from one or more classes for the remainder of the term; or from all classes and activities of the District for one or more terms. A suspended student may also be prohibited from occupying any portion of the campus and be denied participation in any or all college activities. Disciplinary suspensions shall be initiated by the Chief Conduct Officer and are subject to the Due Process Hearing and Appeal Procedures set forth in Section E. Records of disciplinary suspensions shall be retained in the office of the Chief Conduct Officer and in the student's file (Education Code Sections 66017, 76030, and 76031).

11. Expulsion

Expulsion is the permanent and unconditional removal of a student from the District. A student may be expelled only by the Board of Trustees upon recommendation of the Superintendent/President. The expulsion of a student is initiated by the Chief Conduct Officer and is determined according to the Due Process Hearing and Appeal Procedures set forth in Sections E and F (Education Code Section 76030).

E. DUE PROCESS HEARING AND APPEAL PROCEDURES

A student may only be suspended (other than a summary suspension) or expelled if the District substantially complies with the following due process hearing and appeal procedures. The District will have substantially complied with these procedures unless the student who was alleged to have violated the Standards of Student Conduct can prove that any variance from these procedures resulted in being suspended or expelled based upon unfair or mistaken findings of misconduct (*Goss v. Lopez*, 419 U.S. 565, 581-82 (1975); *In re James F.*, 42 Cal.4th 901, 905 (2008)).



A. Initiating a Charge of Misconduct

The representative of the District or other person having knowledge of the violation of the Standards of Student Conduct shall submit a written account to the Chief Conduct Officer detailing the alleged violation. The written account should, to the extent possible, include a specific description of the alleged misconduct, the dates and times when the alleged misconduct occurred, the names and contact information of any witnesses, and any documentary or other evidence relevant to the alleged violation. The names of victims of sexual assault may be redacted or omitted as necessary to comply with relevant victims' rights statutes.

B. Notifying the Student of the Misconduct Charge: Preliminary Meeting

A student charged with violations of the Standards of Student Conduct shall be notified that they are required to meet with the Chief Conduct Officer to discuss such alleged violations and any disciplinary action that may or will result if such charges are found to be true. The notice to attend the Preliminary Meeting may be verbal or written and it may be hand-delivered, emailed to the student's district-assigned email, or mailed to the student's address on file in the Admissions and Records Office.

At the Preliminary Meeting with the Chief Conduct Officer, the student shall be given a copy of the Standards of Student Conduct and a written statement of the alleged violation(s). The student will be given a reasonable opportunity to answer each alleged violation(s) and to present evidence demonstrating that the student did not commit those violations. The student will be informed of any possible disciplinary action(s) that may or will be taken. The student will be provided notice of further meetings if the Chief Conduct Officer deems such further meeting(s) necessary. Students will be provided with written notice of their rights to a hearing before the Student Disciplinary Committee or External Adjudicator on the matter before a suspension or expulsion is imposed.

C. Imposition of Discipline by the Chief Conduct Officer

If, after reviewing the situation with the student, the Chief Conduct Officer concludes that disciplinary action is appropriate, the Chief Conduct Officer shall send a letter to the student, in the manner required by section A.2.e of these procedures.

The Chief Conduct Officer may recommend that a student be suspended or expelled but may not impose that discipline. The Chief Conduct Officer may



impose the foregoing discipline or may recommend expulsion even if the student does not participate in a meeting with the Chief Conduct Officer per section A.2.a of these procedures.

In a case where the Chief Conduct Officer decides to impose any discipline other than (1) suspension or (2) to recommend expulsion, the decision of the Chief Conduct Officer shall be final. In a case where the Chief Conduct Officer decides to impose a suspension or to recommend expulsion, the student shall have the right to request a hearing before the Student Disciplinary Committee or External Adjudicator. That request must be made in writing and sent to the Chief Conduct Officer postmarked within fifteen (15) days of notice of the decision of the Chief Conduct Officer, or emailed by the student or designee and received and receipted by the Chief Conduct Officer within fifteen (15) days from the date of notification to the student of the Chief Conduct Officer's decision. If a student does not request a hearing, the imposition of a suspension by the Chief Conduct Officer shall be final. If the recommended discipline is that of expulsion, this recommendation shall be forwarded to the Superintendent/President without any intermediate review by the Student Disciplinary Committee pursuant to section F.i) of these procedures.

D. Notice of and Right to Appear at a Disciplinary Hearing in Cases of Suspension or Expulsion

If the student has requested a hearing to challenge the imposition of a suspension or a recommendation of expulsion, the Chief Conduct Officer shall prepare a detailed Statement of Charges specifying the (a) alleged misconduct, (b) evidence in support of the charges, and (c) proposed discipline the District intends to take against the student. The Chief Conduct Officer may redact the names of any witnesses from the Statement of Charges if the Chief Conduct Officer determines that disclosure of the identity of the witness would subject the witness to an unreasonable risk of psychological or physical harm.

In addition to the above statement of charges, the Chief Conduct Officer shall serve the student with a Notice of Intended Discipline, which will include (a) a copy of this Administrative Procedure, (b) notice of the date, time and place of the disciplinary hearing, (c) composition of the Student Disciplinary Committee/name of External Adjudicator, and (d) notice that the student may be accompanied at the hearing by legal counsel, if so desired. If the student is to be represented by legal counsel, the student must notify the Chief Conduct Officer of that fact at least five (5) days prior to the date of the scheduled hearing.



The disciplinary hearing will be held within ten (10) days after the date the Statement of Charges and Notice of Intended Discipline are served upon the student if it is served by email or personal service, or within thirteen (13) days if it is served by mail. This deadline may be extended under extenuating circumstances as determined on the initiative and at the sole discretion of the Chief Conduct Officer. Absent extenuating circumstances, requests to reschedule submitted by students must be submitted to the Chief Conduct Officer with an explanation for their requests at least five (5) days prior to the hearing.

If the student does not appear at the disciplinary hearing, no hearing need take place and (a) in cases where the Chief Conduct Officer has imposed a suspension, the suspension shall be final; (b) in cases where the Chief Conduct Officer has recommended expulsion, that recommendation shall be forwarded to the Superintendent/President without any intermediate review by the Student Disciplinary Committee/External Adjudicator pursuant to section F.1 of these procedures.

E. Disciplinary Hearing

In cases where the student has requested and appears at the disciplinary hearing, the hearing shall be conducted in the following manner.

a. Composition of the Student Disciplinary Committee/External Adjudicator

At the beginning of each fall term, the Chief Conduct Officer will ensure the Student Disciplinary Committee/External Adjudicator is appointed for the year. The Student Disciplinary Committee shall meet for training and review of the hearing process. In addition, members of the committee shall complete the Sexual Harassment: Policy & Prevention training and other mandated topics as specified in sub-section "iv" below.

The Chief Conduct Officer shall convene the Student Disciplinary Committee/External Adjudicator to hear the charges and recommend disciplinary action. The Student Disciplinary Committee shall be comprised as follows:

- i. Two full-time faculty (voting) appointed for one academic year by the president of the Academic Senate. If either or both of these faculty appointees are a direct party to a particular disciplinary



case, the Academic Senate president will appoint a substitute for that situation only.

- ii. Chief Conduct Officer (non-voting).
- iii. Administrator (voting) appointed for one academic year by the Superintendent/President. If this administrator appointee is a direct party to a particular disciplinary case, the Superintendent/President will appoint a substitute for that situation only.
- iv. Two students (voting) appointed for one academic year by the president of the Associated Student Government (ASG). If either or both of these student appointees are a direct party to a particular disciplinary case, the ASG president will appoint a substitute for that situation only.

The administrator shall be the chairperson of the Student Disciplinary Committee.

At the discretion of the Chief Conduct Officer, the District may engage an External Adjudicator to serve as a member of the Student Disciplinary Committee or in lieu of the Student Disciplinary Committee whenever, in the exercise of judgment, doing so will best serve the fair and equitable resolution of the misconduct charge. In making the determination to select an External Adjudicator, the Chief Conduct Officer will consider, among other factors, the nature of the allegations, the legal complexity of the case, whether there is any issue of conflict of interest, expertise required, whether the District is in session or on break, and any other relevant factors.

The Chief Conduct Officer will provide all members of the Student Disciplinary Committee and/or External Adjudicator with the Statement of Charges and Notice of Intended Discipline.

All members of the Student Disciplinary Committee and External Adjudicators who are selected to decide cases involving allegations of sexual assault, dating violence, domestic violence, and stalking must participate in annual training on non-discrimination; the

dynamics of sexual harassment, sexual violence and intimate partner violence; the factors relevant to a determination of credibility; the appropriate manner in which to receive and evaluate sensitive information; the manner of deliberation; evaluation of consent and incapacitation; the application of the preponderance of the evidence standard; sanctioning; and the District's policies and procedures. The training will be coordinated by the Title IX Coordinator in conjunction with district and external partners.

b. Challenges to the Composition of the Student Disciplinary Committee or External Adjudicator

The complaining party and the student alleged to have violated the Standards of Student Conduct may submit a written request to the Chief Conduct Officer that a member of the Student Disciplinary Committee or External Adjudicator be removed. The request must clearly state the grounds to support a claim of bias, conflict of interest, or an inability to be fair and impartial. This challenge must be raised in writing with the Chief Conduct Officer within five (5) days of receipt of the Notice of Intended Discipline. All objections must be raised prior to the commencement of the hearing in alignment with the deadline noted. Failure to object prior to the hearing will forfeit one's ability to appeal the outcome based on perceived or actual bias.

c. Conduct of the Disciplinary Hearing

The complainant and respondent to the case shall have the right to be present during the hearing proceedings. The student's parent or guardian may also attend the hearing if the student is a minor. Witnesses may be excluded until it is their turn to testify. All hearing proceedings will be recorded. If there is a failure of the recording equipment, the portion of the hearing not recorded shall be re-conducted and recorded to capture any portion not recorded, unless the District and the student (s) agree that a re-hearing is unnecessary and agree to a joint statement of factual findings.

The District and the student(s) may each be represented by legal counsel. If a student is to be represented by legal counsel, the student must notify the Chief Conduct Officer of that fact at least five (5) days prior to the date of the scheduled hearing. If the student is to be represented by an attorney, the college representative may request legal assistance. The



hearing panel may also request legal assistance; any legal advisor provided to the panel may sit with it in an advisory capacity to provide legal counsel but shall not be a member of the panel nor vote with it. If the student is not represented by legal counsel, the student may be accompanied by another person at the hearing provided that person does not participate in any way except to offer counsel to the student.

The District and the student shall have the right to call, examine, and cross-examine witnesses at the hearing.

d. Decision of the Student Disciplinary Committee or External Adjudicator

The members of the Student Disciplinary Committee shall consider and reach a decision by a simple majority vote on each of the charges against the student. If the matter is being heard solely by the External Adjudicator, the External Adjudicator shall render the decision. The Student Disciplinary Committee or the External Adjudicator shall apply the preponderance of the evidence standard of proof in determining whether the student is found to be in violation of the Standards of Student Conduct.

e. General Evidentiary Rules

The decision shall not be based solely upon hearsay evidence.

f. Evidence of the Complainant's Prior Sexual History

In general, a complainant's prior sexual history is not relevant and will not be admitted as evidence at a hearing. Where there is a current or ongoing relationship between the complainant and the student alleged to have violated the Standards of Student Conduct, and that student alleges consent, the prior sexual history between the parties may be relevant to assess the manner and nature of communications between the parties. As noted in other sections of this policy, however, the mere fact of a current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. Any prior sexual history of the complaining party with other individuals is typically not relevant and will not be permitted.

g. Evidence of Student's Pattern of Conduct

Where there is evidence of a pattern of conduct similar in nature to the conduct described in the allegations, either prior to or subsequent to the conduct in question, regardless of whether there has been a finding of

responsibility, this information may be deemed relevant and probative to the Student Disciplinary Committee's/External Adjudicator's determination of responsibility and/or assigning of a disciplinary sanction. The determination of relevance will be based on an assessment by the Student Disciplinary Committee/External Adjudicator of whether the previous and/or subsequent incident was substantially similar to the conduct cited in the Statement of Charges and indicates a pattern of behavior and substantial conformity with that pattern by the student. Where there is a prior finding of responsibility for a similar act of sexual misconduct, there is a presumption of relevance and the finding may be considered in making a determination as to responsibility and/or assigning of a sanction.

h. Affirmative Consent in Sexual Assault Cases

In cases involving charges of sexual assault, where the defense of the student alleged to have violated the Standards of Student Conduct is that the complaining party consented to the sexual act, the following rules shall be applied by the Student Disciplinary Committee or the External Adjudicator.

"Affirmative consent" means affirmative, conscious, and voluntary agreement to engage in sexual activity.

It is the student's responsibility to ensure that the student has the affirmative consent of the complaining party to engage in the sexual activity. Lack of protest or resistance by the complaining party does not mean consent, nor does silence mean consent.

Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time. The existence of a dating relationship between the student alleged to have violated the Standards of Student Conduct and the complaining party, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of consent.

It shall not be a valid excuse to alleged lack of affirmative consent that the student believed that the complaining party consented to the sexual activity under either of the following circumstances:

- i. The student's belief in affirmative consent arose from the intoxication or recklessness of the complaining party.



- ii. The student did not take reasonable steps, in the circumstances known to the student at the time, to ascertain whether the complaining party affirmatively consented.

Further, it shall not be a valid excuse that the accused student believed that the complaining party affirmatively consented to sexual activity if the accused student knew or reasonably should have known that the complaining party was unable to consent to the sexual activity under any of the following circumstances:

1. The complaining party was asleep or unconscious.
2. The complaining party was incapacitated due to the influence of drugs, alcohol, or medication so that the complainant could not understand the fact, nature, or extent of the sexual activity.
3. The complaining party was unable to communicate due to a mental or physical condition.

The Decision

The decision of the Student Disciplinary Committee or the External Adjudicator shall be one of four options: (1) recommend expulsion; (2) impose a suspension; (3) impose a lesser disciplinary action; (4) find that the charges against the student alleged to have violated the Standards of Student Conduct have not been proven and no discipline should be imposed.

Within ten (10) days after conducting the hearing, the Student Disciplinary Committee or External Adjudicator shall render a decision, prepare written findings and conclusions, and serve them upon the student alleged to have violated the Standards of Student Conduct with a copy sent to the Chief Conduct Officer. With the exception of a recommendation of expulsion, the Chief Conduct Officer will implement the decision of the Student Disciplinary Committee or the External Adjudicator. If the Student Disciplinary Committee or the External Adjudicator recommends that the student be expelled, the Chief Conduct Officer shall forward the findings to the Superintendent/President for further action pursuant to Section F.

Appeals for Incidents Related to Sexual Misconduct

Appeals for incidents related to sexual misconduct must be well-reasoned, substantive, and demonstrative of at least one of the following criteria:

1. That there was a substantive procedural error that may have impacted the outcome of the hearing.



2. For a case in which the respondent was found responsible, that the facts in the case were insufficient to establish that a violation of the Standards of Student Conduct occurred. Alternatively, for a case in which the respondent was not found responsible, that the facts in the case were sufficient to establish that a violation of the Code did occur.
3. The sanction(s) imposed was not appropriate for the violation of the Standard for which the student was found to be responsible.
4. New evidence that was not available at the time of the hearing has become available, and is potentially sufficient to alter a decision.

If the complainant or respondent is not satisfied with the results of the hearing determination, the student may, within fifteen (15) days, submit a written appeal to the Board of Trustees. The Board (do we want to add or their designee?) shall issue a final decision in the matter within 45 days after receiving the appeal. The decision will be provided to the Superintendent/President or their designee and then to the complainant(s) and respondent(s) or their designee(s). If the Board reports that it took no action, such will be communicated to the Superintendent/President or their designee and then to the complainant(s) and respondent(s).

F. Rules Pertaining To Expulsion Recommendations

a) Review by the Superintendent/President

Within five (5) days of receiving the findings and conclusions of the Student Disciplinary Committee or the External Adjudicator recommending that the student be expelled, the Superintendent/President shall review the findings and conclusions, and shall prepare a discipline decision (1) recommending that the student be expelled; (2) imposing some lesser discipline; (3) deciding that no discipline should be imposed; or (4) remanding the matter back to the Student Disciplinary Committee or the External Adjudicator for a further hearing to more fully develop the factual record or to take any other actions directed by the Superintendent/President.

If the Superintendent/President concurs with the expulsion recommendation, the Superintendent/President shall also prepare an Expulsion Hearing Notice stating:

- i) the date, time, and place of the meeting of the Board of Trustees at which the matter of expulsion shall be considered;
- ii) notice that the student may be accompanied at the hearing by legal counsel, if so desired; and



- iii) that the student may submit a written request, within two (2) days after receipt of the written notification, that the hearing of the Board be held as a public meeting rather than in closed session.

The Superintendent/President's discipline decision and the Expulsion Hearing Notice (if applicable) shall be served upon the student, and a copy sent to the Chief Conduct Officer. If the Superintendent/President concurs with the expulsion recommendation, the discipline decision and Expulsion Hearing Notice shall also be sent to the Board of Trustees.

b) Review by the Board of Trustees

i) The Expulsion Hearing Date

The hearing before the Board of Trustees shall be held within ten (10) days after the date the Superintendent/President's discipline determination and the expulsion hearing notice is served upon the student if the student is served by email or personal service, or within three (3) days if served by registered or certified mail to the address last on file with the District. This deadline may be extended under extenuating circumstances as determined by the Board President on their own initiative and in their sole discretion. Absent extenuating circumstances, requests to reschedule submitted by the complaining party or student alleged to have violated the Standards of Student Conduct must be submitted to the Board with an explanation for the request at least five (5) days prior to the hearing.

ii) Conduct of the Hearing by the Board of Trustees

Unless the student requests, within forty-eight (48) hours after receipt of the notice, that the hearing of the Board of Trustees be held as a public meeting, the hearing to consider the matter shall be conducted by the Board in closed session. If a written request by the student is submitted, the meeting shall be public except that any discussion at the meeting that might be in conflict with the right to privacy of any student other than the student requesting the public meeting shall be in closed session.

The student, student's counsel, Chief Conduct Officer, chairperson of the Student Disciplinary Committee or the External Adjudicator if the matter was decided solely by the External Adjudicator, Superintendent/President, and the District's legal counsel may attend the hearing before the Board of Trustees. Whether the hearing is conducted



before the public or in closed session, the Board shall confer in private as necessary with its designated legal counsel and Superintendent/President to consider the evidence presented and reach its determination in the matter. When these deliberations are completed, the final action of the Board shall be taken at a public meeting and the result of that action shall be made a part of the public record of the District (Education Code Section 72122).

iii) **The Decision of the Board of Trustees**

The student shall be expelled if a majority of the members of the Board of Trustees present at the hearing vote to expel the student. If a majority of the members of the Board of Trustees do not vote to expel the student, they may, by majority vote of the members:

1. impose some lesser discipline;
2. decide that no discipline should be imposed; or
3. remand the matter to the Student Disciplinary Committee or the External Adjudicator for a further hearing to more fully develop the factual record or to take any other actions directed by the Board of Trustees. The decision of the Board shall be final.

- iv) If the majority of the members of the Board of Trustees present at the hearing cannot reach a decision to expel the student or to take some other action, the matter shall be remanded to the Superintendent/President who shall suspend or impose some lesser discipline on the student.

The decision of the Board of Trustees or the Superintendent/President shall be implemented immediately, and within five (5) days of making that decision, the decision shall be served upon the student and sent to the Chief Conduct Officer.

Also see BP/AP 5500 Standards of Student Conduct, BP/AP 5550 Academic Integrity and AP 3435 Discrimination and Harassment Complaints and Investigations.

The Superintendent/President shall develop and provide to the Board upon request for review annually report of the number of students who were disciplined pursuant to this procedure. This report must disaggregate the students by race, age, gender, income, or any other characteristic identified by the Board.



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

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