

STUDENT CODE OF CONDUCT

Student Services Procedure 3027

STUDENT CODE OF CONDUCT

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STUDENT CODE OF CONDUCT

I. INTRODUCTION

The Student of Code Conduct is statements depicting the Contra Costa Community College District's expectations regarding student standards of conduct, in both academic and nonacademic environments. Students are expected to obey all laws and District policies and regulations. Students shall be subject to discipline for violation of these laws, policies, and regulations. Student misconduct may also be subject to other regulations of the District, including but not limited to regulations regarding complaints of harassment, discrimination, intimidation, and bullying.

The primary purpose of the Student Code of Conduct is to support and protect students and to ensure their academic and personal success throughout their attendance at any of the colleges within the District. In addition, the Student Code of Conduct intends to educate students about rights, responsibilities, and violations under the Student Code of Conduct and the associated consequences. The Student Code of Conduct includes a defined process for the fair and impartial review and determination of alleged improper student behavior. The Student Code of Conduct also specifies the various sanctions that may be imposed on District students for violations of the Student Code of Conduct.

The Student Code of Conduct is designed to be consistent with the principles of due process of law. Reasonable deviations from the Student Code of Conduct will not invalidate a decision or proceeding. The Student Code of Conduct is not intended to prevent or limit lawful exercise of academic freedom or constitutionally protected free speech or expression.

II. DEFINITIONS

For the purpose of these Rules and Regulations, the following words and terms are defined as follows:

- A. *Student* means all persons enrolled in any courses at the colleges in the district, regardless of where courses are taught, whether they are enrolled full-time or part-time, for credit or non-credit or not-for credit or contract education, and whether or not s/he is planning to earn a degree, certificate of achievement or other certification. Persons who are enrolled in online or hybrid courses are also considered 'students'. Persons who are not officially enrolled for a particular term, but who have been admitted to the college and enroll in courses from time to time, and have a continuing relationship with the college are considered 'students'.
- B. *Instructor* means 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.
- C. *Governing Board* means the Governing Board of the Contra Costa Community College District.
- D. *District* means the Contra Costa Community College District, including but not limited to its administrative staff and each of its colleges.
- E. *College* means a college operated and maintained by the District.

- F. *Member of the College Community* means the District Trustees, the academic personnel, support staff, and administrative personnel of the District, the students of the District and any other person while on District or college property or at a District or college function or activity.
- G. *Day* refers to a college day during which the District is in session and classes are held.
- H. *Good Cause*, as defined in Education Code, Section 76033, refers to student conduct that will result in disciplinary action or sanctions in accordance with this procedure. Resulting disciplinary action may include removal, suspension or expulsion.
- I. *Sexual harassment* is unwelcome conduct of a sexual nature, including (but not limited to) unwelcome sexual advances, requests for sexual favors, and other verbal, nonverbal, or physical conduct of a sexual nature.
- J. *Title IX Sexual harassment* or *Sexual Harassment under Title IX* is limited to the following:
1. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the institution's education program or activity;
 2. Sexual assault (as defined in the Clery Act), dating violence; domestic violence, or stalking, as defined in the Violence Against Women Act (VAWA).

Title IX sexual harassment is also limited to conduct alleged to have occurred within an education program or activity (i.e. locations, events, or circumstances over which the institution exercises substantial control as to the respondent and the context in which the harassment occurred), against a person in the United States. Sexual harassment occurring outside the United States is not covered under Title IX sexual harassment. Sexual harassment that is not covered under Title IX sexual harassment will still be investigated and students will still be subject to disciplinary action. However, as outlined below, allegations of Title IX sexual harassment require additional procedural protections.

- K. *Sexual violence* means any physical sexual acts perpetrated against a person's will or where a person is incapable of giving consent due to the victim's use of drugs or alcohol. An individual also may be unable to give consent due to minority/or an intellectual or other disability. A number of different acts fall into the category of sexual violence, including rape, sexual assault, sexual battery, and sexual coercion. All such acts of sexual violence are forms of sexual harassment.
- L. *Complainant* means any member of the college community (student, faculty or staff member) who submits a charge alleging that a student violated this Code. A complainant who accuses a student of sexual harassment or sexual violence and who believes they are a victim of these prohibited actions will be guaranteed the same rights as the student accused, including the right to present witnesses and other evidence and to be accompanied by an advisor at a hearing, the right to be notified of the outcome of the complaint and the same appeal processes as are provided to the accused student. Complainants may not be entitled to know the exact level of discipline imposed due to privacy rights.

- M. *Preponderance of the evidence* means the greater weight of the evidence (i.e. it is more likely than not that misconduct occurred).
- N. *Hate violence* means any act of physical intimidation or physical harassment, physical force or physical violence, or the threat of physical force or physical violence, that is directed against any person or group of persons, or the property of any person or group of persons because of ethnicity, race, color, national origin, religion, sex, sexual orientation, gender identity expression, disability or political or religious beliefs of that person or group.
- O. *Affirmative Consent* means an affirmative, unambiguous, and conscious decision by each participant to engage in mutually agreed-upon sexual activity.
- P. *Supportive measures* means individualized services reasonably available that are non-punitive, non-disciplinary, and not unreasonably burdensome to the other party while designed to ensure equal educational access, protect safety, or deter sexual harassment. Supportive measures can include transfer of one party or another to different classes, counseling services, or other academic or transcript adjustments.

III. COMPLAINTS OF VIOLATIONS OF THE STUDENT CODE OF CONDUCT

A. Complaint Filed/Incident Reported

The District, through the college President or President's designee, will investigate all reports of alleged violations of the Student Code of Conduct. Anyone who believes a section of the Student Code of Conduct has been violated should contact the President's designee identified at each District campus. Reports of allegations are entered into a Districtwide system where it is assigned to the appropriate President's designee.

Additional Title IX Requirements

For allegations of Title IX sexual harassment only, a complainant (defined as an alleged victim of sexual harassment) must be participating in, or attempting to participate in an educational activity at the college/District. Therefore, complaints from former students will not be processed under the special requirements for Title IX complaints. A Title IX coordinator may also sign a complaint on behalf of an apparent victim of sexual harassment. They may, however, still be processed as outlined herein. If, after filing a formal Title IX complaint, the complainant wishes to dismiss the complaint, they may notify the Title IX coordinator or investigator in writing of their desire to do so. However, the District, in its discretion, may still pursue the investigation process if it is not clearly unreasonable in light of known circumstances. The District also may, in its discretion, dismiss a Title IX sexual harassment complaint if it learns that the respondent is no longer enrolled.

Lastly, the District may, in its discretion, dismiss a Title IX sexual harassment complaint if specific circumstances prevent it from gathering evidence sufficient to reach a determination regarding responsibility. Dismissal of the formal complaint under Title IX does not preclude action under another policy or code of conduct. Where a previously filed formal complaint is dismissed prior to completion of the investigation process, the college/District must give the parties written notice thereof, and the reasons therefor.

The college/District may, in its discretion, consolidate formal complaints where the allegations arise out of the same facts.

B. Notice to Student

In all cases, the President's designee, will provide written notice to the accused student(s), providing them with (1) a description of the alleged violation(s); (2) the date and location of the alleged incident(s); and (3) a required date and time for the student to contact the President's designee to respond to the allegations.

Additional Title IX Requirements

With respect to allegations falling under the definition of "sexual harassment" under Title IX, the written notice to the student shall also include the identities of the parties involved. Additionally, both the accuser and the accused student must be informed in writing of their right to have an advisor or their choice present for the investigatory interview, and to review evidence obtained during the investigation. In addition, with respect to investigations involving allegations of Title IX sexual harassment, the written notice must include a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the investigation process/appeal process. Lastly, the notice must include a statement informing the parties of any provision of the institution's student code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the investigation/appeal/hearing process.

C. Investigation of Allegations/Mediation

The investigator will conduct interviews as necessary to determine whether any violation of the Student Code of Conduct has occurred. Interviews may be conducted with the complainant, any witnesses, and the accused student. The investigator shall also review relevant documentation and other evidence.

For alleged violations of the Student Code of Conduct not subject to Title IX or California Senate Bill 493, the Student Conduct Officer may, in its discretion, determine whether informal resolution is appropriate

Additional Title IX Requirements

With respect to Title IX sexual harassment allegations, both the complainant and the respondent are permitted to have an advisor present during the interview. However, the advisor may not disrupt the investigation process and may not coach or answer on behalf of the party being interviewed,

Investigations should generally result in resolution within 90 calendar days after a complaint has been made, barring unexpected delays.

For allegations determined to be minor in nature by the President's designee, a voluntary alternative to the formal investigation and hearing process, as mutually agreed upon by the President's designee, the student, and any other involved individual, may be utilized as appropriate. The President's designee will select a trained mediator to assist the Student and Reporting Party in attempting to resolve the allegation. The mediator can be the College Disciplinary Officer, or any other employee of the District as designated by the College Disciplinary Officer. The

College Disciplinary Officer or Designee may also utilize the services of an external mediator.

D. Findings and Determination

The President's designee will make one of the following findings following a thorough investigation of the allegations:

Not Responsible – The President's designee determines that insufficient evidence exists, by the Preponderance of Evidence standard, for a Finding of Responsible for the alleged violation(s). The case is closed and a record is retained.

Responsible – The President's designee determines that sufficient evidence exists, by the Preponderance of Evidence standard, for a Finding that the Student is Responsible for the alleged violation(s).

This determination may also be rendered through the Informal Administrative Resolution, where the student has admitted culpability for the alleged violation(s). The President's designee may close the case.

E. Standard of Proof

In all cases involving alleged violations of the Student Code of Conduct, the standard of proof for determining whether a Student is Not Responsible or Responsible is the Preponderance of Evidence standard (e.g., more likely than not). This standard of proof applies to the determinations made by the College President/Designee, Hearing Authority, and Governing Board as well.

F. Additional Requirements for Title IX Sexual Harassment Allegations

Before concluding the investigation, the President/Designee must provide the parties and their advisors, if any, equal opportunity to inspect and review any evidence obtained during the investigation that is directly related to the allegations raised in a formal complaint, even if the investigator has not relied on that evidence in reaching a determination. All inculpatory and exculpatory evidence must be included, except as provided for by law, and except for a party's medical, psychological, or similar treatment records, unless the party has provided a voluntary and consensual release for such records. The evidence must be provided to the parties in an electronic format or a hard copy, and the parties must be given 10 calendar days to submit a written response, which the investigator must consider before the completion of the investigative report. To the extent possible, the District shall use an electronic platform that prevents the downloading of the materials. Prior to permitting the review of such evidence, the investigator must obtain a signed nondisclosure agreement from the reviewing party to prevent the circulation of the evidence subject to inspection and review.

At the conclusion of the Title IX Sexual Harassment investigation, the investigator must create an investigative report that fairly summarizes relevant evidence. The investigator must send to the parties and their advisors, if any, the investigative report in an electronic format or a hard copy for their review and written response. The final investigative report must be provided at least 10 days before any hearing so the parties have time to review and provide written responses.

- G. Additional requirements for all allegations of sexual harassment pursuant to California Senate Bill 493

In determining the appropriate sanction for violations of the Student Code of Conduct, the District's primary concern shall be student safety.

An individual who participates as a complainant or witness in any investigation related to sexual harassment/stalking will not be subject to disciplinary sanctions for violations of the Student Code of Conduct that occurred at the same time or near the time of the sexual harassment/stalking incident, unless the District determines that the violation of the complainant/witness was egregious. Offenses that the District considers "egregious" include, but are not limited to, actions that places the health or safety of any other person at risk or involve plagiarism, cheating, or academic dishonesty.

Any student who submits a complaint of sexual harassment, either verbally or in writing, shall be provided with a copy of this policy, along with HR Procedure 1040.07 and Board Policy 2002. The respondent shall also be provided with a copy of these policies, regardless of whether the accused is another student, or an employee.

The investigation and adjudication of alleged sexual misconduct is not an adversarial process between the complainant, the respondent, and the witnesses, but rather a process for the District to comply with its obligations under existing law. The complainant does not have the burden to prove, nor does the respondent have the burden to disprove, the underlying allegation or allegations of misconduct.

The District shall ensure trauma-informed and impartial investigation of complaints. Student parties shall be given an opportunity to identify witnesses and other evidence to assist the District in determining whether a policy violation has occurred, and shall be informed that any evidence available but not disclosed during the investigation might not be considered at a subsequent hearing.

Regardless of whether or not a complaint has been filed under the institution's grievance procedures, if the District knows, or reasonably should know, about possible sexual harassment involving individuals subject to the institution's policies at the time, the District shall promptly investigate to determine whether the alleged conduct more likely than not occurred, or otherwise respond if the District determines that an investigation is not required. If the District determines that the alleged conduct more likely than not occurred, it shall immediately take reasonable steps to end the harassment, address the hostile environment, if one has been created, prevent its recurrence, and address its effects.

The District shall consider and respond to requests for accommodations relating to prior incidents of sexual harassment that could contribute to a hostile educational environment or otherwise interfere with a student's access to education where both individuals are, at the time of the request, subject to District policies.

Requests for Confidentiality

If a complainant requests confidentiality, which could preclude a meaningful investigation or potential discipline of the potential respondent, or that no

investigation or disciplinary action be pursued to address alleged sexual harassment, the District shall take the request seriously, while at the same time considering its responsibility to provide a safe and nondiscriminatory environment for all students, including for the complainant. The District shall generally grant the request. In determining whether to disclose a complainant's identity or proceed to an investigation over the objection of the complainant, the District may consider whether any of the following apply:

- There are multiple or prior reports of sexual misconduct against the respondent.
- The respondent reportedly used a weapon, physical restraints, or engaged in battery.
- The respondent is a faculty or staff member with oversight of students.
- There is a power imbalance between the complainant and respondent.
- The complainant believes that the complainant will be less safe if the complainant's name is disclosed or an investigation is conducted.
- The institution is able to conduct a thorough investigation and obtain relevant
- evidence in the absence of the complainant's cooperation.

If the District determines that it can honor the student's request for confidentiality, it shall still take reasonable steps to respond to the complaint, consistent with the request, to limit the effects of the alleged sexual harassment and prevent its recurrence without initiating formal action against the alleged perpetrator or revealing the identity of the complainant. These steps may include increased monitoring, supervision, or security at locations or activities where the alleged misconduct occurred; providing additional training and education materials for students and employees; or conducting climate surveys regarding sexual violence.

The District shall also take immediate steps to provide for the safety of the complainant while keeping the complainant's identity confidential as appropriate. These steps may include changing living arrangements or course schedules, assignments, or tests. The complainant shall be notified that the steps the District will take to respond to the complaint will be limited by the request for confidentiality.

If the District determines that it must disclose the complainant's identity to the respondent or proceed with an investigation, it shall inform the complainant prior to making this disclosure or initiating the investigation. The institution shall also take immediate steps to provide for the safety of the complainant where appropriate. In the event the complainant requests that the institution inform the respondent that the student asked the District not to investigate or seek discipline, the District shall honor this request.

Past Sexual History

The investigator or hearing officer shall not consider the past sexual history of a complainant or respondent except in the limited circumstances permitted below:

The investigator or hearing officer shall not consider prior or subsequent sexual history between the complainant and anyone other than the respondent for any reason unless directly relevant to prove that physical injuries alleged to have been inflicted by the respondent were inflicted by another individual.

The investigator or hearing officer shall not consider the existence of a dating relationship or prior or subsequent consensual sexual relations between the complainant and the respondent unless the evidence is relevant to how the parties communicated consent in prior or subsequent consensual sexual relations.

Where the investigator or hearing officer allows consideration of evidence about a dating relationship or prior or subsequent consensual sexual relations between the complainant and the respondent, the mere fact that the complainant and respondent engaged in other consensual sexual relations with one another is never sufficient, by itself, to establish that the conduct in question was consensual.

Before allowing the consideration of any evidence proffered pursuant to this subdivision, the investigator or hearing officer shall provide a written explanation to the parties as to why consideration of the evidence is consistent with this clause.

Additional Requirements for Questioning at Hearing

The District shall prohibit questions of either party or of any witness that are repetitive, irrelevant, or harassing.

The District shall decide whether or not a hearing is necessary to determine whether any sexual violence more likely than not occurred. In making this decision, the District may consider whether the parties elected to participate in the investigation and whether each party had the opportunity to suggest questions to be asked of the other party or witnesses, or both, during the investigation.

Any hearing shall be subject to the following rules:

Any cross-examination of either party or any witness shall not be conducted directly by a party or a party's advisor.

Either party or any witness may request to answer the questions by video from a remote location.

Student parties shall have the opportunity to submit written questions to the hearing officer in advance of the hearing. At the hearing, the other party shall have an opportunity to note an objection to the questions posed. The District may limit such objections to written form, and neither the hearing officer nor the District are obligated to respond, other than to include any objection in the record. The hearing officer shall have the authority and obligation to discard or rephrase any question that the hearing officer deems to be repetitive, irrelevant, or harassing. In making these determinations, the hearing officer is not bound by, but may take guidance from, the formal rules of evidence.

Generally, the parties may not introduce evidence, including witness testimony, at the hearing that the party did not identify during the investigation and that was available at the time of the investigation. However, the hearing officer has discretion to accept for good cause, or exclude, such new evidence offered at the hearing.

The preponderance of the evidence standard shall apply, and is met if the District determines that it is more likely than not that the alleged misconduct occurred, based on the facts available at the time of the decision.

The District shall provide a reasonably prompt timeframe for all of the major stages of the complaint process. These timelines may be extended for good cause only, and any need to extend the timelines shall be communicated to the complainant and respondent.

Investigations shall normally be completed within 90 days of the date the complaint was formally submitted. Both the respondent and complainant should be notified of the outcome within this 90 day period.

Appeals are governed by Title 5 of the California Code of Regulations and Title IX.

The District shall not unreasonably deny a student party's request for an extension of a deadline related to a complaint during periods of examinations or school closures.

The District shall provide a status update on the investigation if it is not possible to complete the investigation within the 90-day investigation timeline. Any extension of the 90-day timeline will be communicated to the complainant and respondent in writing, along with the reason for that extension.

The District will take steps to prevent recurrence of any harassment and to correct its discriminatory effects on the complainant and others, if appropriate.

Both the complainant and respondent will receive notice if the District is conducting a formal investigation. The notice shall include a brief summary of the allegations and the alleged District policy violations under review. Any new allegations that arise during the course of the investigation that could subject either party to new or additional sanctions shall be subject to the same notice requirements.

Student parties shall have the opportunity to each have a support person or adviser accompany the student party during any stage of the process.

Student parties have the right to consult with an attorney, at their own expense, at any stage of the process if they wish to do so. An attorney may serve as a support person or adviser.

The District has counseling resources available to student parties. Additional information regarding these resources may be obtained in the counseling departments of the individual colleges, or from the District/college Title IX Coordinators.

Both respondent and complainant, if both students, shall have equal rights to appeal if the outcome is a recommendation for suspension or expulsion, or any other penalty that results in a hearing.

Interim measures (e.g. stay away orders, counseling, academic accommodations, etc.) may be put in place during the pendency of an investigation. Supportive measures (e.g. stay away orders, counseling,

academic accommodation) may be provided in the absence of an investigation as well.

The District shall not mandate mediation to resolve allegations of sexual harassment, and shall not allow mediation, even on a voluntary basis, to resolve allegations of sexual violence.

The District shall not require that the complainant enter a voluntary resolution agreement or any other form of resolution as a prerequisite to receiving remedial measures from the institution which safeguard the complainant's access to education.

When requested by a complainant or otherwise determined to be appropriate, the District shall issue an interim no-contact directive prohibiting the respondent from contacting the complainant during the pendency of the investigation. An institution shall not issue an interim mutual no-contact directive automatically, but instead shall consider the specific circumstances of each case to determine whether a mutual no-contact directive is necessary or justifiable to protect the noncomplaining party's safety or well-being, or to respond to interference with an investigation. A no-contact directive issued after a decision of responsibility has been made shall be unilateral and only apply against the party found responsible.

Upon the issuance of a mutual no-contact directive, an institution shall provide the parties with a written justification for the directive and an explanation of the terms of the directive. Upon the issuance of any no-contact directive, the institution shall provide the parties with an explanation of the terms of the directive, including the circumstances, if any, under which violation could be subject to disciplinary action.

H. Retaliation Prohibited

Retaliation is prohibited against any individual for exercising rights under Title IX or this procedure, including the participating in or refusing to participate in the filing of a complaint, the investigation, or any proceeding or hearing.

Examples of prohibited retaliation include intimidation, threats, coercion, or discrimination, and specifically include bringing charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same fact or circumstances as a report or complaint of sex discrimination or sexual harassment.

IV. GROUNDS FOR DISCIPLINARY ACTION

- A. Students shall conduct themselves in a manner consistent with the Student Code of Conduct while on campus or participating off campus in online or hybrid courses, or at college sponsored events or programs, including but not limited to field trips, student conferences, debate competitions, athletic contests, club-sponsored events, and international study programs, regardless of location. Students shall also conduct themselves in a manner consistent with the Student Code of Conduct in any matter related to school activity or attendance. Students shall be suspended or expelled only for good cause.

Jurisdiction: Students may be disciplined for violations of the Student Code of Conduct wherever the District has jurisdiction under existing law, including, but not limited to, situations involving sexual harassment and sexual assault,

regardless of where and when such offenses occurred. The college may have an obligation to respond to student-on-student harassment that initially occurred off campus. Because students often experience the continuing effects of off-campus harassment in the educational setting, colleges should consider the effects of off-campus conduct when evaluating whether the District has jurisdiction to process the complaint. The college should take steps to protect a student who was assaulted off campus from further harassment or retaliation from the perpetrator and their associates.

The Student Code of Conduct applies to off-campus conduct when the effects of the off-campus conduct create a hostile environment or impact a substantial District/college interest. A substantial District/college interest may include:

1. Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, a single or repeated violation(s) of any local, state, or federal criminal statute or ordinance;
 2. Any situation where it appears that a student may present a danger or threat to the health or safety (including emotional safety) of themselves or others;
 3. Any situation that significantly impinges upon the rights, property, or achievements of self or others, or that significantly breaches the peace or causes significant disruption; and
 4. Any situation that is detrimental to the educational interest of the District/college.
- B. The following conduct shall constitute good cause for discipline, including but not limited to the removal, suspension, or expulsion of a student.
1. Acts of academic dishonesty, including, but not limited to:
 - a. cheating defined as unauthorized copying or collaboration on a test or assignment, or the use or attempted use of unauthorized materials;
 - b. tampering defined as altering or interfering with evaluation instruments or documents;
 - c. fabrication defined as falsifying experimental data or results, inventing research or laboratory data or results for work not done, falsely claiming sources not used or fabricating or falsifying documentation to try to change a course grade;
 - d. lying;
 - e. plagiarism defined as representing someone else's words, idea, artistry, or data as ones' own, including copying another person's work (including published and unpublished material, and material from the Internet) without appropriate referencing, presenting someone else's opinions and theories as one's own, or working jointly on a project, then submitting it as one's own; or
 - f. assisting others in an act of academic dishonesty, defined as assisting another student in an act of academic dishonesty, such as taking a test or doing an assignment for someone else, changing someone's grades or academic records, or inappropriately distributing exams to other students.
 2. Other forms of dishonesty, such as lying, plagiarism, knowingly furnishing false information, or reporting a false emergency to any college official, faculty or staff member or office or to the District;

3. Forgery, alteration, misappropriation or theft, misuse of any District or college document, record, key, electronic device, or identification including, but not limited to, unauthorized grade changes and forged signatures on official college forms;
4. Misrepresentation of oneself or of an organization to be an agent of the District;
5. Obstruction or disruption on or off District property of teaching or of the District's educational process, administrative process, disciplinary procedures, or other District functions and activities, on or off District property;
6. Disruptive behavior, willful disobedience, habitual profanity or vulgarity, or the open and persistent defiance of the authority of, or persistent abuse of, college personnel
7. 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 cyberbullying.
8. Engaging in harassing or discriminatory behavior based on disability, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or any other status protected by law.
9. Vandalism, graffiti, or other willful misconduct which results in cutting, defacing, or other damages to any real or personal property owned by the District or a member of the college community;
10. Assault, battery, violence or threat of violence, or any willful misconduct which results in an injury or death of a student or District personnel or behavior that threatens the health and safety of any member of the college community;
11. Theft of District property, or property in the possession of, or owned by, a member of the college community;
12. Violation of District or college policies or regulations including but not limited to those concerning the formation and registration of student organizations, the use of college facilities or the time, place, and manner of public expression or the distribution of leaflets, pamphlets, or other materials;
13. Failure to comply with the directions of District or college officials acting in the performance of their duties and/or failure to identify oneself to these persons when requested to do so;
14. The use, sale, distribution, or possession on District property of, or presence on District property while under the influence of, any controlled substances, or any poison classified as such by Schedule D section 4160 of the Business and Professions Code or other California laws on District property or at any District-sponsored event. Use of a prescription drug if the prescription was not issued to the student, or the distribution or sale of a prescription drug to a person to whom the prescription was not originally

- issued. Intentionally or recklessly inhaling or ingesting substances (e.g., nitrous oxide, glue, paint, etc.) that will alter a student's mental state is also prohibited. Possession of drug paraphernalia including, but not limited to, bongos or glass pipes is prohibited. This regulation does not apply when the person named on the prescription possesses the drugs or narcotics or when the drugs or narcotics are permitted for and are being used in research, instruction, or analysis;
15. Possession, consumption, sale, distribution or delivery of any alcoholic beverage on District property in college buildings or on college grounds, or at college-sponsored or supervised activities, regardless of their location, unless authorized by college officials;
 16. Possession or use of explosives, dangerous chemicals, or deadly weapons on District property or at a campus function, without prior authorization of the College President;
 17. Engaging in lewd, indecent, or obscene behavior on District- owned or controlled property or at a District-sponsored or supervised function;
 18. Rape, date rape, sexual harassment, sexual violence, sexual assault, or threat of an assault upon a student or member of the college community on District property, or at a college or District-sponsored or supervised function;
 19. Sexual misconduct, including sexual activity in the absence of affirmative consent. Sexual contact without affirmative consent is a form of sexual misconduct as is any intentional sexual touching with any object by a person upon another person, that is without affirmative consent and/or by force. Sexual contact includes intentional contact with the breast, buttock, groin, or genitals, or touching another with any of these body parts, or making another touch you or themselves with or on any of these body parts; or any other intentional bodily contact in a sexual manner, as well as non-consensual sexual intercourse, including vaginal or anal penetration by a penis, object, tongue, or finger, or oral copulation (mouth to genital contact), no matter how slight the penetration or contact;
 20. Sexual assault, defined as actual or attempted sexual contact with another person without that person's consent, regardless of the victim's affiliation with the community college, including, but not limited to, any of the following:
 - a. Intentional touching of another person's intimate parts without that person's consent or other intentional sexual contact with another person without that person's consent.
 - b. Coercing, forcing, or attempting to coerce or force a person to touch another person's intimate parts without that person's consent.
 - c. Rape, which includes penetration, no matter how slight, without the person's consent, of either of the following:
 1. The vagina or anus of a person by any body part of another person or by an object.
 2. The mouth of a person by a sex organ of another person.
 21. Sexual exploitation, defined as a person taking sexual advantage of another person for the benefit of anyone other than that person without

- that person's consent, regardless of the victim's affiliation with the community college, including, but not limited to, any of the following:
- a. Prostituting another person.
 - b. Recording images, including video or photograph, or audio of another person's sexual activity, intimate body parts, or nakedness without that person's consent.
 - c. Distributing images, including video or photograph, or audio of another person's sexual activity, intimate body parts, or nakedness, if the individual distributing the images or audio knows or should have known that the person depicted in the images or audio did not consent to the disclosure and objected to the disclosure.
 - d. Viewing another person's sexual activity, intimate body parts, or nakedness in a place where that person would have a reasonable expectation of privacy, without that person's consent, and for the purpose of arousing or gratifying sexual desire.
22. Unauthorized use of, or misuse of District property, including, but not limited to, unauthorized possession, duplication or use of District keys and/or unauthorized entry into, unauthorized use of, or misuse of District property;
 23. Willful or persistent smoking in any area where smoking has been prohibited by law or by regulation of the Governing Board, or college policy;
 24. Knowingly assisting another person in the commission of a violation of the Student Code of Conduct;
 25. Misuse of computers and networks which includes but is not limited to utilizing an unauthorized account, password, campus network, interfering with normal computer operations, circumventing data protection schemes or uncovering security loopholes, or violating terms of the software agreements. It also includes unauthorized entry, use, transfer, or tampering with the communications of others, and interference with the work of others, and with the operation of computer and electronic communications facilities, systems, and services;
 26. Stalking, which is defined as engaging in a repeated course of conduct directed at a specific person that would cause a reasonable person to fear for their or others' safety or to suffer substantial emotional distress. For the purpose of this definition, course of conduct means two or more acts, including, but not limited to acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means follows, monitors, observes, surveys, threatens, or communicates to or about a person, or interferes with a person's property; reasonable person means a reasonable person under similar circumstances and with the same protected status as the victim; substantial emotional distress means significant mental suffering or anguish that may but does not necessarily require medical or other professional treatment or counseling.
 27. Unauthorized Electronic/Digital Recording. Electronic/digital recording by any person on District Property without that person's knowledge or consent. This definition shall not apply to recordings conducted in public or a commonly recognized public event. Electronic/digital recordings or streaming are prohibited in classrooms, labs, during lectures, or on field

- trips without the prior approval of the Instructor or having proper authorization by the College DSPS Office.
28. Unauthorized Use of Course or Copyrighted Materials. Students of the District will abide by all aspects of United States copyright law, Title 17 of the United States Code, to the extent possible, under authoritative interpretation of the law. Students shall not reproduce copyrighted materials without prior permission of the copyright owner, except as allowed by the "fair use" doctrine.
 29. Willful disruption of the orderly operation of a college campus or District site/facility;
 30. Leading or inciting others to disrupt scheduled and/or normal authorized activities;
 31. Obstruction of the free flow of pedestrian or vehicular traffic on College premises or at college sponsored or supervised events;
 32. 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 District policy or administrative procedure.
 33. Endangering the welfare of others, including a violation of any state or federal law relating to the placing at risk of physical or emotional harm of a member of the District community.
 34. Failure to appear before a District official when directed to do so.
 35. Failure to identify oneself to, or comply with the directions of, a District official, employee, policy, law enforcement, or other public official when requested to do so; or resisting or obstructing such District or other public officials in the performance of or the attempt to perform their duties.
 36. Failure to obtain a permit when a permit is required.
 37. Failure to: (a) repay debts to the District; (b) return District property; (c) return property of any member of the District community.
 38. Knowingly and purposefully, causing, making, and/or circulating a false report or warning of an emergency, such as a fire, explosion, crime, or other catastrophe.
 39. Participation in hazing or any method of initiation or pre-initiation into a campus organization or other activity engaged in by the organization or members of the organization at any time that causes, or is likely to cause, physical injury or personal degradation or disgrace which can inflict psychological or emotional harm to any Student or other person.
 40. Engaging in the inappropriate usage of social media. Using social media to harass, intimidate, or threaten other individuals. Usage of social media that

will have indirect or direct impact on an individual or interference with the educational process.

- 41. Misuse of identification, including transferring, lending, borrowing, altering or unauthorized creation of identification.
- 42. Any other cause identified as good cause by Education Code section 76033, not identified above; or any applicable Penal Code sections, or other applicable local, state, or federal laws; and
- 43. Any other ground constituting good cause.
- C. Violation of parking laws, regulations, or rules shall not be cause for the removal, suspension, or expulsion of a student (California Education Code Section 76036).
- D. Nothing in these procedures shall preclude a student with a disability from receiving appropriate accommodations as identified by Disability Support Services.

V. RESPONSES TO CODE OF CONDUCT VIOLATIONS

The following actions and sanctions may be imposed, individually or in various combinations, on any student alleged or found to have violated the Student Code of Conduct. With the exception of situations involving alleged sexual misconduct, the following designations of “subject to appeal” and “not subject to appeal” apply.

Non-Disciplinary Action – Not Subject to Appeal

- WARNING:** A warning is a written or oral notice to the student that continuation or repetition of certain conduct may result in disciplinary action.
- REMOVAL FROM CLASS:** Exclusion of the student from class by an instructor. The period of removal will not exceed the day of the removal and, if deemed necessary, the next class meeting.
- SUPPORTIVE MEASURES:** Measures taken to ensure equal educational access and protect safety. Measures may include transfer of one party or another to different classes, no contact orders, counseling services, or other academic adjustments.

Disciplinary Action – Not Subject to Appeal

- WRITTEN OR ORAL REPRIMAND:** An admonition to the student to cease and desist from conduct determined to violate the Student Code of Conduct.
- RESTITUTION:** Restitution is reimbursement by the student for damage to, loss of or misappropriation of property. Reimbursement may take the form of appropriate service by the student to repair property or otherwise compensate for damage.

PROJECTS AND ASSIGNMENTS: Projects and assignments may include community service, educational projects and essays, service to the college, and other related discretionary assignments.

DISCIPLINARY PROBATION: Probation is a status imposed for a specific period of time in which a student must demonstrate that his or her conduct conforms to District standards of conduct as set forth in these regulations. Conditions may be imposed at the discretion of the District or the President's designee. Misconduct during the probationary period or violation of any conditions of the probation may result in more serious disciplinary action, such as loss of privileges, suspension, or expulsion.

LOSS OF PRIVILEGES: Loss of privileges is the denial of extra-curricular activities or other special privileges for a designated period of time. Loss of privileges may also include facility access limitations. Violation of any condition or campus regulation during the period of sanction may result in far more serious disciplinary action, such as suspension or expulsion.

HOLD ON RECORDS: Hold on Records which consists of withholding of student records or adding administrative holds on student accounts that restrict registration activities. The President's designee may impose such withholding when a student fails to repay debts to the District, return District equipment or make restitution to the District. A hold on records may also be asserted if a student does not comply to requests such as, but not limited to, required Administrative Review or appointments.

SHORT-TERM SUSPENSION: Exclusion of the student by the President's designee for good cause from one or more classes for a period of up to ten consecutive days of instruction.

Disciplinary Action – Subject to Appeal

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, up to a maximum of five years.

Disciplinary Action – Final Determination Made By Governing Board

EXPULSION: Expulsion is the permanent termination of student status by the Governing Board 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. A student who is expelled is

prohibited from participating in any college activities or programs and from entering District premises.

**REVOCAION OF DEGREE
OR CERTIFICATION:**

A degree or certificate awarded from the college may be revoked for fraud, misrepresentation, or other violation of college standards in obtaining a degree or certification, or for other serious violations committed by a student prior to graduation.

VI. RECIPROCITY OF SANCTIONS

During a period of suspension from all classes at a college or expulsion, the suspension or expulsion shall apply to all colleges within the District. Other disciplinary actions or sanctions may apply to the student at all District colleges.

VII. DOCUMENTATION AND PROTECTION OF ALLEGED VICTIMS

Any disciplinary action imposed on a student, including oral warnings, must be documented in writing via written notice to the student, and in the student's records, as outlined below. Where the conduct of the student appears to have caused, will cause, or may cause an ongoing threat to others, including students or staff, the District shall consider any measures that may be appropriate to protect those individuals, including written directives to the student, seeking of a temporary restraining order, report to the police, etc. Where the alleged misconduct involves violation of the District's anti-discrimination and/or sexual harassment/sexual assault policies, the alleged victim must be provided with a copy of the District's complaint policies and procedures. In evaluating the type of discipline to be imposed, the President's designee must review the student's past disciplinary record to determine whether the student has been previously disciplined in the past, particularly for similar offenses. Where the student has been disciplined in the past for similar offenses, a more severe consequence must be imposed.

VIII. RECORD OF DISCIPLINARY ACTION

- A. Education Code Section 76220 Requirements:
In accordance with Education Code section 76220, Community College Districts shall establish, maintain and destroy student records according to regulations adopted by the Board of Governors of the California Community Colleges. The President's designee will create a record of disciplinary actions, along with relevant supporting documents and evidence. Consistent with the Family Educational Rights and Privacy Act and District Student Services Procedure 3009, this record shall be maintained as a confidential student education record and may not be released without the permission of the student, except as permitted by law and policy. The student shall have a right to inspect the record and to challenge the contents. Disciplinary records shall be retained in a manner consistent with federal and state law and District policy, and may be destroyed in a manner consistent with District Administrative Procedure 1900.01.
- B. Education Code Section 76234 Requirements:
In accordance with Education Code section 76234, whenever there is included in any student record information concerning any disciplinary action taken by the college or District in connection with any alleged sexual assault or physical abuse, including rape, forced sodomy, forced oral copulation, rape by a foreign

object, sexual battery, or threat of sexual assault, or any conduct that threatens the health and safety of the alleged victim, the alleged victim of the sexual assault or physical abuse shall be informed within three (3) days of the results of any disciplinary action by the college and the results of any appeal. The alleged victim shall keep the results of that disciplinary action and appeal confidential.

C. Title IX requirements:

For any complaints involving allegations of Title IX sexual harassment, as defined above, the District must maintain documentation for seven (7) years, as required below:

1. Investigations, including any determination regarding responsibility and any audio or audiovisual recording or transcript, any disciplinary sanctions imposed on the respondent, and any remedies provided to the complainant designed to restore or preserve equal access to the institution's education program or activity;
2. Any appeal and the result therefrom;
3. Any informal resolution; and
4. All materials used to train Title IX coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process.
5. Records of any actions (including any supportive measures) taken in response to a report or formal complaint of sexual harassment. In each instance, the institution must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the institution's education program or activity.
6. If no supportive measures were provided to the complainant in a Title IX sexual harassment matter, the President/designee must document the reasons why such a response was not clearly unreasonable in light of the known circumstances.

IX. PROCEDURE FOR REMOVAL BY INSTRUCTOR

An instructor, for good cause, may remove a student from his or her class for the day of the removal and the next class meeting. (California Education Code Section 76032 and 76033.)

A. Procedures Before The Removal.

1. The instructor shall notify the student of the instructor's consideration of the removal from class and the reasons for the proposed removal.
2. The instructor may remove the student from the classroom immediately. Under normal conditions, the instructor should permit the student an opportunity to present a rebuttal to the accusation or otherwise offer relevant comment on the proposed removal. There need be no delay between the time notice is given to the student and the time of such a review.
3. The instructor shall decide whether or not to proceed with the proposed removal after hearing the student's explanation and considering all of the information relative to the issue. There need be no delay between the time notice is given to the student and the removal.

4. The decision may be given to the student either orally or in writing.
 5. The instructor's decision is final and may not be appealed.
- B. Procedures After The Removal.
1. Immediately following the removal, the instructor must notify the President's designee of the removal so that appropriate action can be taken.
 2. If the student removed is a minor, the College President or President's designee shall ask the parent or guardian of the student to attend a parent conference regarding the removal as soon as possible. If the instructor or the parent or guardian so requests, a college administrator shall attend the conference.
 3. The instructor may request that the student meet with the College President or President's designee, within three (3) days of removal, prior to returning to class.
 4. During the period of removal from class, the student shall not be returned to the class without the concurrence of the instructor.
 5. After the student returns to class, if there are additional incidents of disruption or other behavior constituting good cause, the faculty member will provide the necessary documentation to the President's designee so that more serious consequences, such as suspension from this particular class or from all classes for the rest of the semester, can be assigned.

X. PROCEDURES FOR SHORT-TERM SUSPENSION, LONG-TERM SUSPENSION, OR EXPULSION

The following procedures shall be taken before suspension or expulsion except as noted in Section XIV Emergency/Interim Suspension.

- A. Administration. The President's designee shall administer these procedures and take appropriate action, subject to the approval of the college President and the Governing Board if required herein or otherwise by law.
- B. Reporting Of Conduct. Alleged student misconduct shall be reported to the President's designee. The President's designee shall be an individual designated by the college President as being responsible for administration of matters relating to Student Conduct. Any official may be designated as the President's designee, whenever necessary for the efficient operation of the District.
- C. Investigation. Upon receiving a report of alleged student misconduct, the President's designee shall initiate an investigation in accordance with Section III(C).
- D. Notice. Before imposing discipline, the President's designee will provide the student with written notice of the conduct warranting discipline. The written notice will include the following:
 1. The specific section of the Student Code of Conduct that the student is accused of violating
 2. A short statement of the facts supporting the accusation

3. The right of the student to meet with the President's designee to discuss the accusation, or to respond in writing
4. The nature of the discipline that is being considered

If the student is a minor, the President's designee shall also notify the parent or guardian in writing of the investigation and charges.

- E. Meeting. The student will be provided an opportunity to attend a meeting with the President's designee. The meeting will be scheduled within a reasonable period of time (normally within five (5) days following the delivery to the student of the notice referred to above). At the meeting, the student must again be told the facts leading to the accusation, and must be given the opportunity to respond verbally or in writing to the accusation. If a student chooses not to meet with the President's designee, or does not attend the scheduled meeting, the President's designee may proceed with proposed discipline without meeting with the student.

A student may elect to be accompanied by an advisor of their choosing. The role of the advisor is passive in this procedure. The advisor may be present at the meeting and may counsel the student. The advisor may not address the President's designee and shall not be permitted to participate in any way during the meeting except to offer counsel to the student

- F. Determination and Notice to Student. After considering all of the information and evidence presented, including any explanation provided by the student (in the meeting and/or in writing), The President's designee shall decide whether or not to proceed with the proposed suspension or to recommend expulsion. The President's designee shall proceed as follows in accordance with the determined disciplinary action:

Short-Term Suspension - Within five (5) day after the meeting, the President's designee shall provide written notice of the decision to the student. The notice will include the length of time of the suspension. The President's designee's decision on a short-term suspension shall be final and cannot be appealed, except in situations in which the suspension is the result of a formal complaint of Title IX sexual harassment. In instances involving a formal complaint of Title IX sexual harassment, the student shall be entitled to appeal as outlined below.

Long-Term Suspension – Within five (5) after the meeting described above, the President or President's designee shall provide written notice of the decision to shall be provided to the student pursuant to (H) Notification of a Long-Term Suspension.

Expulsion – Within five (5) days after the meeting described above, the President or President's designee shall decide whether to recommend expulsion to the Board of Trustees. Written notice of the decision shall be provided to the student, pursuant to (I) Notification of a Recommendation for Expulsion.

- G. Notice To The College President. The President's designee shall report any disciplinary action imposed to the college President.
- H. Notification of a Long-Term Suspension. The President's designee shall promptly send the student a letter of notification that is hand delivered or sent via certified mail to the student's last known address. The notification shall include:

1. A statement of the charges, the decision regarding disciplinary action, and a description of facts related to the misconduct, including the evidence against the student, the date(s), time(s), and location(s) of the offense(s).
 2. A copy of the Student Code of Conduct and Board Policy 3012.
 3. An explanation that a student who has been suspended for more than five (5) days is entitled to appeal the decision and has a right to a further hearing ("Appeal Hearing"). The notification shall also state that a request for an Appeal Hearing shall be filed within five (5) business days of the service or mailing of the notification, whichever is earlier. The written request for an appeal hearing must be submitted to the President's designee, and must cite the specific ground(s) for the appeal (from those listed below), and provides information which substantiates the ground(s) on which the appeal is being made.
 4. An explanation that, if the student does not request a hearing within five (5) business days, the decision will be final and no longer subject to appeal.
 5. Grounds for appeal - A student may appeal the decision of the President's designee on grounds that:
 - a. Fair consideration was not provided to the student, (i.e., there is evidence that some aspect of the disciplinary process was prejudicial, arbitrary, or capricious);
 - b. New and significant information, not reasonably available at the time of the initial decision, has become available, and/or;
 - c. The sanction or remedy imposed is not in due proportion to the nature and seriousness of the offense. Any evidence supporting these grounds must be included in the request for an appeal hearing.
 6. A statement that the student has the right to be accompanied at the Appeal Hearing by an on-campus advisor of his or her choice. If the student decides to be accompanied by an advisor, the name and address of that advisor must be submitted to the President's designee at the time the appeal is filed.
 7. The Notification may include terms that must be satisfied prior to reinstatement, as deemed necessary and appropriate by the President or President's designee.
- I. Notification of a Recommendation for Expulsion
1. The appropriate District official shall promptly send the student a letter of notification that is hand delivered or sent via certified mail to the student's last known address. The notification shall include:
 - a. A statement of the charges, the decision regarding disciplinary action, and a description of facts related to the misconduct, including the evidence against the student, the date(s), time(s), and location(s) of the offense(s).
 - b. A copy of Student Services Procedure 3027 and Board Policy 3012.
 - c. The date, time, and location of the expulsion hearing.

XI. PROCEDURE FOR APPEAL OF A LONG-TERM SUSPENSION

- A. Student Right To Appeal. The student may accept a long-term suspension without admitting the conduct charged. In such a case, the decision of the President's designee will be final. Should the student not accept the long-term suspension, the student has a right to appeal. An appeal must be filed by the student no later than five (5) business days from the date the notification letter is personally served or mailed. The appeal must demonstrate acceptable grounds for an appeal, as described in the notification.
- B. Schedule of Hearing. The President's designee shall schedule an Appeal Hearing to be held no later than working 30 days from the date of the statement of charges is sent/delivered to the student. The President's designee shall notify the student in writing of the date, time, and location of the Appeal Hearing.

XII. HEARING AUTHORITY FOR LONG-TERM SUSPENSION APPEAL HEARING

- A. The college President will assign either an Administrative Hearing Officer or may utilize a Student Discipline Committee ("Committee") to conduct Appeal Hearings at the college ("Hearing Authority").
- B. An Administrative Hearing Officer may be a college official, or may be a licensed California attorney with experience in student discipline and due process issues.
- C. A Committee shall include: one faculty member, one administrator or manager, and one student. The selection process for the Committee, if any, will normally occur at the beginning of each academic school year.
1. The Academic Senate will select a faculty representative and alternate(s). Vacancies will be filled by an action of the Academic Senate.
 2. The Associated Student Body will select a student representative and alternate(s). Vacancies of student members shall be filled by an action of the Associated Student Body.
 1. The College President will select the administrative or management representative and alternate(s). The administrative or management representative will serve as the Committee Chair.

The student or the college employee shall notify the Committee if he or she has a conflict of interest because he or she is involved in the discipline matter, or has a personal relationship with any of the involved parties, and, therefore, is unable to serve as a neutral party.

4. Alternate faculty, administrative, and student members shall be appointed to ensure that a standing committee can always be convened promptly.

XIII. LONG-TERM SUSPENSION APPEAL HEARING PROCEDURES

- A. The President's designee shall submit to the Hearing Authority: a description of the charges, notices, request for hearing submitted by the student, evidence, and a copy of the proposed decision.

The Chair will call the Appeal Hearing to order, explain the procedures of the Appeal Hearing, and have all Parties introduce themselves.

- B. The Chair/Hearing Authority will present the rules governing the hearing. The Chair shall guarantee control of the hearing, making certain that all participants respect the right of others to make statements, and to ensure confidentiality of such statements.
- C. The President's designee shall present relevant evidence regarding the alleged misconduct. The evidence presented may include live witness testimony, declarations submitted under penalty of perjury, and documentary evidence. Following the testimony of each witness, the accused student and Hearing Authority will have the opportunity to cross-examine witnesses. The accused student may then present any relevant evidence, including live witness testimony, declarations submitted under penalty of perjury, and documentary evidence. The President's designee and Hearing Authority will then have the opportunity to cross-examine witnesses. Opening and closing statements shall be limited to five (5) minutes. The President's designee shall speak first, followed by the student.
- D. The Hearing Authority shall rule on all questions of procedure and admission of evidence. Only relevant and material evidence shall be presented to and considered by the Hearing Authority. Irrelevant, immaterial, and/or unduly repetitious evidence shall be excluded.
- E. Hearings need not be conducted in accordance with strict rules of evidence or formality of a court hearing.
- F. The Hearing Authority shall consider no evidence other than that evidence received at the hearing. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but shall not be sufficient in itself, to support a finding.
- G. A student may be accompanied by an advisor of his or her choosing, at the student's request. The role of the advisor is passive in this procedure. The advisor may be present at the hearing and may counsel the student. The advisor may not address the Hearing Authority and shall not be permitted to participate in any way during the hearing except to offer counsel to the student. If the student wishes to be represented by an attorney, a request must be submitted, in writing, not less than 14 days prior to the hearing. If the student is represented by an attorney, the President's designee may request legal assistance. Any legal advisor provided to the panel may act in an advisory capacity but shall not serve as a member of the panel nor participate in any vote.
- H. The Appeal Hearing shall be closed to protect the privacy and confidentiality of everyone involved unless the student and District agree in writing to have a public hearing at least five (5) days in advance of the hearing. A closed hearing will be closed to everyone except the following:
 - 1. The student charged;
 - 2. The Hearing Authority;
 - 3. An advisor for the student charged, if so desired;
 - 4. The President's designee;
 - 5. A witness, while presenting evidence;

6. An on-campus advisor for a witness while presenting evidence.
- I. An official audio or video recording of the hearing shall be kept. The record shall be the property of the District. The student charged may listen to the tape at a mutually agreeable location at the college. An accused student may, upon request, be provided a copy at his or her own expense.
- J. An accused student who fails to appear for the hearing after having been notified of an Appeal Hearing is deemed to have waived their rights to participate in the appeal. The Appeal Hearing shall be terminated and the Appeal Committee shall be dismissed. The initial recommendation for disciplinary action shall stand.
- K. Additional Requirements for Hearings Involving Title IX Sexual Harassment Allegations:
 1. The Hearing Authority must be free from conflict of interest or bias and must have received training on (a) how to serve impartially (b) issues of relevance and how to rule on relevance objections; (c) how to apply the rape shield protections provided for complainants; and (d) any technology to be used at the hearing.
 2. Every witness at the hearing must be subject to cross-examination by the parties' advisors.
 3. The Hearing Authority must allow a party's advisor to directly and in real time present all relevant questions and follow up questions to another party or witness. Cross-examination must come from a party's advisor and may not come directly from a party.
 4. If a party does not have an advisor for the hearing, the District/College must provide that party with an advisor at no cost, for the purpose of conducting cross-examination on behalf of the party, or, in the discretion of the District/College, for the duration of the hearing in general.
 5. If a party or witness does not submit to live cross-examination, the panel or hearing officer cannot rely on any statement made by that party or witness when making the decision about the respondent's responsibility. This includes statements made during the investigation process.
 6. Police reports, sexual assault nurse examiner (SANE) reports, medical reports, and other documents and records may not be relied on to the extent they contain the statements of a party or witness who has not submitted for cross-examination. In addition, where the evidence is a text exchange or an email thread and one party has refused to submit to cross-examination, but the other has not, the panel or hearing officer may rely only upon the statements made by the party who was cross-examined. However, the panel or hearing officer is not prevented from relying on a description of the words allegedly used by a respondent if they constitute part of the alleged sexual harassment at issue because the verbal conduct does not constitute the making of a factual assertion to prove or disprove the allegations of sexual harassment.

7. The panel/hearing officer cannot draw any inference regarding responsibility based solely on a party's or witness's absence from the live hearing or refusal to answer cross-examination or other questions.
 8. Questions posed to parties and witnesses at the hearing must be relevant. Before a complainant, respondent, or witness answers a cross-examination or other question, the panel/hearing officer must determine whether the question being asked is relevant and, upon objection on relevance grounds, provide an explanation as to any decision to exclude a question as not relevant.
 9. Questions relating to a complainant's prior sexual behavior are deemed not relevant, unless the questions are offered to prove someone else was responsible for the alleged conduct or offered to prove consent.
 10. At the request of either party, the District/College must provide for the entire hearing to occur with the parties located in separate rooms with technology enabling the parties to see and hear each other.
- L. Additional Hearing Requirements For Sexual Misconduct Matters Not Subject to Title IX

In cases of student sexual misconduct that are not subject to Title IX, when an accused student is subject to severe disciplinary sanctions (e.g. suspension or expulsion), and the credibility of witnesses was central to the investigative findings, District student discipline procedures must provide an opportunity for the accused student to cross-examine witnesses indirectly at a live hearing, either in person or by videoconference.

For purposes of this section, "indirect" cross-examination shall be conducted as follows: Any question to the witness shall be asked by a neutral party appointed by the District for the sole purpose of asking questions. The neutral party shall not be the accused student, the accused student's representative, or a member of the hearing panel. The accused student may submit written questions before and during the cross-examination, including any follow-up questions. The neutral party asking questions shall not exclude any questions unless there is an objection to the question by the hearing panel.

XIV. HEARING AUTHORITY'S CONSIDERATION AND RECOMMENDATION

Following presentation of the evidence, the Hearing Authority shall privately consider the evidence with all persons excluded. The Hearing Authority shall send a written report to the College President, and a copy to the complainant and the respondent, within five (5) working days of the termination of the hearing. The report shall contain the following information:

- A. A summary of factual findings and a determination that the accused student did or did not commit the act(s) charged.
- B. A finding that the student's act(s) did or did not constitute a violation of the Student Code of Conduct.

- C. A recommendation for upholding or modifying the proposed discipline. The Hearing Authority may also recommend further investigation.
- D. The sanctions imposed on the respondent and the remedies provided to the parties, including the rights of the parties to appeal the decision, if applicable.

XV. COLLEGE PRESIDENT'S DECISION

- A. The college President shall reach a decision after reviewing the report submitted by the Hearing Authority. The college President may refer the matter back to the Committee or hearing officer for further clarification on details of the case, such as evidence and findings of fact. The college President may uphold the long-term suspension or recommend expulsion, uphold the recommendation by the Hearing Authority, or adopt a lesser or different sanction, if appropriate. A written statement of the decision shall be sent via certified or registered mail to the student's last known address within ten days of the college President's receiving the Hearing Authority's recommendation.
- B. The decision of the college President to suspend, recommend expulsion, or impose a lesser sanction shall be final and not subject to further appeal. However, as noted below, an expulsion is not final until it is approved by the Governing Board.
- C. The college President shall report a disciplinary suspension or expulsion recommendation of any student to the Governing Board at its next regular meeting. A copy of the suspension determination or expulsion recommendation, including the reasons for the disciplinary action, suspension, shall be placed in the student's permanent disciplinary record (not the transcript).
- D. If the college President determines that a student should be expelled, he or she will forward that recommendation through the Chancellor, to the Governing Board for final approval.
- E. In the event that a college President is or will be unavailable for the making of a prompt decision, the college President or Chancellor may appoint an unbiased designee to act on the appeal.
- F. For any hearing involving allegations of Title IX sexual harassment, both the complainant and the respondent shall have the right to appeal the decision to the Governing Board.

XVI. EMERGENCY INTERIM SUSPENSION/INTERIM RESTRICTION

- A. Interim measures are in effect immediately and shall not be delayed. These Interim actions may include:
 - 1. Interim Suspension – A Student who is suspended on an interim basis is subject to all of the same restrictions as if they had been suspended as a final sanction.
 - 2. Interim Restriction – These restrictions may include but are not limited to:
 - a. Restricted access to District facilities and District events;
 - b. No-contact orders with specific individuals; or
 - c. Any other restrictions deemed by the College Disciplinary Officer or Designee to be necessary to achieve the goals stated above.

- B. An emergency/summary suspension is an immediate suspension imposed upon a student for good cause. (California Education Code Section 66017.)
- C. The college President or the President's designee may impose an emergency interim suspension. It is an extraordinary measure and shall be utilized when necessary to protect lives or property and to ensure the maintenance of order pending a hearing. Prior to imposing these measures, the District/college shall do the following:
 - 1. Undertake an individualized safety and risk analysis to determine whether there is an immediate threat to the physical health or safety of any person;
 - 2. Make an affirmative determination that such an immediate threat exists based on its individualized safety and risk analysis;
 - 3. Provide the Respondent with notice and an opportunity to challenge the emergency decision immediately following the respondent's removal.
- D. A preliminary hearing shall be provided within ten (10) calendar days of an emergency interim suspension. (California Education Code Section 66017.) The procedures set forth in Section XIII shall apply to the preliminary hearing.
- E. An emergency interim suspension shall be reported to the Governing Board at its next regular meeting after such suspension has been imposed. A copy of the suspension may be placed in the student's permanent record at the discretion of the college President.

XVII. NOTIFICATION OF LAW ENFORCEMENT

The college President or President's designee shall, upon suspension or expulsion of any student, notify the appropriate law enforcement authorities of the county or city in which the school is situated of any acts of the student which may be in violation of Section 245 of the Penal Code. (California Education Code Section 76035.)

XVIII. EXTENSIONS OF TIME

Calendar restraints may be extended with the agreement of both parties.

XIX. EXPULSION

The Governing Board has the sole authority to expel a student. If the College President determines that a student should be expelled, he or she shall send the recommendation through the Chancellor to the Governing Board.

- A. Within 30 instructional days of the receipt of the recommendation from the college President, and with the agreement of the Chancellor, the Governing Board shall conduct a review of the President's decision on the expulsion in closed session.
 - 1. Before commencement of the hearing, the Governing Board shall review a description of the charges, notices, evidence, findings, and a copy of the proposed decision from the college-level disciplinary appeal hearing. The Governing Board shall consider no evidence other than that evidence received in the hearing process.
 - 2. The college President (or the President's designee) shall make a brief statement to the Governing Board, referring to relevant evidence regarding the alleged misconduct.

3. The accused student may then make a brief statement to the Governing Board and present any relevant evidence.
4. The statements shall be limited to five (5) minutes.
5. Upon completion of these statements, the Governing Board will have an opportunity to ask questions of both the student and the College President (or President's designee).
6. The Governing Board will conclude the hearing, dismiss the parties, and privately deliberate as to a decision.
7. The Governing Board shall issue a statement of decision to either uphold the College President's decision regarding the expulsion, or modify that decision. If the Governing Board's decision is to modify the decision, it must include legal and factual support for that decision. The Governing Board may also recommend further investigation.
8. Pursuant to Education Code section 72122, the final action of the Governing Board shall be taken in open session, and the result of that action shall be a public record. The name of the student, however, shall not be released.
9. The Chancellor's Office will send a written statement of the Governing Board's decision via certified or registered mail to the student's last known address within three (3) working days of the hearing.
10. If the Governing Board's decision is unfavorable to the student, the student shall have the right to submit a written statement of his/her objections to the decision. This statement shall become a part of the student's records.
11. The decision of the Governing Board is final, and not subject to further appeal.

XX. BOARD CONSIDERATION OF TITLE IX HEARING APPEALS

A. Grounds for Appeal

Under the August 2020 Title IX regulations, for any sexual harassment complaint governed by Title IX, as defined above, both the complainant and the respondent have the right to appeal the findings of the Hearing Authority to the Governing Board. The grounds for appeal of decisions on Title IX determinations made by the Hearing Authority are limited to the following:

1. Procedural irregularity that affected the outcome;
2. New evidence that was not reasonably available when the determination of responsibility was made that could affect the outcome; and
3. The Title IX Coordinator, investigator, or decision-maker had a general or specific conflict of interest or bias against the complainant or respondent that affected the outcome.

B. Procedures for Appeal

1. As outlined above, following the decision of the Hearing Authority, both complainant and respondent will be advised of the findings of the Hearing Authority and the right to appeal.
2. Either respondent or complainant have the right to submit an appeal and request for review by the Governing Board within 30 days of date of the Hearing Authority's decision.
3. The process for the Governing Board's consideration of any appeal shall be as outlined in Section XVII above, with the following exceptions:
 - a. When the complainant is appealing the Hearing Authority's decision, the respondent shall be advised of that fact, advised of the date of the Governing Board's meeting to consider the appeal, and shall be given a right to respond. When the respondent is appealing the Hearing Authority's decision, the complainant shall be advised of that fact, advised of the date of the Governing Board's meeting to consider the appeal, and shall be given a right to respond to the Board.
 - b. Arrangements shall be made to keep respondent and complainant separate during the Governing Board's consideration of the appeal.
 - c. Both respondent and complainant shall be given the same length of time (i.e. 5 minutes) to make oral presentations to the Board.

Education Code, Sections 66017, 66300, 66301, 76033, 72122, 76030-76037, 76220, 76234