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AP 5520 Student Discipline Procedures

~~**NOTE:** This procedure is legally required, except as specifically noted. Local practice may be inserted, but must comply with the standards of due process reflected in this example.~~

~~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.~~

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

Definitions:

~~**District**—The San Bernardino Community College District~~

~~**Student**—Any person currently enrolled as a student at any college or in any program offered by the District~~

~~**Instructor**—Any academic employee of the District in whose class a student subject to discipline is enrolled, or counselor who is providing or has provided services to the student, or other academic employee who has responsibility for the student's educational program.~~

~~**Short-term Suspension**—Exclusion of the student by the Chancellor College President and/or designee for good cause from one or more classes for a period of up to ten consecutive days of instruction.~~

~~**Long-term Suspension**—Exclusion of the student by the Chancellor or designee 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.~~

~~*(Replaces current SBCCD AP 5500)*~~

Student Discipline Procedures

Section I

A. INTRODUCTION

This Administrative Procedure (AP 5520) is intended to effectively administer Board Policy 5500 and

Administrative Procedure 5500 title "Standards of Student Conduct," and as such, this Administrative Procedure shall constitute the Standards of Student Discipline for all District Students. This Standards of Student Discipline provides District Students with prior notice of behavior deemed unacceptable by the District's Board of Trustees. This Standards of Student Conduct includes a defined process for the fair and impartial review and determination of alleged improper Student behavior. This Standards of Student Conduct also specifies the various sanctions that may be imposed on District Students for violations of this Standards of Student Conduct. Students are expected to be familiar with the terms of the San Bernardino Community College District's published Board Policy 5500 and this Administrative Procedure 5500 Standards of Student Conduct.

This Standards of Student Discipline provides for the orderly administration of the Standards of Student Conduct consistent with the principles of due process of law. Reasonable deviations from the Standards of Student Conduct will not invalidate a decision or proceeding.

This process does not supersede standards for specific programs which may have a have different process for program eligibility and retention e.g., Fire Academy, Police Academy, Nursing Program, etc.

The District/campus will strive to follow the timelines outlined in this Administrative Procedure barring unexpected delays or campus closures

B. THE USE OF "WILL" AND "SHALL"

In this Standards of Student Discipline, and throughout the District's Board Policies and Administrative Procedures, the use of the terms "will" and "shall" are used in the mandatory sense.

C. NOTICE - PROCESS FOR NOTIFICATION

San Bernardino Community College District's primary correspondence and notification mechanism with Students shall be through the Student's District assigned e-mail account. At the District's discretion, Students may be notified via U.S. mail, delivery in person, via SMS text message, by an alternate email on record from the Student, or by other authorized communication platforms. San Bernardino Community College District reserves the right to notify parents/legal guardians/emergency contacts when it determines that any Student, regardless of age, is in a situation that is threatening to their own health and safety, or that Student has placed another person in a situation that is threatening to their health and safety.

D. JURISDICTION

Pursuant to Board Policy 5500, the District's jurisdiction concerning alleged Standards of Student Conduct violations extends to the District, its colleges, and for all activities occurring on District property. This jurisdiction includes, but is not limited to, its main and satellite campuses, and to any non-District property used by the District or its colleges where District Students are present. This also applies to online courses/services and District sponsored/College sponsored programs, activities, and travel. This jurisdiction shall also apply to Student-to-Student or Student-to-employee off-campus conduct and/or actions, and electronic activity (such as e-mail, texting, telephone contact, social media), when the College Conduct Officer, or designee, determines that the off-campus conduct affects, disrupts, or interferes with the educational mission of the college. This Standards of Student Conduct also 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 violations 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 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. The Student Code of Conduct may apply to online activity and communication that occur outside of the District's/ College's control when those online behaviors can be shown to create a Hostile Environment on campus or cause a substantial disruptio

E. ANTI-DISCRIMINATION STATEMENT

The San Bernardino Community College District does not unlawfully discriminate based upon age, race, ethnicity, sexual orientation or preference, gender, national origin, veteran's status, gender identification, or genetic information in administering District educational policies and procedures. The District complies with the American Disabilities Act of 1990 (ADA) and Section 504 of the Rehabilitation Act of 1973 and Title IX. See Board Policy 3410 Nondiscrimination.

F. PARALLEL STUDENT DISCIPLINE PROCEEDINGS

Student Discipline Code proceedings are administrative in nature and are independent from court or other administrative proceedings. Discipline may be instituted against a Student also charged in civil or criminal courts based on the same facts that constitute the alleged violation of the Standards of Student Conduct. The District may elect to proceed before, concurrently with, or after any judicial or other administrative proceedings.

G. PARALLEL TITLE IX INVESTIGATION PROCEEDINGS

The District's Title IX Policy and Procedure, BP/AP 3540 Sexual and Other Assaults on Campus, addressing the investigation of allegations of sexual misconduct incorporate the sanctions and general procedures set forth in this Standards of Student Conduct, but are not restricted by this Procedure. Title IX investigations and processes are independent from court or other administrative proceedings. Student discipline may be instituted against a Student also charged in civil or criminal courts based on the same facts that constitute the alleged violation of Title IX or other law applicable to sexual misconduct. The District may elect to proceed before, concurrently with, or after any judicial or other proceedings.

Section II - Student Rights & Responsibilities

A. DUE PROCESS

Students are entitled to a fundamentally fair process, including reasonable notice of allegations of violations of the Standards of Student Conduct, the opportunity for the Student to be heard and to afford the Student the opportunity to present evidence prior to the administrative determination of the alleged violations. The District reserves the right to make immediate interim suspensions or restrictions when such actions are deemed necessary by the College Conduct Officer or designee pending an investigation and determination of the matter. Any sanction(s) imposed under the Standards of Student Conduct shall be appropriate to the nature of the violation(s). See Section III below.

B. STUDENT RIGHTS

- To be treated with respect by District officials
- To take advantage of campus support resources, such as Counseling, Special Services, Health Services, and other available resources.
- To experience a safe educational environment.

- To not be subjected to retaliation for reporting violations.
- To have complaints heard in substantial accordance with established procedures.
- To fully participate in any process whether the injured individual is serving as the Complainant or the institution is serving as Complainant.
- A complainant may and Respondent shall be informed in writing of the outcome/resolution, any sanctions imposed, and the rationale for the outcome, to the extent permissible under applicable law and Board Policies.

C. SPECIAL REQUESTS/ACCOMMODATIONS - STUDENTS WITH DISABILITIES

Any special requests and/or accommodations by any Party (for example, sign language, the use of assistive technology, service animals, and other accommodations approved by the Office of Disabled Student Programs & Services) must be made at least five (5) calendar days prior to the Administrative Conference. Special requests and accommodations shall also be applicable to Appeal Hearings as set forth in Section 4.2 of this Standards of Student Discipline.

D. ROLE OF LEGAL COUNSEL

An attorney licensed to practice in California may accompany the Student to the hearing. The attorney's role is to provide counsel to the Student without disruption to the hearing process.

The attorney may not make any statements or presentations to the College Conduct Officer, Hearing Panel, or Appeal Committee, examine or cross-examine any witnesses, or present evidence or any written material to the College Conduct Officer or Hearing Panel or Appeal Committee set forth in Section 4.4. The attorney may not, in any way, disrupt or interfere with the hearing process. Any violation of this section shall result in the removal of the attorney. The attorney shall provide the College Conduct Office with a retention letter confirming that they have been retained by the Student at least seven (7) calendar days before the hearing so that the necessary arrangements can be made for a District attorney to be present at the hearing. The attorney's retention letter shall include the attorney's State Bar number and a telephone number. The requirements of this section shall also be applicable to Appeal Hearings as set forth in Section 4.2 of this Standards of Student Discipline.

E. STUDENT RIGHT TO REVIEW RECORDS

Students seeking to review records relating to their investigation or to the outcome should refer to San Bernardino Community College District Board Policy 5040 Student Records Directory Information and Privacy. The District is not obligated to provide copies of student records unless not doing so would prevent the student from their right to inspect the record in question.

F. RECORDING AND PRESENTING WITNESSES

Audio/Video Recordings – No audio, video or other recording of any investigation, interview, or meeting is permitted by the student. The student has the right to audio record hearings at their own expense.

Witness Rules and Limitations – only witnesses presenting relevant testimony or information directly related to the alleged violations are permitted. Witness statements relating to the alleged violations may be accepted by the College Conduct Officer at their sole discretion if such statements are deemed to be material and relevant to the proceeding.

The College Conduct Officer or designee shall be responsible for contacting witnesses for all meetings other than the appeal hearing, subject to the Student notifying the college no less than five (5) calendar days prior to the proceeding. The College Conduct Officer reserves the right to exclude redundant testimony from witnesses, or redundancy in witnesses.

G. CONFIDENTIALITY

Any information provided to District employees may be shared with other District employees, law enforcement, or other parties, consistent with law, and only on a “need to know” basis. District employees shall endeavor to honor any Complainant or victim’s request for confidentiality; however, confidentiality cannot always be assured. The District may weigh requests for confidentiality against its duty to provide a safe and nondiscriminatory environment for all members of the District Community.

Investigative or hearing proceedings are considered private and confidential so as to protect the Parties involved. Hearings or meetings shall not be conducted in public, and are not open to the public. The Parties involved are expected to maintain the privacy of the proceedings.

Section III - Student Discipline Process

A. FACULTY INITIATED REMOVAL

Prior to removal, the faculty member is responsible to identify the behavior and inform the student that failure to correct the issue may result in removal from the class. If the behavior persists, the faculty member may remove, for good cause, any student from their class for up to two (2) class sessions. The student shall not return to the class during the period of the removal without permission of the instructor. Nothing herein will prevent the college president or designee from recommending further discipline in accordance with these procedures based on facts that led to the removal. As used in this rule, “good cause” includes those offenses listed in the Student Code of Conduct. In instances of online courses, students access to course content will be removed for a period of time comparable to two class sessions.

B. COMPLAINT FILED/INCIDENT REPORTED

San Bernardino Community College District, through its College Conduct Officers, will investigate all reports of alleged violations of the Standards of Student Conduct. Anyone who believes a section of the Code of Conduct has been violated should contact any College Conduct Officers identified at each District campus. Reports of allegations are entered into a District-wide system where it is assigned to the appropriate College Conduct Officers.

C. NOTICE TO STUDENT

In all cases, the College Conduct Officer, or designee, will provide notice to the Parties, providing them with the following information, pursuant to Section 1.3:

- o A description of the alleged violation(s).
- o A description of the applicable policies.
- o A statement of the potential sanctions/responsive actions that could result.
- o A required date and time, for the Student, to contact the College Conduct Officer within seven (7) calendar days from the date of initial notification to schedule a hearing/meeting, superseding all other campus and work activities. The Student’s failure to contact the College Conduct Officer within this seven (7) calendar day period shall constitute the Student’s waiver of their ability to provide a response to the alleged violation(s), and the proceeding shall take place as if the Student has not responded.

D. INTERIM ACTIONS: Interim actions are those temporary sanctions deemed necessary by the College Conduct Officer to protect the safety and security of the District Community pending an investigation into the alleged violations of the Standards of Student Conduct.

1. The College Conduct Officer may take any interim actions deemed necessary to:

- Protect the District Community from potential threats to health and safety;
 - Protect any particular member of the community;
 - Protect against the risk of substantial disruption to the normal operations of the campus.
2. The College Conduct Officer or designee will inform the Respondent involved of any interim action/restrictions implemented against them pending investigation.
3. Interim Action/Restrictions are effective immediately. There shall be no request to delay the imposition of interim actions. These actions may include:
- a. 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. The College Conduct Officer, or designee, may impose an interim restriction of up to fourteen (14) calendar days following notice from the College Conduct Officer.
 - b. Interim Restriction – These restrictions may include, but are not limited to:
 - Any other restrictions deemed by the College Conduct Officer or designee necessary to achieve the goals stated above.
 - No-contact orders with specific individuals;
 - District events;
 - Restricted access to District facilities;
 - c. The College Conduct Officer, or designee, may impose an interim restriction of up to fourteen (14) calendar days following notice from the College Conduct Officer.
4. Interim Suspensions and Request to Stay. Upon notice of an Interim Suspension by the College Conduct Officer, Title IX Coordinator, or designee, the Student has five (5) calendar days (from the date of the notice) to submit reason(s) for a Request to Stay to the Vice President of Student Services or their designee. The Vice President of Student Services or their designee will render a decision on providing a stay, with or without modifications to the Student's request. The Vice President of Student Services or their designee will provide the Student with a decision within three (3) calendar days of the received Request to Stay. The Interim Suspension remains in effect until a decision from the Vice President of Student Services or designee is rendered

E. INVESTIGATION PROCESS:

The College Conduct Officer will conduct interviews to determine the accuracy of statements or other evidence.

The College Conduct Officer's primary communication to all Parties involved in the investigation shall be through District assigned email addresses, with supplemental forms of communication used as needed as referenced in section 1.3 above.

The College Conduct Officer will investigate each complaint submitted to determine whether it is appropriate to charge a Student with a violation of the Student Conduct Code.

Investigations should generally result in resolution within sixty (60) calendar days after a complaint has been made, barring unexpected delays or campus closures. If circumstances warrant, the College Conduct Officer will provide notice to the Student(s) of any delays or extensions necessary to complete any investigation.

Investigations may comprise of an interview with the reporting Party(s), person(s) alleged to have violated the policy(s), witnesses, and other persons having knowledge.

The College Conduct Officer shall make reasonable efforts to give the Student(s) an opportunity to rebut the accusation or otherwise provide relevant information to the College Conduct Officer or designee regarding the incident(s) which led to the belief by the College Conduct Officer or designee that the Student violated the Standards of Student Conduct in an Administrative Conference.

Should a Student fail to appear for any meeting, that Student may be considered as having waived their right to be present for the meeting and, the investigation may proceed without the Student's input.

E. FINDINGS AND DETERMINATION: Conferences/Hearings for possible violations that occur near or after the academic terms will be held as soon as is practicable, to try to meet the resolution timeline followed by the District. The College Conduct Officer has the discretion to elect any of the following methods for resolution:

- Administrative Resolution – The Respondent admits to the allegations and accepts the recommended sanctions of the College Conduct Officer or designee.
- Formal Finding by the College Conduct Officer – The College Conduct Officer, after completing an investigation, which includes an opportunity for the Respondent's due process, makes a finding and, if appropriate, issues sanctions.
- Formal Finding with Hearing Panel – The College Conduct Officer may elect, at their sole discretion, to refer the findings from their investigation, which includes the Respondent's due process, to a Hearing Panel for recommendation. The Hearing Panel is a panel convened to weigh the evidence presented following an investigation into alleged violations of the Standards of Student Conduct. The Hearing Panel shall be formed pursuant to Section 4.4 herein.

G. TYPES OF FINDINGS AFTER INVESTIGATION:

1. Not Responsible – In these cases, College Conduct Officer or designee has determined 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.
2. Responsible – The College Conduct Officer or designee determines that sufficient evidence exists, by the Preponderance of Evidence standard, for a finding that the Respondent is Responsible for the alleged violation(s). This determination may also be rendered through the Administrative Resolution, where the Respondent has admitted culpability for the alleged violation(s). The College Conduct Officer may close the case.

After the investigation, meetings, and/or hearing, and considering all information relevant to the issue, the College Conduct Officer, or Hearing Chair and their Panel shall then decide whether or not to impose sanctions.

The College Conduct Officer will notify the Student charged with violations of the decision of the College Conduct Officer or Hearing Panel, and of any sanctions imposed. Such Notice shall be in writing from the College Conduct Officer and communicated to the Student pursuant the notice requirements set forth in Section 1.3.

H. IMPOSING SANCTIONS:

If a Student is found Responsible, sanctions will be imposed by the College Conduct Officer, as they

deem reasonable and appropriate, pursuant to the available sanctions set forth in Appendix C. The Respondent may elect to appeal the findings and sanctions subject to the limitations for grounds for appeal set forth herein.

I. STANDARD OF PROOF FOR FINDINGS:

In all cases involving alleged violations of the Standards of Student Conduct, the standard of proof for determining whether a Respondent is Not Responsible or Responsible is the Preponderance of Evidence standard (e.g., more likely than not), as defined in Appendix A herein.

Section IV - Appeal Process and Grounds for Appeal

An appeal is not intended to be a full review of the allegation(s) and reweighing of the evidence. There is a presumption that the College Conduct Officer has weighed all information following the investigation, and has reached the appropriate determination regarding the finding of Responsibility or Non-Responsibility. Students may appeal determinations or appealable sanctions only once based solely upon any of the following grounds for appeal:

- Excessive sanctions in relation to the violation(s) the Respondent was found Responsible for committing.
- A substantive procedural error which materially and significantly affected the weighing of evidence by the College Conduct Officer.
- New evidence has become available which is sufficient to alter the decision, and which the student was not aware of or could not have been reasonably obtained at the time of the initial review.

The Student must request an appeal in writing by e-mail, U.S. Mail, or by personal delivery of correspondence to the College Conduct Officer's office within seven (7) calendar days of notification of the outcome of the finding and sanctions. The Student must specifically identify which of the above-bulleted grounds their appeal is based on. Student failure to specify the basis for appeal with detailed information shall constitute the dismissal of the appeal without further proceedings.

Any request for an appeal that is not received within seven (7) calendar days of notification of the outcome/ determination shall be deemed untimely and shall constitute a waiver of the Student's right to an appeal.

In all cases, the College Conduct Officer, or designee, will send a notice, pursuant to Section 1.3, to the Parties with the following information:

- A description of the violation(s), a description of the provisions of the Standards of Student Conduct determined to have been violated, and a statement of the sanctions/responsive actions.
- A required date, time, and location of the hearing superseding in priority all other campus and work activities. If a Party does not appear at the scheduled hearing, the hearing will be held in their absence. For compelling reasons, the College Conduct Officer, or designee, may reschedule the hearing; proof may be asked by the College Conduct Officer. Appeal hearings that occur near or after the academic terms will be held as soon as practicable to meet the resolution timeline generally followed by the District. If deemed appropriate by the College Conduct Officer, or designee, interim actions/restrictions and other stipulations that ensure the safety and/or well-being of the campus community will be administered or maintained.
 - The College Conduct Officer, or designee, shall use reasonable efforts to schedule the appeal hearing promptly, generally no sooner than fourteen (14) calendar days after, and not later than thirty (30) calendar days after, the date of the submitted written request for appeal. However, the scheduling of an appeal hearing may be delayed due to events beyond the College Conduct Officer's control. In such circumstances, the College Conduct Officer shall schedule the appeal hearing as promptly as is reasonably possible.

- The notice of hearing may be amended by the College Conduct Officer at any time, and the College Conduct Officer, or designee, may (but is not required to) postpone the appeal hearing for a reasonable period of time.

A. ROLE OF ADVISORS AND LEGAL COUNSEL DURING APPEAL

Student discipline proceedings are not formal court proceedings, but instead, are administrative proceedings conducted by the District. Although District-related sanctions may be imposed, the process is intended to provide an opportunity for learning and to promote a safe educational environment.

If the Student wishes to have an advisor accompany them to the hearing, the Student must provide the College Conduct Office with the name of the individual they have chosen to act as their appeal advisor no less than seven (7) calendar days prior to the appeal hearing. Advisors must maintain confidentiality and will not be permitted to participate or respond on behalf of the Student during the hearing.

If the Student chooses to have their attorney accompany them to the hearing, the name, address and telephone number of the Student's attorney must be submitted to the College Conduct Office no later than seven (7) calendar days prior to the hearing. In addition, no later than seven (7) calendar days prior to the hearing, the Student's attorney must deliver a retention letter, including their State Bar number and telephone number, to the College Conduct Office.

B. THE APPEAL HEARING

Appeal hearings are closed to all persons except:

- College Conduct Officer, or designee;
- The Student Hearing Appeal Chair;
- The Student Hearing Appeal Panel;
- Student;
- Advisor;
- an attorney, retained by the District or a Student;
- a court-certified interpreter paid for at the Student's own expense;
- selected members of the Student Hearing Appeal Panel when their determination of findings is at issue ; and
- any person needed to assist the hearing officer.
- In some cases, a campus security/police officer may be present to ensure safety and security during the hearing.
- Witnesses, but not for the duration of the hearing.

C. STANDARD OF PROOF FOR AN APPEAL

In all cases involving appeal, the burden of proof is on the Student to establish, to the standard of Clear and Convincing Evidence (as defined herein), that the College Conduct Officer's determination following investigation was erroneous due to any of the following:

- Excessive sanctions in relation to the violation(s) the Respondent was found Responsible for committing.
- A substantive procedural error which materially and significantly affected the weighing of evidence by the College Conduct Officer.

- New evidence has become available which is sufficient to alter the decision, and which the student was not aware of or could not have been reasonably obtained at the time of the initial review.

D. APPEAL HEARING PROCEDURES

Evidence—The Appeal Hearing need not be conducted according to technical rules relating to evidence and witnesses. Only relevant and material evidence shall be presented to and considered by the Hearing Appeal Committee. Irrelevant, immaterial, and/or unduly repetitious evidence shall be excluded. No evidence other than that received and weighed at the initial determination of findings shall be considered by the Hearing Appeal Committee. This limitation on admissible evidence shall not exclude the Student from presenting relevant, material evidence excluded by the College Conduct Officer at the initial hearing. The determination of relevancy or the material nature of the Student's offered evidence shall be made by the Hearing Appeal Committee.

1. At the beginning of each school year, each college president or designee shall establish a standing panel from which one or more Hearing Appeal Committees may be appointed. The panel shall be made up of:
 - a. A minimum of five (5) faculty members whose names are obtained from the Academic Senate.
 - b. A minimum of five (5) students whose names are obtained from the Student Senate.
 - c. A minimum of five (5) administrators/supervisors appointed by the College President or designee.

2. The College President or designee will appoint from the panel listed above a Hearing Appeal Committee consisting of a maximum of:

- Two faculty members
- Two students
- One administrator/manager
- A committee chair

3. The Hearing

- a. The Chair will call the hearing to order, explain the procedures of the hearing, and have all Parties introduce themselves. Should an advisor be present, they may not make a presentation or represent the Respondent or the Complainant during the hearing. The Parties to the hearing are expected to ask and respond to questions on their own behalf, without representation of their advisors. The advisor may not speak on behalf of the Student to the College Conduct Officer or to the Hearing Appeal Committee hearing the case.
- b. The Chair 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 ensure confidentiality of such statements.
- c. The College Conduct Officer, and if applicable their witness(es), shall have up to thirty (30) minutes total, if necessary, to present relevant evidence to support the determination that violation(s) of the Standards of Student Conduct has occurred.
- d. The Student charged may question any witnesses presented by the College Conduct Officer. Members of the Hearing Appeal Committee may also question any witness presented by the College Conduct Officer. Questioning by the Student or the Hearing Appeal Committee shall not be considered part of the time allotted for presentation of the College Conduct Officer's evidence. Total witness questioning by the College Conduct Officer and the Student shall not

exceed a total of thirty (30) minutes of witness testimony for each side. It is within the discretion of the Hearing Appeal Committee Chair to impose a timeline on questioning or to add additional time if warranted.

- e. The Student charged, and if applicable their witness(es), shall have up to thirty (30) minutes in total time, if necessary, to present relevant evidence demonstrating the basis for why College Conduct Officer's decision should be overturned. The College Conduct Officer may question any witnesses presented by the Student. Members of the Hearing Appeal Committee may also question witnesses. Questioning by the Hearing Appeal Committee shall not be considered part of the time allotted for presentation of the Student's evidence. Witness(es) shall provide testimony only on an individual basis, outside of the presence of other witness(es). It is within the discretion of the Hearing Appeal Committee Chair to impose a timeline on questioning or to add additional time if warranted.
- f. The College Conduct Officer, and then the Student appealing, may each make a closing statement to the Hearing Appeal Committee. These closing statements shall be limited to a maximum of three (3) minutes each. The Hearing Appeal Committee Chair shall have the authority to extend the time limits if deemed necessary.
- g. Once all information has been collected, the Chair, or designee, will reiterate the alleged policy violation(s):
 - i. Reiterate the alleged policy violation(s):
 - ii. Remind all Parties and participants involved of the Standard of Proof (Clear and Convincing), as further defined in Appendix A.
 - iii. Remind all parties and participants of confidentiality and of all imposed sanctions that are active and must be adhered to:
 - iv. Remind all Parties and participants to review the San Bernardino Community College District's Standards of Student Conduct Board Policy 5500, Administrative Procedures 5500 and 5520, and to understand their Student rights and responsibilities:
 - v. Inform all Parties and participants of the deliberation process and the projected timeline for notification; and
 - vi. Remind the Student charged and the Complainant, if applicable, that notification and all communication will be via District email accounts.
- o. Following the Hearing Appeal Committee Chair's closing statements, all persons will be dismissed from the hearing except for the Committee Chair and the members of the Hearing Appeal Committee for deliberation.

E. FAILURE TO APPEAR

A Student who fails to appear before the Hearing Appeal Committee 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 Hearing Appeal Committee shall be dismissed. Initial sanctions will take effect immediately.

F. DELIBERATION AND DECISION

1. The Hearing Appeal Committee shall make its findings for the appeal hearing based on the Clear and Convincing Evidence standard, as further defined in Appendix A, which demonstrates whether or not the College Conduct Officer:

- a. Issued disproportionate or excessive sanctions in relation to the violation(s) the Respondent was found Responsible for committing.
 - b. Demonstrated unlawful discrimination during the determination of Responsibility, and/or.
 - c. Made a substantive procedural error which materially and significantly affected the weighing of evidence.
2. Following the presentation of evidence, the Hearing Appeal Committee shall privately consider the evidence and shall prepare a written report of its findings and deliver it to the College Conduct Officer, which shall ordinarily be submitted within seven (7) calendar days of the date of the appeal hearing. This report shall include the following:
 - a. A brief summary of the facts as found by the Hearing Appeal Committee, and a determination of evidence indicating whether the College Conduct Officer's findings should or should not be overturned;
 - b. A finding indicating the appropriateness of the disciplinary sanction imposed on the Student by the College Conduct Officer. This finding may state:
 - A finding that the Student is Responsible and that the disciplinary action proposed is appropriate; or
 - A finding that the Student is Responsible, but that the disciplinary action imposed by the College Conduct Officer was excessive to the violation, and as such, a recommendation be made for a lessened sanction;
 - A finding that the College Conduct Officer committed a substantive procedural error during the investigation or finding which would unduly taint the legitimacy of the finding of Responsibility, resulting in the finding to be set aside.
3. The report of the Hearing Appeal Committee shall be sent by the Hearing Appeal Committee Chair to the Respondent. If the Committee has made a finding evidencing substantive procedural error, the Committee shall provide a copy of the report to the Vice President of Student Services. The College Conduct Office shall copy the Vice President of Student Services on written notification to the Student(s) involved.
4. No finding by the Hearing Appeal Committee recommending the setting aside of a finding of Responsibility due to procedural error by the College Conduct Officer shall act as a bar to a subsequent investigation by another College Conduct Officer from within the District of the underlying facts and evidence of the matter appealed and making a finding and determination of Responsibility.

G. RECOMMENDATION FOR EXPULSION

If, after hearing, the Hearing Appeal Committee recommends expulsion to the College President, the College President shall deliver a written recommendation for the Student's expulsion to the Chancellor. A copy of the President's recommendation shall be provided to the Student, or if the Student is a dependent minor to their parent or guardian, by the Office of the President.

The College President's recommendation for expulsion shall contain a statement of the charges against the Student that provides the basis for their request that the Student be expelled, including a factual description of the conduct upon which the charges are based, and the action(s) taken by the Hearing Appeal Committee.

H. REVIEW BY THE CHANCELLOR

1. The Student may appeal the College President's recommendation for expulsion, but not for other

- sanctions, by submitting a letter of appeal via personal delivery, delivery by a professional process server, or by certified mail to the Chancellor's office within ten (10) calendar days of their receipt of the College President's recommendation for expulsion. It is the student's responsibility to ensure the letter of appeal is delivered.
2. The letter of appeal to the Chancellor shall state the reasons why the Student should not be expelled and shall not exceed fifteen (15) pages in length. The Student or any representative of the student does not have the right to meet personally with the Chancellor under this procedure.
 - a. Chancellor's Recommendation to the Board. If the Chancellor has decided to recommend the Student's expulsion, they shall cause to be placed on a Board agenda for action at the next board meeting, their recommendation that the Student be expelled. Minor deviations in the timeline for placement of the Chancellor's recommendation on the Board agenda shall be permitted. The Chancellor shall notify the Student or the Student's parent or guardian if the Student is a dependent minor of their decision to seek expulsion. The Chancellor's notice shall be in writing, setting forth the Board meeting date, time, and location where the Board will consider the recommended expulsion.
 - b. Appeal to the Board of Trustees. The Student may submit a Letter of Opposition to Expulsion to the Board of Trustees, through the Chancellors Office, via personal delivery, delivery by a professional process server, or by certified mail setting forth the Student's basis for opposition to the recommended expulsion. The Student's letter must be received no less than seven (7) calendar days prior to the scheduled Board meeting date.
 3. The Student's Letter of Opposition shall not exceed ten (10) pages in length, explaining to the Board why they should not be expelled. The Student may attach to their letter any documents they wish the Board to consider.
 4. The Chancellor shall submit the following documents to the Board prior to the Board acting on their recommendation for expulsion:
 - a. A copy of the correspondence provided to the Student informing the Student of the alleged violations of the Standards of Student Conduct;
 - b. A copy of the investigative findings of the College Conduct Officer, including any relevant evidence collected and assessed.
 - c. A copy of the report, if any, of the Hearing Appeal Committee;
 - d. A copy of the President's recommendation for expulsion;
 - e. A copy of any letters or documents submitted by the Student; and
 - f. The Chancellor's recommendation regarding expulsion of the Student.
 5. The Board's Decision Regarding Expulsion
The Board's decision shall be final and shall end the Student's appeal process relating to expulsion.
 6. Notification to College Conduct Officer
The Executive Assistant to the Chancellor's Office shall notify the College Conduct Officer in writing of the Board's decision regarding the Student's expulsion and shall provide the College Conduct Officer with a copy of the meeting minutes evidencing the Board's action.
 7. Notification to Student
The Chancellor's Office shall notify the Student in writing of the Board's decision regarding their status as a Student in the District

I. READMISSION AFTER A SUSPENSION

- The following procedures shall apply to a Student's request for readmission.
- A Student who has been suspended is eligible to apply for readmission if:
 - The term of the Student's long term suspension will expire within thirty (30) calendar days.
 - The Student has complied with all the terms and conditions of their suspension; and
 - During the course of the Student's suspension, the Student has not engaged in any behavior or activity that would be cause for discipline under the Standards of Student Conduct if the individual were a District Student.

1. Procedure for Re-admission Following Long-Term Suspension

- The Student seeking readmission must make a written request for readmission to the College Conduct Office.
- The College Conduct Officer may request a meeting with the Student seeking readmission to ascertain their eligibility for readmission.
- Ordinarily, within thirty (30) calendar days of the date of their receipt of a written request for readmission, the College Conduct Officer shall decide whether the request should be granted or denied.
- The College Conduct Officer shall notify the Student of their decision in writing and shall, in case of denial, include the reasons for such denial.
- A Student, whose application for readmission has been denied, may not apply for readmission until the next registration cycle after denial of their application.

Appendix A - Administrative Procedure Definitions

In addition to and in some cases as a supplement to the terms defined elsewhere in this procedure, the following defined terms shall have the meanings set forth in this section for purposes of this procedure.

- A. "Advisor" means a person, not serving as legal counsel, who at the Student's request, accompanies the Student and provides them with emotional or other support at a hearing. The advisor will be expected to maintain confidentiality.
- B. "Attorney" means any person who is admitted to practice law in the State of California.
- C. "Board" means the Governing Board of the San Bernardino Community College District.
- D. "Chancellor" means the Chancellor of the San Bernardino Community College District, or their designee.
- E. "Clear and Convincing Evidence" means the burden of evidence that a Student must present establishing that it is highly probable that the College Conduct Officer's determination process was flawed due to significantly disproportionate sanctions when compared to the offense, procedural error, or new evidence that has become available which is sufficient to alter the decision, and which the student was not aware of or could not have been reasonably obtained at the time of the initial review.
- F. "College Activity" means any activity sponsored by the District including, but not limited to, courses, class, lectures, labs, field trips, club activities, Student Government activities, community education or similar activities, or any other Student sponsored activity.
- G. "College Conduct Office" is the department or division designated by the college campus to oversee the disciplinary process.

- H. "College Conduct Officer" means the College Official(s) designated by the College President, or designee, to administer this policy.
- I. "Community" means San Bernardino Community College District Students, trustees, employees, agents, instructional associate, visitors, representatives, guests of the District and their families, and any persons conducting business with the District.
- J. "Complainant" means the person(s) reporting alleged violations of the Standards of Student Conduct.
- K. "Day" means a calendar day.
- L. "Designee" means a District Official appointed to fulfill responsibilities relating to this procedure.
- M. "District" means the San Bernardino Community College District and each of its colleges.
- N. "District Community" means any employee, contractor, Student, member of the public, or invitee present on District property, or on the property being used by the District. For purposes of this definition, a Student is deemed a member of the District Community while enrolled in, or in the process of applying for, enrollment as a Student at any of the colleges within the District. A Student does not have to be physically located on District property for their behavior to be governed by the Standards of Student Conduct.
- O. "District Official" means any person employed by the District as a Manager, Supervisor, or Officer.
- P. "District Property" means all real, personal and intellectual property owned, controlled, used, or occupied by the District, including property physically removed from any college, the District office, or any place that is the site of a District-approved function.
- Q. "Finding" means an outcome determined by the College Conduct Officer or designee after completion of an investigation and a review of the facts collected during the investigation. Findings include "Responsible" or "Not Responsible".
- R. "Hearing Panel" means a panel formed by the College Conduct Officer to make a determination and finding of whether a Student is Responsible or not for alleged violations of the Standards of Student Conduct.
- S. "Instructor" means any faculty member employed by the District for instruction of curriculum or other programs.
- T. "Interpreter" means a sign language interpreter or translator present to assist the Student in understanding and communicating information at any hearing.
- U. "Investigation" means the process following a report of a violation of the Standards of Student Conduct. The investigation includes a review of facts presented by the person reporting the violation, the Student accused of the violation, and any other applicable evidence presented to help the College Conduct Officer make a determination of "Responsible" or "Not Responsible."
- V. "Mental Health Professional" means a California licensed clinical psychologist or California board-certified psychiatrist.
- W. "Not Responsible" means, based on the applicable evidence collected during the investigation, it is not more likely than not that the Student did not commit a violation of the Standards of Student Conduct.
- X. "Parties" means both the Complainant and the Respondent involved in the alleged violation of this Standards of Student Conduct.
- Y. "Party" means an individual, either the Complainant or the Respondent, involved in the alleged violation of the Standards of Student Conduct.
- Z. "Preponderance of the Evidence" for purposes of this Administrative Procedure, means the weight of the

evidence presented by the District at the administrative hearing that has established that it is more likely than not that the Student is Responsible for the alleged violation of a provision within the District's Standards of Student Conduct. This weight of evidence standard applies to any resolution hearing, other than for appeals.

AA. "Request to Stay" means a request, in writing, from a Student, seeking to have any interim action reconsidered or amended by the College Vice President of Student Services or designee.

AB. "Respondent" means the person(s) who are alleged to have violated the Standards of Student Conduct.

AC. "Responsible" means, based on the applicable evidence collected during the investigation, it is more likely than not that the Student committed one or more violation(s) of the Standards of Student Conduct.

AD. "Retention Letter" means a letter from an attorney stating they have been retained by a Student facing disciplinary proceedings pursuant to the Standards of Student Conduct.

AE. "Standards of Student Conduct" means the San Bernardino Community College District Board Policy/ Administrative Procedure (BP 5500 and AP 5500, respectively).

AF. "Student" means any person who has applied for admission, who is or has been enrolled, or who has expressed their intent to enroll for any college program within the District for the period in which the misconduct occurred.

AG. "Student Hearing Appeals Committee" means a committee formed by a college within the District for the purpose of hearing appeals filed by Students following findings of Responsibility or Non-Responsibility. The composition of this committee is set forth in Section 4.4.

AH. "Weapon" means any instrument or weapon as defined in Administrative Procedure 3530

Appendix B - Sanctions

A Student found Responsible for violating any of the Standards of Student Conduct standards (BP/AP 5500) is subject to sanctions set forth herein.

The following sanctions may be imposed for violation of the Standards of Student Conduct. These sanctions are not exclusive.

Administrative Withdrawal From Class prohibits a Student's continued presence in the class if their behavior is disruptive of the class and interferes with the ability of other students in the class to learn or in any way endangers himself/herself or others. When this sanction is applied, the Student will be administratively withdrawn by the College Conduct Officer.

Community Service may be imposed by the College Conduct Officer on any Student who violates the Standards of Student Conduct. Community Service shall consist of the Student performing some act or duty that is of benefit to the campus and/or surrounding community.

Disciplinary Action consists of the following:

- REPRIMAND A verbal or written reprimand regarding the misconduct.
- PROBATION Student conduct probation may include, but is not limited to, ineligibility to participate in extra-curricular activities and certain other student privileges.
- SUSPENSION Exclusion from the colleges and college-sponsored activities for a specified time.
- EXPULSION Exclusion by the District Board of Trustees from the college and all college-sponsored activities.

Disciplinary Probation consists of Written Notice to the Student by the College Conduct Officer that the Student

has violated the Standards of Student Conduct and that for a specified period of time, imposed by the College Conduct Officer, the Student must meet certain conditions as imposed by the College Conduct Officer. Any subsequent violations of this policy by the Student during the term of the probation or the Student's failure to comply with any condition of probation imposed by the College Conduct Officer will result in additional sanctions under this policy.

District Restriction. The College Conduct Officer may for a specified period of time restrict the Student's access to parts or areas of the District and/or District Property.

Exclusion from District Activities. Prohibits the Student from participating in any District co-curricular and/or extra-curricular activity(ies) for a period to be determined by the College Conduct Officer.

~~**Expulsion**—Exclusion~~Expulsion is the permanent removal of the student ~~by the Board of Trustees~~ from all colleges in the District ~~for one or more terms.~~

~~**Removal from class**—Exclusion of the student by an instructor or college administrator for the day of the removal and the next class meeting.~~

~~**Written or verbal reprimand**—An admonition to the student to cease and desist from conduct determined to violate the Standards of Student Conduct. Written reprimands may become part of a student's permanent record at the college. A record of the fact that a verbal reprimand has been given may become part of a student's record at the college for a period of up to one year.~~

~~**Withdrawal of Consent to Remain on Campus**—Withdrawal of consent by the College President's designee or the College Discipline Officer or District Police for any person to remain on campus in accordance with Penal Code Section 626.4 where the College President's designee or the College Discipline Officer or District Police has reasonable cause to believe that such person has willfully disrupted the orderly operation of the campus.~~

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

~~**Short-term Suspensions, Long-term Suspensions, and Expulsions:** Before any disciplinary action to suspend or expel is taken against a student, the following procedures will apply:~~

- ~~• **Notice**—The College President's designee or the College Discipline Officer will provide the student with written notice of the conduct warranting the discipline. The written notice will include the following:
 - ~~• the specific section of the Standards of Student Conduct that the student is accused of violating.~~
 - ~~• a short statement of the facts supporting the accusation.~~
 - ~~• the right of the student to meet with the College President's designee or the College Discipline Officer or designee to discuss the accusation, or to respond in writing.~~
 - ~~• the nature of the discipline that is being considered.~~~~
- ~~• **Time limits**—The notice must be provided to the student within X of 5 days of the date of notification to the College Discipline Officer on which the conduct took place; in the case of continuous, repeated or ongoing conduct, the notice must be provided within [number of days] 5 days of the date on which conduct occurred which led to the decision to take disciplinary action.~~
- ~~• **Meeting**—If the student chooses to meet with the College President's designee or the College Discipline Officer [designated position], the meeting must occur no sooner than [number of days] 5 days after the notice is provided. At the meeting, the student must again be told the facts leading to the accusation, and must be given an opportunity to respond verbally or in writing to the accusation. (No mention of forms~~

~~used or staff being able to suspend for two days)~~

~~**Short-term Suspension**—Within *[number of days]* 5 days after the meeting described above, the College President *[Chancellor]* shall, pursuant to a recommendation from the *[number of days]*, decide whether to impose a short-term suspension, whether to impose some lesser disciplinary action, or whether to end the matter. Written notice of the ~~Chancellor~~ College President's decision shall be provided to the student. The notice will include the length of time of the suspension, or the nature of the lesser disciplinary action. The College President's ~~Chancellor's~~ decision on a short-term suspension shall be final.~~

~~**Long-term Suspension**—Within *[number of days]* after the meeting described above, the ~~Chancellor~~ College President shall, pursuant to a recommendation from the *[designated position]* decide whether to impose a long-term suspension. Written notice of the ~~Chancellor~~ decision shall be provided to the student. The notice will include the right of the student to request a formal hearing before a long-term suspension is imposed, and a copy of this policy describing the procedures for a hearing.~~

~~**Expulsion**—Within *[number of days]* 5 days after the meeting described above, the ~~Chancellor~~ shall, pursuant to a recommendation from the *[designated position]*, decide whether to recommend expulsion to the Board of Trustees. Written notice of the ~~Chancellor's~~ decision shall be provided to the student. The notice will include the right of the student to request a formal hearing before expulsion is imposed, and a copy of this policy describing the procedures for a hearing.~~

~~**Hearing Procedures**—Request for Hearing.~~

~~**NOTE:** Timelines may be locally determined. Five days is usually the minimum notice time accepted by courts.~~

~~Within *[number]* 5 days after receipt of the ~~Chancellor's~~ decision regarding a long-term suspension or expulsion, the student may request a formal hearing. The request must be made in writing to the ~~Chancellor~~ or designee.~~

~~**Schedule of Hearing**—The formal hearing shall be held within *[number]* 15 days, or a mutually agreeable time, days after a formal request for hearing is received.~~

~~**NOTE:** The Board of Trustees may hear these matters itself, or may use the services of a hearing officer or a panel. If the hearing panel format is adopted, the following is suggested.~~

~~**Hearing Panel**—The hearing panel for any disciplinary action shall be composed of *[insert composition, such as one administrator, one faculty member and one student]* two faculty members, one student, one staff, and the VPSS (non-voting chair).~~

~~The ~~Chancellor~~ College President and, the president of the Academic Senate, and the AS president, shall each, at the beginning of the academic year, establish a list of at least five persons who will serve on student disciplinary hearing panels. The ~~Chancellor~~ shall appoint the hearing panel from the names on these lists. However, no administrator, faculty member or student who has any personal involvement in the matter to be decided, who is a necessary witness, or who could not otherwise act in a neutral manner shall serve on a hearing panel. (Concerns about membership and size)~~

~~**Hearing Panel Chair**—The ~~Chancellor~~ College President shall appoint one member of the panel to serve as the chair. The decision of the hearing panel chair shall be final on all matters relating to the conduct of the hearing unless there is a vote by both other members of the panel to the contrary.~~

~~**Conduct of the Hearing**~~

~~**NOTE:** The hearing must comply with principles of due process, including the right to confront and cross examine witnesses. The following procedure is legally advised.~~

~~The members of the hearing panel shall be provided with a copy of the accusation against the student and any written response provided by the student before the hearing begins.~~

~~The facts supporting the accusation shall be presented by a college representative who shall be the **[designate position]**.~~

~~The college representative and the student may call witnesses and introduce oral and written testimony relevant to the issues of the matter.~~

~~Formal rules of evidence shall not apply. Any relevant evidence shall be admitted.~~

~~Unless the hearing panel determines to proceed otherwise, the college representative and the student shall each be permitted to make an opening statement. Thereafter, the college representative shall make the first presentation, followed by the student. The college representative may present rebuttal evidence after the student completes his or her evidence. The burden shall be on the college representative to prove by the preponderance of the evidence that the facts alleged are true.~~

~~The student may represent himself/herself, and may also have the right to be represented by a person of his/her choice. **[Suggested language: except that the student shall not be represented by an attorney unless, in the judgment of the hearing panel, complex legal issues are involved. If the student wishes to be represented by an attorney, a request must be presented not less than five days prior to the date of the hearing. If the student is permitted to be represented by an attorney, the college representative may request legal assistance. The hearing panel may also request legal assistance; any legal advisor provided to the 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.]**~~

~~Hearings shall be closed and confidential unless the student requests that it be open to the public. Any such request must be made no less than **[number of days]** prior to the date of the hearing.~~

~~In a closed hearing, witnesses shall not be present at the hearing when not testifying, unless all parties and the panel agree to the contrary.~~

~~The hearing shall be recorded by the District either by tape recording or stenographic recording, and the official recording shall be the only recording made. No witness who refuses to be recorded may be permitted to give testimony. In the event the recording is by tape recording, the hearing panel chair shall, at the beginning of the hearing, ask each person present to identify themselves by name, and thereafter shall ask witnesses to identify themselves by name. Tape recording shall remain in the custody of the District at all times, unless released to a professional transcribing service. The student may request a copy of the tape recording.~~

~~All testimony shall be taken under oath; the oath shall be administered by the hearing panel chair. Written statements of witnesses under penalty of perjury shall not be used unless the witness is unavailable to testify. A witness who refuses to be tape recorded is not unavailable.~~

~~Within **[number]** 5 days following the close of the hearing, the hearing panel shall prepare and send to the Chancellor a written decision. The decision shall include specific factual findings regarding the accusation, and shall include specific conclusions regarding whether any specific section of the Standards of Student Conduct were violated. The decision shall also include a specific recommendation regarding the disciplinary action to be imposed, if any. The decision shall be based only on the record of the hearing, and not on matter outside of that record. The record consists of the original accusation, the written response, if any, of the student, and the oral and written evidence produced at the hearing.~~

Chancellor's Decision:

~~Long-term suspension—Within **[number of days] 5 days** following receipt of the hearing panel's recommended decision, the Chancellor shall render a final written decision. The Chancellor may accept, modify or reject the findings, decisions and recommendations of the hearing panel. If the Chancellor modifies or rejects the hearing panel's decision, the Chancellor shall review the record of the hearing, and shall prepare a new written decision which contains specific factual findings and conclusions.~~

~~The decision of the Chancellor shall be final. (Should appeal first to Vice President of Student Services, secondly the College President, lastly to the Chancellor)~~

~~Expulsion—Within **[number of days] 5 days** following receipt of the hearing panel's recommended decision, the Chancellor shall render a written recommended decision to the Board of Trustees. The Chancellor may accept, modify or reject the findings, decisions and recommendations of the hearing panel. If the Chancellor modifies or rejects the hearing panel's decision, he or she shall review the record of the hearing, and shall prepare a new written decision which contains specific factual findings and conclusions. The Chancellor decision shall be forwarded to the Board of Trustees.~~

~~**Board of Trustees Decision:** The Board of Trustees shall consider any recommendation from the Chancellor for expulsion at the next regularly scheduled meeting of the Board after receipt of the recommended decision.~~

~~The Board shall consider an expulsion recommendation in closed session, unless the student has requested that the matter be considered in a public meeting in accordance with these procedures (Education Code Section 72122).~~

~~The student shall be notified in writing, by registered or certified mail or by personal service, to the address last on file with the District, at least three days prior to the meeting, of the date, time, and place of the Board's meeting.~~

~~The student may, within forty-eight hours after receipt of the notice, request that the hearing be held as a public meeting.~~

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

~~The Board may accept, modify or reject the findings, decisions and recommendations of the Chancellor and/or the hearing panel. If the Board modifies or rejects the decision, the Board shall review the record of the hearing, and shall prepare a new written decision which contains specific factual findings and conclusions. The decision of the Board shall be final.~~

~~The final action of the Board on the expulsion shall be taken at a public meeting, and the result of the action shall be a public record of the District.~~

~~**Immediate Interim Suspension** (Education Code Section 66017): The Chancellor may order immediate suspension of a student where he/she concludes that immediate suspension is required to protect lives or property and to ensure the maintenance of order. In cases where an interim suspension has been ordered, the time limits contained in these procedures shall not apply, and all hearing rights, including the right to a formal hearing where a long-term suspension or expulsion is recommended, will be afforded to the student within ten (10) days.~~

~~**Removal from Class** (Education Code Section 76032): Any instructor may order a student removed from his/her class for the day of the removal and the next class meeting. The instructor shall immediately report the removal to the Chancellor and the **[designated position]**. The **[designate position]** shall arrange for a~~

conference between the student and the instructor regarding the removal. If the instructor or the student requests, the ~~[designated position]~~ shall attend the conference. The student shall not be returned to the class during the period of the removal without the concurrence of the instructor. Nothing herein will prevent the ~~[designated position]~~ from recommending further disciplinary procedures in accordance with these procedures based on the facts which led to the removal.

Withdrawal of Consent to Remain on Campus: The ~~[designate position]~~ may notify any person for whom there is a reasonable belief that the person has willfully disrupted the orderly operation of the campus that consent to remain on campus has been withdrawn. If the person is on campus at the time, he/she must promptly leave or be escorted off campus. If consent is withdrawn by the ~~[designate position]~~ a written report must be promptly made to the ~~Chancellor/College President~~.

The person from whom consent has been withdrawn may submit a written request for a hearing on the withdrawal within the period of the withdrawal. The request shall be granted not later than seven days from the date of receipt of the request. The hearing will be conducted in accordance with the provisions of this procedure relating to interim suspensions.

In no case shall consent be withdrawn for longer than ~~[number of days]~~ from the date upon which consent was initially withdrawn.

Any person as to whom consent to remain on campus has been withdrawn who knowingly reenters the campus during the period in which consent has been withdrawn, except to come for a meeting or hearing, is subject to arrest (Penal Code Section 626.4).

Time Limits: Any times specified in these procedures may be shortened or lengthened if there is mutual concurrence by all parties.

- ~~From current SBCCD AP 5500 titled Standards of Conduct and Disciplinary Procedures~~

~~Students enrolled in the San Bernardino Community College District shall refrain from disruptive conduct which significantly interferes with the instructional program, college activities, or which endangers the health or safety of members of the college, including visitors to the campus. Disruptive conduct on the part of students shall be cause for disciplinary action in accordance with policies adopted by the San Bernardino Community College District Board of Trustees and pursuant to appropriate sections of the Education Code, the Business and Professions Code, the Health and Safety Code, and the Penal Code of California.~~

NOTE: ~~The following list of conduct is shown as struck as it is delineated in BP 5500 and does not need to be repeated in the administrative procedure.~~

A. DISCIPLINARY ACTION

- ~~1. Disciplinary action for good cause may be imposed upon a student by an instructor, an administrator, or the Board of Trustees for misconduct of any of the following infractions while attending college classes or college sponsored activities:
 - ~~a. Continued disruptive behavior, willful disobedience, habitual profanity or vulgarity, or the open and persistent defiance of the authority or persistent abuse of college personnel.~~
 - ~~b. Assault, battery, or any threat of force or violence upon a student or visitor to the campus or college personnel.~~
 - ~~c. Willful misconduct which results in injury or death to a student, campus visitor, or college personnel, or cutting, defacing, or otherwise harming any real or personal property owned by the District.~~~~

- d. ~~The use, sale, or possession of illegal drugs or substance or any poison classified as such by Schedule D in Section 4160 of the Business and Professions Code, or the presence on campus of anyone under the influence of such drugs or substances.~~
 - e. ~~The use or possession of alcoholic beverages on college property or at any college sponsored event, or the presence on campus of anyone under the influence of alcohol.~~
 - f. ~~Willful or persistent smoking in any area where smoking has been prohibited by law or by regulation of the Board of Trustees.~~
 - g. ~~Dishonesty, such as cheating, plagiarizing, or knowingly furnishing false information to the college or to college officials.~~
 - h. ~~Forgery, alteration, or misuse of college documents, records, or identification.~~
 - i. ~~Violation of college regulations governing student organizations, the use of college facilities, or the time, place and manner of public expression or distribution of materials.~~
 - j. ~~Unauthorized entry to facilities or use of college supplies, equipment, and telephones.~~
 - k. ~~Possession or use of any firearm, explosive device, dangerous chemical, or other deadly weapons while on college property or at college sponsored activities.~~
 - l. ~~Driving of motorcycles and other off-road vehicles on college property, other than the regular roads and parking lots.~~
 - m. ~~Persistent, serious misconduct where other means of correction have failed to bring about proper conduct.~~
 - n. ~~Obstruction of pedestrian and/or vehicular traffic while on college property or at college sponsored activities.~~
 - o. ~~Hazing, defined as including any method of initiation into a student organization or any pastime or amusement engaged in with respect to such an organization that causes, or is likely to cause, bodily danger or physical harm to any student or other person attending any school, college, university or other educational institution in this State.~~
 - p. ~~Persistent violation of smoking regulations.~~
2. ~~Disciplinary action includes:~~

~~REPRIMAND A verbal or written reprimand regarding the misconduct.~~

~~PROBATION Student conduct probation may include, but is not limited to, ineligibility to participate in extra-curricular activities and certain other student privileges.~~

~~SUSPENSION Exclusion from the colleges and college sponsored activities for a specified time.~~

~~EXPULSION Exclusion by the District Board of Trustees from the college and all college sponsored activities.~~

- a. ~~Short-term suspension by a college instructor—any college instructor, for good cause, may remove a student from the classroom for the day of the removal and the next regular class meeting.~~
 - 1. ~~Before ordering the suspension of any student from class, the instructor shall first give or make reasonable efforts to give the student an oral or written notice of the reasons for the~~

~~proposed suspension.~~

- ~~2. Immediately following the suspension, the instructor shall notify the college president or designee of the removal and request that the student proceed to the president or designee's office. If the student proceeds to the designated office, the president or designee shall review the action and may discuss the matter further with the student, or instructor, or both.~~
- ~~3. A student shall not be returned to the class from which the student was removed during the period of exclusion without the concurrence of the instructor of the class and the president or designee. Following completion of the period of removal and with written authorization from the college president or designee to do so, the student shall be readmitted to the class.~~
- ~~4. If the student is a minor, the parents or legal guardian shall, within 48 hours, be notified in writing signed by the college president or designee.
 - ~~a. The college president or designee shall immediately, within 48 hours, hold a parent conference regarding the removal from class.~~
 - ~~b. The college president or designee shall determine if suspension from the class, or college, for a longer period of time is appropriate.~~~~

~~b. Suspension by the College President~~

- ~~1. The college president or designee can suspend a student for good cause as follows:
 - ~~a. From one or more classes for a period of up to ten days of instruction.~~
 - ~~b. From one or more classes for the remainder of the school term.~~
 - ~~c. From all classes and activities of the college for one or more terms.~~~~
- ~~2. Before imposing discipline as authorized by this policy, the college president or designee shall first give, or make reasonable efforts to give, the student an oral or written notice for the proposed disciplinary action.~~
- ~~3. Within a reasonable period of time following delivery to the student of the notice, the college president or designee shall give or make reasonable efforts to give the student an opportunity to respond to the accusation or otherwise offer relevant comment on the proposed disciplinary action.
 - ~~a. Disciplinary procedures under this policy may proceed or continue notwithstanding the failure or refusal of a student to respond, attend or otherwise participate after having been properly notified of the proceeding by oral or written communication.~~
 - ~~b. Following the decision of the college president or designee, the disciplinary action imposed on the student, if any, shall be reported to the Chancellor or designee of the District.~~
 - ~~c. If either the notice or decision or both were not in writing, a written notice confirming the action taken shall be mailed to the student within five (5) working days.~~~~

~~e. Expulsion by the Board of Trustees~~

- ~~1. The Board of Trustees may expel a student when other means of correction fail to bring about proper conduct, or it seems probable that the continued presence of the student causes a danger to the physical safety of the student or to others.~~

- ~~2. Whenever this policy calls for or permits a notice or other communication to be delivered by mail, the mailing of such communication by certified mail, postage paid and addressed to the last known address of the student, shall be deemed a sufficient compliance with the provision and it shall be presumed to have been received. A student's failure or refusal to sign a receipt of the communication shall not cause the notice to be null and void.~~
- ~~3. No fees paid by or for a student for the semester, summer session, or other term in which the student is suspended or expelled shall be refunded. If the student is readmitted before the close of the semester, summer session, or other term in which the suspension occurred, no additional fees shall be required of the student on account of the suspension.~~
- ~~4. Should disciplinary action involve the misappropriation of District property or funds, the disciplinary action will remain in effect until full reimbursement is made through appropriate District/college offices.~~
- ~~5. Any violation or violations of law, ordinance, regulations, or rule regulating, or pertaining to, the parking of vehicles, shall not be cause for the removal, suspension, or expulsion of a student from a community college.~~
- ~~6. The president or the president's designee at a community college shall, upon the suspension or expulsion of any student, notify the appropriate law enforcement authorities of the county or city in which the school is located of any action of the student which may be in violation of Section 245 of the Penal Code.~~

B. DISCIPLINARY PROCEDURES

~~Suspension or expulsion of a student in the San Bernardino Community College District shall be accompanied by a formal hearing, unless the student involved waives the right to such a hearing, in accordance with the student due process procedures. The student shall make a decision regarding waiving the right to a hearing within five (5) working days.~~

1. Disciplinary Hearing Committee

- ~~a. At the beginning of each school year, each college president shall establish a standing panel from which one or more Disciplinary Hearing Committees may be appointed. The panel shall be made up of:
 - ~~1. Five to fifteen faculty members whose names are obtained from the Academic Senate.~~
 - ~~2. Five to fifteen students whose names are obtained from the student government officers/ senators.~~
 - ~~3. Four to ten administrators/supervisors appointed by the college president.~~~~
- ~~b. The college president or designee will appoint a hearing committee consisting of a maximum of two faculty members, two students, and one administrator/supervisor to hear each disciplinary action. The college president shall select a chairperson from the committee.~~

2. Hearing Procedures

a. Formal Notice

- ~~1. In all cases where a hearing before a Disciplinary Hearing Committee is to be held, the college president or designee will prepare and personally deliver or mail a written notice to the student not less than five (5) working days prior to the hearing. Notices sent to the last address available in the Records Office, by certified mail, postage prepaid and return~~

~~receipt requested, shall be presumed to have been received and read.~~

- ~~2. Notices including a list of the Hearing Committee members shall specify the time and place of hearing and contain a statement of the charges against the student. A copy of these procedures shall be enclosed. Notice shall also specify if there is to be an interim exclusion from the college campus pursuant to Penal Code Section 626.4. Copies of such notice will be sent to the student's instructors and Campus Police.~~
- ~~3. The chairperson and the student will be allowed one preemptory challenge of any member of the Disciplinary Hearing Committee through questioning members of the committee during the initial hearing meeting. The committee chairperson shall immediately replace the individual(s) involved in the preemptory challenge. If the committee chairperson is challenged, another member of the committee will assume the chair so the hearing can proceed, and take action to replace the vacant position.~~
- ~~4. The student shall notify the Committee chairperson in writing within three (3) working days of the Hearing if he/she will be represented by an advocate and/or legal counsel. The Hearing Committee may then request legal counsel to be present and serve the Hearing Committee in an advisory capacity. The Hearing shall begin within five (5) working days after the three-day period allowed for the student to respond regarding representation.~~

b. The Hearing

- ~~1. Opening: The Chairperson shall call the Hearing to order, introduce the participants, and announce the purpose of the Hearing, e.g., "This Committee meets pursuant to the Board Policy 6060, on Standards of Student Conduct and Discipline *Disciplinary Action*, to make charges against and to make findings of fact and recommendations for action to the college president." The chairperson shall then call for preemptory challenges.~~
- ~~2. Charges: The chairperson shall distribute copies of the charges to the members of the Committee, read the charges aloud, and ask the student if the charges have been received. If the answer is in the affirmative, the Hearing shall proceed. If the answer is in the negative, the chairperson may request evidence to rebut the student's denial of notice. The chairperson shall decide whether or not to proceed with the Hearing. If the Hearing must be rescheduled, it shall be held within five (5) working days.~~
- ~~3. Plea: The student shall admit or deny each charge. If the student admits each charge and wishes to present no evidence of mitigating circumstances or other defense, the Committee shall retire to make its decision. If the student denies any or all of the charges, or wishes to present evidence of mitigating circumstances, the Hearing shall proceed.~~
- ~~4. Burden of proof and producing evidence: The student shall be regarded as innocent of the charges until the contrary is established by the Committee. The college has the burden of producing sufficient evidence to support all allegations.~~
- ~~5. Arguments: First, the college president or designee and then the student shall be afforded an opportunity to make or waive an opening statement, i.e., give an outline of all allegations and circumstances. The student may reserve the opening statement until after the college president or designee has finished presenting the case for the college. After the opening statements, the committee shall have an opportunity to hear witnesses and other relevant evidence in support of the case presented.~~
- ~~6. Evidence: Formal rules of evidence shall not apply. All relevant evidence is admissible, including written statements from witnesses not available during the Hearing.~~

- ~~7. Hearings shall be closed and confidential. All witnesses shall be excluded, except when testifying, unless all parties agree to the contrary. Both the college president or designee and the student shall be entitled to call witnesses and to question witnesses presented by the other. A member of the committee may ask questions at any time upon recognition by the chairperson. Either side may recall a witness who again may be questioned by both parties and the Committee.~~
- ~~8. Conclusion: First, the college president or designee and then the student shall be afforded the opportunity to make or waive a closing argument. The Committee shall retire to deliberate with only the members of the Committee present. The Hearing Committee shall reach its decision based only upon the record of the Hearing and shall not consider matters outside of that evidence. Within five (5) working days of the Hearing, the chairperson will deliver to the college president a written report giving specific findings of fact as to each charge, and making recommendations for action arrived at by a majority vote of the Committee. Recommendations from the Committee for action shall be specific.~~

~~c. College President's Decision~~

- ~~1. Within five (5) working days following receipt of the Committee's recommendation, the college president shall make a written decision. The college president shall base a decision only upon the report of the Hearing Committee. The president may adopt the recommendations made, may adopt a less severe sanction, or may adopt a more severe sanction.~~
- ~~2. The college president should then promptly send a copy of the decision, together with the Hearing Committee decision, to the student, the student's legal guardian, the Committee chairperson, and the college president's designee.~~
- ~~3. If the decision is to suspend or expel a student, the college president shall notify the District Chancellor in writing within five (5) working days. When the decision is to recommend expulsion of any student to the Board of Trustees, the college president may suspend the student pending action by the Board.~~

~~d. Board Action~~

- ~~1. Upon receipt of the college president's recommendation for expulsion, the District Chancellor shall review all documents submitted and steps taken by the Disciplinary Hearing Committee. If due process procedures have been followed, the recommendation for expulsion shall be presented to the Board of Trustees for action at the next regularly scheduled meeting.~~
- ~~2. The Board shall consider student disciplinary actions at any regularly scheduled public meeting held and should do so within thirty (30) days of receipt of the recommendation by the District Chancellor.~~
- ~~3. The Board shall, unless otherwise requested by the student involved, hold closed sessions to consider expulsion if a public hearing upon such question would lead to the giving out of information concerning students which would be in violation of regulations protecting the privacy of student records. Before calling such closed session, the Board shall, in writing, by registered or certified mail or by personal service, notify the student or the student and parent, or guardian if the student is a minor, of the intent of the Board to call and hold such closed session. Unless the student or parent or guardian shall, in writing, within 48 hours request that the Board consider the matter in a public meeting, then the hearing to consider~~

~~such matters shall be conducted by the Board in closed session. If such written request is served upon the District Chancellor, the meeting shall be public, except that any discussion at such meeting that might be in conflict with the right to privacy of any student other than the student requesting the public meeting or on behalf of whom such meeting is requested, or the right to privacy of any employee, then the meeting shall be in closed session. Whether the matter is considered at a closed session or at a public meeting, the final action of the Board shall be taken at a public meeting.~~

- ~~4. Upon review, the Board will either confirm, modify, remand or reject the recommendation of the college president. The Board's action shall be limited to a review of the record of the Hearing Committee, and the decisions of the Hearing Committee and the college president, and the Board shall not consider any evidence outside that record. The Board's action shall be final and binding on all parties.~~

e. Reconsideration

- ~~1. Any request for reconsideration of an expulsion shall be made in writing to the Board of Trustees. The request for reconsideration shall be labeled as such, and must state each ground on which the student seeks reconsideration of the Board's expulsion decision.~~
- ~~2. The District Chancellor shall review the request for reconsideration together with the record of the hearing and the documents relating to the expulsion to assure that the request satisfies all requirements and that all pertinent information is available for the Board of Trustees.~~
- ~~3. Upon receipt of any request for reconsideration, the president of the college from which the student was expelled shall immediately be provided a copy of the request, and the college president shall respond to the request in writing within ten (10) days of receipt of the request. The college president's response shall be sent to the Chancellor and the Board of Trustees with a copy to the student.~~
- ~~4. The Board should consider any request for reconsideration of any expulsion at any regularly scheduled public meeting held within thirty (30) days of receipt of the request by the Board of Trustees.~~
- ~~5. The Board of Trustees shall, unless otherwise requested by the former student, consider any request for reconsideration of expulsion in closed session. The Board of Trustees shall consider only the request for reconsideration, any responses by the president of the college from which the student was expelled, and the record of expulsion.~~
- ~~6. The Board of Trustees may, at its discretion, agree to permit the former student to present the request for reconsideration personally. If the Board of Trustees agrees to such a presentation, the president of the college from which the student was expelled must be afforded an opportunity to be present and to respond.~~
- ~~7. The final action of the Board of Trustees on a request for reconsideration shall be taken at a public meeting and the result of such action shall be a public record of the District.~~

3. Disciplinary Records

- ~~a. The college president or designee shall maintain all records of a disciplinary hearing.~~
- ~~b. The case file shall be destroyed upon a finding of innocence.~~
- ~~c. Disciplinary files shall be retained for at least five (5) years from the time of a final determination.~~

- A. The Board of Trustees may expel a student when other means of correction fail to bring about proper conduct, or it seems probable that the continued presence of the student causes a danger to the physical safety of the student or to others
- B. Whenever this policy calls for or permits a notice or other communication to be delivered by mail, the mailing of such communication by certified mail, postage-paid and addressed to the last known address of the student, shall be deemed sufficient compliance with the provision and it shall be presumed to have been received. A student's failure or refusal to sign a receipt of the communication shall not cause the notice to be null and void.
- C. No fees paid by or for a student for the semester, summer session, or other term in which the student is suspended or expelled shall be refunded. If the student is readmitted before the close of the semester, summer session, or other term in which the suspension occurred, no additional fees shall be required of the student on account of the suspension.
- D. Should disciplinary action involve the misappropriation of District property or funds, the disciplinary action will remain in effect until full reimbursement is made through appropriate District/College offices.
- E. Any violation or violations of law, ordinance, regulations, or rule regulating, or pertaining to, the parking of vehicles, shall not be cause for the removal, suspension, or expulsion of a student from a community college
- F. The president or the president's designee at a community college shall, upon the suspension or expulsion of any student, notify the appropriate law enforcement authorities of the county or city in which the school is located of any action of the student which may be in violation of Section 245 of the Penal Code.

Hold on Records. The College Conduct Officer may issue the withholding of transcripts and/or other Student records. The College Conduct Office 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 meeting or appointments and sanctions.

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. The College Conduct Officer, or designee, may impose an interim restriction of up to ten (10) calendar days following notice from the College Conduct Officer.

Long Term Suspension prohibits the Student from attending classes and activities or entering onto any District Property for a period of eleven (11) calendar days up to two (2) academic years as determined by the College Conduct Officer.

Mental Health Clearance. Mental Health Clearance may be required before a Student is readmitted to a particular class or allowed to come onto District Property. The College Conduct Office must receive a letter from a licensed mental health professional stating that in their professional judgment the Student will no longer continue the behavior which gave rise to the College Conduct Office taking disciplinary action against him/her or that the Student's continued presence on campus is not a threat to himself/herself or others. The mental health professional must be licensed by the State of California, and the College District Administration must verify that the mental health professional is credentialed to render a professional opinion. The Student shall bear the cost and expense of obtaining mental health clearance.

No-Contact Order. The College Conduct Officer or designee may assign a No Contact Order whereby neither student nor [other party] may have any contact with each other, in person or through another party, by telephone, letter, e-mail, or other electronic media, or by any other means. This applies on campus and in the local vicinity, at District/College-sponsored events, and/or through the use of District/College resources

(including electronic). The student may not engage in indirect communication, including via social media or any other means. The student must also refrain from any form of harassment, retaliation, or intimidating behavior. If at any time either party feels the need to communicate with the other, they may do so only through the College Conduct Office or through a third party explicitly authorized by the College Conduct Officer.

Online Education/Training. The College Conduct Officer or designee will assign Online Education/Training programs that best serve in the education and learning for the Student. The College Conduct Officer determines the content of the workshop.

Referral. The College Conduct Officer may refer any student who is the subject of prohibited conduct allegations to Counseling and Psychological Services or the College Health Center. Counseling Services or the College Health Center may, with the written permission of the student, discuss the results of the referral with the College Conduct Officer. The student may refuse to attend a session with Counseling Services or the College Health Center without penalty at which time the disciplinary process will continue as if no referral were made.

Reflective Assignment. The College Conduct Officer, or designee, will assign a topical paper that best serves in the education and learning for the Student. The College Conduct Officer determines the format of the paper.

Restitution. The College Conduct Officer may require the Student to repay the District or any person for the cost of replacing or repairing any property taken, destroyed or damaged by the Student. This Student may also be charged a service charge and/or collection fee under the College policy regarding service charges and collection fees.

Restriction from Attendance at District Events. The College Conduct Officer may restrict the Student from attending some or all District events for a specified period of time.

Short Term Removal from Class. Any College instructor for good cause may remove a Student from the classroom for a period not to exceed two class meetings. Short Term Removal may be imposed by any instructor on a Student who is disrupting the class or otherwise interfering with the ability of other Students in the class to learn. Before removing a Student from class, an instructor shall first give or make reasonable efforts to give the Student notice of their intent to remove the Student and a reasonable opportunity for the Student to modify their behavior. The instructor or program supervisor shall notify the College Conduct Office, in writing, immediately following their removal of a Student under this section, with a copy to the Dean of Student Services/Development. The Student may not return to the class until the Student has been cleared to return. The College Conduct Office may contact the student to arrange a meeting

Short Term Suspension prohibits the Student from attending classes and activities or entering onto any District Property for a period of one (1) to ten (10) calendar days as determined by the College Conduct Officer.

Written Warning is a written reprimand and warning to the Student by the College Conduct Officer that they have determined that the Student has violated the Standards of Student Conduct and is on warning.

References:

Education Code Sections ~~66017~~, 66300, 66301, 66302, 72122, and ~~76030, et seq~~ 76030-76038; ACCJC Accreditation Standard I.; ~~Penal Code Section 626C.48~~

Attachments:

AP 5520 Student Discipline Procedures Rev.
10-30-15.docx

Comment by Allen, Denise: Professor

2/14/2019, 2:42PM EST

The updated language contained in this version was developed in collaboration with the Raymond Carlos (SBVC Director of Student life), Joe Cabrales (CHC Dean of Student Development), Larry Aycock (CHC Director of Admission and Records), Ericka Paddock (CHC Director of Student Life), Vicky Barra (CHC Administrative Secretary to the Dean).

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