Sierra College
ADMINISTRATIVE PROCEDURE AP 5520

Student Discipline Procedures and Due Process

Date Adopted: 12/18/2001
Date Revised: 5/13/2016
Date Reviewed: 5/13/2016
References: Education Code Sections 66017, 66300, 72122, 76030, 76031, 76032, 76034, 76035, and 76233, CA Penal Code Sections 245, 626.2 and 626.4; ACCJC Accreditation Standards I.C.8 and 10

The purpose of this procedure is to provide a prompt and equitable means to address violations of the Standards of Student Conduct outlined in Board Policy 5500. Each case is handled individually; while due process is always employed, some of the procedures outlined below may not be necessary in every case.

I. Definitions

A. Day(s): Those days, Monday through Friday, when the District is open to the public.

B. Discipline Officer: The Discipline Officer is the Vice-President of Student Services or designee.

C. District: Sierra Joint Community College District, including its officers, agents, employees or members of the Board of Trustees.

D. Expulsion: Permanent exclusion of the student by the Board of Trustees.

E. Informal Agreement: A written agreement between the Disciplinary Officer and the student resolving the disciplinary problem. If the student does not comply with the informal agreement, disciplinary proceedings shall be re-instituted against the student at the discretion of the Disciplinary Officer, unless the informal agreement provides otherwise. Failure by the student to comply with the informal agreement is itself a separate cause for discipline.

F. 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.

G. Mail: Whenever this policy calls for or permits a written notice or other communication to be given, mailing by certified mail, regular mail and/or by electronic communication and addressed to the last known address of the student shall be deemed to be sufficient compliance with the provision. The District will use reasonable means to transmit notice and communications, using the information provided by the student. It is the student’s responsibility to ensure that the District has current contact information at all times. A student’s failure or refusal to sign a receipt to indicate it was received shall not invalidate the contents of the notice. Personal delivery shall also be deemed compliant with any mailing requirement. Any mail sent to the student’s last known mailing address shall be presumed to be received by the student.

H. Removal from class: Exclusion of the student by an instructor for the day of the removal and the next class meeting. Decisions on such removals shall be final and cannot be appealed.

I. Student: Any person currently enrolled as a student in any course or program offered by the District.

J. Suspension: Exclusion of a student for good cause. Students may have other disciplinary action imposed other than suspension. These shall be determined by the Disciplinary Officer.

K. Warning: A verbal or written notice to the student that continuation or additional violations of code of conduct may be cause for subsequent disciplinary action. A written record of the fact that a verbal warning has been issued may become part of a student’s record at the District for a period of up to one year. Failure of the District to expunge the written record of a verbal warning after one year shall not be the basis for any legal action against the District. Written warnings shall become part of a student’s permanent record at the District.

L. Withdrawal of Consent to Remain on Campus or District-controlled property: Withdrawal of consent to remain on any campus or District-controlled property may be imposed by the Disciplinary Officer or designee on any person to remain on campus in accordance with California Penal Code Section 626.4 where there is reasonable cause to believe that such person has willfully disrupted the orderly operation of the campus or facility.

The Disciplinary Officer or designee may notify any person that consent to remain on the campus or other District-controlled facility has been withdrawn whenever there is reasonable cause to believe that such person has willfully disrupted the orderly operation of such campus or facility. If the person is on campus at the time, he/she must promptly leave or will be escorted off campus. If consent is withdrawn by the Disciplinary Officer or designee a written report will be promptly made to the Vice President, Student Services.
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 written request shall state the address to which notice of hearing is to be sent. The request shall be granted not later than seven (7) days from the date of receipt of the request. The hearing will be conducted in accordance with the provisions of this procedure relating to interim suspensions.

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

Any person to whom consent to remain on campus has been withdrawn who knowingly reenters the campus during the period in which consent has been withdrawn is guilty of a misdemeanor and is subject to arrest. This section does not apply to any person who enters or remains on such campus or facility for the sole purpose of applying for the reinstatement of consent or for the sole purpose of attending a hearing on the withdrawal. (Penal Code 626.2 and 626.4)

II. Disciplinary Actions and Procedures

A. Procedures for Suspension:

1. Interim Suspension: Without an initial hearing, the Disciplinary Officer may order an interim suspension of a student where he or she concludes that the interim suspension is required to protect lives or property and to ensure maintenance of order. In such cases where an interim suspension is ordered, a reasonable opportunity will be afforded to the student for a hearing within ten (10) days of imposing the interim suspension. Interim suspension may be for a class or all classes.

2. Suspension from one or more classes, privileges or activities or for the remainder of the school term or for one or more terms. A reasonable opportunity will be afforded the student for a hearing within 10 days. If a minor student is suspended, the parent or guardian shall be notified in writing of the suspension (Education Code Section 76031). A student who has been suspended for the remainder of the school term may be prohibited from being enrolled at any campus or site in the District for the entire period of the suspension.

B. Procedures for all other disciplinary actions:

1. Students accused of alleged misconduct shall be referred to the Disciplinary Officer. The Disciplinary Officer may require a written statement relevant to the alleged misconduct. The Disciplinary Officer has the right to impose disciplinary action based on good cause as set out in Board Policy 5500 following the disciplinary action procedures below.
2. In cases of alleged student misconduct, the Disciplinary Officer or designee shall use all reasonable means to contact the student to notify him or her of the allegations and to provide an opportunity for the student to respond. The Disciplinary Officer shall offer the student the opportunity to respond and address the accusations and/or instances of alleged misconduct verbally or in writing. Students must respond within two (2) days of receiving notice. Failure to respond shall be deemed a waiver of the right to contest any discipline imposed or other action taken.

   a. The District will provide the student with written notification of the conduct warranting discipline. The notice shall include the specific section of the Standards of Student Conduct the student is accused of violating, and a short statement of facts supporting the accusation.

3. After considering the student’s response and considering all information relative to the issue, the Disciplinary Officer may choose to take any of the following actions:

   a. Drop the charges for lack of evidence.

   b. Issue a Warning.

   c. Prohibit the student from intentionally contacting (e.g. by telephone or e-mail), or otherwise disturbing the peace of others specifically named for a specified period of time.

   d. Remove a student from one or more classes or activities (sports, student government, field trips, drama events, etc.) for up to ten (10) days. Any decision to remove a student for up to ten (10) days is final and may not be appealed.

   e. Recommend Expulsion to the Board of Trustees.

   f. Any other action the Disciplinary Officer deems appropriate.

C. Informal Agreement of Resolution

   In cases where the Disciplinary Officer determines that an Informal Agreement is appropriate, the accused student will be informed that the Informal Agreement, while not a part of the student’s permanent record, is binding. If the student fails to abide by the Informal Agreement, such failure will be regarded as actionable misconduct and may subject the student to disciplinary action.

D. Removal from Class by Instructor

   An instructor may remove a student from class for the day of the removal and the next class meeting (no matter the length or type of class) for any good cause. The instructor shall immediately report the removal to the Disciplinary Officer. If the student removed is a minor, the Disciplinary Officer shall invite the student’s parent or guardian to attend
a parent conference regarding the removal as soon as possible. If the instructor or parent or guardian so requests, a District administrator shall attend the conference. During the period of removal, the student shall not return to the class from which he or she was removed without the concurrence of the instructor (Education Code, Section 76032). Decisions on such removals shall be final and cannot be appealed.

E. Failure to Comply with Program-Specific Policies and Procedures

Sierra College offers educational programs and services that require compliance with specific policies, procedures and standards including but not limited to: Nursing, Public Safety, Study Abroad, Health Center, and Residence Life. Students who fail to comply with these policies will be disciplined according to the specific mandates of the program. This does not preclude discipline against students enrolled in those programs and services for other alleged misconduct under these procedures.

F. Financial Aid

Any student suspended or expelled from the District shall be ineligible for scholarships, loans, grants, or any other financial aid during the period of suspension or expulsion.

G. Employment

Any student suspended or expelled from the District shall be ineligible for student employee status with the District for the period of suspension or expulsion.

H. Fees

No student suspended or expelled shall be refunded or credited any fees paid by and/or for the student.

I. Deadlines

Failure of the District to meet any of the deadlines specified in this Procedure shall not be construed against the District or result in a finding in favor of the student.

J. Right to include Statement or Response to Disciplinary Action

Pursuant to Education Code 76233, whenever there is any student record information concerning any disciplinary action taken by the Sierra College Disciplinary Officer in connection with the student, the student shall be allowed to include in such a record a written statement or response concerning the disciplinary action.

III. Due Process Hearing

If a recommendation is made to suspend the student for ten (10) days or to recommend expulsion, the student will be provided notification of the recommended disciplinary action
and the opportunity for a Due Process Hearing. If the student declines the Due Process Hearing, the recommendation will be immediately implemented. If the student is a minor, the parent or guardian shall also be provided written notice. The notice shall include:

A. A statement of the charges that identifies the cause for which the recommended suspension or expulsion is being imposed. The statement shall briefly describe the facts supporting the allegations as a basis for violation of the student code of conduct.

B. Notification that the Due Process Hearing Committee may consider the student’s previous disciplinary and academic record.

C. Although a student shall not be represented by an attorney in the hearing, the student may bring an advisor. The advisor may be present at the due process hearing and may counsel the student responding to questions related to the incident. The advisor shall not be permitted to participate in any way during the hearing except to offer counsel to the student.

The notification may be amended at any time by the District.

Students will be allowed to continue with their scheduled classes and activities through the due process procedures unless the Disciplinary Officer has removed the student’s privileges to participate in classes or activities or to remain on District-controlled property in circumstances where the student is considered a threat to the health, safety, or well-being of other members of the campus community.

IV. Due Process Hearings

A. Committee Membership

1. The Due Process Hearing Committee shall consist of three (3) voting members: one (1) administrator who shall serve as chair; one (1) faculty member; and one (1) student. The selection process of the Due Process Hearing Committee shall be as follows:

   a. The District Superintendent/President or designee shall appoint an administrator/chair

   b. the Academic Senate President or designee shall appoint a faculty member

   c. the Student Senate President or designee shall appoint a student representative

2. Committee members shall not in any way be connected to the event out of which the action arose.
B. Hearing Process

1. The hearing shall be convened within ten (10) days from the date of the notification letter and shall be limited to one (1) meeting.

2. The student shall be given not less than forty-eight (48) hours advance notice of the time, date and place of the hearing.

3. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but shall not be sufficient in itself to support a finding. Unduly repetitious evidence may be excluded.

4. The Disciplinary Officer shall carry the burden of proof by a preponderance of the evidence in support of the disciplinary action. The decision shall be by a majority vote.

5. The student and the Disciplinary Officer have the right to present police reports, written and/or oral statements. Written statement of individuals not present at the hearing must be made under penalty of perjury and must be submitted to the Chair prior to the start of the hearing. If the written statement is disputed by either side, the Chair may continue the hearing to allow the objecting party to secure the attendance of the witness, obtain contradictory evidence, or other remedy determined by the Chair.

6. All proceedings of the Committee shall be closed to everyone other than the Committee members, the Disciplinary Officer, the student(s) charged, a witness while presenting evidence, the advisor for the student, and the advisor for the District. All participants shall maintain the strictest confidentiality. If the student is a minor, the student’s parents may also be present.

7. Final deliberations will be conducted with only the Committee members present.

8. The Committee will consider all available relevant evidence.

9. The Committee may choose any of the following options:
   a. uphold the recommendation;
   b. revoke the recommendation;
   c. impose a lesser action; or
   d. impose a more severe action.

10. The Hearing Committee will provide the student with its finding within three (3) days after the conclusion of the hearing.
11. All Due Process Hearing Committee hearing proceedings shall be recorded and all participants will be advised as such. The recordings shall be maintained by the Disciplinary Officer for two (2) calendar years, along with copies of all decisions made. Access to the recordings and copies of decisions made, shall be limited to the parties involved or as otherwise required by law.

C. Appeal to the District Superintendent/President or designee

If the student wishes to appeal the decision of the Due Process Hearing Committee he/she may file an appeal. The student must submit the appeal form to the Disciplinary Officer no later than three (3) days after receipt of the notification. Failure to submit an appeal form will be presumed to be the student’s acceptance of the disciplinary action.

If the student requests an appeal the District Superintendent/President or designee may consult with the Due Process Hearing Committee. Neither the student nor the parent/guardian shall have a right to a hearing by the District Superintendent/President or designee. A decision shall be rendered as soon as reasonably practicable, which in most cases shall occur within three (3) days of receipt of the appeal. The District Superintendent/President or designee’s decision is final.

Upon suspension or expulsion of a student, the District Superintendent/President or designee shall notify appropriate law enforcement authorities of any acts of the student that may be in violation of Penal Code Section 245 (Education Code Section 76035).

D. Scope of Expulsion

Expulsion of a student is the permanent denial of student status and all attending rights and privileges. The District Superintendent/President may recommend expulsion of a student for “good cause” as defined in Board Policy 5500.

1. After receipt of a recommendation for expulsion from the Due Process Hearing Committee, the District Superintendent/President or designee shall decide whether to recommend expulsion to the Board of Trustees. It is recommended that this occur within five (5) days.

2. The student shall be notified of the decision.

3. The Board of Trustees shall consider any recommendation from the District Superintendent/President for expulsion, preferably at the next regularly-scheduled meeting of the Board after receipt of the recommendation.

4. All deliberations must occur in closed session to protect the student’s right to privacy unless the student requests that the hearing be held publicly pursuant to Education Code Section 72122.
5. The student must be informed of the right to request that a public hearing be held pursuant to Education Code, Section 72122.

6. The final action taken by the Board will be made in public session so as to make it a part of the public record and forwarded to the student.

7. The decision of the Board of Trustees shall be final pursuant to Education Code, Section 76030.

See Board Policy 5500.