

**Student Discipline Procedures and Due Process**

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References:	Education Code Sections 66017, 66300, 72122, 76030, 76031, 76032, 76034, 76035, and 76233; Family Educational Rights and Privacy Act; 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, which guarantees to the student or students involved the due process rights guaranteed them by state and federal constitution protections. This procedure will be used in a fair and equitable manner and not for the purpose of retaliation. It is not intended to substitute for criminal or civil proceedings that may be initiated by other agencies. When engaging in the student conduct process, the District strives to incorporate restorative practices and educational opportunities. Each case is handled individually; while due process is always employed, some of the procedures outlined below may not be necessary in every case.

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

For discipline resulting from a sexual harassment complaint under Title IX, the procedure in Administrative Procedure 3434 Responding to Harassment Based on Sex Under Title IX, must be used.

**A. Grounds for Student Discipline.** The College may impose student discipline for any conduct deemed to constitute willful disruption of the orderly operation of College activities including each of the grounds for discipline set out in Board Policy 5500, and, to the extent not listed in BP 5500, any ground identified in Education Code sections 66017, 66301, 66302, 76030, and any conduct constituting "good cause" within the scope of Education Code section 76033.

**B. Types of Student Discipline.** Discipline includes reprimand, suspension and expulsion, imposed according to the process described below.

**C. Process for Imposing Student Discipline.** Students accused of alleged misconduct shall be referred to the Conduct Officer. The Conduct Officer may require the student to complete a written statement relevant to the alleged misconduct and give the student's position. The Conduct 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:

**1. Discipline Not Requiring Hearing.**

**(a) By Conduct Officer.** The Conduct Officer has authority and discretion, after consideration of available evidence including the student's statement, to impose discipline short of suspension which does not require any due process hearing. Examples include, without limitation, warnings, behavior contracts, informal agreements, anger management counseling, directives to stay away from other students, faculty or staff, and requiring written apologies. In cases where the Conduct 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. Decisions on such actions shall be final and cannot be appealed.

**(b) 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 Area Educational Administrator. The student shall meet with the Area Educational Administrator before returning to class. If the student removed is a minor, the Area Educational Administrator shall invite the student's parent or guardian to attend a parent conference regarding the removal as soon as possible. During the period of removal, the student shall not return to the class from which they were removed without the concurrence of the instructor (Education Code, Section 76032). Nothing herein will prevent the Area Educational Administrator from recommending further disciplinary procedures in accordance with these procedures based on the facts which led to the removal. Decisions on such removals shall be final and cannot be appealed.

**2. Interim (Up to 10 Day) Suspension in Certain Cases.** Where an immediate suspension is required in order to protect lives or property and to ensure the maintenance of order, the Conduct Officer may impose interim suspension pending a hearing, provided that a reasonable opportunity be afforded to the suspended student for a hearing within ten days of the imposition of the suspension. Aside from the timing the hearing process will be as described below.

**3. Initial Notification of Charges.** In cases of alleged student misconduct, the Conduct Officer or designee shall use all reasonable means to notify the student of the allegations and to provide an opportunity for the student to respond. The notice shall

include the specific section of the Standards of Student Conduct the student is accused of violating, a short statement of facts supporting the accusation, and a complete copy of this Administrative Procedure. Students must respond within two (2) days of receiving notice. Failure to respond shall not be deemed a waiver by the student of the right to contest any discipline in the manner described herein. Any response by the student, or failure to respond, shall be considered by the Conduct Officer, who shall then decide whether to proceed with discipline or resolve the matter through alternative means.

#### **4. Procedure for Discipline Requiring Hearing Other Than Interim Suspension.**

The following procedures shall apply to discipline, such as suspension, which requires a due process hearing. Subject to the exception for interim suspension, described above, imposition of suspension and similarly severe forms of discipline require that a due process hearing be offered prior to the imposition of the discipline, as described in the following paragraphs.

**(a) Notice to Student.** If the Conduct Officer elects to proceed with discipline after reviewing (or not receiving) the student response to initial notification, and the discipline is of a severity that requires a prior hearing (such as suspension and/or expulsion) the Conduct Officer shall notify the student of the proposed discipline and offer a due process hearing at which the hearing body (the Student Conduct Committee) will consider the evidence and make a determination of whether discipline shall be imposed. The notice shall include a statement of the charges that identify the cause for which the recommended suspension or expulsion is being imposed. The Notice shall briefly describe the facts supporting the allegations as a basis for violation of the student code of conduct. The Notice shall state that the Student Conduct Committee may also consider the student's previous disciplinary and academic record. The Notice shall give the student an opportunity to refuse or waive the due process hearing. If the student does so, the proposed discipline shall be immediately imposed. Unless the student waives or refuses a due process hearing, the student shall be promptly notified of the date, time and place of the hearing once that has been determined. The student will be allowed to continue with scheduled classes and activities through the due process procedures unless the Conduct Officer separately determines that the student's presence is a threat to the health, safety, or well-being of other members of the campus community.

**(b) Formation of Student Conduct Committee.** The Student Conduct Committee shall consist of four members: an administrator who shall serve as chair; a faculty member; a classified professional; and a student. The Superintendent/President, the president of the Academic Senate, the president of the Classified Senate, and the president of the Associated Students organization shall each, at the beginning of the academic year, establish a list of at least two eligible persons who may serve on the Student Conduct Committee. Student Conduct Committee Training must be completed prior to serving on the Student Conduct Committee. The Conduct Office shall appoint the Student Conduct Committee from the names on these lists. However, no administrator, faculty member, classified

professional, 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 student conduct hearing.

The Student Conduct Committee will not include a student appointee in hearings where educational records of another student, as defined by FERPA, will be disclosed, absent the written consent of the student whose records are involved.

**(c) Conduct of Hearing and Decision.** At least 48 hours prior to commencement of the hearing, the Conduct Officer shall supply the student and the Student Conduct Committee with a copy of all the written evidence the Conduct Officer intends to present at the hearing. The hearing shall be audio or video taped, and the tape preserved for at least one year. The Chair shall impose appropriate time limits on the presentation of evidence, and arguments. The College, through its Conduct Officer, shall have the burden of proving the charges by a preponderance of the evidence. The hearing need not be conducted according to technical rules of evidence. 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 and irrelevant evidence may be excluded by the Chair. The student and the Conduct Officer have the right to present police reports, and 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. All proceedings of the Student Conduct Committee shall be closed to everyone other than the committee members, the Conduct 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. 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. Following the presentation of evidence and argument the Committee shall meet in closed session to deliberate and arrive at its decision. The Committee has the following options in deciding the matter: uphold the discipline recommendation, revoke the recommendation, impose a lesser discipline or impose a more severe discipline. The Committee, in appropriate cases, may also recommend that the Superintendent/President seek expulsion. Any decision shall be by a majority vote of the voting members. Once a decision is reached, the Chair will prepare a written statement of the decision, which shall be circulated and approved by the members who voted for that outcome. Upon approval, the Chair shall supply the written decision to the Conduct Officer.

Notwithstanding any other provision herein, the Superintendent/President is authorized to modify any discipline recommended or imposed by the Student Conduct Committee.

**(d) Notice of Decision and Appeal.** Once received from the Committee, the Conduct Officer shall transmit the decision to the student, along with a form for appeal. The student shall then have the right to appeal the decision to the Superintendent/President. An appeal requires the student to complete, and return to the Conduct Officer, the appeal form, a blank copy of which was provided to the student along with the decision. The student must submit the completed appeal form to the Conduct Officer no later than three (3) days after their receipt of the discipline decision. Failure to timely submit an appeal form will be presumed to be the student's acceptance of the disciplinary action and waiver of the right to appeal. The appeal shall not be a denovo hearing. The Superintendent/President's decision shall be based upon the record of evidence and argument at the Committee hearing, although the Superintendent/President may at their discretion consult with the Committee or its members. The Superintendent/President shall render their decision on the appeal as soon as reasonably practicable, which in most cases shall occur within three (3) days of their receipt of the appeal. The decision of the Superintendent/President shall be final. Upon suspension of a student, the 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).

**(e) Expulsion Process.** Expulsion shall be by decision of the Governing Board upon recommendation of the Superintendent/President. Expulsion of a student is the permanent denial of student status and all attending rights and privileges. The Superintendent/President may recommend expulsion of a student for "good cause" as defined in Board Policy 5500. After receipt of a recommendation for expulsion from the Student Conduct Committee, the 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. The student shall be notified of the decision. The Board of Trustees shall consider any recommendation from the Superintendent/President for expulsion, preferably at the next regularly-scheduled meeting of the Board after receipt of the recommendation. 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. The student must be informed of the right to request that a public hearing be held pursuant to Education Code, Section 72122. 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. The decision of the Board of Trustees shall be final pursuant to Education Code, Section 76030. Upon 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).

**(f) Response to Court Orders.** If an order requested by the District to protect its property or any person lawfully present thereon is issued upon a finding of good cause by a court against a student of the District, and the order prevents the student from attending classes and maintaining academic standing, the District may, prior to the expiration of the order, require the student to apply for reinstatement after the expiration of the order. Thereafter if the student applies for reinstatement the Governing Board shall conduct a review of the application which considers all of the following issues: the gravity of the offense leading to the court order, the evidence (if any) of subsequent offenses, and the likelihood that the student would cause substantial disruption if he or she is reinstated. After considering this review, the Governing Board, or the designee with authority pursuant to Education Code section 76038(f), shall take one of the following actions: deny reinstatement, permit reinstatement, or permit conditional reinstatement subject to specified conditions.

**(g) 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.

1. 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.
2. 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.
3. Fees: No student suspended or expelled shall be refunded or credited any fees paid by and/or for the student.
4. 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.

**(h) 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 Conduct 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.

#### **D. Withdrawal of Consent to Remain on Campus or District-controlled property**

Withdrawal of Consent to Remain on Campus or District-controlled property: Withdraw of consent to remain on any campus or District-controlled property may be imposed by the Conduct 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 Conduct 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, they must promptly leave or will be escorted off campus. If consent is withdrawn by the Conduct Officer or designee a written report will be promptly made to the Vice President of 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)

## **E. Definitions**

1. Day(s): Those days, Monday through Friday, when the District is open to the public.
2. Conduct Officer: The Conduct Officer is the Vice-President of Student Services or designee.
3. District: Sierra Joint Community College District, including its officers, agents, employees or members of the Board of Trustees.
4. 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.

5. Informal Agreement: A written agreement between the Conduct Officer and the student resolving the disciplinary problem. Informal agreements are not part of a student's permanent record at the District. If the student does not comply with the informal agreement, disciplinary proceedings shall be re-instituted against the student at the discretion of the Conduct Officer, unless the informal agreement provides otherwise. Failure by the student to comply with the informal agreement is itself a separate cause for discipline.
6. Expulsion: Permanent exclusion of the student by the Board of Trustees.
7. 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.
8. 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.
9. 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.
10. Student: Any person currently enrolled as a student in any course or program offered by the District.
11. Suspension: Exclusion of a student for good cause. Students may have other disciplinary action imposed other than suspension. These shall be determined by the Conduct Officer.

The Superintendent/President shall provide the Board of Trustees, upon request, a report of the number of students who were disciplined pursuant to this Administrative Procedure. This report may also disaggregate the students by race, ethnicity, age, gender, or any other characteristic identified by the Board.

See Board Policy 5500.