



Standards of Student Conduct – AP 5500
Student Discipline Procedure – AP 5520



**Office of Enrollment Services &
Student Development
District Discipline Officer**

DeRicco Student Services Building, Room 132
5151 Pacific Avenue
Stockton, CA 95207

AP 5500 Standards of Student Conduct

Reference: Education Code 66300, 66301, 76030 et seq.; Penal Code 245.6; Accreditation Standard II.A.7.b

For the purpose of this procedure, the term “student” includes applicants, enrolled students, students between academic terms, graduates awaiting degrees, and students who withdraw from school while a disciplinary matter is pending. Students are expected to obey all federal and state laws as well as all District policies and procedures. Students are obligated to treat all District activities with respect so as not to disturb the opportunity for faculty and staff to perform their duties and for students to gain the full benefits of participation in their classes and other District programs. A student may be disciplined, and sanctions imposed, in accordance with the procedures set forth in Administrative Procedure 5520, Student Discipline, relating to attendance or District activity. Student misconduct constituting good cause for imposition of discipline includes, but is not limited to, the following:

- 1. Academic Misconduct** – Plagiarism (including plagiarism in a student publication), cheating, or other forms of academic dishonesty, intended to gain unfair academic advantage. The following list of offenses is not intended to be fully exhaustive of all potential instances of academic dishonesty, cheating, plagiarism or falsification. Faculty and administrators may identify other acts constituting any of said types of student misconduct.
 - a. Academic Dishonesty/Plagiarism: presenting work, words, ideas, theories, etc., derived in whole or in part from a source external to the student as though they are the student’s own efforts. Examples of plagiarism include, but are not limited to the following:
 - i. Failing to use proper citations as acknowledgment of the true source of information found in a paper, written or oral examination, or any other academic exercise.
 - ii. Presenting any work completed in whole or in part by any individual or group other than the student, as though the work is the student’s own, in any academic exercise.
 - iii. Buying, selling, bartering, or in any other fashion obtaining or distributing material to be used fraudulently as part of any academic exercise.
 - iv. Disseminating or receiving answers, data, or other information by any means other than those expressly permitted by the professor as part of any academic exercise.
 - v. Copying answers, data, or other information (or allowing others to do so) during an examination, quiz, laboratory experiment, or any other academic exercise in which the student is not expressly permitted to work jointly with others.
 - vi. Assuming another individual’s identity or allowing another person to do so on one’s own behalf for the purpose of fulfilling any academic requirement or in any way enhancing the student’s grade or academic standing.
 - vii. Using any device, implement, or other form of study aid during an examination, quiz, laboratory experiment, or any other academic exercise without the faculty member’s permission.
 - b. Other Academic Misconduct: Alteration, distortion, forgery, falsification, or fabrication of data, records, or any information relevant to the student’s participation in any course or academic exercise or tampering with such information as collected or distributed by the faculty member.
 - i. Falsifying, or attempting to falsify, attendance records, graded exercises of

any kind, or any information or document intended to excuse the student from participation in any academic exercise.

- ii. Inventing, fabricating, or falsifying data as part of the completion of any academic exercise.
- iii. Knowingly furnishing false information (or facilitating the furnishing of false information) to a District official, faculty member, or staff member or campus office.
- iv. Forgery, alteration, or misuse of a District document, key, or identification instrument.
- v. Misrepresenting one's self to be an authorized agent of the District or one of its auxiliaries.

2. Other Misconduct (Non-Academic):

- a. Any act chargeable as a violation of a federal, state, or local law that poses a substantial threat to the safety or well-being of others participating in District activities, to property within the District community or poses a significant threat of disruption or interference with District operations.
- b. Dishonesty (Non-academic dishonesty), lying, corruption, deceit, fraud or deception.
- c. Unauthorized entry into, presence in, use of, or misuse of District property.
- d. Willful, material and substantial disruption or obstruction of a District-related activity, or any on-campus activity.
- e. Participating in an activity that substantially and materially disrupts the normal operations of the District, or infringes on the rights of others participating in District activities.
- f. Willful, material and substantial obstruction that impedes the flow of pedestrian or other traffic, on or leading to District property or at a District-activity held at a remote location.
- g. Disorderly, lewd, indecent, or obscene behavior on District property or at a District activity, or directed toward others participating in District activities.
- h. Disruptive behavior, willful disobedience, habitual profanity or vulgarity, open and persistent defiance of the authority of, or persistent abuse of, District personnel.
- i. Encouraging, permitting, or assisting another person to do any act that could subject him or her to discipline.
- j. Engaging in expression which is obscene; libelous or slanderous; or which incites students so as to create a clear and present danger of the commission of unlawful acts on the District premises, or the violation of lawful District administrative procedures, or the substantial disruption of the orderly operation of the District.
- k. Conduct that threatens, endangers, or harms the health or safety of any person within the District community; including communicable disease and the failure to address or treat communicable disease, infection or infestation (including insects), , strong body odor of alcohol or marijuana emanating from one's person, spitting, physical abuse, physical injury, threats, intimidation, harassment, stalking, sexual harassment, indecent exposure, sexual battery, rape or other types of sexual misconduct.
- l. Engaging in harassing or discriminatory behavior based on religion, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender

identity, gender expression, age, sexual orientation of any person, or status as a veteran or other status protected by law.

- m. Hazing or conspiracy to haze is defined as any method of initiation or pre-initiation into a student organization or student body, whether or not the organization or body is officially recognized by an educational institution, which is likely to cause serious bodily injury to any former, current, or prospective student of a college (Penal Code 245.6), and in addition, any act likely to cause physical harm, personal degradation or disgrace resulting in physical or mental harm, to any former, current, or prospective student of a College. The term “hazing” does not include customary athletic events or District sanctioned events. Neither the express or implied consent of a victim of hazing, nor the lack of active participation in a particular hazing incident is a defense. Apathy or acquiescence in the presence of hazing is not a neutral act, and is also a violation of this section.
- n. Use, possession, manufacture, or distribution of illegal drugs or drug-related paraphernalia, (except as expressly permitted by law and District procedures) or the misuse of legal pharmaceutical drugs (BP/AP 3550).
- o. Use, possession, manufacture, or distribution of alcoholic beverages (except as expressly permitted by law and District procedures), or public intoxication while on District property and/or at a District activity (BP/AP 3560) at a remote location.
- p. Smoking, use or sale of tobacco-related products in any area prohibited by law or by regulation of the District (BP/AP 3570).
- q. Theft or extortion of property or services from the District or others participating in District activities, misappropriation of District resources, or knowing receipt of any stolen property including that of the District or private property while on District property and/or at a District activity at a remote location.
- r. Unauthorized destruction or damage to District or property under the use of the District (BP/AP 6520).
- s. Possessing, selling, using or misusing, or furnishing, firearms or guns, replicas, BB, pellet or soft air guns, ammunition, explosives, fireworks, knives, swords, tasers, stun guns or other weapons, dangerous chemicals, or other dangerous objects (without the prior authorization of the District Superintendent/ President or designee) on District property or at a District activity at a remote location.
- t. Unauthorized recording, photographing, dissemination, or publication of academic presentations (including handwritten notes) for any purpose.
- u. Possessing, selling, using or misusing, or furnishing pornographic materials or items.
- v. Misuse of District computer facilities, its network, or resources including:
 - i. Unauthorized entry into a file for any purpose; including electronic sabotage, i.e., downloading virus software or any other method of sabotaging District computers.
 - ii. Unauthorized transfer of a file.
 - iii. Use of the identification or password of other individuals.
 - iv. Interference with the work of a member of the District community, interference with normal District operations, or violation of copyright laws.
 - v. Sending obscene or intimidating and abusive messages through the District’s network services.

- vi. Accessing, viewing or downloading any type of lewd, obscene or pornographic materials, and/or sharing or sale of said materials.
- vii. Violation of the District's computer use policy.
- w. Violation of any published District policy, rule, regulation or Superintendent/President's or designee's directive.
- x. Failure to comply with directions of, or interference with, any District official or any public safety officer while acting in the performance of his/her duties.
- y. Falsification, distortion, or misrepresentation of information related to a student discipline matter.
- z. Initiation of a student discipline proceeding in bad faith.
- aa. Disruption or interference with the orderly progress of a student discipline proceeding:
 - i. Attempting to discourage another from participating in the student discipline matter.
 - ii. Attempting to influence the impartiality of any participant in a student discipline matter.
 - iii. Verbal or physical harassment or intimidation of any participant in a student discipline matter.
 - iv. Failure to comply with the sanction(s) imposed under a student discipline proceeding.

Any other conduct that threatens the health, safety or security of the campus community, or substantially disrupts the functions or operation of the District is within the jurisdiction of this Article, regardless of whether it occurs on or off campus, and whether or not it is specifically described above.

Nothing in this procedure may conflict with Education Code Section 66301, which prohibits disciplinary action against students based on behavior protected by the First Amendment. Students who engage in misconduct as described herein are subject to the procedures outlined in Administrative Procedure, AP 5520 Student Discipline, for determination of misconduct and imposition of sanctions. Violations must be reported on Form 5510 Student Misconduct Report (available on the District's Student Services Division Webpage).

See BP/AP 5500 Standard of Conduct, BP/AP 5520 Student Discipline, AP 5530 Student Rights, Grievances & Grade Disputes, BP/AP 3550 Drug Free Environment and Drug Prevention Program, BP/AP 3560 Consumption of Food and Drink: Alcoholic Beverages, BP/AP 6520 Security for District Property

Adopted 06-19-01
 Amended 02-12-03
 Amended 03-08-11
 Amended 05-15-14

AP 5520 Student Discipline and Appeal Procedure

Reference: Education Code 66017; Penal Code Section 626.4

The purpose of this procedure is to provide a prompt, fair and equitable means to address student misconduct and shall be implemented in a manner that is consistent with students' rights to due process under state and federal law.

This administrative procedure shall not be implemented for purposes of retaliation or in a manner that infringes in any way on the rights of students to engage in free expression as protected by the state and federal constitutions and Education Code Sections 66301 and 76120.

Sexual misconduct including discrimination based on gender, sexual harassment, dating violence, domestic violence, sexual assault, stalking, sexual exploitation, and hate crimes based on gender are subject to investigation and action pursuant to Administrative Procedure 3450.1.

Students alleged to have engaged in misconduct may also be subject to civil court proceeding and criminal prosecution in accordance with applicable law. Students with disabilities may request accommodations to enable them to participate in these student discipline and appeal procedures. Requests for accommodations should be directed to Disability Support Programs and Services (DSPS).

A. Definition of Terms:

1. **Administrative Warning:** A warning issued to a student by the Discipline Officer, or designee, that further violation of District policy or procedure will result in an appropriate disciplinary penalty.
2. **Administrative Withdrawal:** Withdrawal from a course or courses by order of an educational administrator of the District as a result of violation of District policy or procedure.
3. **Advisor:** A person selected by the student to support and/or advise him/her in the course of student discipline and appeal procedures. An Advisor may confer with the student but shall not speak for the student, except in the case of an advisor who is an attorney licensed to practice law in California and who concurrently represents the student on a criminal charge or charges arising out of the same facts and circumstances that form the basis for a pending student disciplinary proceeding. In such case student shall give notice if he/she intends to be represented by counsel when requesting a Review Meeting (Section D.2.) or an Appeal Hearing (Section E.1.).
4. **Board:** The Board of Trustees of the San Joaquin Delta Community College District.
5. **Day:** A day during which the District is in session and regular classes are held, excluding Saturdays and Sundays. Business day means Mondays through Fridays, excluding holidays when the District Office is closed to the public, except as defined by law.
6. **Discipline Officer:** The Superintendent/President's designee to administer discipline for student behavior that violates the Standards of Student Conduct (AP 5500).

Discipline Officer for "Academic Misconduct" shall be the Assistant Superintendent/Vice President of Instruction, Dean of Student Learning and Assessment, or designee.

The Discipline Officer for all other misconduct shall be the Assistant Superintendent/Vice President of Student Services, Dean of Enrollment Services and Student Development, or designee.

Notwithstanding the foregoing, the Superintendent/President may designate any District administrator to serve as Discipline Officer as necessary to fulfill the purpose of this Administrative Procedure.

7. District: The San Joaquin Delta Community College District.
8. Expulsion: Permanent dismissal or exclusion of the student by the Board from all classes and activities of the District. Any student expelled pursuant to this procedure shall be permanently prohibited from enrolling in any district class, program, and extra-curricular activity and from participating in any district-sponsored event to the extent permitted by law.
9. Hearing Coordinator: The Superintendent/President's designee to facilitate the student discipline process including coordination of appeal hearings and training Hearing Panel members to conduct fair and efficient hearings. The Hearing Coordinator shall remain neutral.
10. Hearing Panel: The persons selected by the Hearing Coordinator from the lists prepared pursuant to Section F to conduct a disciplinary appeal hearing.
11. Hearing Panel Clerk: The person selected for the fiscal year by the President/ Superintendent from the lists prepared pursuant to Section F to perform the functions specified in Section F.
12. Conduct Notice Letter: Written notice to a student that an Incident Report Form has been found by a Discipline Coordinator to support potential disciplinary action.
13. Conduct Outcome Letter: Written notice to a student that a decision on whether a disciplinary penalty is to be imposed for violation(s) of the Standards of Student Conduct (AP 5500).
14. Probation - Disciplinary: After violations(s) of the Standards of Student Conduct (BP/AP 5500), a specified period of conditional authorization to attend classes during which the student (a) is subject to reinstatement of any suspended disciplinary penalty or penalties, (b) further disciplinary penalties for any additional misconduct, and (c) may be restricted from extra-curricular activities.
15. Professor or Faculty: Persons defined as "faculty" in Education Code section 87003(a) including instructors, counselors, librarians, health services professionals, and Extended Opportunity Programs and Services (EOPS) Professionals.
16. Removal from Class: Exclusion of a student from a class by a professor for the day of the removal and, if directed by the professor, the next class meeting. (Education Code 76031; 76032)
17. Student: District applicants, admitted or currently enrolled students, students between academic terms, graduates awaiting degrees, and students who withdraw from school while a disciplinary matter is pending.
18. Superintendent/President: The Superintendent/President of the San Joaquin Delta Community College District.
19. Suspension:
 - a. Immediate Suspension: An immediate suspension to protect lives or property and to ensure the maintenance of order with a reasonable opportunity for an administrative hearing within ten (10) days of imposition of the immediate suspension. (Education Code 66017)
 - b. Short-term Suspension: Exclusion of the student for good cause from one or more classes for a period of up to ten (10) days by the Discipline Officer. Any student suspended pursuant to this procedure shall be prohibited from participating in any class, program, extra-curricular activity, or any event, on or off campus that is affiliated with the District. (Education Code 73031(a))

- c. Long-Term Suspension: Exclusion of the student for good cause by the Superintendent/President or designee, from one or more classes for the remainder of the school term, or from all classes and activities of the District for one or more terms. Any student suspended pursuant to this procedure shall be prohibited from enrolling in the District and from participating in any class, program, extra-curricular activity, or any event, on or off campus that is affiliated with the District (Education Code 76031(b) and (c))
20. Time Limits: Any time for the completion of an action specified in this administrative procedure. Time limits may be shortened or lengthened on a case-by-case basis for good cause, as determined by the Discipline Officer with regard to Section D, and by the Superintendent/President, or designee, with regard to Sections E through J of these administrative procedures. Written notice of any change in time limit shall be served on the student by postal mail or by email at the student's District email address.
 21. Withdrawal of Consent to Remain on Campus: Pursuant to Penal Code section 626.4, when there is reasonable cause to believe a student has willfully disrupted the orderly operation of the campus, the Superintendent/President, Assistant Superintendent/Vice President of Student Services, or designee, may notify the student that consent to remain on campus or other District facility has been withdrawn.
 22. Written or Verbal Reprimand: An admonition to the student to cease and desist from conduct determined to violate the Standards of Student Conduct. A record of the issuance of a written reprimand may be included in a student's discipline record.

B. Disciplinary Reporting Process:

- Warnings and/or verbal or written reprimands
- Removal from Class, Related Service Area, or District Activities
- Activities restrictions that do not include removal from class (e.g., prohibition on participation on clubs or District-sponsored activities)
- Restitution, including payment to the District or others, for the cost of replacing or repairing property damaged by the non-accidental acts of a student or for injury caused by such non-accidental acts
- Suspension, including immediate suspension, short-term, or long-term suspension
- Probation
- Withdrawal of consent to remain on campus
- Instruction/Training on Plagiarism, Sexual Harassment and/or Anger Management
- Revocation of admission, certificates, or degrees when admission, certificates, or degrees were obtained, in whole or in part, by deception or academic misconduct
- Expulsion

C. Removals from Class and Reports of Conduct Violation

1. Removal from Class:
 - a. A professor may remove a student from a class or other areas of the District related to the professor's service area. Such decision shall be based on the student's violation of the District's Standards of Student Conduct and shall be at the sole discretion and professional judgment of the professor. Removals by professors shall be final and shall not preclude the District from imposing other disciplinary penalties as described herein.
 - b. Immediately after a Removal from Class or other areas related to a

professor's service area, the professor shall file an Incident Report Form, documenting the reasons the discipline was imposed and submit it to the Dean of Enrollment Services and Student Development for routing to the appropriate Disciplinary Officer and to the Division Dean.

2. Reporting Violations:

- a. Academic Dishonesty Violations: Plagiarism, cheating, falsifying information for an academic exercise, and other forms of academic misconduct. A District employee must complete an Incident Report Form (Form 5510, available on the District's Student Services Division webpage) and submit it to the Dean of Enrollment and Student Services.
- b. Behavioral Violations: Furnishing false information to a District official, forgery, willful disruption and other alleged violations of Standards of Student Conduct. A District employee must complete an Incident Report Form.
- c. Safety Concerns or Extremely Disruptive Behavior: Disorderly, lewd, or indecent conduct, dangerous or illegal activities, theft, drugs, alcohol or tobacco issues. District employees should contact Campus Police, complete an Incident Report Form, and submit to the Dean of Enrollment and Student Services. When Police Services are involved, a District Administrative Report will be submitted to the Dean of Enrollment Services and Student Development for routing to appropriate Disciplinary Officer and to the Division Dean.
- d. Any District employee who reasonably believes that a student has violated the Standards of Student Conduct may file an written Incident Report Form on Form 5510 and submit it to the Dean of Enrollment Services and Student Development.

All incident reporting forms will be routed to the appropriate dean for investigation and follow up.

D. Disciplinary Review:

1. Initial Review and Notice to Student:

- a. When an Incident Report Form or District Administrative Report is received by a District Discipline Officer, the Discipline Officer shall conduct an initial review which includes:
 - i. The circumstances of the alleged misconduct;
 - ii. A summary of witness reports and other evidence;
 - iii. An analysis of the evidence;
 - iv. A preliminary determination of whether there is a reasonable basis for concluding that the alleged misconduct occurred; and if so,
 - v. Whether imposing a disciplinary penalty or penalties would be an appropriate response to the alleged misconduct.
- b. If there is a reasonable basis for concluding that the alleged misconduct occurred and constitutes a violation of the Standards of Student Conduct, the Discipline Officer shall prepare a Conduct Notice Letter and serve it on the student by email to the student's District email address. Service shall be deemed complete upon sending the notice by email.
- c. The Conduct Notice Letter Action shall include a description of the alleged misconduct; the potential disciplinary penalty or penalties and notice of the student's right to respond in writing and to have a Review Meeting with the Discipline Officer. The Conduct Notice Letter ordinarily shall be provided to the student within ten (10) days after the Discipline Officer received the Incident Report Form but the notice period may be extended for a reasonable period as necessary to gather, review and analyze relevant evidence.

2. Student's Response:

The student shall have ten (10) business days from the date of service of the Conduct Notice Letter to request a Review Meeting and/or submit a written response to the Discipline Officer. Failure to respond to the Discipline Officer within ten (10) business days to schedule a Review Meeting shall constitute a waiver of the right to meet with the Discipline Officer. Failure to cause a written response to be received in the Discipline Officer's office within the ten-day period shall result in a waiver of the right to respond.

If the student waives his/her right to submit a written response and his/her right to request to schedule a Review Meeting, the student shall be deemed to have waived his/her right (a) to provide any rebuttal to the Conduct Notice Letter and (b) to appeal a disciplinary decision. In such case, within fifteen (15) days after the effective date of waiver, the Discipline Officer shall issue a Conduct Notice Letter which shall be final except as to Long-Term Suspensions and Expulsions

3. Review Meeting:

If the student submits a timely request for a Review Meeting, the Discipline Officer shall meet with the student, inform the student of the evidence leading to a determination that discipline may be warranted, and give the student an opportunity to respond.

The Discipline Officer shall issue a Conduct Notice Letter within fifteen (15) days after receipt of the student's written response or the date of the Review Meeting, whichever is later.

If a timely written response has not been submitted and the student fails without excusable reason, as determined by the Discipline Officer, to attend a scheduled Review Meeting, the student shall be deemed to have waived his/her right (a) to provide any rebuttal to the Conduct Notice Letter and (b) to appeal a disciplinary decision. In such case, within fifteen (15) days after the date scheduled for the Review Meeting, the Discipline Officer shall issue a Conduct Outcome Letter which shall be final except as to Long-Term Suspensions and Expulsions.

4. Conduct Outcome Letter:

a. Service of Notice

The Conduct Outcome Letter will be served on the student by email at the student's District email address. Upon extenuating circumstances, the Conduct Outcome Letter may be served by campus police to the student on campus, in class, or at a correctional facility. Service shall be deemed complete upon sending the notice by email or by in person service by campus police.

b. The Conduct Outcome Letter shall include:

1. A description of the alleged misconduct;
2. If applicable, a short summary of the evidence supporting a determination that disciplinary action is appropriate;
3. The disciplinary penalty or penalties, if any; and,
4. If applicable, the duration of the disciplinary penalty or penalties.

If the student has waived his/her right to appeal, the decision of the Discipline Officer shall be final as to all disciplinary penalties, except Long-Term Suspension and Expulsion. The Discipline Officer shall confer with the Assistant Superintendent/Vice President of Student Services, or designee, prior to issuing a Conduct Outcome Letter specifying Long-Term Suspension or Expulsion as the disciplinary penalty.

Except when the Discipline Officer's decision is final, or the student has waived the right to appeal the disciplinary decision, the Conduct Outcome Letter shall also inform the student of the right to appeal the Discipline Officer's decision to impose a Long-Term Suspension or Expulsion and include notice of or a copy of this administrative procedure.

5. Resolution by Agreement or Waiver of Rights

- a. Resolution Agreement. The Discipline Officer and student may mutually agree to resolve the matter through a resolution agreement that does not constitute formal discipline. The resolution agreement shall recite the underlying misconduct, outline the expectations of the parties, and be retained by the District for the duration of the student's attendance. If the student breaches the resolution agreement or engages in further alleged misconduct, the misconduct underlying the resolution agreement may also serve as the basis for disciplinary action.
- b. A student may affirmatively waive hearing and/or appeal rights and agree to accept disciplinary action. The knowing and willing waiver of rights and acceptance of disciplinary action must be in writing and signed by the student.

E. Disciplinary Appeal Hearing – Long-Term Suspension and Expulsion Only

1. Request for Disciplinary Appeal Hearing

Except when the student has waived the right to appeal, within five (5) business days after service of the Conduct Outcome Letter, the student may submit a Request for Disciplinary Appeal Hearing Form (Form 5525), which is available from the Hearing Coordinator or on the District's Student Services Division webpage. If a Request for Disciplinary Appeal Hearing is not received in the Hearing Coordinator's office on or before the fifth day, the right to an appeal hearing shall be deemed waived. After receipt of a timely Request for Appeal Hearing, the Hearing Coordinator shall schedule a meeting with the student to review the appeal hearing process.

2. Bases for Appeal

An appeal is limited to one or more of the following bases:

- a. The Review Meeting was not conducted in conformity with these Administrative Procedures.
- b. Based on the evidence available to the Discipline Officer at the time of the Review Meeting or the student's waiver of the right to a Review Meeting, the decision set forth in the Conduct Outcome Letter is not supported by a preponderance of the evidence.
- c. The student's conduct does not warrant the recommended disciplinary action.
- d. There is relevant, material evidence which the student, in the exercise of reasonable diligence, could not produce at or before the Review Meeting.
- e. If the student intends to be represented by counsel, the student shall give notice to the Hearing Coordinator.

3. Notice and Schedule of Disciplinary Appeal Hearing

The Hearing Coordinator shall notify the student of the appeal hearing date, time and location at least fifteen (15) business days in advance of the hearing. The hearing shall be held within thirty (30) business days after a request for an appeal hearing is timely received.

4. Evidence/Hearing Materials

The student shall have access to the District's documentary evidence up to ten (10) days in advance of the appeal hearing. The student must submit all

documentary evidence to the Hearing Coordinator at least five (5) business days in advance of the appeal hearing. Documentary evidence submitted by the student less than five (5) business days in advance of the hearing shall not be considered at the hearing except upon a showing, to the satisfaction of the Hearing Panel, that the evidence could not be submitted on time through no fault of the student.

F. Appointment of Hearing Panel

1. At the beginning of the academic year, the Superintendent/President, the presidents of the Academic Senate, Management Senate, Classified Senate, and Associated Students of Delta College (ASDC) shall each establish a list of at least five (5) persons who may be selected to serve on Hearing Panels for a two (2) year term. Every person on the lists must agree to make himself/herself available when a hearing panel must be convened.

The Superintendent/President shall appoint from any of the foregoing lists one (1) person to serve as the Hearing Panel Clerk for the academic year. The decision of the Hearing Panel Clerk shall be final on all matters relating to the conduct of the hearing, unless there is a vote by a majority of the members of the panel to the contrary.

The Hearing Coordinator shall train the Hearing Panel Clerk and all others on the lists regarding their responsibilities under these Administrative Procedures, effective hearing protocol, the roles and responsibilities of panel members and the Hearing Panel Clerk and other matters bearing upon the integrity and effectiveness of a Hearing Panel.

2. Hearing Panels for any Disciplinary Appeal action shall be composed of one (1) of the following: Superintendent/President appointee, administrator, faculty member, classified staff member, and except in cases involving allegations of sexual misconduct, student selected by the Hearing Coordinator from the above lists. In cases involving allegations of sexual misconduct, the Hearing Coordinator shall select the fifth panel member from any list other than the ASDC list; but if a fifth panel member is unavailable, the Hearing Panel shall proceed with four members.
3. Hearing Coordinator. The Hearing Coordinator may assign a neutral hearing officer rather than a Hearing Panel under circumstances that include, but are not limited to, a hearing that involves technical or legal complexities requiring specialized knowledge; the impartiality of the usual hearing process has been or may have been compromised; emergencies or other critical matters require that a hearing be convened without delay, and the hearing is expected to require more than two days to complete and hearing panel members are not readily available due to employment or school commitments, illness or injury.

When a hearing officer is assigned, references to the "Hearing Panel" or "Hearing Panel Clerk" shall mean the "hearing officer," and the roles and rules related to hearings by a Hearing Panel shall apply to the hearing officer to the extent practicable.

4. Any District employee or student who has any personal involvement in the facts or circumstances of the underlying disciplinary matter, who is a witness or who could not otherwise act in a neutral manner (e.g., by reason of familial, personal or business relationship with the student or the student's family), as determined by the Hearing Coordinator, may be removed from the panel by the Hearing Coordinator. Upon removal, the Hearing Coordinator shall appoint another person from the same list on which the removed person's name appears.

G. Conducting the Disciplinary Appeal Hearing

1. The members of the Hearing Panel shall be provided with a copy of the District's and student's written evidence on the day of the hearing.

2. Unless the Hearing Panel determines to proceed otherwise, the District's representative and the student shall each be permitted to make an opening statement.
3. The District representative followed by the student may call witnesses and introduce oral and written evidence relevant to the disciplinary proceeding. Witnesses may include administrators, faculty, classified staff members, and other students who have personal knowledge of the conduct on which the recommended Long-Term Suspension or Expulsion recommendation is based.

The District's representative and student are responsible for securing the attendance of their respective witnesses; the Hearing Panel does not have the authority to mandate their appearance

4. Formal rules of evidence shall not apply. Any relevant evidence shall be admitted if it is the sort of evidence upon which responsible persons are accustomed to rely in the conduct of serious affairs regardless of the existence of any common law or statutory rule which might otherwise exclude such evidence in a court of law.

When an accused student admits to misconduct, the Hearing Panel is not required to take additional evidence to support a factual finding as to the admitted conduct.

The burden of proof shall be on the District to prove a violation of the Standards of Student Conduct by a preponderance of the evidence.

5. Except as provided in this paragraph, the student shall represent himself or herself at the hearing.

Before and during the hearing, the student may at his/her sole expense consult with an attorney or other advisor of his/her choice but, except as provided below when criminal charges are pending, the attorney or other advisor shall not directly participate in the hearing by raising objections; asking questions of the student, witnesses, or the hearing panel; presenting evidence on behalf of the student; arguing the student's case; or advocating for or defending the student.

The student's attorney, if licensed in the State of California, may assist the student during the hearing only if, at the time of the hearing, there are criminal charges pending against the student and such charges are based on all or some of the conduct that is at issue in the disciplinary appeal hearing.

The Hearing Panel may have the assistance of a legal advisor who may sit with the Hearing Panel in an advisory capacity only.

6. An appeal hearing shall be closed and confidential unless the student requests that it be open to the public. Any such request must be submitted in writing to, and received by, the Hearing Coordinator no less than five (5) business days prior to the date of the hearing. Notwithstanding the foregoing, any part of a public hearing that would disclose confidential information in violation of the right to privacy of any person other than the student shall be closed and confidential.
7. Except for the student and the administrator serving as the representative of the District, witnesses shall not be present at the hearing except while testifying.
8. The District shall make a record the hearing either by audio, video or stenographic recording. No other recording of the hearing is permitted. In the event the hearing is audio-recorded, the Hearing Panel Clerk shall, at the beginning of the hearing, ask all persons present who may participate in the hearing to identify themselves by name. No witness who refuses to be recorded will be permitted to testify.

The original recording shall remain in the custody of the District at all times, unless released to a professional transcribing or copying service. The student may request a copy of the audio recording and/or the written transcript of the hearing.

District is under no obligation to cause the recording to be transcribed. If the District causes the recording to be transcribed, the District shall make an electronic or hard copy of the transcript available to the student if requested by the student; however, if the release of information in the recording or transcript would conflict with the right to privacy of any person other than the student, such information shall first be redacted.

9. All testimony shall be taken under oath. The Hearing Panel Clerk, Hearing Officer, or court reporter, shall administer the oath. Written statements of witnesses shall not be admitted as evidence unless the statement is executed under penalty of perjury and the witness is unavailable to testify. A witness who refuses to be audio-recorded is not unavailable.
10. After the presentation of all evidence, the Hearing Panel shall deliberate confidentially. Within five (5) days following the close of the hearing, the Hearing Panel Clerk shall prepare and submit a Hearing Summary to the Superintendent/President.

The Hearing Summary shall include Hearing Panel's findings of facts, a determination of whether there is good cause for disciplinary action, a statement of whether the Hearing Panel recommends upholding or overturning the Long-Term Suspension or Expulsion. The findings of facts and determination of good cause, if any, shall be based only on evidence presented at the hearing.

H. Final Decision – Long-Term Suspension or Expulsion

1. Within five (5) days following receipt of the Hearing Panel's Hearing Summary, the Superintendent/President shall render a written decision. The Superintendent/ President may accept, modify or reject the factual findings, determination of good cause and/or recommended disciplinary action; however, in no event may the Superintendent/ President impose discipline that is more severe than the discipline penalty set forth in the Conduct Outcome Letter.

If the Superintendent/President modifies or rejects the Hearing Panel's findings of fact, determination of good cause, and/or recommended disciplinary action, the Superintendent/President shall review the record of the hearing and prepare a written decision which contains factual findings and conclusions and specifies the disciplinary penalty.

The Superintendent/President's decision as to a Long-Term Suspension is final. The Superintendent/President's Long-Term Suspension decision shall include a denial of access order as specified in Section I.

2. Expulsion: If the Superintendent/President determines that expulsion is the appropriate discipline penalty, the Superintendent/President shall make that recommendation to the Board.
(Education Code Section 76030).
3. The Board shall consider any expulsion recommendation from the Superintendent/ President at the next regular meeting or special meeting of the Board occurring at least ten (10) days after receipt of the Superintendent/ President's expulsion recommendation. The Board shall consider an expulsion recommendation in closed session, unless the student has requested that the matter be considered in a public session.
(Education Code 72122).
4. The student shall be served with notice of the date, time, and place of the

Board's meeting, by, by personal service, or by student email, at least six (6) business days prior to the meeting date. Service shall be deemed complete upon personal delivery or upon sending by student email.

The student may, at least three (3) business days prior to the Board meeting, notify the Hearing Coordinator of his/her request that the Board consider the matter in open session. Notwithstanding a student's timely request for open session consideration, any discussion that would be contrary to the privacy rights of anyone other than the student and any deliberations on the disciplinary penalty will be held in closed session.

5. The Board may accept, modify, or reject the findings, determinations and recommendations of the Superintendent/President. If the Board modifies or rejects the Superintendent/President's decision, the Board shall review the record of the hearing and prepare a written decision which contains specific factual findings and conclusions.
6. Board action on an expulsion shall be taken at a public meeting, and the result of the action shall be a public record of the District. The Board's decision shall be final and shall be served upon the student by certified or registered mail or by personal delivery.

I. Post Suspension or Expulsion Denial of Access

Any Long-Term Suspension or Expulsion order issued after a hearing based in whole or in part on disruption of the orderly operation of the campus and/or other District facility shall include an order denying access to the campus and/or other District facility for the period of the suspension, or in the case of an expulsion, for a period not to exceed one year. A student who willfully and knowingly enters the campus and/or District facility during the period for which access has been denied is guilty of a misdemeanor.
(Penal Code 626.2)

A student who enters the campus and/or District facility while an order denying access following suspension is in effect may be subject to additional disciplinary action.

Nothing herein shall be construed to prevent the District from taking other available actions to deter the presence of a student on District property to ensure the safety of students and/or employees.

J. Student Records

Whenever a document concerning the District's decision to impose a disciplinary penalty is entered in a student's records, the student may, within 30 business days, submit a written response to the document to be included in his/her records.

K. Immediate Suspension

The Superintendent/President, or any person assigned as acting Superintendent/President in his/her absence, may order an immediate suspension when he/she concludes that an immediate suspension is required to protect lives or property and to ensure the maintenance of order. The suspended student shall be provided with a reasonable opportunity for a hearing before the Superintendent/President within ten business days of the imposition of the immediate suspension.
(Education Code 66017)

L. Withdrawal of Consent to Remain on Campus. (Penal Code 626.4)

When there is reasonable cause to believe that a student has willfully disrupted the orderly operation of the campus or a District facility, the Superintendent/President, Assistant Superintendent/Vice President of Student Services, their designees, or a District police officer may notify a student that consent to remain on campus or

other facility under the control of the District has been withdrawn. If the student is on campus at the time, the student must promptly leave.

Further, if consent is withdrawn by a person other than the Superintendent/President, that person must prepare a written report for the Superintendent/President's or his/her designee's review and determination whether there was reasonable cause to believe the student willfully disrupted the orderly operation of the campus/facility. If so, the Superintendent/President or designee must enter his/her confirmation on the report within 24 hours after consent was withdrawn. If not confirmed within 24 hours, the withdrawal of consent is deemed void.

Any student who has received notice of withdrawal of consent pursuant to Penal Code Section 626.4 may submit a written request to the Superintendent/President for an administrative hearing. In such case the Superintendent/President, or designee, shall afford the student an opportunity to be heard within seven (7) business days after receipt of the written request.

In no case shall consent be withdrawn pursuant to Penal Code Section 626.4 for longer than fourteen (14) days.

The Superintendent/President shall determine whether consent shall be reinstated. The Superintendent/President may submit an Incident Report Form to the Discipline Officer for disciplinary consideration.

Any student who remains on campus or at a facility after consent has been withdrawn or who knowingly reenters while consent has been withdrawn, except to return for a pre-arranged meeting or hearing, is subject to arrest. (Penal Code Section 626.4)

See BP/AP 5540 Title IX Policy: Sexual Misconduct and Gender-Based Discrimination; Incident Report Form 510, available on the District's Student Services Division webpage)

Adopted 03-08-11

Amended 05-15-14

Reviewed/Amended 04-18-19

Title Change ASBG to ASDC 8/14