

AP 5520 Student Discipline Procedures

References:

Education Code Sections 66017, 66300, 72122, 76030, and 76030 et seq.;
Penal Code Section 626.4

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 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.

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

Definitions:

District – The West Kern Community College District

CEO – The Superintendent/President or a designated representative of the Superintendent/President.

Student – Any person currently enrolled as a student at any college or in any program offered by the District who was also enrolled at the time of the alleged violation of the Standards of Student Conduct.

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.

Day – Unless otherwise provided, day shall mean a day during which the college is in session and regular classes are held, excluding Saturdays and Sundays.

Short-term Suspension – Exclusion of the student by the Superintendent/President 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 Superintendent/President for good cause from one or more classes for the remainder of the school term, or from all classes and activities of the college for one or more terms.

Expulsion – Exclusion 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 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 Superintendent/President, Vice President of Student Services, or other staff members designated by the Superintendent/President for any person to remain on campus in accordance with California Penal Code Section 626.4 where the Superintendent/President, Vice President of Student Services, or other staff members designated by the Superintendent/President has reasonable cause to believe that such person has willfully disrupted the orderly operation of the campus.

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 Superintendent/President, Vice President of Student Services, or other staff members designated by the Superintendent/President will provide the student with written notice of the conduct warranting the discipline. The written notice will include the following:

1. The specific section of the Standards of Student Conduct that the student is accused of violating.

2. A short statement of the facts supporting the accusation.
3. The right of the student to meet with the Superintendent/President, Vice President of Student Services, or other staff members designated by the Superintendent/President or designee to discuss the accusation, or to respond in writing.
4. The nature of the discipline that is being considered.

Time limits – The notice must be provided to the student within one (1) day of the date on which the conduct took place; in the case of continuous, repeated or ongoing conduct, the notice must be provided within one (1) day 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 Superintendent/President, Vice President of Student Services, or other staff members designated by the Superintendent/President, the meeting must occur no sooner than three to five (3-5) 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.

Short-term Suspension – Within two (2) days after the meeting described above, the Superintendent/President shall, pursuant to a recommendation from the ten (10) day suspension, 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 Superintendent/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 Superintendent/President's decision on a short-term suspension shall be final.

Long-term Suspension – Within two (2) days day after the meeting described above, the Superintendent/President shall, pursuant to a recommendation from the Superintendent/President, Vice President of Student Services, or other staff members designated by the Superintendent/President, decide whether to impose a long-term suspension. Written notice of the Superintendent/President's 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 five (5) days after the meeting described above, the Superintendent/President shall, pursuant to a recommendation from the Superintendent/President, Vice President of Student Services, or other staff members designated by the Superintendent/President, decide whether to recommend expulsion to the Board of Trustees. Written notice of the Superintendent/President'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.

Within two (2) days after receipt of the Superintendent/President'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 Superintendent/President or designee.

Schedule of Hearing – The formal hearing shall be held within five (5) days after a formal request for hearing is received.

Hearing Panel – The hearing panel for any disciplinary action shall be composed of two (2) students, two (2) certificated personnel, and one (1) certificated management person.

Commented [SC1]: Administrator?

The Superintendent/President, the president of the Academic Senate, and the AS president, when needed, establish a list of at least five (5) persons who will serve on student disciplinary hearing panels. The Superintendent/President 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.

Hearing Panel Chair – The Superintendent/President shall appoint an administrator 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

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 Superintendent/President, Vice President of Student Services, or other staff members designated by the Superintendent/President.

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/themself, and may also have the right to be represented by a person of his/her/their choice. Unless, in the judgment of the hearing panel, complex legal issues are involved, the student may be represented by an attorney. If the student wishes to be represented by an attorney, a request must be presented not less than five (5) 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; 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 five (5) 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 and 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 five (5) days following the close of the hearing, the hearing panel shall prepare and send to the Superintendent/President 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.

Superintendent/President's Decision:

Long-term suspension – Within ten (10) days following receipt of the hearing panel's recommended decision, the Superintendent/President shall render a final written decision. The Superintendent/President may accept, modify or reject the findings, decisions and recommendations of the hearing panel. If the Superintendent/President modifies or rejects the hearing panel's decision, the Superintendent/President 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 Superintendent/President shall be final.

Expulsion – Within ten (10) days following receipt of the hearing panel's recommended decision, the Superintendent/President shall render a written

recommended decision to the Board of Trustees. The Superintendent/President may accept, modify or reject the findings, decisions and recommendations of the hearing panel. If the Superintendent/President modifies or rejects the hearing panel's decision, he/she/they shall review the record of the hearing, and shall prepare a new written decision which contains specific factual findings and conclusions. The Superintendent/President decision shall be forwarded to the Board of Trustees.

Board of Trustees Decision: The Board of Trustees shall consider any recommendation from the Superintendent/President for expulsion at the next regularly scheduled meeting of the Board within thirty (30) days 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, at least three days prior to the meeting, of the date, time, and place of the Board's meeting.

The student may, within 48 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 Superintendent/President 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 Superintendent/President may order immediate suspension of a student where he/she/they 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/their class for the day of the removal and the next class meeting. The instructor shall immediately report the removal to the Superintendent/President and the Superintendent/President, Vice President of Student Services, or other staff members designated by the Superintendent/President. The Vice President of Student Services, or other staff members designated by the Superintendent/President shall arrange for a conference between the student and the instructor regarding the removal. If the instructor or the student requests, the Superintendent/President, Vice President of Student Services, or other staff members designated by the Superintendent/President shall attend the conference. The student shall not be allowed to return to the class during the period of the removal without the concurrence of the instructor. Nothing herein will prevent the Superintendent/President, Vice President of Student Services, or other staff members designated by the Superintendent/President 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 Superintendent/President, Vice President of Student Services, or other staff members designated by the Superintendent/President 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/they must promptly leave or be escorted off campus. If consent is withdrawn by the Superintendent/President, Vice President of Student Services, or other staff members designated by the Superintendent/President a written report must be promptly made to the Superintendent/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 (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 fourteen (14) 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.

No Disciplinary Action against Complainants or Witnesses in Sexual Assault Investigations

An individual who participates as a Complainant or witness in an investigation of sexual assault, domestic violence, dating violence, or stalking will not be subject to disciplinary sanctions for a violation of the District's student conduct policy at or near the time of the incident, unless the District determines that the violation was egregious, including, but not limited to, an action that places the health or safety of any other person at risk or involves plagiarism, cheating, or academic dishonesty.