

Chapter 5 - Student Services

AP 5520 Student Discipline Procedures

References:

Education Code Sections 55024, 66017, 66300, 67380, 72122, and 76030-76038, 76120, 76234, et seq.; Penal Code Section 273.5, 626.4, 646.9 20, U.S.C. § 1232g; 34 CFR Part 99.89; BP 3500, BP 5500, AP 3515

The purpose of this procedure is to provide a fair, prompt, and equitable means to address violations of the Standards of Conduct, and not for purposes of retaliation. This procedure affords students due process rights guaranteed them by state and federal constitutional protections. It is not intended to substitute for criminal or civil proceedings that may be initiated by other agencies.

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

Jurisdiction

Board Policy 5500 sets forth the Standards of Conduct for students and lists the causes for which student discipline procedures shall be initiated within this Administrative Procedure.

The Standards of Conduct shall apply to conduct that occurs on College premises, at College sponsored activities, and at College off-campus activities. Conduct that adversely affects the College community and/or the pursuit of its objectives shall be addressed through student discipline procedures. No student shall be removed from class, suspended, or expelled for parking offenses. Any College employee shall serve as a reporting party and may file a Student Misconduct Report for an alleged violation of the Standards of Conduct.

During off-campus activities, the College employee designated as a chaperone for College-sanctioned courses or activities held off-campus shall be responsible for administering the Standards of Conduct at off-campus sites, including Study Abroad locations. The chaperone shall file a Student Misconduct Report for alleged student misconduct in accordance with the discipline procedures herein.

Definitions

1. **Administrative Withdrawal:** A student is administratively withdrawn when one is suspended or expelled during the term in which the student is actively enrolled. A mark of "W", denoting withdrawal, will be placed on the student's academic record for all currently enrolled courses, regardless of the student's progress, unless grades have already been posted.
2. **Business Day:** Days during which the College is open and conducts normal business operations, excluding College holidays, Saturdays, and Sundays.

3. **Character Development Workshop:** A four-hour workshop on six pillars of character which students must complete if contained in the student discipline contract as optional or required. If optional, the student's file shall be sealed upon completion of the workshop.
4. **College:** The Mt. San Antonio Community College District.
5. **College Premises:** All land, buildings, facilities, and other property owned, used, or controlled by the College, including adjacent streets and sidewalks.
6. **Dating Violence:** Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; based on the length, type, and frequency of the interaction between the persons involved in the relationship.
7. **Discipline Conference:** Meeting between the accused student and the Student Life official to discuss the alleged violation(s) of the Standards of Conduct.
8. **Discipline Contract:** A signed agreement between the student and the College to abide by the Standards of Conduct. Provides additional stipulations the student must complete.
9. **Discipline Hold:** A hold on the student's record which prevents the student from making certain business transactions, including registering for classes, and prevents the student from utilizing certain College services until one's mandatory Discipline Conference is complete.
10. **Discipline Sanctions:** Actions imposed upon any student found to have violated the Standards of Conduct.
11. **Domestic Violence:** Includes felony or misdemeanor crimes of violence, including threats or attempts, committed by a current or former spouse of the victim, person with whom the victim shares a child in common, person who is cohabitating with or has cohabitated with the victim as a spouse, person similarly situated to a spouse of the victim under the domestic or family violence laws, and/or any other adult person against a victim who is protected from that person's acts under California law.
12. **Due Process:** The right to know the accusations and the opportunity to have a fair and timely review, Discipline Conference, Discipline Hearing, and/or Appeal.
13. **Expulsion:** Exclusion of the student by the Board of Trustees from the College.
14. **Good Cause:** The existence of substantial evidence of an offense, as defined in Board Policy 5500, to impose a suspension or expulsion.
15. **Hate Violence:** Any act of physical intimidation or physical harassment, physical force or physical violence, or the threat of physical force or physical violence, that is directed against any person or group of persons, or the property of any person or group of persons because of the ethnicity, race, national origin, religion, sex, sexual orientation, gender identity, gender expression, disability, or political or religious beliefs of that person or group.

16. **Hearing:** Formal meeting to hear the evidence and student's testimony to determine outcome of case.
17. **Instructor:** Any academic employee of the College 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.
18. **Loss of Privileges:** Exclusion from activities, removal from campus organizations, or denial of specified privileges for a designated period of time. An organization may also lose campus privileges including, but not limited to, the forfeiture of official recognition by College.
19. **Misconduct Report:** Written notice by a College employee that includes a brief statement of facts regarding an alleged violation of the Standards of Conduct.
20. **Preponderance of Evidence:** The standard of evidence used in hearings which leads the Student Conduct Board to find that the existence of the facts is more probable than not.
21. **Public Safety Incident Report:** A report written by the College's Public Safety Department regarding the details surrounding an event.
22. **Removal from Class:** Exclusion of the student by an Instructor for the day of the removal and the next class meeting.
23. **Reporting Party:** The College employee who submits a report regarding an alleged violation of the Standards of Conduct.
24. **Reprimand:** A written or verbal 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.
25. **Restitution:** Compensation for loss or damage to College property. Restitution may take the form of appropriate service, monetary reimbursement, or materials replacement.
26. **Sanction:** A punishment imposed on a student for a violation of the Standards of Conduct.
27. **Sexual Assault:** An assault that includes, but is not limited to, rape, forced sodomy, forced oral copulation, rape by foreign object, sexual battery, or the threat of any of these.
28. **Specialized Counseling or Therapy:** Sessions from a licensed California mental health professional may be mandatory as part of the requirements to fulfill a discipline decision imposed on the student.

29. **Stalking:** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his/her safety or the safety of others; or suffer substantial emotional distress.
30. **Standards of Conduct:** The College's set of rules applicable to student conduct on campus.
31. **Student:** Any person who has been assigned a College student identification number.
32. **Student Conduct Board:** The authorized body to hold evidentiary Hearings on recommendations for suspensions longer than ten days and for expulsion.
33. **Student Conduct Manager:** The Dean, Student Services or Director, Student Life designated to convene, conduct, and oversee the Student Conduct Board Hearing and officially represent the discipline recommendation of the Student Conduct Board.
34. **Student Life Official:** Judicial Affairs Officer or Director, Student Life designated to oversee the processing of discipline reports, review of discipline cases, and all Discipline Conferences.
35. **Student Services Conduct Administrator:** The Vice President, Student Services or designee who determines the final discipline decision. Accepts, rejects, or modifies the discipline recommendation of the Student Conduct Board or recommends expulsion to the College President.
36. **Suspension:** Exclusion of the student from college premises to protect lives, protect college property, and to ensure the maintenance of order. The student who knowingly re-enters the College Premises after an immediate suspension except to come for their hearing, is subject to a trespassing arrest. A suspension includes notice to the student's instructors and an administrative withdrawal of all classes is issued.
 - a. Immediate – Instant exclusion from College premises. The student must promptly leave or be escorted off-campus and be referred to a Student Conduct Board Hearing.
 - b. Short-term – Exclusion of the student for good cause from one or more classes for a period of up to ten consecutive days of instruction.
 - c. Long-term – Exclusion of the student 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.
37. **Time Limits:** Any times specified in these procedures may be shortened or lengthened if there is mutual concurrence by all parties.
38. **Withdrawal of Consent to Remain on Campus:** Withdrawal of consent by the Director, Student Life or Dean, Student Services for any person to remain on campus where there is reasonable cause to believe that such person has willfully disrupted the orderly operation of the campus.

Discipline Procedures

The College ensures due process rights for all students reported for alleged violation of the Standards of Conduct. An alleged violation of the Standards of Conduct shall be submitted to the Student Life official through a Misconduct Report or a Public Safety Incident Report. The Student Life official is responsible for receiving, adjudicating, and storing reports.

Removal from Class: Any instructor may order a student removed from his/her class for the day an incident occurs as well as the next class meeting. The instructor shall immediately submit a student Misconduct Report to the Student Life official. The Student Life official may arrange a conference between the student-instructor regarding the removal. The Student Life official may attend the student-instructor conference upon request by either party.

If a minor is removed from a class, the Student Life official shall ask the parent or guardian to attend a conference with the instructor. The Student Life official may attend the student-parent-instructor conference upon request by any party. The student shall not return to the class during the period of the removal without the concurrence of the instructor. Nothing herein will prevent the Student Life official from recommending further discipline procedures based on the facts which led to the removal.

Study Abroad: The instructor responsible for administering the Standards of Conduct at a study abroad location is authorized to remove the student from all classes and activities of the study abroad program location. The student retains their rights to a discipline hearing upon their return to campus. The terms of this removal shall include the requirement that the student immediately return to the address listed on their student records, and at their expense. This suspension shall only be imposed in consultation with, and upon the approval of, the Vice President, Instruction. The Vice President, Instruction shall consult with the Dean, Student Services prior to imposition of discipline in the context of study abroad programs.

Report of Misconduct: Reporting parties who allege that a violation of the Standards of Conduct has occurred shall inform the student of their misconduct and submit a Student Misconduct Report to the Student Life official no later than ten business days after the occurrence, or within ten business days of the discovery of facts. If a reporting party calls Public Safety to assist with an alleged violation of the Standard of Conduct, a Public Safety Incident Report will be submitted to the Student Life official in addition to, or in lieu of a Student Misconduct Report. Documentation including any witness statements that support the allegation, must be included with any report. Incidents that can be considered to be hate violence will be reported to Public Safety per BP 3515.

In cases where a report of misconduct includes an issuance of an immediate suspension, the time limits contained in these procedures shall not apply. A Student Conduct Board Hearing shall occur within ten business days provided that a reasonable opportunity exists within this timeframe, but the provision of the hearing will not exceed thirty days. An immediate suspension may be issued by Public Safety, Student Life, or Adult Basic Education.

Discipline Conference: Upon receipt of the Student Misconduct Report and/or a Public Safety Incident Report a Student Life official shall provide the student, or a minor's parent/guardian, with an official notice of the alleged violation(s) warranting discipline. Official notice may be provided by certified mail, email, or personal delivery.

The discipline conference must be scheduled with a Student Life official within ten business days after the notice is provided. The responsibility to schedule the mandatory discipline conference within ten business days rests with the student or minor's parent/guardian.

The official notice shall include:

- Specific section(s) of the Standards of Conduct that the student is accused of violating;
- Short statement of the facts which support the accusation;
- One's right and responsibility to attend a Discipline Conference to discuss the alleged violation(s) with a Student Life official; and
- The nature of the discipline that is being considered.

If necessary, the Student Life official will conduct an additional investigation of the alleged misconduct to gather more facts in preparation of the Discipline Conference.

At the Discipline Conference the student, or minor student with parent/guardian, must again be informed of: the specific section(s) of the Standards of Conduct they are accused of violating, the facts which support the accusation, and given an opportunity to respond to the accusation verbally, or in writing. During the Discipline Conference, the Student Life official shall determine the disciplinary sanction(s) warranted and inform the student. Following the Discipline Conference, the Student Life official will provide a written notice to the reporting party of the actions taken or pending. If a Discipline Conference with the Student Life official fails to occur within ten business days, a Disciplinary Hold shall be placed on the student's record to prevent the student from having access to College records and services, including registering for classes. A Discipline Conference could result in referral to a Student Conduct Board Hearing.

The following discipline sanctions may be imposed:

- Character Development Workshop
- Discipline Contract
- Immediate Suspension
- Loss of Privileges
- Reprimand
- Restitution

Hearing Procedures

Prior Expulsion Assessment Hearing: Any person applying for admission to the College who has been previously expelled from another community college district in the preceding five (5) years or is undergoing an expulsion process at another community college district, shall be afforded a Student Conduct Board Hearing. The hearing shall determine if the applicant continues to pose a danger to the physical safety of others and whether the applicant will be

admitted, admitted provisionally, or denied admission to the College as per AP 5010. The person shall have the right to appeal to the Vice President, Student Services or President/CEO.

Sexual Violence Cases: In all sexual violence cases, discipline procedures will be conducted by persons who receive annual training on issues related to domestic violence, dating violence, sexual assault, stalking, and hearing processes that protect victim safety, applies affirmative consent, and promotes accountability. Both the accuser and accused are entitled to the same opportunity to have others present during the discipline procedures, including the opportunity to be accompanied to any related conference by an advocate of their choice.

Student Conduct Board Appointment: The Student Conduct Board shall be composed of one administrator, one faculty member, one student, and the Student Conduct Manager. At the beginning of each academic year, the Vice President, Student Services, the Academic Senate President, and the AS Associated Students President shall each submit a list of at least five persons who will serve on the Student Conduct Board throughout the year. The Student Conduct Manager shall appoint the hearing board from the names provided and will serve as the Student Conduct Board Chair. No administrator, faculty member, or student who has any personal involvement in the case to be decided, who is a necessary witness, or who could not otherwise act in a neutral manner, shall serve on a the Student Conduct Board Hearing.

Notice of Student Conduct Board Hearing: The Student Life official shall provide the accused student, or a minor's parent/guardian, official notice of the date, time, and location of the hearing by certified mail, email, or personal delivery. The notice shall include:

1. The composition of the Student Conduct Board.
2. The specific sections(s) of the Standards of Conduct the student is accused of violating.
3. A statement of the alleged facts and evidence supporting the accusation in sufficient detail, including any witnesses or exhibits, so that the student may prepare one's testimony.
4. The nature of the discipline that is being considered.
5. A copy of Board Policy 5500 and Administrative Procedure 5520.
6. Requirements that the student must provide the Student Conduct Manager with a witness list and any exhibits one will bring to the hearing, at least three (3) business days prior to the scheduled hearing date.

The student may represent one's self, and may also have the right to be represented by a person of one's choice including an attorney if, in the judgment of the Student Conduct Board Chair, complex legal issues are involved. If the student wishes to be represented by an attorney, a request must be presented not less than three business days prior to the date of the hearing. If the student is permitted to be represented by an attorney, the Student Conduct Manager may also request legal assistance for the Student Conduct Board. Any legal advisor provided to the Student Conduct Board may serve in an advisory capacity to provide legal counsel but shall not be a member of the Board nor have a vote in the case. The members of the Student Conduct Board shall be provided with a copy of the accusation against the student and any written response provided by the student before the hearing begins.

Student Conduct Board Hearing: The hearing shall commence no sooner than ten (10) business days and not later than thirty (30) business days after the accused student has been provided an official notice of a Student Conduct Board Hearing. In the case of an immediate suspension a hearing must be held within ten (10) business days. The Student Conduct Board Hearing shall be conducted in substantial compliance with the following proceedings:

1. The hearings shall be closed and confidential unless all parties and the Student Conduct Board agree to a public hearing. Witnesses shall be present in the room only when testifying, unless all parties and the Student Conduct Board agree to the contrary.
2. The Student Life Official shall present the case against the accused student, and shall have the burden of providing by the preponderance of the evidence standard, that the facts alleged are true, and shall make a recommendation for the level of discipline to be imposed.
3. The Student Life Official and the accused student shall have the right to directly participate in the hearing, to introduce evidence, to call witnesses under oath, and to cross-examine witnesses. All witnesses are also subject to examination by the Student Conduct Board. All witnesses must testify under oath as administered by the Student Conduct Manager.
4. Formal rules of evidence shall not apply. Any relevant records, exhibits and written statements may be accepted as evidence at the discretion of the Student Conduct Manager in consultation with the Student Conduct Board.
5. The Student Conduct Manager, after consultation with the members of the Student Conduct Board, shall have the final decision on all procedural and evidentiary questions.
6. The hearing shall be recorded only by the Student Conduct Board. Any witness who refuses to be recorded shall not be permitted to testify. The recording shall remain the property of the College. The Student Conduct Manager shall furnish a copy of the recording to the accused student at their request including all documents and evidence presented at the Student Conduct Board Hearing. The accused shall have three business days after the hearing decision is finalized, to make the request.
7. The student shall have the right to be assisted by a translator or qualified interpreter to ensure their full participation in the proceedings. Any notification of bringing an interpreter shall be made in writing to the Student Conduct Manager no later than three business days before the hearing.
8. Student Conduct Board and College employees who participate in a Student Conduct Board Hearing, shall abide by all state and federal laws governing the privacy and confidentiality of student educational records.
9. The Student Conduct Board shall deliberate in closed session. These deliberations shall not be recorded and the proceedings shall be confidential in closed session. The Student Conduct Board shall determine whether the facts as alleged have been established by the preponderance of the evidence standard, specify its findings of fact in writing, determine by majority vote whether the accused student has violated the Standards of Conduct as charged, and determine a recommendation for disciplinary action by majority vote.

Student Conduct Board Recommendations: The Student Conduct Manager serving as Chair to the Student Conduct Board, shall issue a written report of their findings and recommended hearing sanctions to the Student Services Conduct Administrator, within ten business days after the conclusion of the hearing.

Discipline Decision: The Student Services Conduct Administrator reviews the written report of the findings and recommended hearing sanctions. Within ten business days of receiving the recommendation, the Student Services Conduct Administrator shall accept, reject, or modify the discipline decision.

Upon determination of the discipline decision, the Student Services Conduct Administrator shall notify the student, or a minor's parent/guardian, of the final discipline decision. The written discipline decision shall include hearing sanctions and be provided by certified mail, email, or personal delivery.

In cases where sexual violence is alleged, both the accuser and accused will receive simultaneous written notice of the discipline decision of the Student Conduct Board Hearing, the appeal procedures, and any change to the hearing result before the results are final. Both parties shall be notified within three (3) business days when the results become final. The College will protect the victim's identity by redaction to the extent permissible by law.

If the written discipline decision includes a modification that is greater than the Student Conduct Board recommendation, the student may file an appeal with the Vice President, Student Services or the College President within ten (10) business days from the date the notice of imposed hearing sanctions. If the Student Services Conduct Administrator makes a recommendation for expulsion, the recommendation will be forwarded to the College President/CEO.

The following hearing sanctions may be imposed:

- Suspension, Short term
- Suspension, Long-term
- Specialized Counseling or Therapy
- Character Development Workshops
- Mandatory Discipline Conference upon return
- Discipline Contract

Appeal Procedures

If the final discipline decision is greater than the recommendation of the Student Conduct Board, the student may file an appeal. The appeal shall include a written statement as to why the student believes the decision was erroneous. The filing of an appeal by the student shall not delay the implementation of the discipline decision and hearing sanctions unless so ordered by the Vice President, Student Services or College President/CEO. Within ten business days the Vice President, Student Services or College President/CEO shall review the record of the hearing. The Vice President, Student Services or the College President/CEO may accept, reject or modify the findings of the appeal request and prepare an appeal decision.

Notice of Appeal Decision: If the Vice President, Student Services or the College President/CEO accepts, rejects, or modifies the discipline decision, a new written decision which contains specific factual findings and conclusions shall be prepared. The appeal decision will be final.

Expulsion Procedures

Recommendation: When expulsion is recommended, as demonstrated by the findings of fact, the Student Services Conduct Administrator shall forward a recommendation to the College President/CEO with all supporting documentation. Within ten business days the College President/CEO shall review the record of the hearing and prepare a new discipline decision which contains specific factual findings and conclusions. The College President's/CEO shall make the final decision as to whether the case shall be forwarded to the Board of Trustees.

Hearing: The Board of Trustees shall consider any recommendation from the College President/CEO for expulsion at a meeting scheduled not sooner than fifteen business days after the date of the notice, and not later than the next two regularly scheduled Board of Trustees meetings after receipt of the recommended decision. The student shall be notified in writing, by certified mail, email, and/or by personal service delivery. The notification shall include the date, time, and place of the Board's meeting. If the student is a minor, the notification must be sent to the student and their parent or guardian.

The Board of Trustees shall consider an expulsion recommendation in closed session, unless the student has requested that the matter be considered in a public meeting. The student may, within 48 hours after receipt of the notice, request that the hearing be held as a public meeting. If a student has requested that the Board of Trustees consider an expulsion recommendation in a public meeting, the Board of Trustees 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.

Decision: The Board of Trustees may accept, modify or reject the findings, decisions and recommendations of the College President/CEO. If the Board of Trustees modifies or rejects the decision, the Board of Trustees 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 of Trustees shall be final.

The final action of the Board of Trustees on the expulsion shall be taken at a public meeting, and the result of the action shall be a public record of the College. However, in order to comply with the federal Family Education Rights and Privacy Act, the name of the student shall not be disclosed.

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