ADMINISTRATIVE PROCEDURE
San Mateo County Community College District

***Subject*:** AP 7.69.2 Student Disciplinary Procedures
Revision Date: 12/12; 8/13; 2/16
Policy Reference : Education Code Section 66017, 66300, 72122 and 76030 et seq.; Penal Code Section 626.4

These procedures are designed to provide uniform standards to assure due process rights that are guaranteed by federal and state constitutions when a student is charged with a violation of the San Mateo County Community College Student Code of Conduct, as defined in Board Policy 7.69. This procedure will be used in a fair and equitable manner and not for purposes of retaliation. It is not intended to substitute for criminal or civil procedures that may be initiated. All proceedings held in accordance with these procedures shall relate only to an alleged violation of established standards.

Disciplinary Officer: Each College President will designate an administrator to serve as the College's Disciplinary Officer. The Disciplinary Officer shall be responsible for investigating and processing the alleged violation of the Student Code of Conduct.

I. Non-Expulsion Disciplinary Process

Step 1. Incident Occurs

Within twenty (20) days from the time that the Disciplinary Officer is informed of allegations which may constitute a violation of the Student Code of Conduct, the Disciplinary Officer shall conduct a fact-finding investigation to determine whether to pursue an Administrative Conference or a Student Disciplinary Hearing.

For the purpose of evaluating whether the student's conduct is a violation of the Student Code of Conduct, no consideration shall be given to the student's actual or perceived disability unless such disability is being asserted by the student as a defense to, in mitigation of a potential violation.

Immediate Interim Suspension: In cases where the alleged violation is deemed by the Disciplinary Officer to pose an imminent threat to the health and safety of the college community, the student may be suspended immediately pursuant to Education Code Section 66017, provided that a reasonable opportunity is afforded a suspended person for a hearing within ten (10) days.

Step 2. Administrative Conference or Student Disciplinary Hearing

Based on the review of the alleged code of conduct violations, the Disciplinary Officer shall determine if the matter goes to an Administrative Conference or to a Student Disciplinary Hearing. Pursuant Education Code Section 66283, students can be assisted by an advisor of their choice or to request the college to provide an advisor to the student when they are notified of an alleged violation. The conduct process will not be delayed due to repeated or ongoing unavailability of a particular advisor.

Administrative Conference

The Disciplinary Officer shall schedule a meeting with the student involved to inform the student of the alleged offense. The student, and selected advisor, will be notified of charges/alleged violations and the basis for the charges. Based on the information at the Conference, the Disciplinary Officer may either dismiss the charges for lack of merit or notify the student of one or more disciplinary actions being taken (described in Step 3). The student may request the opportunity for a Student Disciplinary Hearing.

Student Disciplinary Hearing
Hearing Notice: A notice of the hearing will be sent to the student and shall specify the date, time, and place of the hearing, a statement of the charges against the student, and the date, time, and location that the tangible evidence will be made available for inspection. A copy of the disciplinary procedures shall also be enclosed.

Student Disciplinary Board: The Disciplinary Board shall include: one (1) student selected from the pool submitted by the Associated Student Organization governing body, one (1) faculty member selected from the pool submitted by the Academic Senate and one (1) staff member from a pool submitted by CSEA and the Management Group. A Judicial Officer will also be appointed to assure the process is followed.

No person shall serve as a member of the Disciplinary Board if that person has been personally involved or could otherwise not act in a neutral manner. The student may request the names of the Disciplinary Board members and may challenge for cause any member of the Disciplinary Board by addressing the challenge to the Disciplinary Board Chairperson, who shall determine whether the cause for disqualification has been shown.

The scope of the duties of the Disciplinary Board is to weigh the evidence presented in relation to the alleged violation and, based on the evidence, submit a recommendation to the Disciplinary Officer regarding the student's responsibility for violations of the Code of Conduct.

Formal Hearing Process:
- Absence of the Student: The hearing shall proceed in the absence of the student.
- Chairperson: Prior to the hearing, the Board shall select a Chairperson. The chairperson shall preside over the hearing.
- Behavior: Disruptive behavior will not be tolerated and will result in exclusion of individuals.
- Hearing Process: A document describing the process for conducting disciplinary hearings will be distributed to all members of the Disciplinary Board. The Judicial Officer will assure the process is followed.
- Charges: The Chairperson shall distribute copies of the charges and incident reports to the members of the Board, read the charges aloud, and ask the student if the charges have been received.
- Representation: The disciplinary hearing is an internal due process hearing conducted by the colleges of the San Mateo County Community College District. Parties are not allowed to be represented by legal counsel at any time during the hearing process.
- Participants: A student may be accompanied by a person of his or her choice who is an observer only. Each person present will be asked to identify themselves by name.
- Witnesses: Each side shall be entitled to call witnesses. All witnesses shall be excluded from the hearing process except when testifying.
- The Disciplinary Board may accommodate concerns for the personal safety, well-being, and/or fears of confrontation of the accused student and/or witnesses during the hearing if direct confrontation of witnesses creates an unreasonable risk of psychological or physical harm. Accommodations of such concerns may be addressed by providing separate facilities, providing participation by telephone, videophone, videoconferencing, videotape, audio tape, written statement, or other means, as determined in the judgment of the Disciplinary Officer. Any testimony of a witness that is not subject to the direct examination of an accused student shall only be admitted if the witness signs under penalty of perjury that the testimony is true and accurate.
- Plea: The student shall admit or deny responsibility for each charge. If the student admits each charge and wishes to present no evidence of mitigating circumstances or other defense, the Board shall retire to make its decision. If the student denies any or all of the charges, or wishes to present evidence of mitigating circumstances, the hearing shall proceed.

- Recording: The hearing may be recorded by the college and shall be the only recording made. The recording shall remain the property of the college. If recorded, no witness who refuses to be recorded may be permitted to give testimony. Committee deliberations shall not be recorded.
- Information: Formal rules of evidence shall not apply. All relevant information is admissible, including but not limited to testimony of witnesses, physical objects, police or security officer reports, photographs, and copies of documents. Any and all information will be entered for the record.
- Disciplinary Board Deliberation: The Disciplinary Board shall retire to deliberate in closed session with only the members of the Board and the Judicial Officer present. The Disciplinary Board shall reach its decision based only upon the evidence presented and shall not consider matters outside of the record. The Board shall recommend disciplinary sanctions to the Disciplinary Officer based upon its findings.

Step 3. Disciplinary Action(s) Recommended
If a student is found responsible for violating the Student Code of Conduct, either through the Administrative Conference or Disciplinary Hearing process, one or more of the following types of disciplinary actions may be recommended.

- Warning: An oral statement to the student that he/she is violating the Student Code of Conduct; that continuation or repetition of the conduct may be cause for further disciplinary action.
- Reprimand: A written notice of violation of the Student Code of Conduct.
- Disciplinary Probation: Formal written notice by the Disciplinary Officer of violation of the Student Code of conduct which includes exclusion from participation in specified activities or locations for a period not to exceed one (1) calendar year. Further violation of the Student Code of Conduct will result in more severe sanctions.
- Restitution: Formal action by the Disciplinary Officer to require the reimbursement for damage to or misappropriation of property. This may take the form of appropriate service or other compensation.
- Removal from classes/program/activity: (Note: This disciplinary action may occur at any time.) Exclusion of a student by an instructor or an administrator from a class and/or facility for the day of the offense and/or the next class meeting or day. An instructor removing a student from class shall make written report or meet with the appropriate Division Dean and/or Disciplinary Officer to discuss the cause for the removal. Any college instructor, for good cause, may remove a student from the classroom for the day of the incident and the next regular class meeting. For removal from class, the following process should be followed:
    1. Before ordering the removal of any student from class, the instructor shall first give or make reasonable efforts to give the student an oral or written notice of the reasons for the proposed removal.
    2. Immediately following the removal from class, the instructor shall document the removal and notify the Division Dean and/or Disciplinary Officer of the action.
    3. If the student is a minor, the parents or legal guardian shall, within 48 hours, be notified in writing by the Disciplinary Officer.
- Suspension: Exclusion of the student from all colleges, programs, and activities in the District for a definite period of time. An administrative hold shall be placed on the student's electronic record, but shall not be reflected on the academic transcript.
- Expulsion: Exclusion of a student by the Board of Trustees from all colleges, programs and activities in the District for an indefinite time period, including all rights and privileges. If an expulsion is recommended, the process in section II, Expulsion Disciplinary Process, should be followed.

Any level of sanction may also include a behavioral contract, community service, and/or any other directives to make amends and/or reduce the likelihood of repeating prohibited behavior.

Step 4. Written Decision
1. Within five (5) days following receipt of the Disciplinary Board's recommendation, the Disciplinary Officer shall make a written decision.

2. The Disciplinary Officer may adopt the recommendations made or make changes.
3. The Disciplinary Officer should then promptly send a copy of the decision to the student by certified mail. A copy will also be sent to the College President. If the student is a minor, the report shall be sent to the parent or guardian. If the recommended disciplinary action is expulsion, the recommendation for this action will be made to the Board of Trustees. Expulsion proceedings will be completed upon action by the Board of Trustees.
4. A student may appeal the decision using the process outlined in Step 5.
5. The College President shall notify the District Chancellor of any decision to suspend a student.
6. Disciplinary Records: The Disciplinary Officer shall maintain all records of a disciplinary hearing. Disciplinary files shall be retained for at least five (5) years from the time of a final determination.

Step 5. Appeal to the College President

1. A student may appeal to the College President within two (2) days of the delivery of the decision to the student. Because suspended students are not allowed on District property, such appeals shall be submitted in writing by email or letter to the College President within two days after receipt of the written decision.
2. The student may request the College President to review findings or a sanction recommended as a result of the Student Disciplinary Hearing only if it addresses either 1) due process or 2) new information.
    - Due Process: Specific instances or conduct that the accused student claims resulted in a Student Disciplinary Hearing that was not conducted fairly in light of the charges and information presented, and that denied the student a reasonable opportunity to prepare and to present a response to the allegations.
    - New Information: If there is new information sufficient to alter a factual finding or recommendation not brought out in the original hearing, because such information was not known to the student at the time of the original Student Disciplinary Hearing. Information shall not be considered “new information” if the student could have learned of the information by avenues reasonably available to him/her.
3. The decision on appeal shall be reached within five (5) days after receipt of the appeal documents. Copies of the College President's appeal decision shall be sent to the student and the Chairperson of the Disciplinary Board.

Step 6. Appeal to the Chancellor

1. The student may appeal, in writing, to the Chancellor within five (5) calendar days after receipt of the decision of the President of the College. The Chancellor, or his/ her designee, shall provide the student with a hearing, if requested, and shall review the appeal. A written notice of the decision of the Chancellor shall be provided to the student within ten (10) calendar days of the review of the student’s written appeal. The student shall be advised in writing of his/her further rights of appeal.
2. The student may request the Chancellor to review findings or a sanction recommended as a result of the Student Disciplinary Hearing only if it addresses either 1) due process or 2) new information.
    - Due Process: Specific instances or conduct that the accused student claims resulted in a Student Disciplinary Hearing that was not conducted fairly in light of the charges and information presented, and that denied the student a reasonable opportunity to prepare and to present a response to the allegations.
    - New Information: If there is new information sufficient to alter a factual finding or recommendation not brought out in the original hearing, because such information was not known to the student at the time of the original Student Disciplinary Hearing. Information shall not be considered “new information” if the student could have learned of the information by avenues reasonably available to him/her.
3. The decision on appeal shall be reached within five (5) days after receipt of the appeal documents. Copies of the Chancellor's appeal decision shall be sent to the student and the Chairperson of the Disciplinary Board.

Step 7. Appeal to the Board of Trustees
The student may appeal, in writing, to the Board of Trustees within five days after receipt of the decision of the Chancellor. The Board of Trustees shall provide the student with a hearing, if requested, and shall review the appeal. A written notice of the decision of the Board of Trustees shall be mailed to the student and to appropriate staff members, within twenty (20) calendar days following the review. The decision of the Board of Trustees is final.

II. Expulsion Disciplinary Process
Students who have been accused of violating the Code of Conduct go through the Steps 1-4 listed above. If, in Step 3, the recommendation is for Expulsion, the following describes the additional process for that sanction.

Expulsion of a student is the indefinite termination of student status and all attending rights and privileges. Expulsion of a student is accomplished by action of the Board of Trustees on recommendation of the College President and the Chancellor. An expelled student shall not be allowed to register in any subsequent semester without the approval of the College President. The process is as follows:

1. The College President shall forward to the Chancellor a letter of recommendation for expulsion which includes a brief statement of charges and a confidential statement of background and evidence relating to the charge(s).
2. The Chancellor shall review the recommendation for expulsion with the Office of County Counsel.
3. The Chancellor, as Secretary for the Board of Trustees, shall forward a letter to the student by certified mail to the address last on file with the District, at least three days prior to the meeting, advising him/her of the charges and the intention of the Board of Trustees to hold a closed session to consider his/her expulsion. The letter shall include the date, time and place of the Board's meeting. Unless a student requests a public hearing in writing at least 48 hours prior to the scheduled hearing, the hearing shall be conducted in closed session.
4. The student is entitled to be present during presentation of the case and may be accompanied by a representative. If the student chooses to be represented by an attorney, the student must so notify the Chancellor no later than five working days prior to the hearing. The student has the right to examine any materials upon which charges against him/her are based, and shall be given the opportunity to present his/her evidence refuting the charges to the Board of Trustees. The student or his/her representative may cross-examine any witness. The district bears the burden of proof.
5. The report of final action taken by the Board of Trustees in public session shall be made a part of the public record and forwarded to the student. Other documents and materials shall be regarded as confidential and will be made public only if the student requests a public hearing.

III. Definitions:
Party – The student or any persons claimed to have been responsible for the student's alleged grievance, together with their representatives. "Party" shall not include the Grievance Hearing Committee or the College Grievance Officer.
Student – A currently enrolled student, a person who has filed an application for admission to the college, or a former student. A grievance by an applicant shall be limited to a complaint regarding denial of admission. Former students shall be limited to grievances relating to course grades to the extent permitted by Education Code Section 76224(a).
Advisor - is a trained individual assigned to support a student in a conduct case. The purpose of an advisor allows students to have a support person or advisor of their choosing present during any stage of a disciplinary process, including meetings, interviews, and hearings. The advisor's primary role is to provide guidance, but they cannot speak on the student's behalf.
Respondent – Any person claimed by a grievant to be responsible for the alleged grievance.
Judicial Officer – Member of the Student Disciplinary Board responsible for ensuring that the Formal Hearing process is followed according to established procedures.
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.