

# APPENDIX VII

## Student Discipline Procedures

Reference: AP 5520 Student Discipline Procedure (<http://go.boarddocs.com/ca/vcccd/Board.nsf/goto?open&id=CLW6RY16428D>); AP 5500 Standards of Conduct (<http://go.boarddocs.com/ca/vcccd/Board.nsf/goto?open&id=BP7TW2774079>); Education Code Section 66300 ([https://leginfo.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=66300&lawCode=EDC](https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=66300&lawCode=EDC)), 66301 ([https://leginfo.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=66301&lawCode=EDC](https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=66301&lawCode=EDC)), 72122 ([https://leginfo.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=72122&lawCode=EDC](https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=72122&lawCode=EDC)), 76030 ([https://leginfo.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=76030&lawCode=EDC](https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=76030&lawCode=EDC)), 76120 ([https://leginfo.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=76120&lawCode=EDC](https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=76120&lawCode=EDC)), 76224 (a) ([https://leginfo.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=76224&lawCode=EDC](https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=76224&lawCode=EDC))

A student enrolling in Moorpark College, Oxnard College, or Ventura College assumes an obligation to behave compatible with the college's educational institution function. The purpose of this procedure is to provide a prompt and equitable means to address violations of the Standards of Student Code of 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 the purpose of retaliation. It is not intended to substitute for criminal or civil proceedings that may be initiated by other agencies.

This Administrative Procedure is 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, and by Education Code Section 76120 ([https://leginfo.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=76120.&lawCode=EDC](https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=76120.&lawCode=EDC)), 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 ([http://catalog.vcccd.edu/moorpark/appendices/appendix-vii/AP\\_3433\\_Prohibiiton\\_of\\_Sexaul\\_Harassment\\_under\\_Title\\_IX\\_and\\_SB\\_493.pdf](http://catalog.vcccd.edu/moorpark/appendices/appendix-vii/AP_3433_Prohibiiton_of_Sexaul_Harassment_under_Title_IX_and_SB_493.pdf)) 3434 Responding to Harassment Based on Sex under Title IX and SB 493 ([http://catalog.vcccd.edu/moorpark/appendices/appendix-vii/AP\\_3433\\_Prohibiiton\\_of\\_Sexaul\\_Harassment\\_under\\_Title\\_IX\\_and\\_SB\\_493.pdf](http://catalog.vcccd.edu/moorpark/appendices/appendix-vii/AP_3433_Prohibiiton_of_Sexaul_Harassment_under_Title_IX_and_SB_493.pdf)) (under review), must be used.

### Definitions:

**District** - The Ventura County Community College District

**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 Code of 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 another academic employee who has responsibility for the student's educational program.

**Short-term Suspension** - Exclusion of the student by the College President or designee for compelling 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 College President or designee for compelling 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 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 Code of Conduct. Written reprimands may become part of a student's permanent record at the college. A record of a verbal reprimand being given may become part of a student's record at the college for up to one year.

**Withdrawal of Consent to Remain on Campus** - Withdrawal of consent by the CSSO (Chief Student Services Officer) for any person to remain on campus in accordance with California Penal Code Section 626.4 where the CSSO has reasonable cause to believe that such person has willfully disrupted the orderly operation of the campus.

**Day** - Days during which the district is in session and regular classes are held, excluding Saturdays and Sundays.

### **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 CSSO will provide the student with written notice of the conduct warranting the discipline. The written notice will include the following:
  - the specific section of the Student Code of Conduct that the student is accused of violating;
  - a short statement of the facts supporting the accusation.
  - the student's right to meet with the CSSO or designee to discuss the accusation or respond in writing.
  - the nature of the discipline that is being considered.

**Time limits** - The notice must be provided to the student within 14 days of the date on which the conduct took place; in the case of continuous, repeated, or ongoing conduct, the notice must be provided within 14 days 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 CSSO, the meeting must occur no sooner than 14 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 10 days after the meeting described above, the College President or designee shall, pursuant to a recommendation from the CSSO, 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 College President or designee's decision shall be provided to the student. The notice will include the suspension length or the lesser disciplinary action. The

College President or designee's decision on a short-term suspension shall be final.

**Long-term Suspension** - Within 10 days after the meeting described above, the College President or designee shall, pursuant to a recommendation from the CSSO or designee, decide whether to impose a long-term suspension. Written notice of the College President or designee's decision shall be provided to the student. The notice will include the student's right to request a formal hearing before a long-term suspension is imposed, and a copy of AP 5520 Student Discipline Procedures describing the procedures for the hearing.

**Expulsion** - Within 7 days after the meeting described above, the College President or designee shall, pursuant to a recommendation from the CSSO or designee, decide whether to recommend expulsion to the Board of Trustees. Written notice of the College President or designee'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 the AP 5520 Student Discipline Procedures describing the procedures for a hearing.

**Hearing Procedures** - Request for Hearing. Within 5 days after receipt of the College President or designee'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 College President or designee.

**Schedule of Hearing** - The formal hearing shall be held within 20 days after a formal request for hearing is received.

**Hearing Panel** - The hearing panel for any disciplinary action shall be composed of one administrator, one faculty member, and one student.

The College President or designee, the president of Academic Senate, and the Associated Student president shall at the beginning of the academic year, and no later than October 1st, establish a list of at least five persons who will serve on student disciplinary panels. The College President, or designee, 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.

Upon notification of the Hearing Panel's composition, the student and the District shall each be allowed one peremptory challenge. The College President shall substitute the challenged member or members and replace them with another member of the panel pool to achieve the appropriate Hearing Panel composition. In the event the pool names are exhausted in any one category, further designees shall be submitted by the College President or designee (for administrators), the President of the Academic Senate (for faculty), or the Associated Student President (for students). The chairperson may, by giving written notice to both parties, reschedule the hearing as necessary pending the submission of alternate designees.

A quorum shall consist of all three members of the committee.

**Hearing Panel Chair** - The College President, or designee, shall appoint one member of the panel 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 CSSO or designee.

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.

After consultations with the parties, in the interests of justice, a time limit on the amount of time provided for each party to present its case, or any rebuttal, may be set by the hearing panel. Formal rules of evidence shall not apply. All members of the campus community shall be bound by the student code of conduct or code of professional ethics to provide only true testimony. Witnesses who are not members of the campus community will testify under oath subject to penalty of perjury. Any relevant evidence may be admitted at the discretion of the Hearing Panel Chair, in consultation with the Hearing Panel. Hearsay evidence will be admissible, but will be insufficient, alone, to establish a charge against the student. The Hearing Panel Chair, in consultation with the Hearing Panel, shall be responsible for determining the relevancy of presented evidence and testimony, the number of witnesses permitted to testify, and the time allocated for testimony and questioning. The Hearing Panel Chair, in consultation with the Hearing Panel, shall further be responsible for instructing and questioning witnesses on behalf of the Hearing Panel, and for dismissing any persons who are disruptive or who fail to follow instructions. If either party refuses to adhere to the instructions of the Hearing Panel Chair, the right to the hearing will be deemed waived. The Hearing Panel Chair shall have the final decision on all procedural questions concerning the hearing.

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, except that the student shall not be represented by an attorney unless, in the judgment of the hearing panel, complex legal issues are involved. If the student wishes to be represented by an attorney, a request must be presented not less than five days prior to the date of the hearing. If the student is represented by an attorney, the college representative may request legal assistance. The hearing panel may also 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 them be open to the public. Any such requests must be made at least 5 working days before the hearing date.

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 either by tape recording or stenographic recording. The official recording shall be the only recording

made. Any witness who refuses to be recorded will not 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. Recordings 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 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 will not be considered to be unavailable.

Within 5 working days following the close of the hearing, the hearing panel shall prepare and send to the College President or designee a written decision. The decision shall include specific factual findings regarding the accusation and shall include specific conclusions regarding whether any specific section(s) of the Standards of Student Code of 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 hearing record, not on matters outside 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.

#### **College President or Designee Decision**

Long-term suspension - Within 15 days following receipt of the hearing panel's recommended decision, the College President or designee shall render a final written decision. The College President or designee may accept, modify or reject the findings, decisions, and recommendations of the hearing panel. If the College President or designee modifies or rejects the hearing panel's decision, the College President or designee 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 College President or designee shall be final.

Expulsion - Within 15 days following receipt of the hearing panel's recommended decision, the College President or designee shall render a written recommended decision to the Board of Trustees. The College President or designee may accept, modify or reject the findings, decisions, and recommendations of the hearing panel. If the College President or designee 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 College President or designee's decision shall be forwarded to the Board of Trustees.

#### **Board of Trustees Decision**

The Board of Trustees shall consider any recommendation from the College President or designee for expulsion at the next regularly scheduled meeting of the Board 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 ([https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=72122.&lawCode=EDC](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=72122.&lawCode=EDC)).

The student shall be notified in writing, by registered or certified mail to the address last on file with the District 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 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 College President or designee or the hearing panel. If the Board modifies or rejects the findings of the College President or designee, they shall review the hearing record and prepare a new written decision containing their 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 College President or designee 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 College President or designee, CSSO and the Dean of Conduct. The Dean of Conduct shall arrange for a conference between the student and the instructor regarding the removal. If the instructor or the student requests, the Dean of Conduct shall attend the conference. The student shall not return to the class during the removal period without the instructor's concurrence. Nothing herein will prevent the Dean of Conduct 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 CSSO or designee 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 CSSO or designee, a written report must be promptly made to each college President or designee.

The person from whom consent has been withdrawn may submit a written request for a hearing on the withdrawal within 14 days. The request shall be granted not later than seven days from the date of receipt. The hearing will be conducted according to the provisions of this procedure relating to interim suspension.

In no case shall consent be withdrawn for longer than 14 days from the date upon which consent was initially withdrawn.

Any person whose consent to remain on campus has been withdrawn and 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 Limit:** Any times specified in these procedures may be shortened or lengthened if there is mutual concurrence, in writing, 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.

#### **Student Code of Conduct**

These standards are to ensure a safe, respectful, and productive learning environment for VCCCD students, staff, faculty, and administrators. For the colleges and the district to fulfill their mission of student learning achievement, all employees must feel secure in their work setting.

Definitions: The following conduct shall constitute good cause for discipline, including the removal, suspension, or expulsion of a student.

The procedures shall be made widely available to students through the college catalog and other means. Students who violate any of the following Standards of Student Code of Conduct while at the district office, on the college campus, or during off-campus college-sponsored activities are subject to the procedures outlined in Administrative Procedures 5520: Student Discipline Procedures:

1. Causing, attempting to cause, or threatening to cause physical injury to another person;
2. Possession, sale, or otherwise furnishing a weapon, including but not limited to, any actual facsimile of a firearm, knife, explosive or other dangerous object, or any item used to threaten bodily harm without written permission from a District employee, with concurrence of the College President or designee.
3. Unlawful possession, use, sale, offer to sell, or furnishing or being under the influence of any controlled substance listed in the California Health and Safety Code Sections 11053 et seq., an alcoholic beverage, or intoxicant of any kind; or unlawful possession of, or offering, arranging or negotiating the sale of any drug paraphernalia, as defined in California Health and Safety Code Section 11014.5. (Use or possession of medical marijuana is not allowed on any college property.)
4. Committing or attempting to commit robbery or extortion.
5. Causing or attempting to cause damage to District property or to private property on campus.
6. Stealing or attempting to steal District property or private property on campus, or knowingly receiving stolen District property or private property on campus.
7. Willful or persistent smoking (including e-cigarettes or use of similar mechanisms) in any area where smoking has been prohibited by law or by regulation of the college or the district.
8. Sexual Assault or sexual exploitation regardless of the victim's affiliation with the district.

9. Committing Sexual Harassment as defined by law or District policies and procedures. Engaging in harassing or discriminatory behavior based on disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or any other status protected by law.

10. Engaging in harassing or discriminatory behavior based on disability, gender, gender identity, gender expression, nationality, race, or ethnicity, religion, sexual orientation, or any other status protected by law. The District's response to instances of sexual harassment will follow the processes identified in Board Policy 3430 Prohibition of Harassment (<https://go.boarddocs.com/ca/vcccd/Board.nsf/goto/?open&id=BW5VWP82C304>) and Administrative Procedure 3430 Prohibition of Harassment (<https://go.boarddocs.com/ca/vcccd/Board.nsf/goto/?open&id=BSSSR370E65E>).

11. Engaging in intimidating conduct or bullying against another student through words or actions, including direct physical contact, verbal assaults, such as teasing or name-calling, social isolation or manipulation, and cyber-bullying.

12. Willful misconduct that results in injury or death to a student or to District personnel of which results in cutting, defacing, or other injury to any real or personal property owned by the District or on campus.

13. Disruptive behavior, willful disobedience, profanity, vulgarity, lewd, or other offensive conduct, on campus or during campus sponsored activities or the open and persistent defiance of the authority of, or persistent abuse of, college personnel.

14. Cheating, plagiarism (including plagiarism in a student publication), or engaging in other academic dishonesty as defined by the CSSO.

15. Dishonesty, forgery, alteration or misuse of District/college documents, records, or identification, or knowingly furnishing false information to the District/college or any related off-site agency or organization.

16. Unauthorized entry to or use of District/college facilities.

17. Lewd, indecent, or obscene conduction or expression on District-owned or controlled property, or at a District-sponsored or supervised functions.

18. Engaging in expression which is obscene, libelous, or slanderous, or which so incites students as to create a clear and present danger of the commission of unlawful acts on District/college premises, or the violation of lawful District administrative procedures, or the substantial disruption of the orderly operation of the district.

19. Persistent, serious misconduct where other means of correction have failed to bring about proper conduct.

20. Unauthorized preparation, giving, selling, transfer, distribution, or publication of any recording or photography of an academic presentation in a classroom or equivalent site of instruction, including but not limited to written class materials, except as permitted by District policies or administrative procedures.

21. Violation of professional ethical code of conduct in classroom or clinical settings as identified by state licensing agencies (Board Registered Nursing, Emergency Medical Services Authority, Title 22, Peace Officers Standards and Training, California Department of Public Health).

Students who engage in any of the above are subject to the procedures outlined in Administrative Procedure 5520 Student Discipline Procedure (<http://go.boarddocs.com/ca/vcccd/Board.nsf/goto/?open&id=CLW6RY16428D>).