
Kern Community College District
Administrative Procedure
Chapter 5 – Student Services

AP 5520 Student Discipline Procedures

References:

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

Note: This procedure is legally required

This procedure provides a prompt and equitable means to address violations of the Standards of Student Conduct, which guarantees due process rights 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 substitute for criminal or civil proceedings that may be initiated by other agencies.

These procedures are not intended to infringe upon 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.

Procedural fairness and due process are basic to the proper enforcement of all District regulations. Accordingly, disciplinary action shall not be imposed against students or student organizations until they have been notified in writing of the charges against them, as well as their rights under the Student Code of Conduct, and have given the opportunity to be heard. A hold status may be placed on student records until the specific complaints have been resolved. Interim suspensions may be warranted to protect the health and safety of the District community.

The Chancellor delegates authority for the implementation of this administrative procedure to the College President. The College President, or designee, shall be responsible for maintaining complete records pertaining to all activities relating to the implementation of the Student Code of Conduct. Those records shall include a summary of the business of the Conduct Review Committee and a report of the disposition of each disciplinary case handled by any person or group authorized to impose disciplinary sanctions or other recommendations in the name of the District.

The Student Code of Conduct details the list of offenses constituting “good cause” for discipline that could result in the removal, suspension, expulsion, or other sanctions of a student, except for conduct that constitutes sexual harassment under Title IX, which shall be addressed under AP 3433 Prohibition of Sexual Harassment Under Title IX, and AP 3434 Responding to Harassment Based on Sex under Title IX. Students who violate the Student Code of Conduct are subject to the procedures outlined in AP 5520 Student Discipline Procedures.

A student may also be removed, suspended, expelled, or sanctioned for sexual assault or sexual exploitation regardless of the victim's affiliation with the District and regardless of whether the offense is or is not related to a District activity or attendance, even if the conduct takes place on property not owned or controlled by the District. No student shall be removed, suspended, expelled, or sanctioned for any other conduct unless the conduct for which the student is disciplined is related to District activity or attendance.

A. Definitions and Guidelines Governing These Procedures

The following guidelines govern the procedures described in this Administrative Procedure.

Definitions:

District – The Kern Community College District.

Student – Any person currently enrolled as a student at any college or in any program offered by the District.

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.

Property - (i) any District-owned or controlled property, including off-campus leased facilities; and (ii) other facilities owned or controlled by entities other than the District where District-sponsored activities take place, including, but not limited to, performances, concerts, and sporting events.

Day – Any day during which the District is open and conducting business, and regular classes are held, excluding Saturdays, Sundays, and holidays. Should the final day of a required process fall on a Saturday or Sunday, the following Monday shall be considered the final day. A final day falling on a District holiday shall be considered the first weekday following the holiday.

Standards of Student Conduct - The rules listed in AP 5500 Standards of Student Conduct.

External Adjudicator - A person selected by the College President or designee to be a member of the Student Disciplinary Committee, or to decide a matter involving an alleged violation of the Standards of Student Conduct in lieu of convening the Student Disciplinary Committee

Short-term Suspension – Exclusion of the student by the College President or designee, for good cause from one (1) or more classes for a period of up to ten (10) consecutive days of instruction.

Long-term Suspension – Exclusion of the student by the College President or designee, for good cause from one (1) or more classes for the remainder of the school term, or from all classes and activities of the college for one (1) or more terms.

Expulsion – Exclusion of the student by the Board of Trustees from all colleges in the

District for one (1) or more terms.

Removal from Class – Exclusion of the student by an instructor or educational administrator 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 (1) year.

Withdrawal of Consent to Remain on Campus – Withdrawal of consent by the Vice President of Student Services or designee, for any person to remain on campus in accordance with California Penal Code Section 626.4 where the College President or designee 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 College President or designee 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 Standards of Student Conduct that the student is accused of violating;
 - A short statement of the facts supporting the accusation;
 - The right of the student to meet with the Vice President of Student Services or designee to discuss the accusation, or to respond in writing; and
 - The nature of the discipline that is being considered.
- **Time limits** – The notice must be provided to the student within ten (10) days of the date on which the conduct was learned. In the case of continuous, repeated, or ongoing conduct, the notice must be provided within five (5) 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 Vice President of Student Services or designee, the meeting must occur no sooner than five (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 five (5) days after the meeting described above, the Vice President of Student Services or designee shall decide whether to: impose a short-term suspension; impose a lesser disciplinary action; or end the matter. Written notice of the Vice President of Student Services' 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 Vice President of Student Services' decision on a short-term suspension shall be final.

- **Long-term Suspension** – Within five (5) days after the meeting described above, the Chancellor shall, pursuant to a recommendation from the College President or designee, decide whether to impose a long-term suspension. Written notice of the Chancellor 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 College President shall, pursuant to a recommendation from the Vice President of Student Services or designee, decide whether to recommend expulsion to the Board of Trustees. Written notice of the Chancellor'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 five (5) days after receipt of the College President's 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 five (5) 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**, the president of the Academic Senate, and the student body association president shall each, at the beginning of the academic year, establish a list of at least four (4) persons who will serve on Student Disciplinary Hearing Panels. The College President shall appoint the members of the Hearing Panel from the names on these lists. However, an 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 not serve on a Hearing Panel.
- **Hearing Panel Chair** – The members of the Student Disciplinary Hearing Panels will 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 Hearing Panel Chair.
- 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/ her/their evidence. The burden shall be on the college representative to prove by a preponderance of the evidence that the allegations are true.
- The student may represent himself/herself/themselves and may also have the right to be represented by a person of his/her/their choice. The student shall not be represented by an attorney or anyone licensed to practice law 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 (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. The Hearing Panel may also request legal assistance. Any legal advisor provided to the Panel may serve in an advisory capacity to provide legal counsel but shall not be a member of the Panel nor cast a vote.
- Hearings shall be closed and confidential unless the student requests that the hearing 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 either by recording or stenographic recording. The official recording shall be the only recording made. Witnesses who refuse to be recorded shall not be permitted to give testimony. 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 recorded shall be considered 'unavailable.'
- Within five (5) days following the close of the hearing, the Hearing Panel shall prepare and submit its written finding(s) and recommendation(s) to the College President. 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 was 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.

College President Decision:

Long-term suspension – Within five (5) 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 five (5) days following receipt of the hearing panel's recommended decision, the College President or designee shall render a written recommended decision to the Chancellor and 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 Chancellor and 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.)

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 (3) 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 College President or designee, 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 College President or designee may order the 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. The College President or designee shall arrange for a conference between the student and the instructor regarding the removal. If the instructor or the student requests, the College President or designee shall attend the conference. The student shall not be returned to the class during the period of the removal without the concurrence of the instructor. Nothing herein will prevent the College President or designee 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 College President 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 College President or designee a written report must be promptly made to the College President or designee.

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 suspension(s).

In no case shall consent be withdrawn for longer than 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 by mutual consent of 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.