

HARTNELL COMMUNITY COLLEGE DISTRICT

AP 5520 Student Discipline

References: Education Code Sections 66017, 66300, 66301, 72122, 76030 et seq., 76220, 76233, and 76234, Penal Code Sections 626.2 and 626.4

The purpose of this procedure is to provide a prompt and equitable means to address violations of the Standards of Student Conduct, which guarantees to the student or students involved the due process rights guaranteed them by state and federal constitutional protections. This procedure will be used in a fair and equitable manner, and not for purposes of retaliation. It is not intended to 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, and by Education Code Section 76120, and will not be used to punish expression that is protected.

I. DEFINITIONS

District – The **Hartnell 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.

Short-term Suspension – Exclusion of the student by the **Director of Student Affairs or Vice President for Student Affairs** for good cause from one or more classes for a period of up to ten consecutive days of instruction.

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

Expulsion – Exclusion of the student by the Board of Trustees from all colleges in the District for one or more terms.

Removal from class – Exclusion of the student by an instructor for the day of the removal and the next class meeting.

Written or verbal reprimand – An admonition to the student to cease and desist from conduct determined to violate the Standards of Student Conduct. Written reprimands may become part of a student's permanent record at the college. A record of the fact that a verbal reprimand has been given may become part of a student's record at the college for a period of up to one year.

Withdrawal of Consent to Remain on Campus – Withdrawal of consent by the **Director of Student Affairs** for any person to remain on campus in accordance with California Penal Code Section 626.4 where the **Director of Student Affairs** 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.

II. 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 **Director of Student Affairs** 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 **Director of Student Affairs** or designee to discuss the accusation, or to respond in writing.
 - The nature of the discipline that is being considered.
- Time limits – The notice must be provided to the student within **fourteen (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 **ten (10) 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 **Director of Student Affairs**, the meeting must occur no sooner than **three (3) 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 **ten (10) days** after the meeting described above, the **Superintendent/President** shall, pursuant to a recommendation from the **Director of Student Affairs or Vice President for Student Affairs**, decide whether to impose a short-term suspension, whether to impose some lesser disciplinary action, or whether to end the matter. Written notice of the **Superintendent/President's** decision shall be provided to the student. The notice will include the length of time of the suspension, or the nature of the lesser disciplinary action. The **Superintendent/President's** decision on a short-term suspension shall be final.

Long-term Suspension – Within **ten (10) days** after the meeting described above, the **Superintendent/President** shall, pursuant to a recommendation from the **Director of Student Affairs or Vice President for Student Affairs**, decide whether to impose a long-term suspension. Written notice of the **Superintendent/President's** decision shall be provided to the student. The notice will include the right of the student to request a formal hearing before a long-term suspension is imposed, and a copy of this administrative procedure describing the procedures for a hearing.

Expulsion – Within *seven (7) days* after the meeting described above, the **Superintendent/President** shall, pursuant to a recommendation from the **Director of Student Affairs or Vice President for Student Affairs**, decide whether to recommend expulsion to the Board of Trustees. Written notice of the **Superintendent/President’s** decision shall be provided to the student. The notice will include the right of the student to request a formal hearing before expulsion is imposed, and a copy of this administrative procedure describing the procedures for a hearing.

III. HEARING PROCEDURES

A. Request for Hearing.

Within *five (5) days* after receipt of the **Superintendent/President’s** decision regarding a long-term suspension or expulsion, the student may request a formal hearing. The request must be made in writing to the **Superintendent/President** or designee.

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

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

The **Superintendent/President**, the president of the Academic Senate, and the AS president shall each, at the beginning of the academic year, establish a list of at least five persons who will serve on student disciplinary hearing panels. The **Superintendent/President** shall appoint the hearing panel from the names on these lists. However, no administrator, faculty member or student who has any personal involvement in the matter to be decided, who is a necessary witness, or who could not otherwise act in a neutral manner shall serve on a hearing panel.

Hearing Panel Chair – The **Superintendent/President** shall appoint 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.

B. 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 **Director of Student Affairs**.

The college representative and the student may call witnesses and introduce oral and written testimony relevant to the issues of the matter.

Formal rules of evidence shall not apply. Any relevant evidence shall be admitted.

Unless the hearing panel determines to proceed otherwise, the college representative and the student shall each be permitted to make an opening statement. Thereafter, the college representative shall make the first presentation, followed by the student. The college representative may present rebuttal evidence after the student completes his or her evidence. The burden shall be on the college representative to prove by the preponderance of the evidence that the facts alleged are true.

The student may represent himself/herself, and may also have the right to be represented by a person of his/her 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 (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 sit with it in an advisory capacity to provide legal counsel but shall not be a member of the panel nor vote with it.***

Hearings shall be closed and confidential unless the student requests that it be open to the public. Any such request must be made no less than ***five (5) days*** prior to the date of the hearing.

In a closed hearing, witnesses shall not be present at the hearing when not testifying, unless all parties and the panel agree to the contrary.

The hearing shall be recorded by the District either by tape recording or stenographic recording, and shall be the only recording made. No witness who refuses to be recorded may be permitted to give testimony. In the event the recording is by tape recording, the hearing panel chair shall, at the beginning of the hearing, ask each person present to identify themselves by name, and thereafter shall ask witnesses to identify themselves by name. Tape recording shall remain in the custody of the District at all times, unless released to a professional transcribing service. The student may request a copy of the tape recording.

All testimony shall be taken under oath; the oath shall be administered by the hearing panel chair. Written statements of witnesses under penalty of perjury shall not be used unless the witness is unavailable to testify. A witness who refuses to be tape recorded is not unavailable.

Within ***ten (10) days*** following the close of the hearing, the hearing panel shall prepare and send to the **Superintendent/President** a written decision. The decision shall include specific factual findings regarding the accusation, and shall include specific conclusions regarding whether any specific section of the Standards of Student Conduct were violated. The decision shall also include a specific recommendation regarding the disciplinary action to be imposed, if any. The decision shall be based only on the record of the hearing, and

not on matter outside of that record. The record consists of the original accusation, the written response, if any, of the student, and the oral and written evidence produced at the hearing.

C. Superintendent/President's Decision

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

Expulsion – Within **ten (10) days** following receipt of the hearing panel's recommended decision, the **Superintendent/President** shall render a written recommended decision to the Board of Trustees. The **Superintendent/President** may accept, modify or reject the findings, decisions and recommendations of the hearing panel. If the **Superintendent/President** modifies or rejects the hearing panel's decision, he or she shall review the record of the hearing, and shall prepare a new written decision which contains specific factual findings and conclusions. The **Superintendent/President** decision shall be forwarded to the Board of Trustees.

D. Board of Trustees Decision

The Board of Trustees shall consider any recommendation from the **Superintendent/President** for expulsion at the next regularly scheduled meeting of the Board 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.

The student shall be notified in writing, by registered or certified mail 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 **forty-eight (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. (Ed. Code § 72122)

The Board may accept, modify or reject the findings, decisions and recommendations of the **Superintendent/President** and/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. (Ed. Code § 72122)

IV. OTHER AVAILABLE SANCTIONS

A. Immediate Interim Suspension

The **Superintendent/President** may order immediate suspension of a student where he/she 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**. (Ed. Code § 66017)

B. Removal from Class

Any instructor may order a student removed from his/her class for the day of the removal and the next class meeting. The instructor shall immediately report the removal to the **Dean, Campus Safety** and the **Director of Student Affairs**. The **Director of Student Affairs** shall arrange for a conference between the student and the instructor regarding the removal. If the instructor or the student requests, the **Director of Student Affairs** 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 **Director of Student Affairs** from recommending further disciplinary procedures in accordance with these procedures based on the facts, which led to the removal. (Ed. Code § 76032)

C. Withdrawal of Consent to Remain on Campus

The **Director of Student Affairs** 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 must promptly leave or be escorted off campus by Campus Security. If consent is withdrawn by the **Director of Student Affairs** a written report must be promptly made to the **Superintendent/President**.

The person from whom consent has been withdrawn may submit a written request for a hearing on the withdrawal within the period of the withdrawal. The request shall be granted not later than **seven (7) days** from the date of receipt of the request. The hearing will be conducted in accordance with the provisions of this procedure relating to interim suspensions.

In no case shall consent be withdrawn for longer than **five (5) 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 § 626.4).

D. Official Reprimands

The **Superintendent/President, Director of Student Affairs**, or an instructor may issue a written or verbal reprimand to a student upon a determination that the student's conduct has violated the Standards of Student Conduct. Any written reprimand issued by an instructor shall be referred to the **Director of Student Affairs** to determine whether the written reprimand may become part of a student's permanent record. A record of the fact that a verbal reprimand has been given may become part of a student's record for a period of up to one year. (Ed. Code § 76031.)

E. Social Probation

A student may be excluded from participation in specified or all extra-curricular District activities. Extra-curricular District activities may include any college related activity for which the student receives no academic credit. Any exclusion must be made in writing, and such writing shall set forth the reason or reasons for the imposition of the disciplinary action, the activities to which the exclusion applies, and the length of time for which it is to be imposed. A copy of the written notice of social probation shall be served to the student and shall be placed in the student's record. (Ed. Code § 76031.)

F. Disciplinary Probation

A student may be required to adhere to specific written terms and conditions defined by the **Director of Student Affairs and/or the Superintendent/President**. The terms of probation shall bear a reasonable relationship to the violation committed by the student. The sanction may include, but is not limited to, ineligibility to participate in District or student-sponsored activities, including public performances, and may be imposed upon an individual student or group(s) of students. Disciplinary probation may be imposed for a period not to exceed one year. The terms of the probation shall be issued in writing, including any sanctions, the reasons for the imposition of the disciplinary action, and the length of time for which it is imposed.

Should the student violate one or more of the terms of the probation during the probationary period, the **Director of Student Affairs** may impose a more stringent disciplinary action, such as suspension. The student will be notified of any violations and more stringent discipline in writing. The **Director of Student Affairs** shall immediately notify the **Superintendent/President**. (Ed. Code § 76031.)

V. TIME LIMITS

Any times specified in these procedures may be shortened or lengthened if there is mutual concurrence by all parties.

VI. ACADEMIC DISHONESTY

In addition to disciplinary action in accordance with the procedures set forth above, academic sanctions may be imposed by an instructor in cases of academic dishonesty. Academic sanctions may include, but are not limited to, a written warning, a failing grade on a test, paper, or examination, or a lowered course grade.

Incidents of academic dishonesty and sanctions should be promptly reported in writing to the **Director of Student Affairs** with a copy to the student. The **Director of Student Affairs** will determine whether to initiate disciplinary action. (Ed. Code § 76037.)

VII. STUDENT RECORD OF DISCIPLINE

Record of any disciplinary action taken by the District against a student shall be included in that student's record. The student shall have the right to submit a written statement of his/her objections to the decision. This statement shall be included in the student's record. (Ed. Code § 76233.)

If the record concerns disciplinary action in connection with alleged sexual assault or physical abuse, or any conduct that threatens the health and safety of the alleged victim, the alleged victim of that sexual assault or physical abuse shall be informed within three (3) days of the result of any disciplinary action by the community college and the results of any appeal. The victim shall keep the results of that disciplinary action confidential. (Ed. Code § 76234.) (See also AP 3515-Reporting of Crimes, Section I. Reporting of a Crime, for permissible disclosure of disciplinary proceedings.)

See Board Policy 5500 and Administrative Procedure 5500

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