

# CITRUS COMMUNITY COLLEGE DISTRICT STUDENT SERVICES

## **AP 5520                    STUDENT DISCIPLINE PROCEDURES**

**References:**            Education Code Sections 66300, 72122, and 76030

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.

Campus student disciplinary action shall proceed regardless of other possible or pending administrative, civil or criminal proceedings that arise out of the same or other events. If a student is convicted of a criminal offense concerning conduct that is also grounds for student discipline, the conviction shall be sufficient to establish that cause for student discipline exists and the College may impose that discipline. The student shall not have access to the hearing procedures stated in this procedure. Instead, the College may immediately impose discipline as stated in Section 10 below, except that expulsions resulting from the criminal conduct must be approved by the Board of Trustees in accordance with Section 11 below.

An acquittal or other non-conviction outcome in a criminal proceeding shall not affect student discipline. Student discipline proceedings may be initiated or continue notwithstanding the failure or refusal of a student to respond, attend, or participate in the hearing process so long as the College complies with the hearing notification requirements set forth herein.

Any violation or violations of law, ordinance, regulation, or rule regulating or pertaining to the parking of vehicles shall not be cause for the removal, suspension or expulsion of a student.

The College recognizes that student discipline purposes and procedures, as well as the rights and obligations of the parties are not analogous to those of criminal and civil legal actions, just as the role of the College differs inherently from that of the police and the courts. The purpose of the College's student discipline process is to promote students' individual and social responsibility while maintaining a campus environment that is free

from intimidation, threats, coercion, or violence. Therefore, student discipline is understood to be an integral part of the educational mission of the College.

### **Definitions**

District	The Citrus Community College District
Student	Any person currently enrolled as a student at the 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
Day	Days during which the District is in session and regular classes are held, excluding Saturdays and Sundays.

### **Penalties**

#### **A. Reprimand**

A reprimand records that a student's conduct in a specific instance does not meet the standards of the College. A reprimand may be oral and/or in writing. A reprimand serves as a warning that continued conduct of the type described in the reprimand may result in additional disciplinary action against the student including, but not limited to, suspension or expulsion. A reprimand shall be considered in matters pertaining to the student's future violations of the college's standards. Records of reprimand, including records of oral reprimands, will be retained by the Student Affairs Administrator for such period of time that the Administrator deems appropriate. Reprimands are not part of the student's permanent disciplinary record.

#### **B. Disciplinary Probation**

Disciplinary probation shall be a trial period during which time the College will impose disciplinary conditions upon the student. At the completion of the trial period, the College shall determine whether the student has satisfied the disciplinary conditions and, based on whether those conditions have been satisfied, return the student to good standing or impose additional disciplinary measures. Disciplinary probation may consist of removal from all college organization offices, denial of privileges of participating in all college or student-sponsored activities including public performances, or both, and may be imposed upon an individual student or groups of students. Disciplinary probation may be imposed for a period not to exceed one year. If a student is found to have committed a subsequent violation of the Standards of Student Conduct while on probationary status, the student's probationary status shall be considered in the determination of the penalty imposed for the subsequent violation. Records of disciplinary probation will be retained by the Student Affairs Administrator.

Records of disciplinary probation will not become part of the student's permanent disciplinary record, unless the student fails to meet the disciplinary conditions imposed during that disciplinary probation.

**C. Removal by Instructor**

An instructor may remove a student from his or her class when the student has interfered with the instructional process. The duration of the removal shall be for the day of the removal and the next class meeting. The instructor shall immediately report the removal to the Department Chair\*/Dean who will then immediately notify the Student Affairs Administrator. Records of removal by the instructor will be retained by the Student Affairs Administrator and, if the student is removed during the period of the student's disciplinary probation, shall be included in the student's permanent disciplinary record. A student who has been removed from class by an instructor may make up missed assignments with the permission of the instructor.

**D. Disciplinary Suspension**

A disciplinary suspension is the involuntary removal of a student for good cause. Disciplinary suspension serves as a penalty against the student for repeated, continued, and/or serious violations of the Standards of Conduct. Disciplinary suspensions shall be initiated by the Student Affairs Administrator. The duration of the disciplinary suspension from one or more classes may be from one day to four (4) semesters. A suspended student may be prohibited from occupying any portion of the campus and be denied participation in any or all college activities. Record of the disciplinary suspension shall be a part of the student's permanent disciplinary record. In every case of disciplinary suspension, the Student Affairs Administrator shall immediately contact the student's instructors and Campus Security. Students placed on disciplinary suspension shall not have the right to make up missed assignments in any classes.

**E. Summary Suspension**

In cases involving alleged violations of the Penal Code or Federal law, and in which there is either an admission of guilt, plea of no contest, or substantial evidence of guilt, the Student Affairs Administrator may summarily suspend a student for a period not to exceed ten (10) school days. The Student Affairs Administrator may summarily suspend a student when an immediate suspension is or may be necessary in order to protect lives or property or to ensure the maintenance of order.

When a summary suspension has been imposed, the suspended student must be given a reasonable opportunity for a hearing. Depending on the nature of the student's conduct, the hearing shall be conducted in accordance with Sections 4, 5, 6, or 7 of this procedure within that ten school day period. The length of the suspension will be determined in consultation with the instructor in cases

---

\* As of June 2009, the college's organizational structure does not include the position of department chairperson. As such, please defer to the dean.

involving classroom conduct, when appropriate. In every case of summary suspension, the Student Affairs Administrator shall immediately notify, in writing, each of the student's instructors, coaches and/or supervisors, Campus Security and other college employees directly affected by the incident that the student has been suspended. Students placed on summary suspension shall not have the right to make up missed assignments in any classes. Nothing in this section shall be interpreted to prohibit the College from expelling a student in accordance with Section 11 below for conduct resulting in a summary suspension.

#### **F. Expulsion**

The Board of Trustees may expel a student for "good cause" as that term is defined in Board Policy 5500, in accordance with Section 11 below, when other means of correction have failed to bring about appropriate conduct, or when the presence of the student causes a continuing danger to the physical safety of the student or others.

In every case of expulsion, the Student Affairs Administrator shall immediately notify in writing each of the student's instructors, coaches and/or supervisors, Campus Security and other college employees directly affected by the incident. Expelled students shall not have the right to make up missed assignments in any classes. A student may be permanently expelled from the College. Re-admittance after an expulsion requires governing board action. Record of the expulsion shall become a part of the student's permanent disciplinary record.

#### **G. Non-students**

Admission or readmission may be denied to any person who, while not enrolled as a student, commits acts which would, were he or she enrolled as a student, be the basis for student discipline. Before the offending individual is denied admission or readmission, he or she may request a hearing before the Student Affairs Administrator during which he or she will be afforded the opportunity to demonstrate why he or she should be admitted or readmitted. Such hearing shall be conducted in accordance with the hearing procedures stated in Section 5. below.

### **Student Discipline Procedures and Due Process**

#### **1. Notice to Appear**

Except in cases involving summary suspension, the College shall provide students charged with misconduct a written notice within five (5) school days of the Student Affairs Administrator's actual receipt of a complaint regarding that student's conduct. The notice must include a statement of the charges against the student and possible penalties. The notice must include a statement explaining the due process procedures. The College may satisfy its duty to notify the student concerning his or her due process procedures by attaching Board

Policy 5500 and this Procedure to the notice. The notice must be received at least 24 hours prior to the scheduled hearing.

Notice may be accomplished by any one of the following means: (1) personal delivery to the student during class by a College employee; (2) personal delivery by a College employee at any other location; or (3) mailing by certified mail, postage paid and addressed to the last known address of the student. A student's refusal to receive or sign a receipt of the notice shall not cause the notice to be defective. A student's failure to provide updated address information to the College shall not cause the notice to be defective so long as the College sends notice to the last known address provided to the College by the student.

Campus faculty or staff who initiated the complaint to the Student Affairs Administrator shall be informed of all hearing dates. Campus faculty or staff who initiated the complaint to the Student Affairs Administrator shall be informed of the resolution of the process following completion of the hearing.

## **2. Participants and Confidentiality**

All student discipline proceedings shall be confidential and shall be closed to everyone other than those involved in the conduct of the hearing, witnesses while testifying, and the charged student(s). In compliance with the Family Education Rights and Privacy Act, persons not party to the proceedings shall be informed of their outcome only on a "need to know" basis.

The College may disclose to an alleged victim of any crime of violence or non-forcible sex offense the final results of the disciplinary proceeding conducted by the College against the alleged perpetrator of that crime, regardless of whether the College concluded a violation was committed.

The College employee alleging the student conduct violation as well as the charged student are expected to attend any and all hearings. Failure to appear by any of these individuals after due notice shall not, however, result in the cancellation or continuance of the hearing.

At the hearing, the student may be accompanied by another person, provided that person is not an attorney nor acting as a spokesperson for the student. However, the Committee may, in its sole discretion, permit the student to be accompanied by an attorney. 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 Committee permits the student to be accompanied by an attorney, the College shall also be permitted to be accompanied by an attorney. In the event the Committee permits the student and the College to be accompanied by attorneys, the role of the attorneys shall be limited to providing advice to their respective clients. In no event shall the attorneys present their respective client's case to the Committee.

Students with special communication needs may request, and the College shall provide, additional assistance in order to ensure the student's access to the hearing process and to ensure the student receives a fair hearing.

In cases involving pending criminal prosecution, the charged student may have an attorney present. The role of the attorney shall be limited to providing advice to the student regarding withholding his or her testimony which might be self-incriminating in future criminal prosecution. If the student is accompanied by an attorney, the College shall also be permitted to be accompanied by an attorney. In the event the student and/or the College are accompanied by attorneys, the role of the attorneys shall be limited to providing advice to their respective clients. In no event shall the attorneys present their respective client's case to the Committee.

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. The 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.

### **3. Legal Procedural Arguments**

Arguments by the student concerning the legal (as distinguished from the factual) applicability or legal validity of any provision of these procedures shall not be considered during the hearing into the charge(s). Such arguments shall be presented to the Superintendent/President as part of an appeal of the Committee's decision pursuant to Section 8. below.

Technical departures from these procedures and errors in their application shall not be grounds to void the College's right to discipline a student unless, in the opinion of the Superintendent/President or designee, the error or departure prevented a fair determination of the issue.

#### **4. Academic Integrity and/or Classroom Conduct – Administrative Hearings**

All issues relating to the following for which the College seeks to reprimand the student, shall be referred to the Department Chair/Dean:

- disruptive behavior, willful disobedience, or the open and persistent defiance of the authority of, or persistent abuse of, District Personnel (BP 5500, Article 11);
- cheating, plagiarism (including plagiarism in a student publication), or engaging in other academic dishonesty (BP 5500, Article 12);
- dishonesty; forgery; alteration or misuse of District documents, records or identification or knowingly furnishing false information to the District (BP 5500, Article 13);
- persistent, serious misconduct where other means of correction have failed to bring about proper conduct (BP 5500, Article 17) ;
- unauthorized preparation, giving, selling, transfer, distribution or publication, for any commercial purpose, of any contemporaneous recording of an academic presentation in a classroom or equivalent site of instruction, including but not limited to handwritten or typewritten class notes, except as permitted by any Board Policy or Administrative Procedure (BP 5500, Article 18);
- persistent violation of classroom standards of conduct as established by the instructor (BP 5500, Article 20);
- any other cause not listed above which is identified as “Good Cause” by the Education Code (BP 5500, Article 21).

The Department Chair/Dean may, but is not required to, conduct an administrative hearing into the matter within five (5) school days of the complaint. In the event the Department Chair/Dean elects to conduct an administrative hearing, the individual(s) bringing the allegation(s) shall present the case. The Department Chair/Dean shall permit the student to present his or her opposition to the allegations included in the complaint. The Department Chair/Dean shall render his or her decision based on the evidence presented. Notwithstanding this hearing procedure, the Department Chair/Dean shall have the right to issue a formal reprimand unilaterally and without a hearing.

If the college seeks to suspend or expel the student, the College may not access the administrative hearing process contained in this section. Instead, the College must initiate the separate, formal hearing process contained in Section 7. below.

#### **5. Violations Not Related to the Instructional Process – Student Affairs Administrator Hearings**

All matters regarding student discipline other than those involving issues of academic integrity and/or classroom conduct addressed in Section 4. above,

shall be heard and decided by the Student Affairs Administrator unless (1) special circumstances as defined in Section 6. below exist, or (2) the Student Affairs Administrator determines expulsion may be in order.

During the hearing with the Student Affairs Administrator, the College shall present the complaint and the student shall have a reasonable opportunity to personally answer all charges. The staff member initiating the charges may also be present if he or she desires. Each party shall be permitted to introduce evidence and/or present witnesses.

Hearings shall not be conducted according to the technical rules of evidence. Any relevant evidence shall be considered if it is the sort of evidence on which responsible persons are accustomed to rely on in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might prevent the admission of such evidence in a civil action. The Student Affairs Administrator shall determine the relevance, probative value, and materiality of evidence offered at the hearing. The Student Affairs Administrator may also determine each witness's competency and length of testimony.

The Student Affairs Administrator may instruct and question the witness(es). The Student Affairs Administrator must make direct inquiries whenever there is any confusion, uncertainty, or lack of clarity as to the witness's statements. The student shall be permitted to cross-examine college witnesses. The college shall be permitted to cross-examine the student's witnesses. Cross-examination should be limited to subjects presented in that witness's direct examination. The Student Affairs Administrator may dismiss any witness who fails or refuses to comply with his or her instructions. All testimony shall be taken under oath; the Student Affairs Administrator shall administer the oath. Written statements of witnesses under penalty of perjury shall not be used unless the Student Affairs Administrator finds that the witness is unavailable to testify.

The Student Affairs Administrator may determine that requiring live testimony of a proposed witness would subject that person to unreasonable risk of psychological or physical harm. After such determination, the Student Affairs Administrator may permit that witness to provide a written statement under penalty of perjury in lieu of testifying at the hearing.

The College bears the burden of proof and must introduce substantial evidence to support the charges against the student.

The Student Affairs Administrator shall review the matter and may issue a reprimand, impose disciplinary probation, or impose disciplinary suspension. Within ten (10) days following the close of the hearing, the Student Affairs Administrator shall prepare and shall transmit, in writing, the decision for disposition of the case to: (1) the Office of the Superintendent/President; (2) the charged student; and (3) the staff member originating the action. The decision

shall include specific factual findings regarding the accusation(s), and shall include specific conclusions regarding whether any specific section of the Standards of Conduct were violated. The student shall have the right to appeal the decision in accordance with Section 8 below.

## **6. Possible Expulsion and Special Circumstances – Committee Hearings**

When the Student Affairs Administrator determines that the charged student may be subject to expulsion or circumstances exist which make the usual administrative hearing procedure inappropriate, he or she may request that the charges be heard by a Student Discipline Committee. The Student Affairs Administrator shall file a request in writing with the Office of the Vice President of Student Services within five (5) school days of this determination. The request shall contain the reason(s) the hearing before the full Committee is being requested. The Vice President of Student Services shall determine whether the matter shall be heard by the Student Discipline Committee or returned to the Student Affairs Administrator. In the event the Vice President of Student Services determines that the matter should be heard by the Student Discipline Committee, the hearing shall proceed in accordance with Section 7 below. In the event the Vice President of Student Services determines that the matter should be heard by the Student Affairs Administrator, the matter shall be returned to the Administrator for a hearing in accordance with Section 5. above. The decision of the Vice President of Student Services shall be final.

The Committee shall consist of the following five individuals: (1) two students appointed by the A.S.C.C. President; (2) two faculty members appointed by the Academic Senate President; (3) one administrator, who shall serve as the chair appointed by the Superintendent/President, who shall not have a vote except to break a tie. The chair shall serve as custodian of any evidence until a decision has been rendered. Any person presenting any portion of the case shall not be a Committee member.

## **7. Recommended Order of Events for Student Discipline Committee Hearings**

Committees convened to hear charges for either classroom or non-classroom student conduct violation allegations shall, insofar as is practicable, adhere to the following order of events: (1) the College presents its case with an initial summary, including evidence to be presented, followed by a detailed presentation of the case, (2) the student presents his or her defense, (3) the College presents rebuttal evidence, (4) the College summarizes its case, (5) the student summarizes his or her defense. The penalty will be determined by majority vote of the Committee. When the instructor involved is a Department Chair/Dean, a Department Chair/Dean chosen by the Vice President of Instruction shall serve as a Committee member in his or her place.

Hearings shall not be conducted according to the technical rules of evidence.

Any relevant evidence shall be considered if it is the sort of evidence on which responsible persons are accustomed to rely on in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might prevent the admission of such evidence in a civil action. The Committee shall determine the relevance, probative value, and materiality of all evidence submitted at the hearing. The Committee may also determine each witness's competency and length of testimony.

The Committee has the right to instruct and question the witness(es). The Committee shall probe and make direct inquiries whenever there is any confusion, uncertainty, or lack of clarity as to the witness' statements. The student shall be permitted to cross-examine College witnesses. The College shall be permitted to cross-examine the student's witnesses. Cross-examination should be limited to subjects presented in that witness' direct examination. The Committee may dismiss any witness that fails or refuses to comply with the Committee's instructions.

All testimony shall be taken under oath; the Committee chair shall administer the oath. Written statements of witnesses under penalty of perjury shall not be used unless the witness is unavailable to testify.

The Committee may determine that requiring live testimony of a proposed witness would subject that person to unreasonable risk of psychological or physical harm. After such determination, the Committee may permit that witness to provide a written statement under penalty of perjury in lieu of testifying at the hearing.

The College bears the burden of proof and must introduce substantial evidence to support the charges against the student.

The Committee may disclose to an alleged victim of any crime of violence or non-forcible sex offense the final results of a disciplinary proceeding conducted by the institution against the alleged perpetrator of that crime, regardless of whether the institution concluded a violation was committed.

Members of the Committee will draw upon their own knowledge of acceptable standards of conduct in the college community. Members of the Committee are not to be concerned with the constitutionality of the policy and will consider only that evidence that is pertinent to the case.

The Committee may, at any time, grant a continuance of one (1) school day if it determines that doing so would materially enhance its ability to render a fair and accurate judgment.

Within two (2) school days after the conclusion of the case, the Committee Chair shall transmit, in writing, the Committee's decision for disposition of the case to

the Office of the Superintendent/President, the charged student, the staff member originating the action, and the Student Affairs Administrator. The decision shall include specific factual findings regarding the accusation, and shall include specific conclusions regarding whether any specific section of the standards 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 record of the hearing.

## **8. Appeal**

### **a. Appeal by the Student**

Within two (2) school days following the receipt, in writing, of the decision, the student may file, with the Office of the Superintendent/President of the College, a written notice of his or her intent to appeal the decision. No appeal may be filed after the two-school-day period.

The student shall file with the Office of the Superintendent/President of the College, within three (3) school days following the filing of a notice of intent to appeal, a specific written response to each of the charges.

The student's failure to respond to any given charge constitutes a waiver of the right to appeal that charge. The Superintendent/President has the power to accept, reject, or modify the decision of the Committee. The Superintendent/President shall provide his or her decision in writing to the parties within ten (10) school days of receipt of the decision.

### **b. Appeal by the Staff or Faculty Member**

Within two (2) school days following the receipt, in writing, of the findings arrived at by any of the three aforementioned processes, the charging staff or faculty member may file, with the Office of the Superintendent/President of the College, a written notice of his or her intent to appeal the decision. No appeal notice may be filed after the two-school-day period.

The staff or faculty member shall file with the Office of the Superintendent/President of the College, within three (3) school days following the filing of a notice of intent to appeal, a specific written appeal.

The Superintendent/President shall consider the appeal and may accept, reject, or modify the decision of the Student Affairs Administrator or the Committee. The Superintendent/President shall provide his or her decision in writing to the parties within ten (10) school days following receipt of the appeal.

## **9. Appeal of Superintendent/President's Decision**

Within two (2) school days after receiving the decision of the Superintendent/President, the student may appeal, through the Office of the Superintendent/President, to the Board of Trustees. The Board shall retain the option of not hearing the appeal. If the Board elects to hear the appeal, it shall have the right to accept, reject, or modify the decision of the Superintendent/President.

No appeal may be filed after two (2) school days. The student's failure to appeal the Superintendent/President's decision shall constitute a waiver of the student's right to appeal that decision.

The charging staff or faculty member may not appeal the Superintendent/President's decision.

## **10. Imposition of Disciplinary Action**

After the student or the staff or faculty member has exhausted his or her right of appeal or has chosen to forego further appeal, the appropriate administrator of the college shall impose the disciplinary action specified at the last level of the process.

## **11. Expulsion**

If the Superintendent/President proposes to expel a student, that expulsion shall be reviewed by the Board of Trustees. Once received, the President's recommendation will be placed on the agenda of the next regularly scheduled Board of Trustees meeting. The Board of Trustees shall determine whether to expel a student for cause following a hearing before the Board. The Board shall, unless a request by the student has been made pursuant to this section, hold closed sessions if the board is considering the suspension of, or disciplinary action or any other action in connection with any student of the community college district, if a public hearing upon the question would lead to the giving out of information concerning students which would be in violation of state or federal law regarding the privacy of student records.

Before calling a closed session to consider these matters, the Board shall, in writing, by registered or certified mail or by personal service, of the intent of the Board to call and hold the closed session. Unless the student, or his or her parent, or guardian shall, in writing, within 48 hours after receipt of the written notice of intention, request that the hearing of the Board be held as a public meeting, then the hearing to consider those matters shall be conducted by the Board in closed session.

If the written request is served upon the clerk or secretary of the Board, the meeting shall be public except that any discussion at the meeting that might be in conflict with the right to privacy of any student other than the student requesting the public meeting or on behalf of whom the meeting is requested, shall be in closed session. Whether the matter is considered at a closed session or at a public meeting, the final action of the Board shall be taken at a public meeting and the result of that action shall be a public record of the Board.

Any person who has had consent to remain on campus 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 if there is mutual concurrence by all parties.

Board Approved 07/21/09