

STUDENT SERVICES

AP 5520 STUDENT DISCIPLINE PROCEDURES**References:**

Education Code Sections 66017, 66300, 72122, 76030, and 76030 et seq.;
Government Code Sections 3540 et seq.;
Penal Code Sections 626.4;
Title 5 Sections 41303 and 54600 et seq.

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 to them by the California and United States Constitutions. 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.

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 California and United States Constitutions, and by Education Code Section 76120 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 3434 Responding to Harassment Based on Sex under Title IX, must be used.

DEFINITIONS

District – The Palomar Community College District

Superintendent/President – The chief executive officer, or that person's designee, shall establish procedures for the imposition of discipline on students in accordance with the requirements for due process of the state and federal law and regulations.

Administrator – An administrator is a person employed by the Governing Board in a supervisory or management position as defined in Government Code Sections 3540 et seq.

Director of Student Life and Leadership – The Director of Student Life and Leadership of the District, or the Superintendent/President's designee, is responsible for implementation of the disciplinary procedures. The Director's designee may also be assisting with all cases.

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Faculty – 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.

Student – Any person currently enrolled as a student at Palomar 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 Conduct.

Incident Report – An electronic reporting form required to be submitted when reporting concerns related to student conduct.

Informal Due Process Hearing – Student is afforded an initial opportunity to present their evidence regarding the alleged conduct violation to the Director of Student Life and Leadership.

Disciplinary Appeals Panel – A Disciplinary Appeals Panel shall be composed of one administrator at large, one full-time faculty member, and one student.

Immediate Interim Suspension (Education Code Section 66017) – The Superintendent/President, or that person's designee, may order immediate suspension of a student where 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 an appeal hearing where a long-term suspension or expulsion is recommended, will be afforded to the student within ten (10) days.

Short-term Suspension – Exclusion of the student for good cause from one or more classes for a period of up to five (5) consecutive instructional days.

Long-term Suspension – Exclusion of the student for good cause from one or more classes for the remainder of the school term, or from all classes and activities of the District for one or more terms.

Expulsion – Exclusion of the student by the Governing Board from the District for one or more terms.

Restricting Access – Curriculum and learning occurs in a variety of modalities, including synchronous and asynchronous settings. Restricting access to tools and resources available to students during instruction may be imposed by the faculty member in a stepped approach when alleged conduct violations occur. Limiting access to discussion boards, chats, Q&A's, as examples, fall under the purview of the faculty

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member. Repeated violations may result in removal from class when corrective efforts fail.

Removal from class – Exclusion of the student by a faculty for the day of the removal and the next class meeting. Face to face synchronous course equivalencies will be used when calculating asynchronous class meetings.

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 shall become part of a student's permanent record at the District. A record of the fact that a verbal reprimand has been given may become part of a student's record at the District for a period of up to one year.

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

Notice** – Delivery of notice shall be emailed to Palomar College student email account. Secondary notices may be delivered by United States (US) mail. Three business days are allowed for US mail delivery.

DISCIPLINARY ACTIONS

Verbal reprimand may be given to a student who violates the Standards of Student Conduct by a faculty member or an administrator. Written documentation of all attempts to resolve the issue with the student, including written notification provided to the student from the faculty member shall be attached to the required Incident Report. The faculty member or administrator may request a record of the verbal reprimand become part of a student's record at the District for a period of up to one year. The request shall be made to the Director of Student Life and Leadership.

Written reprimand may be given to a student who violates the Standards of Student Conduct by a faculty member or an administrator. The faculty member or administrator shall, within five (5) days of giving the reprimand, submit an Incident Report with a copy of the reprimand to the Director of Student Life and Leadership. Written documentation of all attempts to resolve the issue with the student, including written notification provided to the student from the faculty member shall be attached to the required Incident Report. The Director of Student Life and Leadership shall ensure that the reprimand becomes part of the student's permanent record at the District.

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Removal from Class (Education Code Section 76032): Any faculty member may order a student removed from their class for the day of the removal and the next class meeting. The faculty member shall immediately submit the Incident Report of the removal to the Director of Student Life and Leadership. Written documentation of all attempts to resolve the issue with the student, including written notification provided to the student from the faculty member shall be attached to the required Incident Report and provided to the Division Dean by the faculty member. The Division Dean shall arrange for a conference between the student and the faculty member regarding the removal, prior to the due process hearing with the Director of Student Life and Leadership. Once the conference and the hearing are completed with the student, the faculty member and the Division Dean will meet with the Director of Student Life and Leadership to discuss reinstating the student to the class. The student shall not be returned to the class during the period of the removal without the concurrence of the faculty member. Nothing herein will prevent the Director of Student Life and Leadership from recommending further disciplinary procedures in accordance with these procedures based on the facts which led to the removal. If the student is not allowed to return to the course the Director of Student Life and Leadership will request an administrative withdrawal and notify the student in writing.

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 Life and Leadership or designee will provide the student with written notice of the conduct warranting the discipline. The written email 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 evidence supporting the accusation
 - the nature of the discipline that is being considered
 - the due process right of the student to meet with the Director of Student Life and Leadership or designee to discuss the accusation, or to respond in writing.
 - the time and date for the informal due process hearing before the Director of Student-Life and Leadership or designee
- **Time limits** -- The notice must be provided to the student within ten (10) days of the date on which the alleged conduct took place, or from the date the District

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became aware of the conduct. 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 consider disciplinary action.

- **Informal Due Process Hearing** – The purpose of the due process hearing is to determine whether disciplinary action is warranted. The hearing must occur no later than ten (10) days after the notice is provided. At the hearing, the student must again be told the evidence leading to the accusation and must be given an opportunity to respond verbally to the accusation. The student shall prepare a signed written statement of the incident and provide it to the hearing officer at the time of the hearing. The student shall provide all supporting evidence at the hearing.
- **Hearing Officer** – The Hearing Officer shall be the Director of Student Life and Leadership and or designee.

Short-term Suspension -- Within five (5) days after the hearing described above, the Director of Student Affairs shall 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 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 Director of Student Life and Leadership's decision on a short-term suspension shall be final.

Long-term Suspension -- Within five (5) days after the due process hearing described above, the Director of Student Life and Leadership shall decide whether to impose a long-term suspension. Written notice of the Director of Student Life and Leadership's decision shall be provided to the student. The notice will include the right of the student to request an appeal before a long-term suspension is imposed, and a copy of this policy describing the procedures for an appeal.

The Superintendent/President shall report all suspension of students to the Governing Board.

Expulsion -- Within five (5) days after the due process hearing described above, the Director of Student Life and Leadership shall decide whether to recommend expulsion to the Superintendent/President and the Governing Board. Written notice of the Director of Student Life and Leadership's decision shall be provided to the student. The notice will include the right of the student to request an appeal before expulsion is imposed, and a copy of this policy describing the procedures for an appeal.

APPEAL PROCEDURES

Request for an Appeal

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Within five (5) days after receipt of the Director of Student Life and Leadership's decision regarding a long-term suspension or expulsion, the student may appeal the decision to a Disciplinary Appeals Panel. The request must be made in writing to the Director of Student Life and Leadership.

Schedule of an Appeal Hearing

The appeal hearing shall be held within fourteen (14) days after a formal written request for an appeal is received.

Disciplinary Appeals Panel – At the beginning of each academic year, the Director of Student Life and Leadership shall call for appointments from the Vice President for Student Services, the President of the Faculty Senate, and the President of the Associated Student Government (ASG). Each of these three individuals shall submit a list of at least five persons (for a total of fifteen – or more- individuals) who may serve on student disciplinary appeals panels throughout the academic year.

During an appeal hearing the Director of Student Life and Leadership and the student requesting the appeal hearing shall appoint a Disciplinary Appeals Panel from the names on these lists. Panels shall be composed of one administrator at large, one full-time faculty member, and one student 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.

Disciplinary Appeals Panel Chair

The Disciplinary Appeals Panel shall select its own chair. The decision of the chair shall be final on all matters relating to the conduct of the formal hearing unless there is a vote by both other members of the panel to the contrary.

Conduct of the Formal Hearing

The members of the Disciplinary Appeals Panel shall be provided with a copy of the accusation against the student and any written response provided by the student before the formal hearing begins. The evidence supporting the accusation shall be presented by a District representative who shall be the Director of Student Life and Leadership. The District 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.

The District representative and the student shall each be permitted to make an opening statement. Thereafter, the District representative shall make the first presentation, followed by the student. The District representative may present rebuttal evidence after the student completes his/her evidence. The burden of proof shall be on the District

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representative to prove by the preponderance of the evidence that the facts alleged are true.

The student may represent themselves and may also have the right to be represented by a person of 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 in writing to the District representative not less than five (5) days prior to the date of the hearing. If the student is being represented by an attorney, the District representative may request legal assistance through the Office of the Superintendent/President. The Disciplinary Appeals 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.

Formal 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 formal hearing.

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

The formal hearing shall be recorded by the District by voice recording and shall be the only recording made. No witness who refuses to be recorded may be permitted to give testimony. At the beginning of the hearing, the Disciplinary Appeals Panel chair shall ask each person present to identify themselves by name, and thereafter shall ask witnesses to identify themselves by name. Voice 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 voice recording.

All testimony shall be taken under oath; the oath shall be administered by the Disciplinary Appeals Panel chair. Written statements of witnesses under penalty of perjury shall not be used unless the witness is unavailable to testify. All testimony shall be taken under oath and voice recorded.

Within five days (5) following the close of the hearing, the Disciplinary Appeals Panel shall prepare and send to the Vice President for Student Services 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 formal 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.

Vice President for Student Services Decision

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Long-term suspension -- Within five (5) days of the Disciplinary Appeals Panel's decision, the student may request an appeal to the Vice President for Student Services. The Vice President for Student Services may accept, modify or reject the decision(s) of Disciplinary Appeals Panel. If the Vice President for Student Services modifies or rejects the Disciplinary Appeals Panel's decision, the Vice President for Student Services 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 Vice President for Student Services shall be final.

Expulsion -- Within five (5) days following receipt of the Disciplinary Appeals Panel's decision, the Vice President for Student Services shall render a written recommended decision to the Superintendent/President. The Vice President for Student Services may accept, modify, or reject the findings, decisions, and recommendations of the Disciplinary Appeals Panel. If the Vice President for Student Services modifies or rejects the Disciplinary Appeals Panel's decision, they shall review the record of the hearing and shall prepare a new written decision which contains specific factual findings and conclusions.

Governing Board Decision -- (Education Code Section 72122) The Governing Board 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 Governing 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 to the address 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 Governing 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. If a student has requested that the Governing Board consider an expulsion recommendation in a public meeting that involves any other student(s), the Governing Board will hold the discussion in closed session to avoid any conflict with the right to privacy of any student(s).

The Governing Board may accept, modify, or reject the findings, decisions and recommendations of the Superintendent/President and/or the Disciplinary Appeals Panel. If the Governing 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 Governing Board shall be final. The final action of the Governing 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.

Withdrawal of Consent to Remain on Campus -- The Director of Student Life and Leadership 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

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campus has been withdrawn. If the person is on campus at the time, he or she must promptly leave or be escorted off campus. If consent is withdrawn by the Director of Student Life and Leadership 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 an appeal 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 more than fourteen (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, in accordance with 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.

Admission or readmission may be denied to any person who, while not enrolled as a student, commits such acts which, were they enrolled as a student, would be the basis for disciplinary proceedings under this policy. In addition, admission or readmission may be denied to any person who, while a student, commits acts which are subject to disciplinary action pursuant to this policy. Any conduct for which admission or readmission may be denied must be college related.

The fact of disciplinary action and the reasons therefore shall be recorded on the student discipline records subject to access, review, and comment by the student as authorized by the Federal Family Educational Rights and Privacy Act [20 U.S.C. 1232 (g)] and the administrative regulations adopted thereto (45 CFR Sections 99 et seq.) and similar provisions of state law and the administrative regulations adopted pursuant thereto.

The information shall remain recorded on the student records unless expunged in accordance with state or federal law but shall not be released to prospective employers unless the student consents in writing to such release.

In addition, such information will be released to other third parties, including law enforcement agencies, as required or authorized by the state and federal law referred to above.

For a period of two calendar years after the recording of such information, the information may be used by appropriate District officials in determining the appropriate sanction of any subsequent disciplinary action or for any other college-related purposes.

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Office of Primary Responsibility: Student Services

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