

STUDENT SERVICES

AP 5520 STUDENT DISCIPLINE PROCEDURES

References:

Education Code Sections 66017, 66300, 69810-69813, 72122, 76030, 76031, 76032, 76037, 76120, 76210, and 76220 et seq.;  
Government Code Sections 3540 et seq.;  
Penal Code Sections 626.2 and 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.

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 California and United States Constitutions, and by Education Code Section 76120 and will not be used to punish expression that is protected.

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 Affairs** -- The Director of Student Affairs of the District, or the Superintendent/President's designee, is responsible for implementation of the disciplinary procedures.

**Professor (Faculty Member)** -- 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.

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*(Replaces current Palomar College Policies 430.1, 430.2, and 430.3)*

34 **Student** -- Any person currently enrolled as a student at Palomar College or in any  
35 program offered by the District.

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

39 **Immediate Interim Suspension** (Education Code Section 66017) -- The  
40 Superintendent/President, or that person's designee, may order immediate suspension  
41 of a student where he or she concludes that immediate suspension is required to  
42 protect lives or property and to ensure the maintenance of order. In cases where an  
43 interim suspension has been ordered, the time limits contained in these procedures  
44 shall not apply, and all hearing rights, including the right to an appeals hearing where a  
45 long-term suspension or expulsion is recommended, will be afforded to the student  
46 within ten days.

47 **Short-term Suspension** -- Exclusion of the student for good cause from one or more  
48 classes for a period of up to five instructional days.

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

52 **Expulsion** -- Exclusion of the student by the Governing Board from the District for one  
53 or more terms.

54 **Removal from class** -- Exclusion of the student by an professor for the day of the  
55 removal and the next class meeting.

56 **Written or verbal reprimand** -- An admonition to the student to cease and desist from  
57 conduct determined to violate the Standards of Student Conduct. Written reprimands  
58 shall become part of a student's permanent record at the District. A record of the fact  
59 that a verbal reprimand has been given may become part of a student's record at the  
60 District for a period of up to one year.

61 **Withdrawal of Consent to Remain on Campus** -- Withdrawal of consent by the  
62 District for any person to remain on campus in accordance with California Penal Code  
63 Section 626.4 where the District has reasonable cause to believe that such person has  
64 willfully disrupted the orderly operation of the campus.

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

67 **Notice** -- Delivery of notice shall be by United States mail. Two business days are  
68 allowed for mail delivery.

## 69 **DISCIPLINARY ACTIONS**

70 **Verbal reprimand** may be given to a student who violates the Standards of Student  
71 Conduct by a professor or administrator. The professor or administrator may request a  
72 record of the verbal reprimand become part of a student's record at the District for a  
73 period of up to one year. The request shall be made to the Director of Student Affairs.

74 **Written reprimand** may be given to a student who violates the Standards of Student  
75 Conduct by an professor or administrator. The professor or administrator shall within  
76 five days of giving the reprimand send a copy of the reprimand to the Director of  
77 Student Affairs. The Director of Student Affairs shall ensure that the reprimand  
78 becomes part of the student's permanent record at the District.

79 **Removal from Class** (Education Code Section 76032) -- Any professor may order a  
80 student removed from his or her class for the day of the removal and the next class  
81 meeting. The professor shall immediately report the removal to the Director of Student  
82 Affairs. The student shall not return to the class during the period of the removal  
83 without the concurrence of the professor. Nothing herein will prevent the Director of  
84 Student Affairs from recommending further disciplinary procedures in accordance with  
85 these procedures based on the evidence which led to the removal.

## 86 **Short-term Suspensions, Long-term Suspensions, and Expulsions**

87 Before any disciplinary action to suspend or expel is taken against a student, the  
88 following procedures will apply:

- 89 • **Notice** -- The Director of Student Affairs will provide the student with written  
90 notice of the conduct warranting the discipline. The written notice will include the  
91 following:
  - 92 ○ the specific section of the Standards of Student Conduct that the student  
93 is accused of violating
  - 94 ○ a short statement of the evidence supporting the accusation
  - 95 ○ the nature of the discipline that is being considered
  - 96 ○ the time and date for the hearing before the Director of Student Affairs
- 97 • **Time limits** -- The notice must be provided to the student within ten days of the  
98 date on which the conduct took place, or from the date the District became aware  
99 of the conduct. In the case of continuous, repeated, or ongoing conduct, the

100 notice must be provided within five days of the date on which conduct occurred  
101 which led to the decision to consider disciplinary action.

102 • **Hearing** – The purpose of the hearing is to determine whether disciplinary action  
103 is warranted. The hearing must occur no later than ten days after the notice is  
104 provided. At the hearing, the student must again be told the evidence leading to  
105 the accusation, and must be given an opportunity to respond verbally to the  
106 accusation. The student shall prepare a signed written statement of the incident  
107 and provide it to the hearing officer at the time of the hearing. The student shall  
108 bring supporting evidence to the hearing.

109 • **Hearing Officer** – The Hearing Officer shall be the Director of Student Affairs.

110 **Short-term Suspension** -- Within five days after the hearing described above, the  
111 Director of Student Affairs shall decide whether to impose a short-term suspension,  
112 whether to impose some lesser disciplinary action, or whether to end the matter.  
113 Written notice of the decision shall be provided to the student. The notice will include  
114 the length of time of the suspension, or the nature of the lesser disciplinary action. The  
115 Director of Student Affairs decision on a short-term suspension shall be final.

116 **Long-term Suspension** -- Within five days after the hearing described above, the  
117 Director of Student Affairs shall decide whether to impose a long-term suspension.  
118 Written notice of the Director of Student Affairs' decision shall be provided to the  
119 student. The notice will include the right of the student to request an appeal before a  
120 long-term suspension is imposed, and a copy of this policy describing the procedures  
121 for an appeal.

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

124 **Expulsion** -- Within five days after the hearing described above, the Director of Student  
125 Affairs shall decide whether to recommend expulsion to the Superintendent/President  
126 and the Governing Board. Written notice of the Director of Student Affairs' decision  
127 shall be provided to the student. The notice will include the right of the student to  
128 request an appeal before expulsion is imposed, and a copy of this policy describing the  
129 procedures for an appeal.

## 130 **APPEAL PROCEDURES**

### 131 **Request for an Appeal**

132 Within five days after receipt of the Director of Student Affairs' decision regarding a  
133 long-term suspension or expulsion, the student may an appeal the decision to an  
134 Disciplinary Appeals Panel. The request must be made in writing to the Director of  
135 Student Affairs.

**136 Schedule of an Appeal Hearing**

137 The appeal hearing shall be held within fourteen days after a formal written request for  
138 an appeal is received.

139 **Disciplinary Appeals Panel** – At the beginning of each academic year, the Director of  
140 Student Affairs shall call for appointments from the Vice President for Student Services,  
141 the President of the Faculty Senate, and the ASG President shall each, at the beginning  
142 of the academic year, establish a list of at least five persons who will serve on student  
143 disciplinary appeals panels. The Director of Student Affairs and the student shall  
144 appoint a Disciplinary Appeals Panel from the names on these lists. However, no  
145 administrator, faculty member or student who has any personal involvement in the  
146 matter to be decided, who is a necessary witness, or who could not otherwise act in a  
147 neutral manner shall serve on a Disciplinary Appeals Panel.

**148 Disciplinary Appeals Panel Chair**

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

**152 Conduct of the Hearing**

153 The members of the Disciplinary Appeals Panel shall be provided with a copy of the  
154 accusation against the student and any written response provided by the student before  
155 the hearing begins. The evidence supporting the accusation shall be presented by a  
156 District representative who shall be the Director of Student Affairs. The District  
157 representative and the student may call witnesses and introduce oral and written  
158 testimony relevant to the issues of the matter. Formal rules of evidence shall not apply.  
159 Any relevant evidence shall be admitted.

160 The District representative and the student shall each be permitted to make an opening  
161 statement. Thereafter, the District representative shall make the first presentation,  
162 followed by the student. The District representative may present rebuttal evidence after  
163 the student completes his/her evidence. The burden of proof shall be on the District  
164 representative to prove that the facts alleged are true.

165 The student may represent himself/herself, and may also have the right to be  
166 represented by a person of his or her choice. If the student wishes to be represented by  
167 an attorney, a request must be presented in writing to the District representative not less  
168 than five days prior to the date of the hearing. If the student is being represented by an  
169 attorney, the District representative may request legal assistance through the Office of  
170 the Superintendent/President. The Disciplinary Appeals Panel may also request legal  
171 assistance; any legal advisor provided to the panel may sit with it in an advisory  
172 capacity to provide legal counsel but shall not be a member of the panel nor vote with it.

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**Date Approved: SPC 05/06/2008**

*(Replaces current Palomar College Policies 430.1, 430.2, and 430.3)*

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

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

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

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

190 Within five days following the close of the hearing, the Disciplinary Appeals Panel shall  
191 prepare and send to the Vice President for Student Services a written decision. The  
192 decision shall include specific factual findings regarding the accusation, and shall  
193 include specific conclusions regarding whether any specific section of the Standards of  
194 Student Conduct were violated. The decision shall also include a specific  
195 recommendation regarding the disciplinary action to be imposed, if any. The decision  
196 shall be based only on the record of the hearing, and not on matter outside of that  
197 record. The record consists of the original accusation, the written response, if any, of  
198 the student, and the oral and written evidence produced at the hearing.

#### 199 **Vice President for Student Services' Decision**

200 **Long-term suspension** -- Within five days of the Disciplinary Appeals Panel's decision,  
201 the student may request an appeal to the Vice President for Student Services. The Vice  
202 President for Student Services may accept, modify or reject the findings, decisions of  
203 Disciplinary Appeals Panel. If the Vice President for Student Services modifies or  
204 rejects the Disciplinary Appeals Panel's decision, the Vice President for Student  
205 Services shall review the record of the hearing, and shall prepare a new written decision  
206 which contains specific factual findings and conclusions. The decision of the Vice  
207 President for Student Services shall be final.

208 **Expulsion** -- Within five days following receipt of the Disciplinary Appeals Panel's  
209 recommended decision, the Vice President for Student Services shall render a written  
210 recommended decision to the Governing Board. The Vice President for Student

211 Services may accept, modify or reject the findings, decisions and recommendations of  
212 the Disciplinary Appeals Panel. If the Vice President for Student Services modifies or  
213 rejects the Disciplinary Appeals Panel's decision, he or she shall review the record of  
214 the hearing, and shall prepare a new written decision which contains specific factual  
215 findings and conclusions. The Vice President for Student Services shall make a written  
216 recommendation to the Superintendent/President.

217 **Governing Board Decision** -- (Education Code Section 72122) The Governing Board  
218 shall consider any recommendation from the Superintendent/President for expulsion at  
219 the next regularly scheduled meeting of the Board after receipt of the recommended  
220 decision. The Governing Board shall consider an expulsion recommendation in closed  
221 session, unless the student has requested that the matter be considered in a public  
222 meeting in accordance with these procedures.

223 The student shall be notified in writing, by registered or certified mail or by personal  
224 service, at least three days prior to the meeting, of the date, time, and place of the  
225 Governing Board's meeting. The student may, within forty-eight hours after receipt of  
226 the notice, request that the hearing be held as a public meeting. Even if a student has  
227 requested that the Governing Board consider an expulsion recommendation in a public  
228 meeting, the Governing Board will hold any discussion that might be in conflict with the  
229 right to privacy of any student other than the student requesting the public meeting in  
230 closed session.

231 The Governing Board may accept, modify or reject the findings, decisions and  
232 recommendations of the Superintendent/President and/or the Disciplinary Appeals  
233 Panel. If the Governing Board modifies or rejects the decision, the Board shall review  
234 the record of the hearing and shall prepare a new written decision which contains  
235 specific factual findings and conclusions. The decision of the Governing Board shall be  
236 final. The final action of the Governing Board on the expulsion shall be taken at a public  
237 meeting, and the result of the action shall be a public record of the District.

238 **Withdrawal of Consent to Remain on Campus** -- The Director of Student Affairs may  
239 notify any person for whom there is a reasonable belief that the person has willfully  
240 disrupted the orderly operation of the campus that consent to remain on campus has  
241 been withdrawn. If the person is on campus at the time, he or she must promptly leave  
242 or be escorted off campus. If consent is withdrawn by the Director of Student Affairs a  
243 written report must be promptly made to the Superintendent/President.

244 The person from whom consent has been withdrawn may submit a written request for  
245 an appeal hearing on the withdrawal within the period of the withdrawal. The request  
246 shall be granted not later than seven days from the date of receipt of the request. The  
247 hearing will be conducted in accordance with the provisions of this procedure relating to  
248 interim suspensions. In no case shall consent be withdrawn for longer than ten days  
249 from the date upon which consent was initially withdrawn. Any person as to whom  
250 consent to remain on campus has been withdrawn who knowingly reenters the campus

251 during the period in which consent has been withdrawn, except to come for a meeting or  
252 hearing, is subject to arrest, in accordance with Penal Code Section 626.4

253 **Time Limits** -- Any times specified in these procedures may be shortened or  
254 lengthened if there is mutual concurrence by all parties.

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

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

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

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

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

276 Office of Primary Responsibility: Student Affairs