

# STUDENT RIGHTS AND RESPONSIBILITIES

## Academic Records

Student academic records are treated in a confidential and responsible manner as required by the Family Educational Rights and Privacy Act of 1974 (FERPA). Students have:

**a. The right to inspect and review their education records within 45 days of the day the College receives a request for access.**

A student should submit to the Director of Admissions and Records, a written request that identifies the record(s) they wish to inspect. The Director will arrange for access and will notify the student of the time and place where the record(s) may be inspected. If the records are not maintained by the Admissions and Records Office, the Associate Dean will advise the student of the correct official to whom the request should be addressed.

**b. The right to request the amendment of the portions of their education records that they believe are inaccurate or misleading.**

Students should write to the Director clearly identifying the part of the record they want changed, and specifying why it is inaccurate or misleading. If the college decides not to amend the record as requested by the student, the college will notify the student of the decision and will advise the student of their right to a hearing regarding the request for amendment. Additional information regarding the hearing procedures will be provided to the student when notified of the right to a hearing.

**c. The right to consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that FERPA authorizes disclosure without consent.**

One exception that permits release of student records without written consent is disclosure to school officials with legitimate educational interests. A "school official" is defined as a person employed by the college in an administrative, supervisory, academic, research, or support staff position (including law enforcement unit personnel and health staff); a person or company with whom the college has contracted (such as an attorney, auditor, or collection agent); a member of the Board of Trustees; or a student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks. A school official has a "legitimate educational interest" if the official needs to review an education record in order to fulfill professional responsibility.

**d. Students have the right to file a complaint with the U.S. Department of Education concerning alleged failures by San Bernardino Valley College to comply with the requirements of FERPA.**

The name and address of the Office that administers FERPA:  
 Family Policy Compliance Office  
 U.S. Department of Education  
 400 Maryland Avenue, SW  
 Washington, DC 20202-8520

## Academic Dishonesty

It is the belief at San Bernardino Valley College that students share a responsibility with their instructors for assuring that their education is honestly attained. In keeping with this belief, every instructor has the responsibility and authority to deal with any instances of plagiarism, cheating and/or fabrication that occur in the classroom. This policy on Academic Dishonesty applies to all students, including students taking

online and hybrid classes. Examples of academic dishonesty include (but are not limited to) the following:

### Plagiarism

Plagiarism is the act of presenting someone else's work as one's own.

Examples include:

- Copying and pasting text from websites or other electronic sources and presenting it in an assignment as your own original work;
- Copying and pasting text from printed sources (including books, magazines, encyclopedias or newspapers) and presenting it in an assignment as your own original work;
- Using another student's work and claiming it as your own original work (even if you have the permission of the other student).

### Cheating

Cheating is the act of pretending (or helping others to pretend) to have mastered course material through misrepresentation.

Examples include:

- Copying from another student's test or assignment.
- Allowing another student to copy from your test or assignment;
- Using the textbook, course handouts, or notes during a test without instructor permission;
- Stealing, buying or otherwise obtaining all or part of a test before it is administered;
- Selling or giving away all or part of a test before it is administered;
- Having someone else attend a course or take a test in your place;
- Attending a course or taking a test for someone else;
- Failing to follow test-taking procedures, including talking during the test, ignoring starting and stopping times, or other disruptive activity.

### Fabrication

Fabrication is the intentional use of invented information. Examples include:

- Signing a roll sheet for another student;
- Giving false information to college personnel;
- Answering verbal or written questions in an untruthful manner;
- Inventing data or sources of information for research papers or other assignments.

As members of the San Bernardino Valley College learning community, students are not to engage in any form of academic dishonesty. Any act of academic dishonesty will be considered a very serious offense that is subject to disciplinary action. The consequences of academic dishonesty may include receiving a grade of "F" for a class or possible expulsion from the college.

## Substance Abuse

The San Bernardino Community College District strives to maintain a workplace free from the illegal use, possession or distribution of controlled substances as defined in the Controlled Substances Act. Students, employees and visitors are subject to applicable legal sanctions under local, state or federal law for the unlawful possession or distribution of illicit drugs and alcohol. Disciplinary action will be imposed on a student for misconduct for the following infractions while attending college classes or college-sponsored events:

- The use, sale or possession of illegal drugs;
- The presence on campus of anyone under the influence of drugs or alcohol;
- The use or possession of alcoholic beverages on college property or at any college-sponsored event.

## Animals on Campus

The college does not permit staff or students to bring animals on campus, with the exception of “seeing eye” and “hearing ear” and “seizure” dogs and animals used for instructional purposes. At no time should dogs be left in vehicles.

## Children on Campus and in the Classroom

All children (with the exception of high school students who have been admitted to the Middle College program) must be accompanied by an adult while on campus. Children are not allowed in the classroom under any conditions and are not to be left unattended in any campus facility. Should this occur, the District Police will be notified immediately.

## Computer Use Policy

The San Bernardino Community College District has a Computer Use Policy (AP 3720) that all students and employees are expected to follow. These documents set the foundation for the following items: Ownership Rights, Privacy Interests, District Rights, System Abuse, Misrepresentation, Liability, Harassment, Commercial Use, Fair Use, Software Licensing, Exceptions, Network Access, Media, Social Networking, PDA, and Smartphone. These documents can be found on the District website at: [www.sbccd.org](http://www.sbccd.org) (<http://www.sbccd.org>) under Board Policies and Administrative Procedures.

## Financial Obligations

Students who have an outstanding financial obligation will not be allowed to register for classes, receive grades, transcripts, diplomas or certificates, obtain enrollment verification or receive any other services normally afforded students in good standing. Examples of obligations falling under this policy include (but are not limited to) returned checks, unpaid loans, equipment breakage, and unpaid library fines. An item or service withheld shall be released when the student satisfactorily meets the financial obligation.

## Speech: Time, Place, and Manner

Designated Public Forum (DPF) Areas have been identified throughout the campus. Individuals or organizations wishing to use a DPF must notify the Campus Business Office or the Office of Student Life at least one hour prior to use and fill out a *Free Speech Application*.

In accordance with Education Code Section 76120, the use of Free Speech Areas is subject to the following:

- Persons using the DPF area(s) and/or distributing material in the DPF area(s) shall not impede the progress of passersby, nor shall they force passersby to take material;
- No person using the DPF area(s) shall touch, strike or impede the progress of passersby, except for incidental or accidental contact, or contact initiated by a passerby;
- Persons using a DPF area shall not use any means of amplification that creates a noise or diversion that disturbs or tends to disturb the orderly conduct of the campus or classes taking place at that time;

- No persons using the DPF area(s) shall solicit donations of money, through direct requests for funds, sales of tickets or otherwise, except where he or she is using the DPF area(s) on behalf of and collecting funds for an organization that is registered with the Secretary of State as a nonprofit corporation or is an approved by Associated Student Government or club;
- All persons using the DPF area(s) of the college shall be allowed to distribute petitions, circulars, leaflets, newspapers, and other printed matter. Such distribution shall take place only within the DPF area(s). Material distributed in the DPF area(s) that is discarded or dropped in or around the DPF area(s) other than in an appropriate receptacle must be retrieved and removed or properly discarded by those persons distributing the material prior to their departure from the DPF area(s) that day.

## Posting

Students shall be provided with bulletin boards for use in posting student materials at campus locations convenient for student use. Materials displayed shall be removed after the passage of specified days.

## Standards of Conduct

**In the classroom:** Students and instructors are expected to take responsibility for helping to create a quality classroom environment. Students are expected to show respect for the instructor and their fellow students. This includes arriving on time, staying for the entire class period, completing assignments, bringing textbooks and other appropriate materials to class, refraining from talking while the instructors or classmates are presenting, leaving cell phones and other electronic devices off that may be distracting, using a moderate, mature, and respectful tone when participating in group discussions, and refraining from inappropriate language an behavior, including, physical, mental, and verbal harassment while on campus.

An instructor has the right to remove a student from a class period if a student’s behavior interferes with instruction. Prior to removal, the faculty member is responsible to identify the behavior and inform the student that failure to correct the issue may result in removal from the class. If the behavior persists, the faculty member may remove, for good cause, any student from their class for up to two (2) class sessions. The student shall not return to the class during the period of the removal without permission of the instructor. Nothing herein will prevent the college president or designee from recommending further discipline in accordance with these procedures based on facts that led to the removal. As used in this rule, “good cause” includes those offenses listed in the Student Code of Conduct. In instances of online courses, students access to course content will be removed for a period of time comparable to two class sessions.

**On the campus:** Creating a proper campus environment is also very important for academic and individual success. The Board of Trustees of the San Bernardino Community College District has established district-wide standards of student conduct, which will be enforced at all times. These rules of conduct are particularly important in large common areas such as the cafeteria, bookstore, vending areas, campus quads, and other highly frequented areas.

## Grounds for Disciplinary Action

The Chancellor shall be responsible for procedures that impose discipline on students in accordance with due process outlined in federal and state law and regulations. The following behaviors are subject to disciplinary

action ranging from verbal reprimand through removal, suspension or expulsion of a student:

- Academic Misconduct. All forms of academic misconduct including, but not limited to, cheating, fabrication, plagiarism, or facilitating academic dishonesty.
- Alcohol. Manufacture, distribution, dispensing, possession, use, consumption or sale of, or the attempted manufacture, distribution, dispensing, distribution, consumption or sale of alcohol that is unlawful or otherwise prohibited by, or not in compliance with, District policy, administrative procedures, or campus regulations.
- Assault/Battery. Assault, battery, or any threat of force or violence upon a Student or upon any Member of the District Community. This includes, but is not limited to:
  - Inflicting bodily harm upon any Member of the District Community;
  - taking any action for the purpose of inflicting bodily harm upon any Member of the District Community;
  - taking any reckless, but not accidental action, from which bodily harm could result to any Member of the District Community;
  - Causing a Member of the District Community to believe that the offender or their agent may cause bodily harm to that person or any member of their family or any other Member of the District Community;
  - Inflicting or attempting to inflict bodily harm on oneself.
- Bias. Bias-related incidents are behavior that constitutes an expression of hostility against a person or property or another due to the targeted person's race, religion, sexual orientation, ethnicity, national origin, gender, age, marital status, political affiliation, or disability. These acts or behaviors may not rise to the level of a crime, or a violation of state or federal law, but may constitute to creating an unsafe, negative, or unwelcome environment for the targeted person.
- Continued Misconduct or Repeat Violation. Repeated misconduct or violations of this Policy, when other means of correction have failed to bring about proper conduct.
- Dating Violence. Violence committed by a member of the District Community who is, or has been, in a social relationship of a romantic or intimate nature with the victim.
- Destruction of Property. The damaging, destroying, defacing, or tampering with District Property or the property of any person or business on District Property or at a District function, including but not limited to, taking down, defacing, or otherwise damaging District authorized posters, handbills and/or notices posted on District property.
- Discrimination. Unlawful discrimination against a person on the basis of race, ethnicity, color, religion, national origin, sex, age, disability, military or veteran status, gender identification, gender expression, marital status; sexual orientation, or genetic information, except where such distinction is authorized by law.
- Dishonesty. All forms of dishonesty including but not limited to fabricating information, furnishing false information, or reporting a false emergency to the District.
- Disorderly or lewd conduct. Engaging in disorderly or lewd, indecent or obscene behavior on District Property or at a District function.
- Disruption of Educational Process. Destruction or disruption on or off District Property of the District educational process(es), including but not limited to interrupting, impeding, obstructing or causing the interruption or impeding of any class (regardless of modality), lab, administrative office, teaching, research, administration, disciplinary procedures, District activity or District authorized Student activity or administrative process or other District function; or disturbing the peace on District Property or at any District function.
- Disruptive Behavior. Disruptive behavior, disobedience, profanity, vulgarity, or the open defiance of the authority of or abuse of District personnel, or which adversely effects the delivery of educational services to Students and the District Community.
- Disturbing the Peace. Disturbing the peace and good order of the District by, among other things, fighting, quarreling, disruptive behavior, or participation in a disturbance of the peace or unlawful assembly.
- Drugs. Unlawful or attempted manufacture, distribution, dispensing, possession, use, distribution or sale of, controlled substances, dangerous drugs, restricted dangerous drugs or narcotics, as those terms are used in state or federal statutes on District Property or at any District function. Possession of medicinal marijuana on District premises is prohibited.
- Endangering Welfare of Others. Violation of any state or federal law relating to the placing at risk of physical or emotional harm of a member of the District Community.
- Failure to Appear. Failure to appear before a District official when directed to do so.
- Failure to Comply or Identify. Failure to identify oneself to, or comply with the directions of, a District employee when requested.
- Failure to Repay Debts or Return District Property. Failure to (a) repay debts to the District; (b) return District property; (c) return property of any member of the District Community.
- False Report of Emergency. Knowingly and purposefully, causing, making, and/or circulating a false report or warning of a fire, explosion, crime, or other catastrophe.
- Forgery. Any forgery alteration, or misuse of any District document, record, key, electronic device, or identification, or knowingly furnishing false information to a District official.
- Fraud. Any attempt to steal, take, carry, lead, or take away the personal property of another, or who fraudulently appropriated property which has been entrusted to him or her, or who shall knowingly and designedly, by any false or fraudulent representation or pretense, defraud any other person of money, labor or property, or who causes or procures or obtains credit and thereby, or fraudulently gets or obtains possession of money, or property, or obtains the labor or service of another, is guilty of theft.
- Gambling. Unauthorized gambling on District Property or at any District function.
- Harassment/Bullying. A specific act, or series or acts, of a verbal or physical nature, including threats, intended to annoy, intimidate, pester, aggravate, irritate, dominate, ridicule, or cause fear to a member of the District Community, occurring within the jurisdiction of the District as set forth in Section 1.4.
- Hateful Behavior. Hateful behavior aimed at a specific person or group of people.
- Hazing. Participation in hazing or any method of initiation or pre-initiation into a campus organization or other activity engaged in by the organization or members of the organization at any time that causes, or is likely to cause, physical injury or personal degradation or disgrace which can inflict psychological or emotional harm to any Student or other person.
- Infliction of Mental Harm. (a) Inflicting mental harm upon any member of the District Community; (b) taking any action for the purpose of inflicting mental harm upon any Member of the District Community; (c) taking any reckless, but not accidental action, from which mental harm to Member of the District Community could result; (d) causing a

Member of the District Community to believe that the Student or their agent may cause mental harm to that person or any member of their family or any other member of the District Community; (e) any act which purposefully demeans, degrades, or disgraces any person.

- Library Materials. Cutting, defacing, or otherwise damaging or theft of college library or bookstore materials or property.
- Misrepresentation. A false statement or representation based upon the intentional disregard of false or possibly false information, or knowingly entering into a transaction based upon false information, or misrepresenting oneself to be an agent, employee, or representative of the District or its colleges.
- Misuse of Identification. Transferring, lending, borrowing, altering or unauthorized creation of identification.
- Possession of Stolen Property. Possession of District Property, or the property of any other person, when the Student knows or reasonably should know, that the property was stolen.
- Possession of Weapons. Unauthorized possession, use, storage, or manufacture of explosives, dangerous chemicals, firebombs, firearms, or other destructive devices or weapons as defined in Section K of Appendix A.
- Public Intoxication. Public intoxication or being under the influence of alcoholic beverages, any illegal narcotics, or any substance that causes impairment on District/College Property or at any District/College function.
- Sexual Harassment. Sexual harassment against a member of the District Community. Sexual harassment is defined as (a) unwelcome verbal harassment, e.g., epithets, derogatory comments, or slurs; (b) physical harassment, e.g., assault, impeding or blocking movement, or any physical interference with normal work or movement when directed at an individual; (c) visual forms of harassment, e.g., derogatory posters, cartoons, or drawings; (d) unwelcome sexual advances, requests for sexual favors; or (e) an intimidating, hostile, or offensive environment. "Unwelcome conduct" is defined as conduct which the member of the District Community does not solicit or initiate, and which the person regards as undesirable or offensive.
- Sexual Misconduct comprises a broad range of unwelcome behaviors focused on sex and/or gender that may or may not be sexual in nature. Any intercourse or other intentional sexual touching or activity without the other person's consent is sexual assault, is a form of Sexual Misconduct under this Procedure. Sexual Misconduct is any form of gender-based harassment, including, but not limited to, sexual harassment, sexual assault, and sexual exploitation, as well as harassment based on gender identity, gender expression, and non-conformity with gender stereotypes. Sexual misconduct may also include acts of a sexual nature, including acts of stalking, domestic violence, and dating violence, intimidation, or for retaliation following an incident where alleged Sexual Misconduct or has occurred. Sexual Misconduct can occur between strangers or acquaintances, or people who know each other well, including between people involved in an intimate or sexual relationship, can be committed by anyone regardless of gender identity and can occur between people of the same or different sex or gender.
- Serious Injury or Death. Any intentional, unintentional or reckless action or conduct which results in serious injury or death to a Member of the District Community or their family.
- Smoking. Smoking in an area where smoking has been prohibited by law or regulation of the District.
- Stalking. Stalking behavior in which a Student repeatedly engages in the course of conduct directed at another person and makes a credible threat with the intent to place that person in reasonable fear

for his or her safety, or the safety of his or her family; where the threat is reasonably determined by the College Conduct Officer to create substantial emotional distress, torment, create fear, or to terrorize the person.

- Sexual Stalking. The course of conduct directed at a specific person that would cause a reasonable person to feel fear or suffer substantial emotional distress due to another's sexual interest or gender-based stalking. Stalking involves repeated and continued harassment of a sexual or gender-based nature, against the expressed consent of another individual, which causes the targeted individual to feel emotional distress, including fear or apprehension. Such stalking behaviors may include: pursuing or following; unwanted communication or contact—including face-to-face encounters, telephone calls, voice messages, electronic messages, web-based messages, text messages, unwanted gifts, etc.; trespassing; and surveillance or other types of observation.
- Theft or Abuse of District's Computers or Electronic Resources. Theft or abuse of District computers and other District electronic resources such as computer and electronic communications facilities, systems, and services. Abuses include (but are not limited to) unauthorized entry, use, transfer, or tampering with the communications of others, and interference with the work of others, and with the operation of a computer and electronic communications facilities, systems, and services. Theft or attempted theft of any kind, including seizing, receiving, or concealing property with knowledge that it has been stolen, is prohibited. Sale, possession, or misappropriation of any property or services without the owner's permission is also prohibited.
- Theft or Conversion of Property. Theft or conversion of District Property or services, or the property of any person or business on District Property or at a District function, or possession of any property when the Student had the knowledge or reasonably should have had knowledge that it was stolen.
- Trespass and Unauthorized Possession. Unauthorized or forcible trespass on, entry to, possession of, receipt of, or use of any District services, grounds, equipment, resources, properties, structures, vehicles, boats, water craft or facility, including the unauthorized use of District's name, insignia, or seal without permission or authorization.
- Unauthorized Recording. Recording any person on District Property or at any District function without that person's knowledge or consent. This definition shall not apply to recordings conducted in public, in a commonly recognized public forum.
- Unauthorized Use of Course or Copyrighted Materials. Students of the District will abide by all aspects of United States copyright law, Title 17 of the United States Code, to the extent possible, under the authoritative interpretation of the law. Students shall not reproduce copyrighted materials without prior permission of the copyright owner, except as allowed by the "fair use" doctrine. In addition, Students shall not sell, prepare, or distribute for any commercial purpose any course lecture notes or video or audio recordings of any course unless authorized by the District in advance and explicitly permitted by the course instructor in writing. The unauthorized sale or commercial distribution of course notes or recordings by a Student is a violation of these Policies whether or not it was the Student or someone else who prepared the notes or recordings. Copying for any commercial purpose handouts, readers or other course materials provided by an instructor as part of a District course unless authorized by the District in advance and explicitly permitted by the course instructor or the copyright holder in writing (if the instructor is not the copyright holder).

- Unauthorized Use of District Keys. Unauthorized use, distribution, duplication or possession of any keys issued for any building, laboratory, facility, room, or other District Property.
- Unauthorized Use of Electronic Devices. Unauthorized use of an electronic device on District property or at any District function, including but not limited to, classes, lectures, labs, and field trips.
- Unauthorized Use of Property or Services. Unauthorized use of property or services or unauthorized possession of District Property or the property of any other person or business.
- Unreasonable Demands. Placing repeated, hostile, or unreasonable demands on District staff.
- Unwelcome Conduct: conduct of a sexual, gender-based, or harassing nature, which is considered unwelcome if a person did not request or invite it, and considered the conduct to be unwelcome, undesirable, or offensive. Unwelcome conduct may take various forms, including name-calling, graphic or written statements (including the use of cell phones or the Internet), hazing, bullying, or other conduct that may be physically or psychologically threatening, harmful, or humiliating. Unwelcome conduct does not have to include intent to harm, or directed at a specific target, or involve repeated incidents. Unwelcome conduct can involve persons of the same or opposite sex.
- Violation of Driving Regulations. Driving unsafely on District property or while taking part in any District function, or repeated violation of District parking regulations.
- Violation of Health & Safety Regulations. Violation of any health, safety or related regulations, rule or ordinance on District property or at any District function.
- Violation of Law. Violation of any federal, state or local law on District property, at a District function or involving a member of the District Community.
- Violation of Posted District Rules. Violation of any rule or regulation posted on District property by the District or the College, or printed in any District publication.
- Violation of Published Computer/Network Usage Policy(s), Procedures, or Guidelines.
  - Accessing and/or without permission altering, damaging, deleting, destroying, or otherwise using any data, computer, computer system, or computer network belonging to or used by the District or any Member of the District Community.
  - Accessing and/or without permission taking, copying, or making use of any data from a computer, computer system, or computer network, or taking or copying any supporting documentation, whether existing or residing internal or external to a computer, computer system, or computer network belonging to or used by the District or any Member of the District Community.
  - Using or causing to be used District computer services without permission.
  - Accessing and/or without permission adding, altering, damaging, deleting, or destroying any data, computer software, or computer programs which reside or exist internal or external to a computer, computer systems, or computer network belonging to or used by the District or any Member of the District Community.
  - Disrupting or causing the disruption of computer services or denying or causing the denial of computer services to an authorized user of a computer, computer system, or computer network belonging to or used by the District or any Member of the District Community.
  - Providing or assisting in providing a means of accessing, without permission, a computer, computer, system, or computer network

belonging to or used by the District or any Member of the District Community.

- Accessing or causing to be accessed without authorization any computer, computer system, or computer network belonging to or used by the District or any Member of the District Community.
- Introducing any computer contaminant or virus into any computer, computer system, or computer network belonging to or used by the District or any Member of the District Community.
- Sending any message using any computer system or network without authorization or sending any message in the name of another person or entity.
- Using any account or password without authorization.
- Allowing or causing to be used an account number or password by any other person without authorization.
- Accessing or causing to be accessed, downloading or causing to be downloaded, pornographic or obscene materials except when accessing a pornographic website which is part of the instructional process or assignment for a class the Student is currently enrolled in.
- Use the District's systems or networks for commercial purposes; for example, by performing work for profit with District resources in a manner not authorized by the district.

#### *SBCCD AP 5500*

## Disciplinary Action

Students enrolled in the San Bernardino Community College District shall refrain from disruptive conduct which significantly interferes with the instructional program, college activities, or which endangers the health or safety of members of the college, including visitors to the campus. Disruptive conduct on the part of students shall be cause for disciplinary action in accordance with policies adopted by the San Bernardino Community College District Board of Trustees and pursuant to appropriate sections of the Education Code, the Business and Professions Code, the Health and Safety Code, and the Penal Code of California.

### Types of Disciplinary Action

Disciplinary action may be imposed upon a student who is found responsible for violating the Standards of Conduct

#### Disciplinary action includes:

- Reprimand:** a verbal or written reprimand regarding the misconduct.
- Probation:** Student conduct probation may include, but is not limited to, ineligibility to participate in extra-curricular activities and certain other student privileges.
- Suspension:** Exclusion from the colleges and college-sponsored activities for a specified time.
- Expulsion:** Exclusion by the District Board of Trustees from the college and all college-sponsored activities.

## Student Discipline Procedures

### Section I

#### A. INTRODUCTION

This Administrative Procedure (AP 5520) is intended to effectively administer Board Policy 5500 and Administrative Procedure 5500 title "Standards of Student Conduct," and as such, this Administrative Procedure shall constitute the Standards of Student Discipline for all District Students. This Standards of Student Discipline provides District

Students with prior notice of behavior deemed unacceptable by the District's Board of Trustees. This Standards of Student Conduct includes a defined process for the fair and impartial review and determination of alleged improper Student behavior. This Standards of Student Conduct also specifies the various sanctions that may be imposed on District Students for violations of this Standards of Student Conduct. Students are expected to be familiar with the terms of the San Bernardino Community College District's published Board Policy 5500 and this Administrative Procedure 5500 Standards of Student Conduct.

This Standards of Student Discipline provides for the orderly administration of the Standards of Student Conduct consistent with the principles of due process of law. Reasonable deviations from the Standards of Student Conduct will not invalidate a decision or proceeding.

This process does not supersede standards for specific programs which may have a have different process for program eligibility and retention e.g., Fire Academy, Police Academy, Nursing Program, etc.

The District/campus will strive to follow the timelines outlined in this Administrative Procedure barring unexpected delays or campus closures

#### **B. THE USE OF "WILL" AND "SHALL"**

In this Standards of Student Discipline, and throughout the District's Board Policies and Administrative Procedures, the use of the terms "will" and "shall" are used in the mandatory sense.

#### **C. NOTICE - PROCESS FOR NOTIFICATION**

San Bernardino Community College District's primary correspondence and notification mechanism with Students shall be through the Student's District assigned e-mail account. At the District's discretion, Students may be notified via U.S. mail, delivery in person, via SMS text message, by an alternate email on record from the Student, or by other authorized communication platforms. San Bernardino Community College District reserves the right to notify parents/legal guardians/emergency contacts when it determines that any Student, regardless of age, is in a situation that is threatening to their own health and safety, or that Student has placed another person in a situation that is threatening to their health and safety.

#### **D. JURISDICTION**

Pursuant to Board Policy 5500, the District's jurisdiction concerning alleged Standards of Student Conduct violations extends to the District, its colleges, and for all activities occurring on District property. This jurisdiction includes, but is not limited to, its main and satellite campuses, and to any non-District property used by the District or its colleges where District Students are present. This also applies to online courses/services and District sponsored/College sponsored programs, activities, and travel.

This jurisdiction shall also apply to Student-to-Student or Student-to-employee off-campus conduct and/or actions, and electronic activity (such as e-mail, texting, telephone contact, social media), when the College Conduct Officer, or designee, determines that the off-campus conduct affects, disrupts, or interferes with the educational mission of the college.

This Standards of Student Conduct also applies to off-campus conduct when the effects of the off-campus conduct create a Hostile Environment or impact a substantial District/College interest. A substantial District/College interest may include:

- a. Any action that constitutes a criminal offense as defined by law. This includes, but is not limited to, a single or repeated violations of any local, state, or federal criminal statute or ordinance;
- b. Any situation where it appears that a Student may present a danger or threat to the health or safety of themselves or others;

- c. Any situation that significantly impinges upon the rights, property, or achievements of self or others, or that significantly breaches the peace or causes significant disruption; and
- d. Any situation that is detrimental to the educational interest of the District/College. The Student Code of Conduct may apply to online activity and communication that occur outside of the District's/College's control when those online behaviors can be shown to create a Hostile Environment on campus or cause a substantial disruption

#### **E. ANTI-DISCRIMINATION STATEMENT**

The San Bernardino Community College District does not unlawfully discriminate based upon age, race, ethnicity, sexual orientation or preference, gender, national origin, veteran's status, gender identification, or genetic information in administering District educational policies and procedures. The District complies with the American Disabilities Act of 1990 (ADA) and Section 504 of the Rehabilitation Act of 1973 and Title IX. See Board Policy 3410 Nondiscrimination.

#### **F. PARALLEL STUDENT DISCIPLINE PROCEEDINGS**

Student Discipline Code proceedings are administrative in nature and are independent from court or other administrative proceedings. Discipline may be instituted against a Student also charged in civil or criminal courts based on the same facts that constitute the alleged violation of the Standards of Student Conduct. The District may elect to proceed before, concurrently with, or after any judicial or other administrative proceedings.

#### **G. PARALLEL TITLE IX INVESTIGATION PROCEEDINGS**

The District's Title IX Policy and Procedure, BP/AP 3540 Sexual and Other Assaults on Campus, addressing the investigation of allegations of sexual misconduct incorporate the sanctions and general procedures set forth in this Standards of Student Conduct, but are not restricted by this Procedure. Title IX investigations and processes are independent from court or other administrative proceedings. Student discipline may be instituted against a Student also charged in civil or criminal courts based on the same facts that constitute the alleged violation of Title IX or other law applicable to sexual misconduct. The District may elect to proceed before, concurrently with, or after any judicial or other proceedings.

### **Section II - Student Rights & Responsibilities**

#### **A. DUE PROCESS**

Students are entitled to a fundamentally fair process, including reasonable notice of allegations of violations of the Standards of Student Conduct, the opportunity for the Student to be heard and to afford the Student the opportunity to present evidence prior to the administrative determination of the alleged violations. The District reserves the right to make immediate interim suspensions or restrictions when such actions are deemed necessary by the College Conduct Officer or designee pending an investigation and determination of the matter. Any sanction(s) imposed under the Standards of Student Conduct shall be appropriate to the nature of the violation(s). See Section III below.

#### **B. STUDENT RIGHTS**

- To be treated with respect by District officials
- To take advantage of campus support resources, such as Counseling, Special Services, Health Services, and other available resources.
- To experience a safe educational environment.
- To not be subjected to retaliation for reporting violations.
- To have complaints heard in substantial accordance with established procedures.

- To fully participate in any process whether the injured individual is serving as the Complainant or the institution is serving as Complainant.
- A complainant may and Respondent shall be informed in writing of the outcome/resolution, any sanctions imposed, and the rationale for the outcome, to the extent permissible under applicable law and Board Policies.

### **C. SPECIAL REQUESTS/ACCOMMODATIONS - STUDENTS WITH DISABILITIES**

Any special requests and/or accommodations by any Party (for example, sign language, the use of assistive technology, service animals, and other accommodations approved by the Office of Disabled Student Programs & Services) must be made at least five (5) calendar days prior to the Administrative Conference. Special requests and accommodations shall also be applicable to Appeal Hearings as set forth in Section 4.2 of this Standards of Student Discipline.

### **D. ROLE OF LEGAL COUNSEL**

An attorney licensed to practice in California may accompany the Student to the hearing. The attorney's role is to provide counsel to the Student without disruption to the hearing process.

The attorney may not make any statements or presentations to the College Conduct Officer, Hearing Panel, or Appeal Committee, examine or cross-examine any witnesses, or present evidence or any written material to the College Conduct Officer or Hearing Panel or Appeal Committee set forth in Section 4.4. The attorney may not, in any way, disrupt or interfere with the hearing process. Any violation of this section shall result in the removal of the attorney. The attorney shall provide the College Conduct Office with a retention letter confirming that they have been retained by the Student at least seven (7) calendar days before the hearing so that the necessary arrangements can be made for a District attorney to be present at the hearing. The attorney's retention letter shall include the attorney's State Bar number and a telephone number. The requirements of this section shall also be applicable to Appeal Hearings as set forth in Section 4.2 of this Standards of Student Discipline.

### **E. STUDENT RIGHT TO REVIEW RECORDS**

Students seeking to review records relating to their investigation or to the outcome should refer to San Bernardino Community College District Board Policy 5040 Student Records Directory Information and Privacy. The District is not obligated to provide copies of student records unless not doing so would prevent the student from their right to inspect the record in question.

### **F. RECORDING AND PRESENTING WITNESSES**

Audio/Video Recordings – No audio, video or other recording of any investigation, interview, or meeting is permitted by the student. The student has the right to audio record hearings at their own expense.

Witness Rules and Limitations – only witnesses presenting relevant testimony or information directly related to the alleged violations are permitted. Witness statements relating to the alleged violations may be accepted by the College Conduct Officer at their sole discretion if such statements are deemed to be material and relevant to the proceeding.

The College Conduct Officer or designee shall be responsible for contacting witnesses for all meetings other than the appeal hearing, subject to the Student notifying the college no less than five (5) calendar days prior to the proceeding. The College Conduct Officer reserves the right to exclude redundant testimony from witnesses, or redundancy in witnesses.

### **G. CONFIDENTIALITY**

Any information provided to District employees may be shared with other District employees, law enforcement, or other parties, consistent with law, and only on a "need to know" basis. District employees shall endeavor to honor any Complainant or victim's request for confidentiality; however, confidentiality cannot always be assured. The District may weigh requests for confidentiality against its duty to provide a safe and nondiscriminatory environment for all members of the District Community.

Investigative or hearing proceedings are considered private and confidential so as to protect the Parties involved. Hearings or meetings shall not be conducted in public, and are not open to the public. The Parties involved are expected to maintain the privacy of the proceedings.

## **Section III - Student Discipline Process**

### **A. FACULTY INITIATED REMOVAL**

Prior to removal, the faculty member is responsible to identify the behavior and inform the student that failure to correct the issue may result in removal from the class. If the behavior persists, the faculty member may remove, for good cause, any student from their class for up to two (2) class sessions. The student shall not return to the class during the period of the removal without permission of the instructor. Nothing herein will prevent the college president or designee from recommending further discipline in accordance with these procedures based on facts that led to the removal. As used in this rule, "good cause" includes those offenses listed in the Student Code of Conduct. In instances of online courses, students access to course content will be removed for a period of time comparable to two class sessions.

### **B. COMPLAINT FILED/INCIDENT REPORTED**

San Bernardino Community College District, through its College Conduct Officers, will investigate all reports of alleged violations of the Standards of Student Conduct. Anyone who believes a section of the Code of Conduct has been violated should contact any College Conduct Officers identified at each District campus. Reports of allegations are entered into a District-wide system where it is assigned to the appropriate College Conduct Officers.

### **C. NOTICE TO STUDENT**

In all cases, the College Conduct Officer, or designee, will provide notice to the Parties, providing them with the following information, pursuant to Section 1.3:

- A description of the alleged violation(s).
- A description of the applicable policies.
- A statement of the potential sanctions/responsive actions that could result.
- A required date and time, for the Student, to contact the College Conduct Officer within seven (7) calendar days from the date of initial notification to schedule a hearing/meeting, superseding all other campus and work activities. The Student's failure to contact the College Conduct Officer within this seven (7) calendar day period shall constitute the Student's waiver of their ability to provide a response to the alleged violation(s), and the proceeding shall take place as if the Student has not responded.

**D. INTERIM ACTIONS:** Interim actions are those temporary sanctions deemed necessary by the College Conduct Officer to protect the safety and security of the District Community pending an investigation into the alleged violations of the Standards of Student Conduct.

- The College Conduct Officer may take any interim actions deemed necessary to:

- Protect the District Community from potential threats to health and safety;
  - Protect any particular member of the community;
  - Protect against the risk of substantial disruption to the normal operations of the campus.
- b. The College Conduct Officer or designee will inform the Respondent involved of any interim action/restrictions implemented against them pending investigation.
- c. Interim Action/Restrictions are effective immediately. There shall be no request to delay the imposition of interim actions. These actions may include:
- i. Interim Suspension – A Student who is suspended on an interim basis is subject to all of the same restrictions as if they had been suspended as a final sanction. The College Conduct Officer, or designee, may impose an interim restriction of up to fourteen (14) calendar days following notice from the College Conduct Officer.
  - ii. Interim Restriction – These restrictions may include, but are not limited to:
    - Any other restrictions deemed by the College Conduct Officer or designee necessary to achieve the goals stated above.
    - No-contact orders with specific individuals;
    - District events;
    - Restricted access to District facilities;
  - iii. The College Conduct Officer, or designee, may impose an interim restriction of up to fourteen (14) calendar days following notice from the College Conduct Officer.
- d. Interim Suspensions and Request to Stay. Upon notice of an Interim Suspension by the College Conduct Officer, Title IX Coordinator, or designee, the Student has five (5) calendar days (from the date of the notice) to submit reason(s) for a Request to Stay to the Vice President of Student Services or their designee. The Vice President of Student Services or their designee will render a decision on providing a stay, with or without modifications to the Student's request. The Vice President of Student Services or their designee will provide the Student with a decision within three (3) calendar days of the received Request to Stay. The Interim Suspension remains in effect until a decision from the Vice President of Student Services or designee is rendered

**E. INVESTIGATION PROCESS:**

The College Conduct Officer will conduct interviews to determine the accuracy of statements or other evidence.

The College Conduct Officer's primary communication to all Parties involved in the investigation shall be through District assigned email addresses, with supplemental forms of communication used as needed as referenced in section 1.3 above.

The College Conduct Officer will investigate each complaint submitted to determine whether it is appropriate to charge a Student with a violation of the Student Conduct Code.

Investigations should generally result in resolution within sixty (60) calendar days after a complaint has been made, barring unexpected delays or campus closures. If circumstances warrant, the College Conduct Officer will provide notice to the Student(s) of any delays or extensions necessary to complete any investigation.

Investigations may comprise of an interview with the reporting Party(s), person(s) alleged to have violated the policy(s), witnesses, and other persons having knowledge.

The College Conduct Officer shall make reasonable efforts to give the Student(s) an opportunity to rebut the accusation or otherwise provide relevant information to the College Conduct Officer or designee regarding the incident(s) which led to the belief by the College Conduct Officer or designee that the Student violated the Standards of Student Conduct in an Administrative Conference.

Should a Student fail to appear for any meeting, that Student may be considered as having waived their right to be present for the meeting and, the investigation may proceed without the Student's input.

**F. FINDINGS AND DETERMINATION:** Conferences/Hearings for possible violations that occur near or after the academic terms will be held as soon as is practicable, to try to meet the resolution timeline followed by the District. The College Conduct Officer has the discretion to elect any of the following methods for resolution:

- Administrative Resolution – The Respondent admits to the allegations and accepts the recommended sanctions of the College Conduct Officer or designee.
- Formal Finding by the College Conduct Officer – The College Conduct Officer, after completing an investigation, which includes an opportunity for the Respondent's due process, makes a finding and, if appropriate, issues sanctions.
- Formal Finding with Hearing Panel – The College Conduct Officer may elect, at their sole discretion, to refer the findings from their investigation, which includes the Respondent's due process, to a Hearing Panel for recommendation. The Hearing Panel is a panel convened to weigh the evidence presented following an investigation into alleged violations of the Standards of Student Conduct. The Hearing Panel shall be formed pursuant to Section 4.4 herein.

**G. TYPES OF FINDINGS AFTER INVESTIGATION:**

- a. Not Responsible – In these cases, College Conduct Officer or designee has determined that insufficient evidence exists, by the Preponderance of Evidence standard, for a finding of Responsible for the alleged violation(s). The case is closed, and a record is retained.
- b. Responsible – The College Conduct Officer or designee determines that sufficient evidence exists, by the Preponderance of Evidence standard, for a finding that the Respondent is Responsible for the alleged violation(s). This determination may also be rendered through the Administrative Resolution, where the Respondent has admitted culpability for the alleged violation(s). The College Conduct Officer may close the case.

After the investigation, meetings, and/or hearing, and considering all information relevant to the issue, the College Conduct Officer, or Hearing Chair and their Panel shall then decide whether or not to impose sanctions.

The College Conduct Officer will notify the Student charged with violations of the decision of the College Conduct Officer or Hearing Panel, and of any sanctions imposed. Such Notice shall be in writing from the College Conduct Officer and communicated to the Student pursuant the notice requirements set forth in Section 1.3.

**H. IMPOSING SANCTIONS:**

If a Student is found Responsible, sanctions will be imposed by the College Conduct Officer, as they deem reasonable and appropriate, pursuant to the available sanctions set forth in Appendix C. The Respondent may elect to



appeal the findings and sanctions subject to the limitations for grounds for appeal set forth herein.

#### **I. STANDARD OF PROOF FOR FINDINGS:**

In all cases involving alleged violations of the Standards of Student Conduct, the standard of proof for determining whether a Respondent is Not Responsible or Responsible is the Preponderance of Evidence standard (e.g., more likely than not), as defined in Appendix A herein.

#### **Section IV - Appeal Process and Grounds for Appeal**

An appeal is not intended to be a full review of the allegation(s) and reweighing of the evidence. There is a presumption that the College Conduct Officer has weighed all information following the investigation, and has reached the appropriate determination regarding the finding of Responsibility or Non-Responsibility. Students may appeal determinations or appealable sanctions only once based solely upon any of the following grounds for appeal:

- Excessive sanctions in relation to the violation(s) the Respondent was found Responsible for committing.
- A substantive procedural error which materially and significantly affected the weighing of evidence by the College Conduct Officer.
- New evidence has become available which is sufficient to alter the decision, and which the student was not aware of or could not have been reasonably obtained at the time of the initial review.

The Student must request an appeal in writing by e-mail, U.S. Mail, or by personal delivery of correspondence to the College Conduct Officer's office within seven (7) calendar days of notification of the outcome of the finding and sanctions. The Student must specifically identify which of the above-bulleted grounds their appeal is based on. Student failure to specify the basis for appeal with detailed information shall constitute the dismissal of the appeal without further proceedings.

Any request for an appeal that is not received within seven (7) calendar days of notification of the outcome/determination shall be deemed untimely and shall constitute a waiver of the Student's right to an appeal.

In all cases, the College Conduct Officer, or designee, will send a notice, pursuant to Section 1.3, to the Parties with the following information:

- A description of the violation(s), a description of the provisions of the Standards of Student Conduct determined to have been violated, and a statement of the sanctions/responsive actions.
- A required date, time, and location of the hearing superseding in priority all other campus and work activities. If a Party does not appear at the scheduled hearing, the hearing will be held in their absence. For compelling reasons, the College Conduct Officer, or designee, may reschedule the hearing; proof may be asked by the College Conduct Officer. Appeal hearings that occur near or after the academic terms will be held as soon as practicable to meet the resolution timeline generally followed by the District. If deemed appropriate by the College Conduct Officer, or designee, interim actions/restrictions and other stipulations that ensure the safety and/or well-being of the campus community will be administered or maintained.
  - The College Conduct Officer, or designee, shall use reasonable efforts to schedule the appeal hearing promptly, generally no sooner than fourteen (14) calendar days after, and not later than thirty (30) calendar days after, the date of the submitted written request for appeal. However, the scheduling of an appeal hearing may be delayed due to events beyond the College Conduct Officer's control. In such circumstances, the College Conduct Officer shall schedule the appeal hearing as promptly as is reasonably possible.

- The notice of hearing may be amended by the College Conduct Officer at any time, and the College Conduct Officer, or designee, may (but is not required to) postpone the appeal hearing for a reasonable period of time.

#### **A. ROLE OF ADVISORS AND LEGAL COUNSEL DURING APPEAL**

Student discipline proceedings are not formal court proceedings, but instead, are administrative proceedings conducted by the District. Although District-related sanctions may be imposed, the process is intended to provide an opportunity for learning and to promote a safe educational environment.

If the Student wishes to have an advisor accompany them to the hearing, the Student must provide the College Conduct Office with the name of the individual they have chosen to act as their appeal advisor no less than seven (7) calendar days prior to the appeal hearing. Advisors must maintain confidentiality and will not be permitted to participate or respond on behalf of the Student during the hearing.

If the Student chooses to have their attorney accompany them to the hearing, the name, address and telephone number of the Student's attorney must be submitted to the College Conduct Office no later than seven (7) calendar days prior to the hearing. In addition, no later than seven (7) calendar days prior to the hearing, the Student's attorney must deliver a retention letter, including their State Bar number and telephone number, to the College Conduct Office.

#### **B. THE APPEAL HEARING**

Appeal hearings are closed to all persons except:

- College Conduct Officer, or designee;
- The Student Hearing Appeal Chair;
- The Student Hearing Appeal Panel;
- Student;
- Advisor;
- an attorney, retained by the District or a Student;
- a court-certified interpreter paid for at the Student's own expense;
- selected members of the Student Hearing Appeal Panel when their determination of findings is at issue; and
- any person needed to assist the hearing officer.
- In some cases, a campus security/police officer may be present to ensure safety and security during the hearing.
- Witnesses, but not for the duration of the hearing.

#### **C. STANDARD OF PROOF FOR AN APPEAL**

In all cases involving appeal, the burden of proof is on the Student to establish, to the standard of Clear and Convincing Evidence (as defined herein), that the College Conduct Officer's determination following investigation was erroneous due to any of the following:

- Excessive sanctions in relation to the violation(s) the Respondent was found Responsible for committing.
- A substantive procedural error which materially and significantly affected the weighing of evidence by the College Conduct Officer.
- New evidence has become available which is sufficient to alter the decision, and which the student was not aware of or could not have been reasonably obtained at the time of the initial review.

#### **D. APPEAL HEARING PROCEDURES**

Evidence—The Appeal Hearing need not be conducted according to technical rules relating to evidence and witnesses. Only relevant and

material evidence shall be presented to and considered by the Hearing Appeal Committee. Irrelevant, immaterial, and/or unduly repetitious evidence shall be excluded. No evidence other than that received and weighed at the initial determination of findings shall be considered by the Hearing Appeal Committee. This limitation on admissible evidence shall not exclude the Student from presenting relevant, material evidence excluded by the College Conduct Officer at the initial hearing. The determination of relevancy or the material nature of the Student's offered evidence shall be made by the Hearing Appeal Committee.

- a. At the beginning of each school year, each college president or designee shall establish a standing panel from which one or more Hearing Appeal Committees may be appointed. The panel shall be made up of:
  - i. A minimum of five (5) faculty members whose names are obtained from the Academic Senate.
  - ii. A minimum of five (5) students whose names are obtained from the Student Senate.
  - iii. A minimum of five (5) administrators/supervisors appointed by the College President or designee.
- b. The College President or designee will appoint from the panel listed above a Hearing Appeal Committee consisting of a maximum of:
  - Two faculty members
  - Two students
  - One administrator/manager
  - A committee chair
- c. The Hearing
  - i. The Chair will call the hearing to order, explain the procedures of the hearing, and have all Parties introduce themselves. Should an advisor be present, they may not make a presentation or represent the Respondent or the Complainant during the hearing. The Parties to the hearing are expected to ask and respond to questions on their own behalf, without representation of their advisors. The advisor may not speak on behalf of the Student to the College Conduct Officer or to the Hearing Appeal Committee hearing the case.
  - ii. The Chair will present the rules governing the hearing. The Chair shall guarantee control of the hearing, making certain that all participants respect the right of others to make statements, and ensure confidentiality of such statements.
  - iii. The College Conduct Officer, and if applicable their witness(es), shall have up to thirty (30) minutes total, if necessary, to present relevant evidence to support the determination that violation(s) of the Standards of Student Conduct has occurred.
  - iv. The Student charged may question any witnesses presented by the College Conduct Officer. Members of the Hearing Appeal Committee may also question any witness presented by the College Conduct Officer. Questioning by the Student or the Hearing Appeal Committee shall not be considered part of the time allotted for presentation of the College Conduct Officer's evidence. Total witness questioning by the College Conduct Officer and the Student shall not exceed a total of thirty (30) minutes of witness testimony for each side. It is within the discretion of the Hearing Appeal Committee Chair to impose a timeline on questioning or to add additional time if warranted.
  - v. The Student charged, and if applicable their witness(es), shall have up to thirty (30) minutes in total time, if necessary, to present relevant evidence demonstrating the basis for why College Conduct Officer's decision should be overturned. The College Conduct Officer may question any witnesses presented by the Student.

Members of the Hearing Appeal Committee may also question witnesses. Questioning by the Hearing Appeal Committee shall not be considered part of the time allotted for presentation of the Student's evidence. Witness(es) shall provide testimony only on an individual basis, outside of the presence of other witness(es). It is within the discretion of the Hearing Appeal Committee Chair to impose a timeline on questioning or to add additional time if warranted.

- vi. The College Conduct Officer, and then the Student appealing, may each make a closing statement to the Hearing Appeal Committee. These closing statements shall be limited to a maximum of three (3) minutes each. The Hearing Appeal Committee Chair shall have the authority to extend the time limits if deemed necessary.
- vii. Once all information has been collected, the Chair, or designee, will:
  - Reiterate the alleged policy violation(s);
  - Remind all Parties and participants involved of the Standard of Proof (Clear and Convincing), as further defined in Appendix A.
  - Remind all parties and participants of confidentiality and of all imposed sanctions that are active and must be adhered to;
  - Remind all Parties and participants to review the San Bernardino Community College District's Standards of Student Conduct Board Policy 5500, Administrative Procedures 5500 and 5520, and to understand their Student rights and responsibilities;
  - Inform all Parties and participants of the deliberation process and the projected timeline for notification; and
  - Remind the Student charged and the Complainant, if applicable, that notification and all communication will be via District email accounts.

Following the Hearing Appeal Committee Chair's closing statements, all persons will be dismissed from the hearing except for the Committee Chair and the members of the Hearing Appeal Committee for deliberation.

#### **E. FAILURE TO APPEAR**

A Student who fails to appear before the Hearing Appeal Committee after having been notified of an appeal hearing is deemed to have waived their rights to participate in the appeal. The appeal hearing shall be terminated, and the Hearing Appeal Committee shall be dismissed. Initial sanctions will take effect immediately.

#### **F. DELIBERATION AND DECISION**

- a. The Hearing Appeal Committee shall make its findings for the appeal hearing based on the Clear and Convincing Evidence standard, as further defined in Appendix A, which demonstrates whether or not the College Conduct Officer:
  - i. Issued disproportionate or excessive sanctions in relation to the violation(s) the Respondent was found Responsible for committing.
  - ii. Demonstrated unlawful discrimination during the determination of Responsibility, and/or,
  - iii. Made a substantive procedural error which materially and significantly affected the weighing of evidence.
- b. Following the presentation of evidence, the Hearing Appeal Committee shall privately consider the evidence and shall prepare a written report of its findings and deliver it to the College Conduct Officer, which shall ordinarily be submitted within seven (7) calendar days of the date of the appeal hearing. This report shall include the following:

- i. A brief summary of the facts as found by the Hearing Appeal Committee, and a determination of evidence indicating whether the College Conduct Officer's findings should or should not be overturned;
- ii. A finding indicating the appropriateness of the disciplinary sanction imposed on the Student by the College Conduct Officer. This finding may state:
  - A finding that the Student is Responsible and that the disciplinary action proposed is appropriate; or
  - A finding that the Student is Responsible, but that the disciplinary action imposed by the College Conduct Officer was excessive to the violation, and as such, a recommendation be made for a lessened sanction;
  - A finding that the College Conduct Officer committed a substantive procedural error during the investigation or finding which would unduly taint the legitimacy of the finding of Responsibility, resulting in the finding to be set aside.
- c. The report of the Hearing Appeal Committee shall be sent by the Hearing Appeal Committee Chair to the Respondent. If the Committee has made a finding evidencing substantive procedural error, the Committee shall provide a copy of the report to the Vice President of Student Services. The College Conduct Office shall copy the Vice President of Student Services on written notification to the Student(s) involved.
- d. No finding by the Hearing Appeal Committee recommending the setting aside of a finding of Responsibility due to procedural error by the College Conduct Officer shall act as a bar to a subsequent investigation by another College Conduct Officer from within the District of the underlying facts and evidence of the matter appealed and making a finding and determination of Responsibility.

#### **G. RECOMMENDATION FOR EXPULSION**

If, after hearing, the Hearing Appeal Committee recommends expulsion to the College President, the College President shall deliver a written recommendation for the Student's expulsion to the Chancellor. A copy of the President's recommendation shall be provided to the Student, or if the Student is a dependent minor to their parent or guardian, by the Office of the President.

The College President's recommendation for expulsion shall contain a statement of the charges against the Student that provides the basis for their request that the Student be expelled, including a factual description of the conduct upon which the charges are based, and the action(s) taken by the Hearing Appeal Committee.

#### **H. REVIEW BY THE CHANCELLOR**

- a. The Student may appeal the College President's recommendation for expulsion, but not for other sanctions, by submitting a letter of appeal via personal delivery, delivery by a professional process server, or by certified mail to the Chancellor's office within ten (10) calendar days of their receipt of the College President's recommendation for expulsion. It is the student's responsibility to ensure the letter of appeal is delivered.
- b. The letter of appeal to the Chancellor shall state the reasons why the Student should not be expelled and shall not exceed fifteen (15) pages in length. The Student or any representative of the student does not have the right to meet personally with the Chancellor under this procedure.
  - i. Chancellor's Recommendation to the Board. If the Chancellor has decided to recommend the Student's expulsion, they shall

cause to be placed on a Board agenda for action at the next board meeting, their recommendation that the Student be expelled.

Minor deviations in the timeline for placement of the Chancellor's recommendation on the Board agenda shall be permitted. The Chancellor shall notify the Student or the Student's parent or guardian if the Student is a dependent minor of their decision to seek expulsion. The Chancellor's notice shall be in writing, setting forth the Board meeting date, time, and location where the Board will consider the recommended expulsion.

- ii. Appeal to the Board of Trustees. The Student may submit a Letter of Opposition to Expulsion to the Board of Trustees, through the Chancellors Office, via personal delivery, delivery by a professional process server, or by certified mail setting forth the Student's basis for opposition to the recommended expulsion. The Student's letter must be received no less than seven (7) calendar days prior to the scheduled Board meeting date.
- c. The Student's Letter of Opposition shall not exceed ten (10) pages in length, explaining to the Board why they should not be expelled. The Student may attach to their letter any documents they wish the Board to consider.
- d. The Chancellor shall submit the following documents to the Board prior to the Board acting on their recommendation for expulsion:
  - i. A copy of the correspondence provided to the Student informing the Student of the alleged violations of the Standards of Student Conduct;
  - ii. A copy of the investigative findings of the College Conduct Officer, including any relevant evidence collected and assessed.
  - iii. A copy of the report, if any, of the Hearing Appeal Committee;
  - iv. A copy of the President's recommendation for expulsion;
  - v. A copy of any letters or documents submitted by the Student; and
  - vi. The Chancellor's recommendation regarding expulsion of the Student.
- e. The Board's Decision Regarding Expulsion  
The Board's decision shall be final and shall end the Student's appeal process relating to expulsion.
- f. Notification to College Conduct Officer  
The Executive Assistant to the Chancellor's Office shall notify the College Conduct Officer in writing of the Board's decision regarding the Student's expulsion and shall provide the College Conduct Officer with a copy of the meeting minutes evidencing the Board's action.
- g. Notification to Student  
The Chancellor's Office shall notify the Student in writing of the Board's decision regarding their status as a Student in the District

#### **I. READMISSION AFTER A SUSPENSION**

- The following procedures shall apply to a Student's request for readmission.
- A Student who has been suspended is eligible to apply for readmission if:
  - The term of the Student's long term suspension will expire within thirty (30) calendar days.
  - The Student has complied with all the terms and conditions of their suspension; and
  - During the course of the Student's suspension, the Student has not engaged in any behavior or activity that would be cause for discipline under the Standards of Student Conduct if the individual were a District Student.

#### a. Procedure for Re-admission Following Long-Term Suspension

- The Student seeking readmission must make a written request for readmission to the College Conduct Office.
- The College Conduct Officer may request a meeting with the Student seeking readmission to ascertain their eligibility for readmission.
- Ordinarily, within thirty (30) calendar days of the date of their receipt of a written request for readmission, the College Conduct Officer shall decide whether the request should be granted or denied.
- The College Conduct Officer shall notify the Student of their decision in writing and shall, in case of denial, include the reasons for such denial.
- A Student, whose application for readmission has been denied, may not apply for readmission until the next registration cycle after denial of their application.

#### *SBCCD Administrative Procedure 5520*

## Student Complaints

Students are encouraged to resolve differences and disagreements at the appropriate level of the dispute. However, should this initial approach be inappropriate, students may submit a written complaint at [valleycollege.edu/reporting](http://valleycollege.edu/reporting). Once received, the complaint will be forwarded to the appropriate college official for review, and the complaint will receive a response as soon as possible.

#### Student Grievance and Due Process

It is the stated policy of the Board of Trustees of the San Bernardino Community College District that, "the relationship between students and college personnel is of vital importance to the learning process." With this principle comes the recognition that there may be many divergent viewpoints and that a process by which these viewpoints can be aired and resolved must be established.

### Cause and Filing

Student grievance proceedings may be initiated against a District employee or another student for any of the following reasons:

- Any act or threat of intimidation;
- Any act or threat of physical aggression;
- Any arbitrary action or imposition of sanctions without a proper regard to due process as specified in college procedures.

#### Notice:

- Grades are not grievable (see **notation** at end of policy);
- Sexual Harassment complaints are filed in accordance with Board Regulation 3430 and are not covered under Student Grievances;
- Discrimination complaints are filed in accordance with Board Regulation 3430 and are not covered under Student Grievances.

### Who to File a Grievance With?

A student may submit a grievance to any manager or employee in any area for delivery to the Vice President of Student Services who will assess which manager or vice president is to oversee the grievance process.

Student grievances should be filed with the appropriate college administrator for resolution. Examples are:

- Classroom or teacher-related issues should be submitted to the Vice President of Instruction, or designee;

- Student service or counseling-related issues should be submitted to the Vice President of Student Services, or designee;
- Building, grounds, cashiering, mailroom, switchboard, food services or police-related issues should be submitted to the Vice President of Administrative Services, or designee.

### Time for Filing a Grievance Notice

The appropriate vice president, district manager, or designee will accept a formal written student grievance when submitted within 180 calendar days of the event's occurrence and under the provisions specified. A grievance may be denied if the events occurred more than 180 calendar days prior to the date in which the grievance was filed in writing.

### Student Status for Filing a Grievance

Only registered students may file a student grievance. Non-student grievances may be considered by the designated vice president or manager if the grievance is a result of a dispute arising out of the registration or enrollment process and the grievance is filed within thirty calendar days of the alleged incident.

### Group Grievance

If more than one student files a grievance against an individual on the same issue or situation, members of the group shall select one person to serve as spokesperson/representative for the entire group.

### Informal Student Complaint Resolution Process (Non-Written)

**Step 1:** Every effort shall be made to resolve a student complaint at the lowest level possible. A student must first attempt to resolve the issue directly. If this is not practical or possible, or due to the nature of the problem, or failing a resolution the grievance progresses to Step 2.

**Step 2:** A student who is not satisfied with the Step 1 outcome may next attempt to resolve the alleged problem by conferring with the immediate supervisor of the employee with whom the initial conference was held. If the grievance is alleged against another student, Step 2 would be taken to the Disciplinary Officer. Upon such a request, the administrator shall inform and confer with any employee or student named by the student. In turn, the administrator shall schedule a meeting with the grievant and if requested, all involved parties, not more than ten (10) school days from the date of the initial request.

### Formal Procedures

If the alleged problem is not resolved at the Informal Level, the student may request a formal hearing in writing with the appropriate vice president or designee. This written notice shall state the conditions, practice, alleged act, or injustice that is being grieved, the date(s) of the alleged occurrence and should, if possible, include a proposed remedy or resolution to the problem.

**Step 1:** Within three (3) working days of receipt of the written student grievance notice, the appropriate Vice President or designee shall determine if the allegations were filed in a timely manner and meet the criteria outlined. If the student grievance notice fails to meet the above criterion, the Vice President shall notify the student of this determination and the grievance shall be terminated. If the student grievance notice is not terminated, the Vice President shall appoint a Student Grievance Hearing Committee within five (5) working days.

**Step 2:** Any employee who has conferred with a student who requests a hearing shall prepare a written account of the discussion, which shall be forwarded, to the appropriate Vice President or designee.

**Step 3:** The student and any college personnel or student involved in the allegations shall be notified of a hearing and the time and place of the hearing in writing. The notice shall include the names of the Hearing Committee and all documentation relating to the allegation(s).

**Step 4:** The Hearing Committee shall consist of either a maximum of two faculty or two classified staff members, based on the nature of the classification of staff involved, two students, and one administrator to hear the grievance. The administrator where the issue relates shall serve as chairperson of the hearing committee.

## Hearing Procedures

- a. The hearing shall convene within ten (10) working days of the receipt of the student grievance notice unless mutually agreed upon for a delay.
- b. The hearing shall be closed unless the District employee or student against whom the grievance is brought requests that it be open.
- c. The following persons should be present:
  - The Hearing Committee
  - The student grievant and non-legal representative/advocate if any
  - The college employee or student against whom the grievance is brought and a representative of the appropriate bargaining unit, if any
  - Witnesses, while presenting testimony.
- d. Both parties shall notify the appropriate Vice President or designee, in writing within three (3) working days of the hearing if he/she will be accompanied by a representative/advocate. Such notification shall include the name and title of the representative. The Committee Chairperson shall be obligated to immediately notify the parties directly involved.
- e. Although minutes will be taken at the hearing to provide a written record, if all parties agree the hearing may also be tape-recorded.
- f. All participants in a hearing shall be advised by the Committee Chairperson that the proceedings are confidential.
- g. Witnesses shall not be required to testify under oath; however, witnesses shall be advised that false testimony will constitute grounds for college disciplinary action.
- h. The proceedings will not be bound by formal rules of evidence nor trial-like procedures. Rather, the procedures will be those upon which reasonable persons would rely in the conduct of serious affairs. The Committee Chairperson shall rule on all procedural issues. If substantive or procedural issues arise during the hearing that require external assistance for resolution, the Hearing Committee Chairperson should recess the hearing and submit the issue to the college president for resolution.
- i. Evidence and/or testimony, which may be irrelevant or unduly repetitious, may be so noted by the Committee Chairperson.
- j. The burden of proof to sustain a grievance rests with the student.
- k. If the grievant fails to appear at the time and place scheduled for the hearing, and fails to notify the committee of the circumstances the grievance will be considered to have been withdrawn and procedures will be terminated. Depending on the nature of the circumstances, the committee shall determine if the hearing should be rescheduled within a reasonable time period. It is recommended that the defendant participate in the hearing.

- l. Upon conclusion of the hearing, within five (5) working days, the Committee Chairperson shall submit to the Vice President a written report. The report shall include:
  - A brief summary of evidence submitted;
  - A finding of facts, supported by a preponderance of the evidence;
  - A recommendation that the grievance be sustained or denied; and
  - In the event the recommendation is to sustain the grievance, a recommendation of appropriate corrective action.
- m. Upon review of the Hearing Committee's report, the Vice President or designee shall make a final determination.

## Notification

Within five (5) working days following receipt of the report of the Hearing Committee chairperson, the Vice President or designee shall provide a written notification to the student/s and to the employee/s directly involved in the issues as to the final determination.

## Appeal to President

If either the complainant or accused is not satisfied with the final college-level disposition of the grievance, the party may, within ten (10) working days, appeal the decision to the College President. The basis of appeals are:

- All parties shall be notified by the President of the appeal.
- The President shall provide written notification to the student and to other parties directly involved in the issues as to his/her recommendation within five (5) working days.

## Appeal to the Chancellor

If either party is not satisfied with the final college-level disposition of the grievance, he/she may, within ten (10) working days, appeal (state the basis of the appeal again) the decision to the Board of Trustees through the District Chancellor. All parties shall be notified by the Chancellor of the appeal. The Chancellor shall report the grievance in closed session to the Board of Trustees for final determination. The Chancellor shall provide written notification to the student and to other parties directly involved in the issues as to his/her recommendation within five (5) working days. The determination of the Board of Trustees is final.

## General Provisions

- a. The time limits specified in this procedure may be shortened or extended if there is mutual written concurrence between the parties.
- b. At any step of the grievance procedure, the college President may designate a substitute for the designated college officials.
- c. Failure of the student grievant to appeal a grievance determination at any step to another step within the specified time limits shall be deemed as acceptance of the last determination rendered.
- d. It is the intent of this policy that the confidentiality of the discussions, including any documents or written records, be maintained by the participants.
- e. It will not be mandatory for any staff member to attend the student grievance meetings nor will the student grievance procedure supersede staff member's contractual rights.

## Grade Appeal Process

Any student complaint about a grade should first be made to the instructor involved. All attempts should be made to resolve the grade dispute at the lowest level. (Please see Student Complaints section for additional information).

By law, the instructor is solely responsible for the grades assigned in courses; no instructor may be directed to change a grade except in cases of mistake, fraud, bad faith, or incompetence as authorized by the California Education Code, Section 76224 (a).

To appeal a grade, the student must provide evidence that the instructor issued a grade in:

- a. Mistake – unintentional error on part of the instructor
- b. Fraud – intentional misrepresentation of any or all facts, which lead to a negative outcome
- c. Bad faith – any other intentional act of the instructor, which negatively impacts the grade of the student
- d. Incompetency – there is evidence that the instructor does not have the knowledge, skills, and/or abilities to conduct and fairly grade the course. Incompetence is usually pervasive, and not restricted to one student or one incident.

Grade appeals with supporting documentation must be submitted with the Student Grade Appeal form to the Director of Admissions and Records. The student must provide evidence that one of the four conditions listed above (mistake, fraud, bad faith, or incompetency) resulted in the assignment of the grade in question. The burden of proof in this process lies with the student. The Director of Admissions and Records, in consultation with the Vice President of Instruction, will make a thorough review of the grade appeals documentation provided by the student within 30 working days. If warranted, the student's appeal will be forwarded to a hearing committee for review.