

**Student Services**

**AP 5520 STUDENT DISCIPLINE PROCEDURES**

**References:**

Education Code Sections 66300, 72122, and 76030

The District shall maintain and enforce a fair, uniform, and confidential student discipline process, the purpose of which is to promote the orderly conduct of a responsible student body in a manner compatible with the District and College function as an educational institution (Education Code 66300).

The President or designee will ensure that administrative disciplinary procedures as well as a uniform system of student grievances and appeals are maintained and made known to all students by prominent inclusion in College publications and on Web sites. When a complaint is filed with the Vice President of Student Services he/she shall make a determination to refer the matter to the College Student Intervention Committee, meet with the student directly in a discipline hearing, or forwards the matter directly to the College Hearing Board. Any disciplinary action taken, including warnings, temporary exclusion, censure, and cancellation of registration will be consistent with Education Code provisions.

The purpose of this procedure is to provide a prompt and equitable means to address violations of the Standards of Student Conduct, which guarantees to the student or students involved the due process rights guaranteed them by state and federal constitutional protections. This procedure will be used in a fair and equitable manner, and not for purposes of retaliation. It is not intended to substitute for criminal or civil proceedings that may be initiated by other agencies.

These Administrative Procedures are specifically not intended to infringe in any way on the rights of students to engage in free expression as protected by the state and federal constitutions, and by Education Code Section 76120, and will not be used to punish expression that is protected.

**Definitions:**

**District** – The West Valley-Mission Community College District.

**Student** – Any person currently enrolled as a student at any college or in any program offered by the District.

**Instructor** – Any academic employee of the District in whose class a student subject to discipline is enrolled, or counselor who is providing or has provided services to the student, or other academic employee who has responsibility for the student's educational program.

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

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

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

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

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

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

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

**Notice** – The Vice President of Student Services or designee will provide the student with written notice of the conduct warranting the discipline. The written notice will include the following: the specific section of the Standards of Student Conduct that the student is accused of violating. A short statement of the facts supporting the accusation. the right of the student to meet with the Vice President of Student Services or designee to discuss the accusation, or to respond in writing. The nature of the discipline that is being considered.

**Time limits** – The notice must be provided to the student within ten (10) business days of the date on which the conduct took place; in the case of continuous, repeated or ongoing conduct, the notice must be provided within seven (7) business days of the date on which conduct occurred which led to the decision to take disciplinary action.

**Meeting** – If the student chooses to meet with the Vice President of Designee, the meeting must occur no sooner than ten (10) business days after the notice is provided. At the meeting, the student must again be told the facts leading to the accusation, and must be given an opportunity to respond verbally or in writing to the accusation.

**Short-term Suspension** – Within five (5) business days after the meeting described above, the President shall, pursuant to a recommendation from the Vice President decide whether to impose a short-term suspension, whether to impose some lesser disciplinary action, or whether to end the matter. Written notice of the Chancellor's decision shall be provided to the student. The notice will include the length of time of the suspension, or the nature of the lesser disciplinary action. The Chancellor's decision on a short-term suspension shall be final.

**Long-term Suspension** – Within five (5) business after the meeting described above, the Chancellor shall, pursuant to a recommendation from the Vice President of Student Services or designee, decide whether to impose a long-term suspension. Written notice of the Chancellor's decision shall be provided to the student. The notice will include the right of the student to request a formal hearing before a long-term suspension is imposed, and a copy of this policy describing the procedures for a hearing.

**Expulsion** – Within ten (10) business days after the meeting described above, the Chancellor shall, pursuant to a recommendation from the President, decide whether to recommend expulsion to the Board of Trustees. Written notice of the Chancellor's decision shall be provided to the student. The notice will include the right of the student to request a formal hearing before expulsion is imposed, and a copy of this policy describing the procedures for a hearing.

**Hearing Procedures** – Request for Hearing:

Within ten (10) days after receipt of the President's decision regarding a long-term suspension or expulsion, the student may request a formal hearing. The request must be made in writing to the Chancellor or designee.

**Schedule of Hearing** – The formal hearing shall be held within ten (10) days after a formal request for hearing is received.

**Governing Board** — Governing Board' shall mean the Governing Board of the West Valley Mission Community College District.

**District** — the West Valley Mission Community College District, a public community college district of the State of California.

**College** — West Valley and/or Mission Community College, colleges operated and maintained by the West Valley Mission Community College District.

**College Hearing Board** — the West Valley Mission Community College Hearing Board, an administrative agency of the College; organized and existing primarily to hear and

decide on or recommend appropriate disciplinary action in cases brought before it under these Rules and Regulations.

**President** — the Presidents of the West Valley Mission Community College District who is the President of West Valley and/or Mission Community College, or in his/her absence, the acting President.

**Vice President or ‘Vice President of Student Services** — the Vice President of Student Services of the West Valley Mission Community College District or his/her designee.

**Member of the College community** — shall mean the District Trustees, the academic, support staff and administrative personnel of the District or College, the students of the College and any other person or persons while on District or College property or at a District or College function or activity.

**District property** — include real and personal property owned, controlled, or in the possession of the Governing Board of the West Valley Mission Community College District, and the real or personal property of all District food service, retail and resident facilities, whether operated directly by the District, a District or College auxiliary organization, or an independent contractor of the West Valley Mission Community College District, and whether located at West Valley or Mission College or elsewhere.

**Deadly weapon** — include human hands (when they are classified as lethal weapons), any instrument or weapon commonly known as a blackjack, slingshot, billy, nanchaku, sand club, sand bag, metal knuckles, any dirk, dagger, switchblade knife, pistol, revolver or any other firearm, any knife having a blade longer than five (5) inches, any razor with an unguarded blade, any metal or wooden pipe or bar, any chain, rock or stone, or any object or chemical used or intended to be used for the purpose of doing bodily injury to another person.

**Good Cause:**

1. As used in this article, ‘good cause’ includes, but is not limited to the following offenses:
  - a. Continued disruptive behavior, continued willful disobedience, habitual profanity or vulgarity, or the open and persistent defiance of the authority of, or persistent abuse of, college personnel.
  - b. Assault, battery, or any threat of force or violence upon a student or college personnel.
  - c. Willful misconduct which results in injury or death of a student or college personnel or which results in cutting, defacing, or other injury to any real or personal property owned by the district.

- d. Unlawful possession, use, sale, offer to sell, or furnishing, or being under the influence of, any controlled substance listed in Chapter 2 (commencing with Section 11053) of Division 10 of the California Health and Safety Code, an alcoholic beverage, or an intoxicant of any kind; or unlawful possession of, or offering, arranging or negotiating the sale of any drug paraphernalia, as defined in California Health and Safety Code Section 11014.5
- e. Willful or persistent smoking in any area where smoking has been prohibited by law or by regulation of the Governing Board.
- f. Persistent, serious misconduct where other means of correction have failed to bring about proper conduct (California Education Code, Section 76033).

### **Grounds for Disciplinary Action**

1. Failure to comply with the directions of District or College officers or employees acting in the performance of their duties; or violation of District or College policies or regulations.
2. Violating District regulations concerning the registration of student organizations, use of College facilities, and the time, place, or manner of public expression, distribution of leaflets, pamphlets or other materials.
3. Academic dishonesty, such as cheating or plagiarism.
4. Forgery, alteration, misuse, misappropriation or theft of College papers, documents, records or identification, or knowingly furnishing false information to the District or College or its officers or employees.
5. Disruption or obstruction of classes, meetings, disciplinary proceedings, or other authorized functions or activities of the District or College, whether conducted on the West Valley or Mission College campus or elsewhere including, but not limited to, the use of headsets, walkmans, cellular telephones or pagers in the classroom.
6. Abusive behavior directed toward, or hazing of, a member of the campus community on or off campus property, including verbal abuse, harassment, intimidation, or the threat of abuse, to the person or property of any member of the campus community, or of members of his or her family.
7. Engaging in disorderly conduct, habitual profanity or vulgarity, gambling, lewd, indecent, obscene or offensive behavior on District-owned or controlled property or at any District or College-sponsored or supervised function or activity.

8. The unlawful sale, possession, use or distribution of any drug or substance controlled by state or federal law on District or College-controlled property or at any District- or College-sponsored or supervised function. Such drugs or substances include but are not limited to legally controlled hallucinogenics, narcotics, depressants, stimulants, marijuana and its products, toluene, and alcoholic beverages. This regulation does not apply to lawful possession of prescription drugs by the person named on the prescription or possession of contraband drugs or substances by peace officers and College instructors for use as evidence or teaching aids.
9. Theft of, or intentional damage to, campus property, or property in the possession of, or owned by, a member of the campus community; theft of software by copying; unauthorized entry into, unauthorized use of, or misuse of campus property to include ,computer piracy,' which is unauthorized entry into information which is campus property.
10. Illegal operation of a motor vehicle on the West Valley or Mission College campus.
11. Knowing possession or use of explosives, dangerous chemicals or deadly weapons on campus property or at a college function.
12. Violation of any order of the President, notice of which had been given prior to such violation and during the academic term in which the violation occurs, either by publication in the campus newspaper, or by posting on an official bulletin board designated for this purpose, and which order is not inconsistent with any of the other provisions of this Section.
13. Soliciting or assisting another to do any act which would subject a student to expulsion, suspension or probation pursuant to this Section.
14. Littering on campus property including grounds, facilities and parking lots.
15. Unauthorized preparation, giving, selling, transfer, distribution, or publication for any commercial purpose, of any contemporaneous recording of an academic presentation in a classroom or equivalent site of instruction.

## **STUDENT DISCIPLINARY ACTIONS AND PROCEDURES**

Pursuant to California Education Code 76030 - 76037, the following types of discipline may be initiated at any time when a student is found to be in violation of the policies or rules and regulations of the West Valley-Mission Community College District or its colleges. College authorities will determine which type of action is appropriate. Any member of the college community (i.e., faculty, staff, and student) may file a written complaint with a college administrator against any student for misconduct.

Prior to initiation of these formal disciplinary actions, the parties involved are highly encouraged to seek resolution through informal efforts. Should either party wish to pursue an informal resolution, appropriate college personnel (counselor, department chair, division chair, dean, and/or the Vice President of Student Services) are available to meet with the parties to mediate and assist with these informal efforts.

**Types of Disciplinary Actions:**

1. Official Warning (Education Code Section 76031). An official warning is a written notice from the Vice President of Student Services or a designee of the President to the student that states if the misconduct is continued, it may result in further disciplinary action. Written official warnings shall not be made a part of the student's permanent record.
2. Removal from Class (Education Code Section 76032). An instructor may remove a student from his or her class when the student's conduct interferes with the instructional process. The duration will be for the day of removal and may extend through the next class meeting, or a total of two (2) consecutive class meetings. The instructor shall immediately report the removal to the Vice President of Student Services and to the appropriate Division Chair or administrator. A written report shall be provided to the Vice President of Student Services. The Division Chair or appropriate administrator shall arrange for a conference between the student and the instructor regarding the removal. Upon request of either the instructor or the student, the Division Chair or appropriate administrator shall attend the conference. During the period of removal, the student shall not return to the class without the concurrence of the instructor. The student has the right to return to class after two consecutive class meetings, pending further disciplinary action, if any. Nothing herein will prevent the Division Chair or the appropriate administrator from recommending further disciplinary actions in accordance with these procedures based on the facts which led to the removal.

Within five (5) days following the conference, if further action is required, the Division Chair or appropriate administrator will refer the student to the Vice President of Student Services for further disciplinary actions. The Vice President of Student Services shall decide whether to recommend suspension, whether to impose some lesser disciplinary action, or whether to end the matter. The Vice President of Student Services shall provide the student a written notification of the decision and the type of disciplinary action being imposed. A record of the disciplinary action will be entered in the student's discipline file and will be maintained in the Office of the Vice President of Student Services.

**Removal of student who is a minor (Education Code Section 76032):**

An instructor may remove a student who is a minor from his or her class when the student's conduct interferes with the instructional process. The duration will be for the day of removal and may extend through the next class meeting, or a total of two consecutive class meetings. If the student removed by an instructor is

a minor, the college President or the President's designee shall ask the parent or guardian of the student to attend a parent conference with the instructor regarding the removal as soon as possible. If the instructor or the parent or guardian so requests, a college administrator shall attend the conference. During the period of removal, a student shall not return to the class from which he or she was removed without the concurrence of the instructor of the class. The student has the right to return to class after two (2) class meetings, pending further disciplinary action, if any. Nothing herein will prevent the college administrator from recommending further disciplinary procedures in accordance with these procedures based on the facts which led to the removal. The Vice President of Student Services shall provide the student a written notification of the decision and the type of disciplinary action being imposed. A record of the disciplinary action will be entered in the student's discipline file and will be maintained in the Office of the Vice President of Student Services.

3. Withdrawal of Consent to Remain on Campus (Penal Code Section 626.4). The District Police, working in conjunction with the Vice President of Student Services or the College President, may notify any person for whom there is a reasonable belief that the person has willfully disrupted the orderly operation of the campus that consent to remain on campus has been withdrawn. If the person is on campus at the time, he or she must promptly leave or be escorted off campus. If the District Police issues a student a Withdrawal of Consent to Remain on Campus, the Vice President of Student Services is required to review and confirm this action within 24-hours of issuance of this notice.

The person from whom consent has been withdrawn may submit a written request for a hearing on the withdrawal within the period of the withdrawal. The request shall be granted no later than seven (7) days from the date of receipt of the request.

In no case shall consent be withdrawn for longer than fourteen (14) calendar days from the date consent was initially withdrawn.

Any person who knowingly reenters the campus during the period in which consent has been withdrawn, except to come for a meeting or hearing, is subject to arrest. A copy of the Withdrawal Consent form and any other information about the incident will be maintained in the student discipline files in the Office of the Vice President of Student Services.

4. Official Reprimand (Education Code Section 76031). A reprimand is a written notice of the violation of specific rules from the Vice President or a designee of the President. A student receiving a reprimand is formally notified in writing that continued conduct of the type described in the reprimand may result in more severe disciplinary actions. A copy of the official reprimand shall be placed in the student's discipline file and will be maintained in the Office of the Vice President of Student Services.



5. Social Probation (Education Code Section 76031). Social probation consists of the exclusion of the student from participation in specified or all extra-curricular College activities. Extra-curricular College activities are defined as College-related activities for which the student receives no academic credit. The written notification of social probation shall set forth the reason or reasons for the imposition of this disciplinary action, the activities to which the exclusion applies, and the length of time for which it is to be imposed. Social probation shall be imposed for a period not to exceed one (1) semester by the President or his/her designee. A copy of the written notice of social probation shall be served to the student and shall be placed in the student's discipline file maintained in the Office of the Vice President of Student Services, and shall also be placed on the student's permanent record.
6. Restitution (Education Code Section 76031). Restitution consists of the reimbursement for damages to or misappropriation of District property, the property of a member of the College community, or of a visitor on the West Valley or Mission College campuses. Reimbursement may take the form of appropriate personal services to repair, restore or otherwise compensate for the damage or injury done, and may be made a condition of continued attendance at the College. The President or his/her designee shall inform the student in writing of the amount to be reimbursed to the college and the length of time provided for reimbursement. A copy of the restitution requirement will be placed in the student's discipline file maintained in the Office of the Vice President of Student Services, and shall also be placed on the student's permanent record.
7. Disciplinary Probation (Education Code Section 76031). Disciplinary probation is a lesser sanction than suspension. Probation requires the student to adhere to specific written terms and conditions defined by the College Hearing Board, Vice President of Student Services, or the Vice President's designee. The terms of probation shall bear a reasonable relationship to the violation committed by the student. The sanction may include, **but need not be limited to**, ineligibility to participate in college or student-sponsored activities including public performances and may be imposed upon an individual student or group(s) of students. Disciplinary probation may be imposed for a period not to exceed one year.

Should the student violate one or more of the terms of the probation during the probationary period, the Vice President of Student Services will impose a more stringent disciplinary action such as suspension. The student will be notified in writing. The Vice President of Student Services shall also immediately notify the President. A record of the disciplinary action shall be placed in the student's discipline file maintained in Office of the Vice President of Student Services, and shall also be placed in the student's permanent record.

8. Interim/Emergency Suspension (76030). In those cases where an immediate suspension is required in order to protect lives or property, or to ensure the maintenance of order, the College President or the President's designee may summarily suspend a student for a period not to exceed ten (10) instructional days provided that, within the ten-day period, a reasonable opportunity for a disciplinary hearing is provided to that student (California Education Code, Section 66017). Interim suspension is outlined below in the ***Due Process Procedures*** section. Records of the interim suspension shall be retained in the Vice President of Student Services Office and in the student's permanent record. The President shall report an Interim/Emergency Suspension to the Board of Trustees at its next regular meeting.
9. Disciplinary Suspension (Education Code Sections 66017; 76030; and 76031). Disciplinary suspension is the exclusion from the campus and other privileges or activities for a definite period of time. Disciplinary suspension serves as a penalty against a student for repeated, continued, or serious violations of the District's and/or College's rules, policies, or regulations. A student may be suspended
  - a. for one (1) or more classes for up to ten (10) days of instruction;
  - b. from one (1) or more classes for the remainder of the school term; or
  - c. from all college classes and activities for one (1) or more terms.

A suspended student may be prohibited from occupying any portion of the campus and denied participation in any or all college activities. During the term of the suspension, the suspended student will not be permitted to enroll in classes at West Valley-Mission Community College District. Disciplinary suspensions shall be initiated by the Vice President of Student Services and are subject to the due process procedures outlined below in the following section. The President shall report a disciplinary suspension of any student to the Board of Trustees at its next regular meeting after the suspension has been imposed. A copy of the suspension notice, including the reason for the suspension, shall be placed in the student's discipline file maintained in the Office of the Vice President of Student Services, and shall also be placed in the student's permanent record.

10. Expulsion (Education Code Section 76030). An expulsion for good cause is a permanent termination of student status with readmission to the College upon the express approval of the Board of Trustees. A student may be expelled only by the Board of Trustees after notice has been given and a hearing conducted in accordance with the procedures set forth in the ***Due Process Procedures*** section. The Board of Trustees shall expel a student for misconduct whenever other means of correction have failed to bring about proper conduct or when the seriousness of the situation warrants such disciplinary action. A copy of the

expulsion notice, including the reasons for the expulsion, shall be placed in the student's discipline file maintained in the Office of the Vice President of Student Services, and shall also be placed in the student's permanent record.

Any suspension or expulsion shall preclude enrollment at any and all colleges within the District during the period of suspension or expulsion.

## **DUE PROCESS PROCEDURES**

Consistent with Education Code Sections 66017 and 76030, the student disciplinary actions of interim/emergency suspension, disciplinary suspension, and expulsion are subject to the due process and appeal procedures described herein.

In cases where lesser disciplinary actions have been ineffective in halting student misconduct or the magnitude of the misconduct warrants more severe disciplinary action, the College will initiate the process for a suspension or expulsion. When the decision is made to initiate such a process the representative of the College or other individuals who have knowledge of the violation of the student conduct standards will submit a written account to the Vice President of Student Services. The Vice President of Student Services or designee will deliver in person, or provide via certified mail (accompanied by a return receipt) to the student a copy of the charges against him/her. The charges will list the specific violation(s) of the District Student Discipline Policy, a factual summary of the alleged misconduct, other relevant information, and notice of the due process hearing and appeal procedures. If the student is a minor, the parent or guardian shall also be provided notice of the due process hearing and appeal procedures. The following outlines the procedures:

1. The Vice President of Student Services shall administer these procedures and take appropriate action, subject to the approval of the President and the Chancellor as required herein or as otherwise required by law.
2. Disciplinary action taken under these procedures may be taken regardless of anticipated, pending or completed civil or criminal proceedings arising out of the same act or event.
3. Alleged student misconduct of a serious nature to warrant consideration of suspension or expulsion shall be reported to the Vice President of Student Services and when reported to or discovered, the Vice President of Student Services shall initiate an investigation of the charges. Should the Vice President of Student Services deem it appropriate to pursue disciplinary actions against the student, he/she shall arrange a meeting with the student prior to issuance of formal charges, at which time the student shall be informed that an investigation is being conducted.
4. If the student is a minor, the student's parent or guardian shall also be provided notice of the due process procedures.

5. Following issuance of formal charges, the student has the right to request a hearing to present information and/or evidence supporting his/her case.

Should the student fail to request a hearing, the Vice President, after due investigation and deliberation, shall proceed to impose whatever disciplinary action he/she deems appropriate or recommend appropriate action to the President.

If the student requests a hearing, he/she shall be afforded one of the following options:

- a. A hearing before the Vice President of Student Services /designee, or
- b. A hearing before the College Hearing Board. (For a description of College Hearing Board see the **College Hearing Board** section).

The Vice President of Student Services shall set the time, date, and location for the hearing.

6. Proceeding under option 5a, where a student requests a hearing before the Vice President of Student Services:
  - a. The Vice President of Student Services, or the designee, shall discuss the accusation with the student. The Vice President of Student Services and the student or his/her representative shall have the right to call, examine and cross-examine witnesses. The Vice President of Student Services then may consider any relevant evidence or information presented in the matter, take or recommend disciplinary action if appropriate, and inform the student that if he/she disagrees with the disciplinary action, he/she may appeal to the President for review of the disciplinary action by so informing the Vice President in writing (see **Student Appeal Procedures**).
  - b. Following the hearing, in any case where disciplinary suspension is recommended by the Vice President of Student Services, the action shall be reported to the College President within ten (10) business days. The President shall either approve or disapprove the action within five (5) business days of receipt of the disciplinary suspension recommendation. If the President approves, he/she shall impose disciplinary suspension.
  - c. The President, at his/her discretion, may stay the disciplinary suspension, if he/she feels that the staying of such will not endanger any individual or the College.
  - d. If after notification, the student fails to appear at the hearing before the Vice President of Student Services, the Vice President may declare the

student in default, and proceed as if the student were present at the hearing.

7. Proceeding under Option 5b., where the student requests a hearing before the West Valley or Mission College Hearing Board:
  - a. The Vice President of Student Services or designee shall schedule a meeting of the College Hearing Board within ten (10) working days.
  - b. The Vice President of Student Services shall provide the student and the College Hearing Board with a written statement of the charges against the student, and any other relevant information.
  - c. The student may select a representative to assist him/her in his/her presentation before the College Hearing Board. If the student is to be represented by legal counsel, he/she must notify the President of the fact at least seven days prior to the date of the scheduled hearing. An attorney shall not represent the student unless, in the judgment of the College, complex legal issues are involved. The Vice President of Student Services or the College Hearing Board may request legal assistance; any legal advisor provided to the College Hearing Board may sit in an advisory capacity to provide legal counsel but shall not be a member of the panel or vote with it.
  - d. If the student fails to appear at the time and place designated for the hearing, the College Hearing Board may proceed in his/her absence, declaring him/her to be in default.
  - e. The Vice President shall have the proceedings of the College Hearing Board recorded at the meeting, either stenographically or electronically, and any such record shall be maintained at the Office of the Vice President of Student Services for a period of three (3) years.
  - f. The hearing before the College Hearing Board shall be conducted in a manner conducive to the determination of the truth. It is not contemplated or required that the hearing be conducted with the formality of a legal proceeding. Formal rules of evidence shall not apply. Any relevant evidence shall be admitted.
  - g. At the hearing, unless the College Hearing Board determines to proceed otherwise, the Vice President of Student Services or designee and the student shall be permitted to each make an opening statement. Thereafter, the Vice President of Student Services or designee shall first present any relevant evidence in his/her possession regarding the alleged misconduct; the student may then present any relevant evidence which he/she may have. The Vice President of Student Services or designee may present rebuttal evidence after the student completes his or her presentation. The Vice

President of Student Services or designee and the student or his/her representative shall have the right to call, examine, and cross-examine witnesses. Written statements, if any, shall be submitted under penalty of perjury.

- h. After submission of all relevant evidence, the College Hearing Board shall immediately meet in private, and based upon the evidence presented to it, determine the truth of the charges and the recommended disciplinary action, if any, to be imposed upon the student. Upon reaching its decision, the College Hearing Board shall reconvene and announce its decision and recommend the appropriate disciplinary action. Appropriate disciplinary action may include specific sanctions, terms and conditions.
- i. The Vice President of Student Services and the student shall be given written notice of the decision of the College Hearing Board and the discipline or sanctions recommended to be imposed within five (5) working days. The Vice President shall implement such disciplinary action, except as provided in the following paragraph of this section.
- j. If the recommended disciplinary action involves disciplinary suspension, the College Hearing Board shall forward the findings of fact to the President within ten (10) business days. If the President concurs in the recommendations, he/she shall impose disciplinary suspension. If the President disapproves, he/she shall advise the College Hearing Board within five (5) business days.

Any student who has held a recommendation of disciplinary suspension imposed against him/her has the right of appeal to the President. The President, at his/her discretion, may stay the disciplinary suspension, if he/she feels that the decision to stay will not endanger any individual or the College.

If the proposed disciplinary action recommended is expulsion, the President shall initiate proceedings before the Board of Trustees, as set forth in section titled ***Procedures Before the Board of Trustees.***

If, at the conclusion of the hearing before the College Hearing Board, the student wishes to appeal the discipline imposed or recommended, he/she shall immediately inform the Vice President of Student Services in writing (see ***Student Appeal Procedures*** section).

Appeals concerning expulsion shall be scheduled for a hearing before the Board of Trustees by the President. Appeals concerning other forms of disciplinary action shall be directed to the President for disposition.

## College Hearing Board

1. The membership of the College Hearing Board shall be as follows:
  - a. Students. Two (2) students each appointed to an annual term by the Student Senate of the Associated Students of West Valley or Mission College for a one (1) year term, and who shall be appointed not later than the third week of the fall semester.
  - b. Faculty. Two (2) faculty members each appointed by the Academic Senate for a one (1) year term, and who shall be appointed not later than the third week of the fall semester.
  - c. Classified. Two (2) classified employees appointed by the Classified Senate for a one (1) year term, and who shall be appointed not later than the third week of the fall semester.
  - d. Administration. A member of the administrative staff of the College shall be appointed by the President for a one (1) year term. The Vice President of Student Services cannot serve in this capacity.
2. As an administrative agency of the College, the College Hearing Board shall be responsible to the President for acting, reviewing, and making recommendations relative to matters brought before it in accordance with the procedures outlined in these procedures. The College Hearing Board shall appoint one member of the panel to serve as the chairperson.
3. No administrator, faculty member, classified staff, or student who has any personal involvement in the matter to be decided, who is a necessary witness, or who could not otherwise act in a neutral manner shall serve on the College Hearing Board.
4. The Chairperson of the College Hearing Board shall convene a meeting of the Board at the earliest possible opportunity after appointment of members in the fall semester of each school year for the purpose of orientating the members to the responsibilities and duties of the College Hearing Board and the procedures under which it shall function and operate.

## Procedures Before the Board of Trustees

1. If the President, his/her designee, the Vice President of Student Services or the College Hearing Board, recommends expulsion, then the **matter** must be brought before the Board of Trustees by the Chancellor for a hearing, in accordance with these procedures (Education Code Section 76030).

2. Prior to the Board of Trustees' hearing of an expulsion recommendation, the Chancellor shall deliver a written statement to the President of the Board of Trustees, and to the student and his/her parent or guardian, if the student is a minor or to the student alone, if he/she is an adult. This written statement shall be delivered either personally or by certified or registered mail, and contain the following information:
  - a. A recitation in sufficient detail to apprise the student of the charge or charges against him/her.
  - b. The date, time and place of the meeting of the Board of Trustees at which the matter shall be considered, and the date shall not be less than ten (10) days from personal delivery or mailing of the written statement to the student. The hearing shall be conducted in closed session of the Board of Trustees (Education Code Section 72122) unless the student submits a written request for an open hearing to the President at least seven (7) days in advance of the scheduled hearing. The student must also notify the President at least seven (7) business days in advance if he/she intends to attend the hearing.
  - c. A recitation that the student may be represented at the hearing by legal counsel, if so desired. If the student is to be represented by legal counsel, he/she must notify the President of the fact that at least seven (7) days prior to the date of the scheduled hearing. The Board of Trustees may request legal assistance; any legal advisor provided to the Board of Trustees may sit in an advisory capacity to provide legal counsel but shall not be a member of the panel or vote with it.
  - d. A recitation of the privilege of the student and/or the parent or guardian to employ the services of a shorthand reporter or stenographer at his/her or their own expense to record the hearing.
3. The Chancellor shall have written summary of the hearing transcribed into the minutes of the meeting of the Board of Trustees, and if the hearing is conducted in closed session, these minutes shall be transcribed and kept in a separate closed session minutes book not open for public inspection.
4. If after notification, the student fails to appear at the hearing before the Board of Trustees, the Board of Trustees may declare the student in default and proceed as if the student were present at the hearing.
5. After the hearing has been declared open, the Vice President of Student Services shall make a statement and present any relevant evidence and information, either oral or documentary, which he/she has in possession. The Vice President of Student Services shall, if the matter has been heard by the College Hearing Board, present a copy of the College proceedings on the findings of fact. Upon conclusion of the presentation by the Vice President of



Student Services, the student and/or parent or guardian, and/or their legal counsel, may make a statement and present any relevant evidence or information, either oral or documentary, which he/she or they may possess. Each side shall also have the opportunity to offer rebuttal evidence.

6. A prospective witness must either be sworn, or affirm to tell the truth. In the absence of both, the Board of Trustees may deny him/her the right to testify, or may proceed with the hearing, giving consideration to this fact when deliberating the testimony. Witnesses shall be subject to cross-examination by the other party, and inquiry of the members of the Board of Trustees. Written statements of absent witnesses shall be received only if submitted as affidavits or declarations under penalty of perjury.
7. Upon hearing all relevant evidence and information submitted, any final statements of the Vice President of Student Services, and/or the student, parent or guardian (if the student is a minor), and/or their counsel, the Board of Trustees shall confer in private and consider the evidence presented and reach its determination in the matter. When these deliberations are completed, the Board of Trustees shall reconvene in open, public session and announce its decision by recording a vote on the matter into the minutes of the meeting which shall be open to public inspection.
8. Within ten (10) days after the Board of Trustees takes its final action, the President shall deliver to the student and/or the student's parent or guardian, if the student is a minor or the student alone, if he/she an adult, either in person or by registered or certified mail, a letter setting forth the final action of the Board of Trustees, and a copy shall be filed in the student's permanent record and in the files of the Board of Trustees. If the Board of Trustees expels the student, the Vice President of Student Services shall proceed to implement the disciplinary action as soon as practicable, unless otherwise directed by the Board of Trustees.
9. In any case where the Board of Trustees imposes expulsion based upon the student having disrupted the orderly operation of the College, the Board of Trustees, as part of its final action, may deny the expelled student access to the College Campus. If such condition is imposed by the Board of Trustees, the letter of notification required to be given by Paragraph 8 of this Section shall contain a statement of such condition and its duration.
10. The College shall retain records of all disciplinary investigations, proceedings, and action.

## STUDENT APPEAL PROCEDURES

With the exception of recommendations of expulsions which are subject to appeal to the Board of Trustees, students may appeal the findings of the College Hearing Board to the College President. Such appeal may be based **only on the following grounds:**

1. Required procedures were not properly followed;
2. New evidence, not reasonably available at the time of the hearing is presented and is of sufficient importance to warrant reconsideration;
3. The findings were unsupported by evidence in record made before the hearing;  
or
4. The sanction imposed for the violation was unreasonably harsh or inappropriate when viewed within the context of the nature of violation.

### **Timelines for this appeal process are delineated below**

- The student has five (5) days from receipt of the findings of the hearing to file a written appeal with the Vice President of Student Services. The Vice President of Student Services will forward this appeal to the College President.
- Upon receipt of the written appeal, the President has ten (10) days to conduct an appeal hearing and five (5) days from that appeal to hand deliver or mail (by certified mail).
- The appeal hearing shall consist of a review of the record of the student's original and presentation of information pertinent to the grounds for the appeal.
- Upon mutual agreement between the student and the College President, time limits may be extended.

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**Date Approved: January 18, 2012**

*(Replaces current WVMCCD Policy 5.20 and Procedure 5.20)*