

AP 5520 Student Discipline Procedures: Violations of Student Conduct

References:

Education Code Sections 66300, 72122, and 76030

The purpose of this procedure is to provide a prompt and equitable means to address violations of the Standards of Student Conduct (BP 5500), 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 (in alpha order):

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

Designee – employee (i.e., class instructor, police officer, DOSDA, DOSL, Vice President) appointed by the College President.

DOSDA – Director of Student Development and Activities (title at San Jose City College)

DOSL – Director of Student Life (title at Evergreen College)

District – The San Jose-Evergreen Community College District.

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

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.

Long-term Suspension – Exclusion of the student by the College President or designee 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.

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

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

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

VPSS – College Vice President of Student Services.

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

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.

Short-term Suspensions, Long-term Suspensions, and Expulsions: Before any disciplinary action to suspend or expel is taken against a student, the following procedures will apply:

- Notice – The VPSS or DOSDA/DOSL 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 DOSDA/DOSL 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 15 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 15 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 DOSDA/DOSL, the meeting must occur no sooner than 5 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 15 Days after the meeting described above, the College President shall, pursuant to a recommendation from the VPSS or DOSDA/DOSL 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 College President or designee’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 College President or designee’s decision on a short-term suspension shall be final.

Long-term Suspension – Within 15 Days after the meeting described above, the College President shall, pursuant to a recommendation from the VPSS or designee, decide whether to impose a long-term suspension. Written notice of the College President’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 10 Days after the meeting described above, the College President shall, pursuant to a recommendation from the VPSS, decide whether to recommend expulsion to the Board of Trustees. Written notice of the President’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 10 Days after receipt of the College 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 College President or designee.

Schedule of Hearing – The formal hearing shall be held within 10 Days after a formal request for hearing is received.

Hearing Panel – The hearing panel for any disciplinary action shall be composed of one representative from the Academic Senate, one representative from classified staff, one from the Associated Student Government (“ASG”), and one administrator assigned by the College President.

The College President, the president of the Academic Senate, CSEA, and the ASG president shall each, at the beginning of the academic year, establish a list of at least five persons who will serve on student disciplinary hearing panels. The College President shall appoint the hearing panel from the names on these lists. However, no administrator, faculty member, classified staff member or student who has any personal involvement in the matter to be decided, who is a necessary witness, or who could not otherwise act in a neutral manner shall serve on a hearing panel.

Hearing Panel Chair – The College President shall appoint one member of the panel to serve as the chair. The decision of the hearing panel chair shall be final on all matters

relating to the conduct of the hearing unless there is a vote by both other members of the panel to the contrary.

Conduct of the Hearing

The members of the hearing panel shall be provided with a copy of the accusation against the student and any written response provided by the student before the hearing begins.

The facts supporting the accusation shall be presented by a college representative who shall be the DOSDA/DOSL.

The college representative and the student may call witnesses and introduce oral and written testimony relevant to the issues of the matter.

Formal rules of evidence shall not apply. Any relevant evidence shall be admitted.

Unless the hearing panel determines to proceed otherwise, the college representative and the student shall each be permitted to make an opening statement. Thereafter, the college representative shall make the first presentation, followed by the student. The college representative may present rebuttal evidence after the student completes his or her evidence. The burden shall be on the college representative to prove by the preponderance of the evidence that the facts alleged are true.

The student may represent himself/herself, and may also have the right to be represented by a person of his/her choice, *except that the student shall not be represented by an attorney unless, in the judgment of the hearing panel, complex legal issues are involved. If the student wishes to be represented by an attorney, a written request must be presented not less than five days prior to the date of the hearing. If the student is permitted to be represented by an attorney, the college representative may request legal assistance. The hearing panel may also request legal assistance; any legal advisor provided to the panel may sit with it in an advisory capacity to provide legal counsel but shall not be a member of the panel nor vote with it.*

Hearings shall be closed and confidential unless the student requests that it be open to the public. Any such request must be made no less than 7 Days prior to the date of the hearing.

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

The hearing shall be recorded by the District either by tape recording or stenographic recording, and shall be the only recording made. No witness who refuses to be recorded may be permitted to give testimony. In the event the recording is by tape recording, the hearing panel chair shall, at the beginning of the hearing, ask each person present to identify themselves by name, and thereafter shall ask witnesses to

identify themselves by name. Tape recording shall remain in the custody of the District at all times, unless released to a professional transcribing service. The student may request a copy of the tape recording.

All testimony shall be taken under oath; the oath shall be administered by the hearing panel chair. Written statements of witnesses under penalty of perjury shall not be used unless the witness is unavailable to testify. A witness who refuses to be tape recorded is not unavailable.

Within 10 Days following the close of the hearing, the hearing panel shall prepare and send to the College President a written recommendation. The decision shall include specific factual findings regarding the accusation, and shall include specific conclusions regarding whether any specific section of the Standards of Student Conduct were violated. The recommendation shall also include a specific recommendation regarding the disciplinary action to be imposed, if any. The recommendation shall be based only on the record of the hearing, and not on matter outside of that record. The record consists of the original accusation, the written response, if any, of the student, and the oral and written evidence produced at the hearing.

College President's Decision:

Long-term suspension – Within 10 Days following receipt of the hearing panel's recommendation, the College President shall render a final written decision. The College President may accept, modify or reject the findings, decisions and recommendations of the hearing panel. If the College President modifies or rejects the hearing panel's recommendation, the College President shall review the record of the hearing, and shall prepare a new written decision which contains specific factual findings and conclusions. The decision of the College President shall be final.

Expulsion – Within 10 Days following receipt of the hearing panel's recommendation, the College President shall render a written recommended decision to the Board of Trustees. The College President may accept, modify or reject the findings, decisions and recommendations of the hearing panel. If the College President modifies or rejects the hearing panel's recommendations, he or she shall review the record of the hearing, and shall prepare a new written decision which contains specific factual findings and conclusions. The College President's decision shall be forwarded to the Board of Trustees.

Board of Trustees Decision: The Board of Trustees shall consider any recommendation from the College President for expulsion at the next regularly scheduled meeting of the Board after receipt of the recommended decision.

The Board shall consider an expulsion recommendation in closed session, unless the student has requested that the matter be considered in a public meeting in accordance with these procedures (Education Code Section 72122).

The student shall be notified in writing, by registered or certified mail or by personal service, at least three days prior to the meeting, of the date, time, and place of the Board's meeting.

The student may, within forty-eight hours after receipt of the notice, request that the hearing be held as a public meeting.

Even if a student has requested that the Board consider an expulsion recommendation in a public meeting, the Board will hold any discussion that might be in conflict with the right to privacy of any student other than the student requesting the public meeting in closed session.

The Board may accept, modify or reject the findings, decisions and recommendations of the College President and/or the hearing panel. If the Board modifies or rejects the decision, the Board shall review the record of the hearing, and shall prepare a new written decision which contains specific factual findings and conclusions. The decision of the Board shall be final.

The final action of the Board on the expulsion shall be taken at a public meeting, and the result of the action shall be a public record of the District.

Immediate Interim Suspension (Education Code Section 66017): The College President may order immediate suspension of a student where he/she concludes that immediate suspension is required to protect lives or property and to ensure the maintenance of order. In cases where an interim suspension has been ordered, the time limits contained in these procedures shall not apply, and all hearing rights, including the right to a formal hearing where a long-term suspension or expulsion is recommended, will be afforded to the student within ten (10) days.

Removal from Class (Education Code Section 76032): Any instructor may order a student removed from his/her class for the day of the removal and the next class meeting. The instructor shall immediately report via email to the DOSCA and the Department Dean the name and ID number of the student as well as the date and details of the incident. The DOSDA/DOSL shall arrange for a conference between the student and the instructor regarding the removal. If the instructor or the student requests, the DOSDA/DOSL shall attend the conference. The student shall not be returned to the class during the period of the removal without the concurrence of the instructor. Nothing herein will prevent the DOSDA/DOSL from recommending further disciplinary procedures in accordance with these procedures based on the facts which led to the removal.

Withdrawal of Consent to Remain on Campus: The College President, the VPSS, or the District Chief of Police, 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/she must promptly leave or be escorted off campus.

If consent is withdrawn by the VPSS or Chief of Police , he or she shall submit a written report to the College President as soon as possible including (1) a description of the person from whom consent was withdrawn, and (2) a statement of facts giving rise to the withdrawal of consent. If the College President (or designee in the President's absence), upon reviewing the report, finds that there was reasonable cause to believe the person willfully disrupted the orderly operation of the campus or facility, he or she may enter written confirmation on the report of the action taken by the VPSS or the Chief of Police. If the College President (or designed in the President's absence) does not confirm the action of the VPSS or Chief of Police within 24 hours after the time that consent was withdrawn, the action of the VPSS or Chief of Police shall be deemed void and of no force or effect, except that any arrest made during such period shall not for this reason be deemed not to have been made for probably cause.

The person from whom consent has been withdrawn may submit a written request to the VPSS for a hearing on the withdrawal within the period of the withdrawal. The request shall be granted not later than seven days from the date of receipt of the request. The hearing will be conducted in accordance with the provisions of this procedure relating to interim suspensions.

In no case shall consent be withdrawn for longer than 14 Days from the date upon which consent was initially withdrawn.

Any person as to whom consent to remain on campus has been withdrawn who knowingly reenters the campus during the period in which consent has been withdrawn, except to come for a meeting or hearing, is subject to arrest (Penal Code Section 626.4).

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

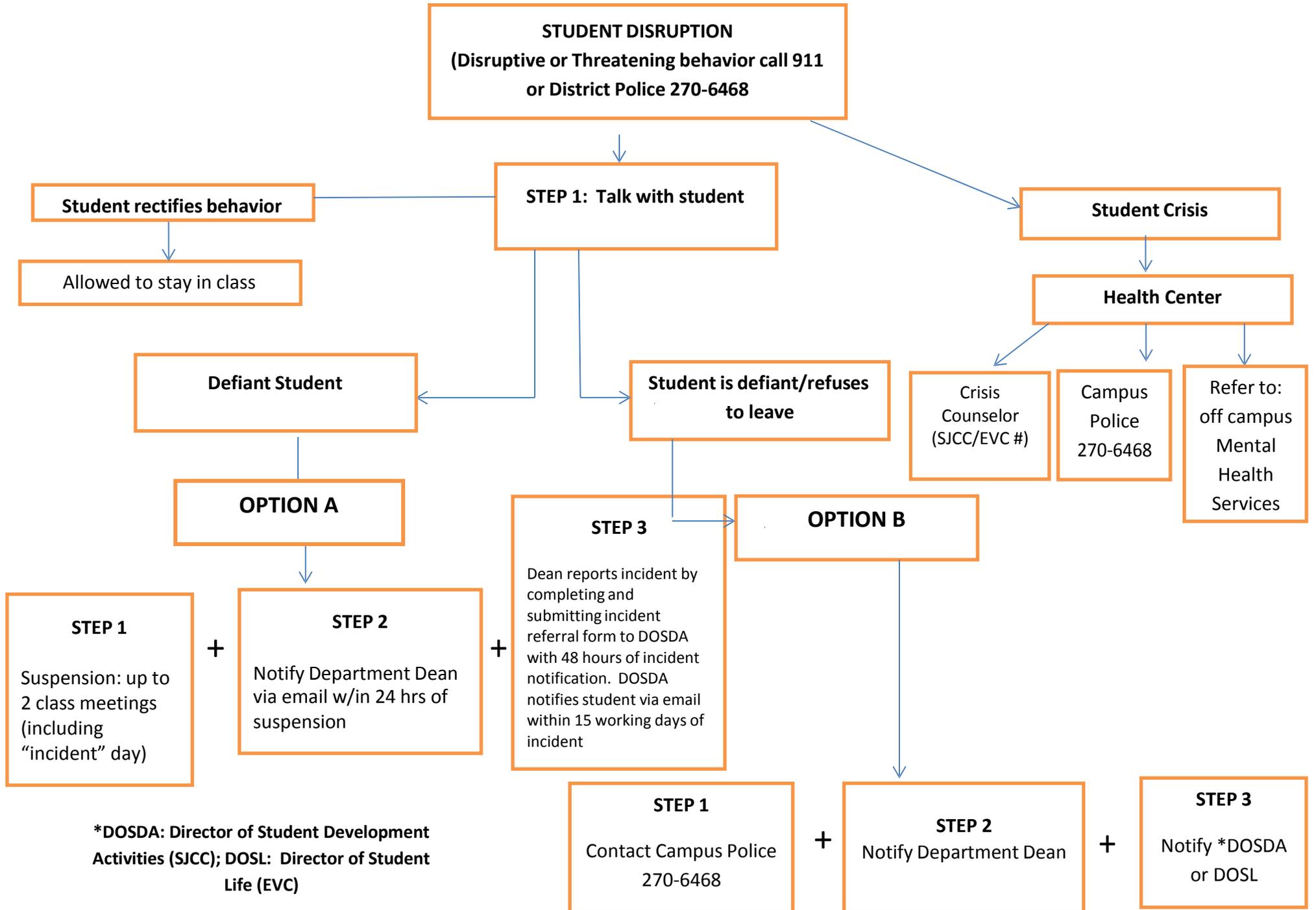
CCLC TEMPLATE Revised 4/15

See BP 5500 and the following SJECCD documents:

- a. Student Discipline Flow Chart
- b. Incident Referral Form
- c. Student Grievance Form

Approved by Chancellor May 13, 2015 after final review by District Council

SJECCD STUDENT DISCIPLINE FLOW CHART 3.31.14



Student Incident Referral Form

San Jose Evergreen Community College District

Student Information

Student Name	
Student ID Number	
Email Address	
Telephone (mobile)	
Telephone (home)	

Incident Information

Today's Date	
Name of person filing complaint	
Location of Incident	
Type of Complaint	

Briefly Describe the Incident (use additional pages if needed):

Describe any action taken prior to reporting incident:

Sign and date

Submit form to Director of Student Development & Activities at SJCC or Director of Student Life at EVC
Office Phone/email: (To be listed for each college)

Accepted by: _____ Date: _____

For office use only:

Please state resolution:



Student Grievance Form

I understand that I have a right to initiate a grievance against: a) another student, b) a faculty member, c) an administrator, d) a member of the classified staff or e) board member if subjected to unjust action or denial of my rights under District/College rules and State/Federal laws. In doing so, I have the opportunity to seek resolution through use of the Student Grievance Complaint Procedure.

Name and Student ID Number: _____

GRIEVANCE AGAINST: Student _____ Faculty _____ Staff _____ Administrator _____

1. Was a meeting held with the College employee against whom this complaint is being filed?

_____ Yes _____ No Date of meeting _____

2. Was a meeting held with the supervisor of the College employee against whom the complaint is being filed?

_____ Yes _____ No Date of meeting _____

3. Was a meeting held with the appropriate Vice President regarding your complaint?

_____ Yes _____ Date of meeting _____

Results of the meeting:

Attach additional information to this document

Write a description of the general and specific grounds on which the grievance is based. Support your allegations with names, departments, dates, times, records, etc.

Attach additional information to this document

Remedy Desired

Attach additional information to this document

List all documents to be review

Attach additional information to this document

I swear that the information and/or supporting documents are true and factual.

Signature _____ **Date** _____

Cc: Student Submitting Grievance
Respondent (Party against whom the grievance is filed)
Original Copy: Student Services Office