

STUDENT RIGHTS AND RESPONSIBILITIES

The purpose of this statement is to inform students of their rights and responsibilities at Monterey Peninsula College. The policies and procedures as set forth in this statement are for institutional and student use but cannot be separated from public laws and regulations; therefore, everything stated herein must be considered within the limits of the law.

1. In the Classroom

- a. **Protection of Freedom of Expression:** Students are free to take reasoned exception to the data or views offered in any course of study and to reserve judgment about matters of opinion, but they are responsible for learning the content of any course of study in which they are enrolled.
- b. **Protection Against Improper Academic Evaluation:** Students shall not be evaluated in a prejudiced or capricious manner. At the same time, students are responsible for maintaining standards of academic performance established for each course in which they are enrolled. Standards relating to matters of class attendance, punctuality, dress (e.g., safety goggles and uniforms), and other similar classroom requirements, where essential in evaluation, should be clearly communicated by the instructors to the students enrolled in the courses where they apply.
- c. **Protection Against Improper Disclosure:** Information about student views, beliefs, and political associations which employees acquire in the course of their work is considered confidential. Protection against improper disclosure is a serious professional obligation. Judgments of ability and character for such matters as letters of recommendation and security checks may be provided under appropriate circumstances, with the knowledge and consent of the student.

2. Student Records

- a. **Definition of Records:** The following files, records, and documents are maintained by the College as "Education Records": Applications for Admission, Add/Drop and Registration Forms, academic transcripts, transcripts sent by other institutions, general education certifications, graduation petitions, high school advanced placement forms, instructor class rosters, placement test scores, counseling records, financial aid applications, campus employment information, veterans folders relating to educational certification and benefits, discipline records, and athletic eligibility forms.
- b. **Right to Access:** Any current or former student shall have the right to access their own "Education Records" as defined above or those that meet the definition of a "student record" in Title 5 of the California Code of Regulations. Such access shall be provided during regular office hours, and the appropriate College official will require identification and a written request from the student, provided that access is granted where authorized by law no later than five working days following the date of the request.
- c. **Location of Records:** Most of the above records are housed in the Student Services Building on campus. The Vice President of Student Services has overall responsibility for such records. The Vice President's designee shall provide specific directions to students, upon request, concerning which College officials to contact to make a request for access to any records.
- d. **Directory Information:** No district representative shall release the contents of a student record to any member of the public without

the prior written consent of the student, other than directory information. Based on the District's Board Policy 5040, Monterey Peninsula College has designated the following as directory information:

- i. Student participation in officially recognized activities and sports including weight, height and high school of graduation of athletic team members.
 - ii. Degrees and awards received by students, including honors, scholarship awards, athletic awards and Dean's List recognition.
- e. **Confidentiality of Records:** Information from Education Records will be available only to legally authorized persons. The express consent of the student is required for access by any other persons. No records will be kept which reflect the political and religious activities or beliefs of students. All College employees are to respect confidential information about students which they acquire in the course of their work. Access to student records may be permitted to the following:
1. Officials and employees of Monterey Peninsula College, provided that any such person has a legitimate educational reason for inspecting a record.
 2. Federal and state officials so authorized access by Title 5.
 3. Upon written permission from the student, officials of other public or private schools where the student seeks or intends to enroll.
 4. Agencies or organizations in connection with a student's application for or receipt of financial aid, provided that information permitting the personal identification of students may be disclosed only as necessary for purposes relating directly to that aid.
 5. Accrediting organizations in order to carry out their accrediting functions.
 6. Organizations conducting studies for, or on behalf of, educational agencies or institutions for purposes allowed in Title 5 and so long as that information that allows personal identification of a student is kept confidential and destroyed when no longer needed.
 7. Appropriate persons in connection with an emergency if the information is necessary to protect the health or safety of the student or other persons.
- f. **Impoundment of Records:** Whenever a student is delinquent through failure to comply with College rules or regulations, to pay College debts, or to return property owned by the College, the student's records may be impounded. A student whose record is impounded shall not be allowed to register for subsequent instruction, and/or receive other services at the College which relate to their records.
- ## 3. Student Affairs
- a. **Freedom of Association:** Students are free to organize and join associations to promote their common interests.
 1. The policies and actions of a student organization will be determined by vote of only those persons who hold bona fide membership in the organization and are enrolled at Monterey Peninsula College.
 2. Affiliation with an extramural organization shall not of itself disqualify a student organization from institutional recognition.
 3. Campus advisors are required; each organization is free to choose its own advisor. Campus advisors may advise organizations in the exercise of responsibility, but they will

not have the authority to control the internal policies of such organizations.

4. Student organizations are required to submit to ASMPC a club activation, advisor agreement, a current list of members, and club Constitution.
5. Campus organizations, including those affiliated with an extramural organization, shall be open to all Monterey Peninsula College students without respect to race, creed, or national origin.

b. **Freedom of Inquiry and Expression:** Students and student organizations are free to examine and to discuss all questions of interest to them, to express opinions publicly and privately, and to support causes by orderly means which do not disrupt the regular and essential operation of the institution. At the same time, students shall make it clear to the academic and the larger community that, in their public expressions or demonstrations, students or student organizations speak only for themselves. Students are allowed to invite and to hear any person of their own choosing. Routine procedures are required by the College before a guest speaker is invited to appear on campus to insure that there is orderly scheduling of facilities and adequate preparation for the event, and that the occasion is conducted in a manner appropriate to an academic community. The institutional control of campus facilities is not used as a device of censorship. Those in charge of a program shall make it clear to the academic and larger community that sponsorship of guest speakers does not necessarily imply approval or endorsement of the views expressed, either by the sponsoring group or the institution.

c. **Student Participation in Institutional Governance:** As constituents of the academic community, students are free, individually and collectively, to express their views on issues of institutional policy and on matters of general interest to the student body. The student body may participate in the formulation and applications of institutional policy affecting academic and student affairs through student government. The Associated Students of Monterey Peninsula College (ASMPC) is the institutionally recognized system of student government which has express responsibility for a student activities program designed to benefit the College and contribute to the welfare of the students. The Student Council of ASMPC formulates and executes student government policies; administers a budget; plans and conducts social, club, recreational, and leisure-time programs in accordance with the ASMPCC constitution and other laws and regulations; serves in a liaison capacity between the students and the administration on matters concerning the Student Center; makes student appointments to campus committees; assists in the coordination of club activities; and promotes opportunities in volunteer work. Any matter of student governance that conflicts with College policy shall be resolved by the administration after opportunities have been given to the Student Council to either correct the matter or to discuss the matter completely with the administration.

4. Off Campus

a. **Exercise of Rights of Citizenship:** Students enjoy the same freedom of speech, peaceful assembly, and right of petition as do other citizens. As members of the academic community, they are subject to the obligations which accrue to them by virtue of this membership. Faculty members and administrative officials should ensure that institutional powers are not employed to inhibit intellectual and personal development of students.

b. **Institutional Authority and Civil Penalties:** Activities of students may, upon occasion, result in violation of law. In such cases, Monterey Peninsula College officials may apprise students of sources of legal counsel and may offer other assistance. Students who violate the law may incur penalties prescribed by civil authorities. Only where the institution's interests as an academic community are clearly involved will the special authority of Monterey Peninsula College be asserted. The student who incidentally violates institutional regulations in the course of his/her off-campus activity, such as those relating to class attendance, is subject to no greater penalty than would normally be imposed. Institutional action is independent of community pressure.

5. Standards of Student Conduct

In developing responsible student conduct, disciplinary proceedings play a role substantially secondary to example, counseling, guidance, and admonition. At the same time, educational institutions have a duty and the corollary disciplinary powers to protect their educational purpose through the setting of standards of scholarship and conduct for the students who attend them and through the regulation of the use of institutional facilities.

a. **Campus Community Values:** Monterey Peninsula College considers the following principles essential to its educational mission and its community life:

1. Mutual respect between students and faculty,
2. Pursuit of studies with honesty and integrity,
3. Respect for rights of others,
4. Courteous treatment of everyone,
5. Respect for college and personal property, and
6. Compliance with all rules and regulations.

b. **Grounds for Student Discipline:** The following conduct shall constitute good cause for discipline, including but not limited to the removal, suspension, or expulsion of a student. Students shall be subject to College discipline for any of the following kinds of misconduct which occurs at any time on campus or at any off-campus facility or College-approved or -sponsored function:

1. Causing, attempting to cause, or threatening to cause physical injury to another person;
2. Possession, sale, or otherwise furnishing any firearm, knife, explosive, or other dangerous object, including but not limited to any facsimile firearm, knife, or explosive, unless, in the case of possession of any object of this type, the student has obtained written permission to possess the item from a District employee, which is concurred by the Superintendent/President or designee;
3. Unlawful possession, use, sale, offer to sell, or furnishing, or being under the influence of, any controlled substance listed in Health and Safety Code Sections 11053 et seq., 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 Health and Safety Code Section 11014.5;
4. Committing or attempting to commit robbery or extortion;
5. Causing or attempting to cause damage to District property or to private property on campus;

6. Stealing or attempting to steal District property or property on campus, or knowingly receiving stolen District property or private property on campus;
 7. Willful or persistent smoking in any area where smoking has been prohibited by law or by regulation of the college or the District;
 8. Sexual assault or sexual exploitation regardless of the victim's affiliation with the District;
 9. Committing sexual harassment as defined by law or by the District policies and procedures;
 10. Engaging in harassing or discriminatory behavior based on disability, gender, gender identity, gender expression, nationality, race or ethnicity, religion, sexual orientation, or any other status protected by law;
 11. Engaging in intimidating conduct or bullying against another student through words or actions, including direct physical contact; verbal assaults, such as teasing or name calling; social isolation or manipulation; and cyberbullying;
 12. Willful misconduct that results in injury or death to a student or to District personnel or which results in cutting, defacing, or other injury to any real or personal property owned by the District or on campus;
 13. Disruptive behavior, willful disobedience, habitual profanity or vulgarity, or the open and persistent defiance of the authority of, or persistent abuse of, college personnel;
 14. Cheating, plagiarism (including plagiarism in a student publication), or engaging in other academic dishonesty as defined by the College catalog;
 15. Dishonesty; forgery; alteration or misuse of District documents, records or identification; or knowingly furnishing false information to the District;
 16. Unauthorized entry upon or use of District facilities;
 17. Lewd, indecent or obscene conduct or expression on District-owned or controlled property, or at District sponsored or supervised functions;
 18. Engaging in expression which is obscene, libelous or slanderous, or which so incites students as to create a clear and present danger of the commission of unlawful acts on District premises, or the violation of the lawful District regulations, or the substantial disruption of the orderly operation of the District;
 19. Persistent, serious misconduct where other means of correction have failed to bring about proper conduct;
 20. 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, including but not limited to handwritten or typewritten or class notes, except as permitted by any board policy or administration procedure.
- c. **Applicable Penalties:** In all situations a student shall be informed of the nature of the charges against them and be provided an opportunity to refute them. Arbitrary actions shall not be taken by the College and a decision may be appealed. Disciplinary action that may be taken because of student misconduct includes a variety of sanctions. Such sanctions are listed below in degree of severity, and may be applied according to the severity of the offense:
1. **Admonition:** An oral statement to the student offender that the student has violated College rules.
 2. **Warning:** Notice to the student, orally or in writing, that continuation or repetition of the conduct found wrongful, within a period of time stated in the warning, may be cause for more severe disciplinary action.
 3. **Censure:** Written reprimand for violation of a specified regulation including the possibility of more severe disciplinary action in the event of conviction for the violation of any College regulation within a period of time stated in the letter of reprimand.
 4. **Disciplinary Probation:** Exclusion from participation in privileges or extracurricular activities as set forth in the notice of disciplinary probation for a specified period of time.
 5. **Restitution:** Financial liability for damage to or misappropriation of property. Restitution may take the form of appropriate service to repair or otherwise compensate for damages.
 6. **Short-term (Summary) Suspension:** Emergency exclusion from campus and/or classes for a period not to exceed 10 days. The Superintendent/President or designee may immediately suspend a student when the Superintendent/President or designee determines that such action is required in order to protect lives or property or to ensure the maintenance of appropriate order. The time of the suspension shall be limited to the period necessary for the purposes of the suspension and in any case, no more than ten days. The student may be summarily suspended without a conference or hearing, but oral or written notice to the student of the suspension and the reasons for the suspension must be provided to the student or the student's address as soon as possible. A conference shall be scheduled as soon as possible, but not later than 3 days from the time of the suspension, to review the action with the student and to determine whether further sanctions are to be applied.
 7. **Long-term Suspension:** Within 10 days after the meeting described in #6, the Superintendent/President or designee shall pursuant to a recommendation from the Dean of Student Services, decide whether to impose a long-term suspension. Written notice of the Superintendent/ President or designee'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 AP 5520 describing the procedures for a hearing.
 8. **Expulsion:** Within 7 days after the meeting described in #7, the Superintendent/President shall pursuant to a recommendation from the Vice President of Student Services, decide whether to recommend expulsion to the Governing Board. Written notice of the Superintendent/President 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 AP 5520 describing the procedures of a hearing.

d. **Administration of Discipline:** Procedural fairness shall be the basis for all disciplinary actions. Practices in disciplinary cases will vary in formality with the gravity of the offense and the sanctions which may be applied. There shall be no obligation for the College to replicate a formal court system, nor is there a need to provide for “adversary” proceedings. Due process requires that the student be informed of the nature of the charges against the student, that the student be given a fair opportunity to refute the charges, that the institution not be arbitrary in its actions, and that there be provision for appeal of a decision. With fairness as a basis for action, the responsibility for such action is the responsibility of the following individuals or groups:

1. **The Classroom Instructor**

- a. May act when minor infractions disturb normal classroom procedure.
- b. May suspend, for good cause (See V. A., Standards of Conduct), any student from the instructor’s class for the day of the suspension and the day following. The Dean of Student Services shall be notified of such suspension, and the student shall be directed to report to the Dean. The parents of a minor student shall also be notified of the suspension.
- c. May drop students from class for failing to meet academic and attendance requirements.

2. **The Campus Security Officer**

- a. Shall act directly on parking and traffic violations.
- b. Shall act directly in matters of emergency and in harmony with local and state laws, but shall immediately notify the Vice President of Student Services of such action.
- c. Shall refer matters of student misconduct to the Dean of Student Services.

3. **The Dean of Student Services**

- a. Shall act directly in situations where a student has violated the local, state, or federal laws while on the College campus and shall consult with civil authorities where appropriate.
- b. Shall review each case of misconduct with involved student and determine appropriate remedies and/or sanctions.
- c. Shall carry out the recommendations of the Superintendent/President, Vice President of Student Services and Disciplinary Hearing Committee.
- d. Shall inform students of institutional action and appropriate avenues of appeal.

4. **The Vice President of Student Services**

- a. Shall review and take action on all recommendations of the Disciplinary Hearing Committee.
- b. Shall recommend Governing Board action in cases of expulsion and shall make arrangements for a student appeal of such decisions.
- c. Shall act to summarily suspend any student in order to protect lives or property or to insure maintenance of order.

5. **The Governing Board**

- a. Shall take action on cases of expulsion and shall allow for an appeal of the decision.
- b. Shall approve all rules and regulations where infractions of such could lead to suspension or expulsion.
- c. While final action is pending a disciplinary hearing, a student shall have the right to be present on campus and attend classes.

e. **Disciplinary Hearing Committee**

Within 5 days after receipt of the Superintendent/President or designee’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 Superintendent/President or designee.

1. The hearing panel for any disciplinary action shall be composed of at least three (3) members from the following constituent groups: administrators, faculty, staff, and/or students. The composition of the hearing panel shall include the hearing panel chair along with at least two other members from different constituent groups.
2. 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.
3. The facts supporting the accusation shall be presented by a college representative who shall be the Dean of Student Services.
4. The college representative and the student may call witnesses and introduce oral and written testimony relevant to the issues of the matter.
5. Formal rules of evidence shall not apply. Any relevant evidence shall be admitted.
6. 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 evidence that the facts alleged are true.
7. The student may represent himself/herself, and may also have the right to be represented by a person of his/her choice. The student shall not be represented by an attorney unless, in the judgment of the hearing panel, complex legal issues are involved. If the student wishes to be represented by an attorney, a request must be presented not less than five days prior to 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.
8. Hearing 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 5 days prior to the date of the hearing.

9. 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.
10. The hearing shall be recorded by the District either by tape recording or stenographic recording. The official recording 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.
11. 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 shall be considered to be unavailable.
12. Within 10 days following the close of the hearing, the hearing panel shall prepare and send to the Superintendent/President a written decision. The decision shall include specific factual findings regarding the accusation, and shall include specific conclusions regarding whether any specific section of the Standards of Student Conduct were violated. The decision shall also include a specific recommendation regarding the disciplinary action to be imposed, if any. The decision shall be based only on the record of the hearing, and not on matters 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.

f. Superintendent/President or Designee Decision:

1. **Long-term suspension** – Within 10 days following receipt of the hearing panel's recommended decision, the Superintendent/President or designee shall render a final written decision. The Superintendent/President or designee may accept, modify, or reject the findings, decisions and recommendations of the hearing panel. If the Superintendent/President or designee modifies, or rejects the hearing panel's decision, the Superintendent/President or designee 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 Superintendent/President or designee shall be final.
2. **Expulsion** – Within 7 days following receipt of the hearing panel's recommended decision, the Superintendent/President or designee shall render a written recommended decision to the Board of Trustees. The Superintendent/President or designee may accept, modify, or reject the findings, decisions and recommendations of the hearing panel. If the Superintendent/President or designee modifies, or rejects the hearing panel's decision, he/she/they shall review the record of the hearing, and shall prepare a new written decision which contains specific factual findings and conclusions. The Superintendent/President or

designee decision shall be forwarded to the Board of Trustees.

g. Board of Trustees Decision:

1. The Board of Trustees shall consider any recommendation from the Superintendent/President or designee for expulsion at the next regularly scheduled meeting of the Board after receipt of the recommended decision.
 1. 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.)
 2. The student shall be notified in writing, by registered or certified mail to the address last on file with the District, or by personal service, at least three days prior to the meeting, of the date, time, and place of the Board's meeting.
 3. The student may, within 2 days after receipt of the notice, request that the hearing be held as a public meeting.
 4. 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.
 5. The Board may accept, modify, or reject the findings, decisions and recommendations of the Superintendent/President or designee 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.
 6. 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.
2. **Immediate Interim Suspension** (Education Code Section 66017): The Superintendent/President or designee may order immediate suspension of a student where he/she/they concludes that immediate suspension is required to protect lives or property and to ensure the maintenance of order. In cases where an interim suspension has been ordered, the time limits contained in these procedures shall not apply, and all hearing rights, including the right to a formal hearing where a long-term suspension or expulsion is recommended, will be afforded to the student within ten (10) days.
3. **Removal from Class** (Education Code Section 76032): Any instructor may order a student removed from his/her/their class for the day of the removal and the next class meeting. The instructor shall immediately report the removal to the Vice President of Student Services Office. The Dean of Student Services may arrange for a conference between the student and the instructor regarding the removal. If the instructor or the student requests, the Dean of Student Services 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 Dean of Student Services from recommending further disciplinary procedures in accordance with these procedures based on the facts which led to the removal.

4. **Withdrawal of Consent to Remain on Campus:** The Dean of Student Services or designee 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, they must promptly leave or be escorted off campus. If consent is withdrawn by the Dean of Student Services or designee a written report must be promptly made to the Superintendent/President or designee.
 1. 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 not later than 7 days from the date of receipt of the request. The hearing will be conducted in accordance with the provisions of this procedure relating to interim suspensions.
 2. In no case shall consent be withdrawn for longer than 10 days from the date upon which consent was initially withdrawn.
 3. 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).

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

7. **Student Complaint and Grievance Procedures**

The student is encouraged to pursue academic studies and other College-sponsored activities that will promote intellectual growth and personal development. In pursuing these ends, the student should be free of unfair and improper action by any member of the academic community. Procedures for grievances and complaints are described below and provide a means for resolving any alleged unfair or improper action.

a. **Discrimination Complaints**

- i. Students and staff at Monterey Peninsula College shall report any alleged act of discrimination within ten working days to the Supervisor or Administrator in charge of the area where it occurred. For further information, contact the Human Resources Office at (831) 646-4016.
- ii. Students wishing to file complaints based upon discrimination on the basis of national origin, religion, age, gender, gender identity, gender expression, race or ethnicity, color, medical condition, genetic information, ancestry, sexual orientation, marital status, physical or mental disability, pregnancy, or military and veteran status should contact the Vice President of Human Resources at (831) 646-4014. Students who wish to file a complaint under Sec-Section 504 of the 1973 Rehabilitation Act should contact the Vice President of Student Services at (831) 646-4190.

- b. **Student Rights and Grievances:** The purpose of this procedure is to provide a prompt and equitable means of resolving student grievances. These procedures shall be available to any student

who reasonably believes a college decision or action has adversely affected his/her status, rights, or privileges as a student. The procedures shall include, but not be limited to, grievances regarding:

1. Sex discrimination as prohibited by Title IX of the Higher Education Amendments of 1972;
2. Financial aid, unless the District's financial aid policy contains an appeal procedure;
3. Course grades, to the extent permitted by Education Code Section 76224(a), which provides: "When grades are given for any course of instruction taught in a community college District, the grade given to each student shall be the grade determined by the instructor of the course and the determination of the student's grade by the instructor, in the absence of mistake, fraud, bad faith, or incompetency, shall be final." "Mistake" may include, but is not limited to errors made by an instructor in calculating a student's grade and clerical errors;
4. The exercise of rights of free expression protected by state and federal constitutions and Education Code Section 76120.
5. This procedure does not apply to:
 - a. Student disciplinary actions, which are covered under separate Board policies and Administrative Procedures;
 - b. Police citations (i.e. "tickets"); complaints about citations must be directed to the County Courthouse in the same way as any traffic violation.
- c. **Informal Resolution:** Each student who has a grievance shall make a reasonable effort to resolve the matter on an informal basis prior to requesting a grievance hearing, and shall attempt to solve the problem with the person with whom the student has the grievance, that person's immediate supervisor, or the local college administration. The Superintendent/President or designee shall appoint an employee who shall assist students in seeking resolution by informal means. This person shall be called the Grievance Officer. The Grievance Officer and the student may also seek the assistance of the Associated Student Organization in attempting to resolve a grievance informally.
 - i. Informal meetings and discussions between persons directly involved in a grievance are essential at the outset of a dispute and should be encouraged at all stages. An equitable solution should be sought before persons directly involved in the case have stated official or public positions that might tend to polarize the dispute and render a solution more difficult. At no time shall any of the persons directly or indirectly involved in the case use the fact of such informal discussion, the fact that a grievance has been filed, or the character of the informal discussion for the purpose of strengthening the case for or against persons directly involved in the dispute or for any purpose other than the settlement of the grievance.
 - ii. Any student who believes they have a grievance shall file a Statement of Grievance with the Grievance Officer within 20 days of the incident on which the grievance is based, or 20 days after the student learns of the basis for the grievance, whichever is later. The Statement of Grievance must be filed whether or not the student has already initiated efforts at informal resolution, if the student wishes the grievance to become official. Within five (5) days following receipt of the Statement of Grievance Form, the Grievance Officer shall advise the student of his/her/their rights and responsibilities

under these procedures, and assist the student, if necessary, in the final preparation of the Statement of Grievance form.

- iii. If at the end of 10 days following the student's first meeting with the Grievance Officer, there is no informal resolution of the complaint which is satisfactory to the student, the student shall have the right to request a grievance hearing.

d. **Grievance Hearing Committee:** The Superintendent/President or designee shall establish a standing panel of 12 members of the college community, including 3 students, 3 faculty, 3 classified, and 3 administrators, from which one or more Grievance Hearing Committees may be appointed. The panel will be established with the advice and assistance of the Associated Students Organization and the Academic Senate, who shall each submit 3 names to the Superintendent/President or designee for inclusion on the panel. A Grievance Hearing Committee shall be constituted in accordance with the following:

- It shall include a minimum of 3 members from the standing hearing committee to include the hearing panel chair along with 2 other members from different constituent groups.
- No person shall serve as a member of a Grievance Hearing Committee if that person has been personally involved in any matter giving rise to the grievance, has made any statement on the matters at issue, or could otherwise not act in a neutral manner.
- Any party to the grievance may challenge for cause any member of the hearing committee prior to the beginning of the hearing by addressing a challenge to the Superintendent/President or designee who shall determine whether cause for disqualification has been shown. If the Superintendent/President or designee feels that sufficient ground for removal of a member of the committee has been presented, the Superintendent/President or designee shall remove the challenged member or members and substitute a member or members from the panel described above. This determination is subject to appeal as defined below.
- The Grievance Officer shall sit with the Grievance Hearing Committee but shall not serve as a member nor vote. The Grievance Officer shall coordinate all scheduling of hearings, shall serve to assist all parties and the Hearing Committee to facilitate a full, fair and efficient resolution of the grievance, and shall avoid an adversary role.

e. **Request for Grievance Hearing:** Any request for a grievance hearing shall be filed on a Request for a Grievance Hearing within 10 days after filing the Statement of Grievance as described above.

- i. Within 10 days following receipt of the request to grievance hearing, the Superintendent/President or designee shall appoint a Grievance Hearing Committee as described above, and the Grievance Hearing Committee shall meet in private and without the parties present to select a chair and to determine on the basis of the Statement of Grievance whether it presents sufficient grounds for a hearing.
- ii. The determination of whether the Statement of Grievance presents sufficient grounds for a hearing shall be based on the following:
 - The statement contains facts which, if true, would constitute a grievance under these procedures;
 - The grievant is a student as defined in these procedures, which include applicants and former students;

- The grievant is personally and directly affected by the alleged grievance;
- The grievance was filed in a timely manner;
- The grievance is not clearly frivolous, clearly without foundation, or clearly filed for purposes of harassment.

iii. If the grievance does not meet each of the requirements, the Hearing Committee Chair shall notify the student in writing of the rejection of the Request for a Grievance Hearing, together with the specific reasons for the rejection and the procedures for appeal. This notice will be provided within 10 days of the date the decision is made by the Grievance Hearing Committee.

iv. If the Request for Grievance Hearing satisfies each of the requirements, the College Grievance Officer shall schedule a grievance hearing. The hearing will begin within 10 days following the decision to grant a Grievance Hearing. All parties to the grievance shall be given not less than 5 days notice of the date, time and place of the hearing.

f. **Hearing Procedure:** The decision of the Grievance Hearing Committee chair shall be final on all matters relating to the conduct of the hearing unless there is a vote of a majority of the other members of the panel to the contrary.

- i. The members of the Grievance Hearing Committee shall be provided with a copy of the grievance and any written response provided by the respondent before the hearing begins.
- ii. Each party to the grievance may call witnesses and introduce oral and written testimony relevant to the issues of the matter.
- iii. Formal rules of evidence shall not apply. Any relevant evidence shall be admitted.
- iv. Unless the Grievance Hearing Committee determines to proceed otherwise, each party to the grievance shall be permitted to make an opening statement. Thereafter, the grievant or grievants shall make the first presentation, followed by the respondent or respondents. The grievant(s) may present rebuttal evidence after the respondent(s)' evidence. The burden shall be on the grievant or grievants to prove by substantial evidence that the facts alleged are true and that a grievance has been established as specified above.
- v. Each party to the grievance may represent himself/herself, and may also have the right to be represented by a person of his/her choice; except that a party shall not be represented by an attorney unless, in the judgment of the Grievance Hearing Committee, complex legal issues are involved. If a party wishes to be represented by an attorney, a request must be presented not less than 7 days prior to the date of the hearing. If one party is permitted to be represented by an attorney, any other party shall have the right to be represented by an attorney. The hearing committee may also request legal assistance through the Superintendent/President. Any legal advisor provided to the hearing committee 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.
- vi. Hearings shall be closed and confidential unless all parties request that it be open to the public. Any such request must be made no less than 5 days prior to the date of the hearing.
- vii. In a closed hearing, witnesses shall not be present at the hearing when not testifying, unless all parties and the committee agree to the contrary.

- viii. The hearing shall be recorded by the Grievance Officer 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 Grievance Hearing Committee 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. The tape recording shall remain in the custody of the District, either at the college or the District office, at all times, unless released to a professional transcribing service. Any party involved in the hearing may request a copy of the tape recording.
- ix. All testimony shall be taken under oath; the oath shall be administered by the Grievance Hearing Committee 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 shall be considered to be unavailable.
- x. Within 10 days following the close of the hearing, the Grievance Hearing Committee shall prepare and send to the Superintendent/President or designee a written decision. The decision shall include specific factual findings regarding the grievance, and shall include specific conclusions regarding whether a grievance has been established as defined above. The decision shall also include a specific recommendation regarding the relief to be afforded the grievant, if any. The decision shall be based only on the record of the hearing, and not on matters outside of that record. The record consists of the original grievance, any written response, and the oral and written evidence produced at the hearing.
- g. **Superintendent/President's Decision:** Within 10 days following receipt of the Grievance Hearing Committee's decision and recommendations(s), the Superintendent/President or designee shall send to all parties his/her written decision, together with the Hearing Committee's decision and recommendations. The Superintendent/President or designee may accept or reject the findings, decisions and recommendations of the Hearing Committee. The factual findings of the Hearing Committee shall be accorded great weight; and if the Superintendent/President or designee does not accept the decision or a finding or recommendation of the Hearing Committee, the Superintendent/President or designee 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 Superintendent/President or designee shall be final, subject only to appeal as provided below.
- h. **Appeal:** Any appeal relating to a Grievance Hearing Committee decision that the Statement of Grievance does not present a grievance as defined in these procedures shall be made in writing to the Superintendent/President within 10 days of that decision. The Superintendent/President or designee shall review the Statement of Grievance and Request for Grievance Hearing in accordance with the requirements for a grievance provided in these procedures, but shall not consider any other matters. The Superintendent/President or designee's decision whether or not to grant a grievance hearing shall be final and not subject to further appeal.
- i. **Time Limits:** Any times specified in these procedures may be shortened or lengthened if there is mutual concurrence by all parties.