

# DISCIPLINARY APPEAL PROCEDURES

## Due Process Hearing

If a recommendation is made to suspend the student for ten (10) days or to recommend expulsion, the student will be provided notification of the recommended disciplinary action and the opportunity for a Due Process Hearing. If the student declines the Due Process Hearing, the recommendation will be immediately implemented. If the student is a minor, the parent or guardian shall also be provided written notice. The notice shall include:

- A. A statement of the charges that identifies the cause for which the recommended suspension or expulsion is being imposed. The statement shall briefly describe the facts supporting the allegations as a basis for violation of the student code of conduct.
- B. Notification that the Due Process Hearing Committee may consider the student's previous disciplinary and academic record.
- C. Although a student shall not be represented by an attorney in the hearing, the student may bring an advisor. The advisor may be present at the due process hearing and may counsel the student responding to questions related to the incident. The advisor shall not be permitted to participate in any way during the hearing except to offer counsel to the student.

The notification may be amended at any time by the District.

Students will be allowed to continue with their scheduled classes and activities through the due process procedures unless the Disciplinary Officer has removed the student's privileges to participate in classes or activities or to remain on District-controlled property in circumstances where the student is considered a threat to the health, safety, or well-being of other members of the campus community.

## Due Process Hearing Committee Membership

1. The Due Process Hearing Committee shall consist of three (3) voting members: one (1) administrator who shall serve as chair; one (1) faculty member; and one (1) student. The selection process of the Due Process Hearing Committee shall be as follows:
  - a. The District Superintendent/President or designee shall appoint an administrator/chair
  - b. the Academic Senate President or designee shall appoint a faculty member
  - c. the Student Senate President or designee shall appoint a student representative
2. Committee members shall not in any way be connected to the event out of which the action arose.

## Hearing Process

1. The hearing shall be convened within ten (10) days from the date of the notification letter and shall be limited to one (1) meeting.

2. The student shall be given not less than forty-eight (48) hours advance notice of the time, date and place of the hearing.

3. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but shall not be sufficient in itself to support a finding. Unduly repetitious evidence may be excluded.

4. The Disciplinary Officer shall carry the burden of proof by a preponderance of the evidence in support of the disciplinary action. The decision shall be by a majority vote.

5. The student and the Disciplinary Officer have the right to present police reports, written and/or oral statements. Written statement of individuals not present at the hearing must be made under penalty of perjury and must be submitted to the Chair prior to the start of the hearing. If the written statement is disputed by either side, the Chair may continue the hearing to allow the objecting party to secure the attendance of the witness, obtain contradictory evidence, or other remedy determined by the Chair.

6. All proceedings of the Committee shall be closed to everyone other than the Committee members, the Disciplinary Officer, the student(s) charged, a witness while presenting evidence, the advisor for the student, and the advisor for the District. All participants shall maintain the strictest confidentiality. If the student is a minor, the student's parents may also be present.

7. Final deliberations will be conducted with only the Committee members present.

8. The Committee will consider all available relevant evidence.

9. The Committee may choose any of the following options:

- a. uphold the recommendation;
- b. revoke the recommendation;
- c. impose a lesser action; or
- d. impose a more severe action.

10. The Hearing Committee will provide the student with its finding within three (3) days after the conclusion of the hearing.

11. All Due Process Hearing Committee hearing proceedings shall be recorded and all participants will be advised as such. The recordings shall be maintained by the Disciplinary Officer for two (2) calendar years, along with copies of all decisions made. Access to the recordings and copies of decisions made, shall be limited to the parties involved or as otherwise required by law.

## Appeal to the District Superintendent/President or Designee

If the student wishes to appeal the decision of the Due Process Hearing Committee he/she may file an appeal. The student must submit the appeal form to the Disciplinary Officer no later than three (3) days after receipt of the notification. Failure to submit an appeal form will be presumed to be the student's acceptance of the disciplinary action.

If the student requests an appeal the District Superintendent/President or designee may consult with the Due Process Hearing Committee. Neither the student nor the parent/guardian shall have a right to a hearing by the District Superintendent/President or designee. A decision shall be rendered as soon as reasonably practicable, which in most cases shall occur within three (3) days of receipt of the appeal. The District Superintendent/President or designee's decision is final.

Upon suspension or expulsion of a student, the District Superintendent/President or designee shall notify appropriate law enforcement authorities of any acts of the student that may be in violation of Penal Code Section 245 (Education Code Section 76035).

## **Scope of Expulsion**

Expulsion of a student is the permanent denial of student status and all attending rights and privileges. The District Superintendent/President may recommend expulsion of a student for "good cause" as defined in Board Policy 5500.

1. After receipt of a recommendation for expulsion from the Due Process Hearing Committee, the District Superintendent/President or designee shall decide whether to recommend expulsion to the Board of Trustees. It is recommended that this occur within five (5) days.
2. The student shall be notified of the decision.
3. The Board of Trustees shall consider any recommendation from the District Superintendent/President for expulsion, preferably at the next regularly-scheduled meeting of the Board after receipt of the recommendation.
4. All deliberations must occur in closed session to protect the student's right to privacy unless the student requests that the hearing be held publicly pursuant to Education Code Section 72122.
5. The student must be informed of the right to request that a public hearing be held pursuant to Education Code, Section 72122.
6. The final action taken by the Board will be made in public session so as to make it a part of the public record and forwarded to the student.
7. The decision of the Board of Trustees shall be final pursuant to Education Code, Section 76030.

Reference: Sierra College Administrative Procedure 5520 ([http://www.sierracollege.edu/\\_files/resources/about-us/board/policies/chapter5/Administrative-Procedure-5520.pdf](http://www.sierracollege.edu/_files/resources/about-us/board/policies/chapter5/Administrative-Procedure-5520.pdf))