

2.15

PREVENTION OF AND RESPONSE TO SEXUAL ASSAULT, SEXUAL HARASSMENT, DOMESTIC  
VIOLENCE, DATING VIOLENCE AND STALKING  
ADOPT: July 14, 2015  
ED CODE: 212.5, 66262.5, 67380-67385.7, 67386, & 67390-67393 et seq.34 CFR 668.46(a) &  
668.46(b) 11  
TITLE IX, at 34 C.F.R. §106.31(a) & 668.46(a)  
Labor Code § 230.1  
CAMPUS SAVE ACT  
JEANNE CLERY DISCLOSURE OF CAMPUS SECURITY POLICY AND CAMPUS CRIME STATISTICS  
ACT  
VIOLENCE AGAINST WOMEN ACT REAUTHORIZATION OF 2013  
FAMILY CODE 6211  
PENAL CODE 261 261.5 262, 265, 266, 266a, 266b, 266c, 266g, 266j, 267, 269, 273.4, 285, 286,  
288, 288a, 288.5, 289, 311.4& 646.9  
DISTRICT POLICY AND PROCEDURE 2.6.1, 2.7, 2.7P, 8.2.8, 8.2.8P

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The Sonoma County Junior College District is committed to creating and maintaining a community where all individuals who participate in District programs, services and activities can work and learn together in an atmosphere free of violence, harassment, exploitation, or intimidation. The District will respond promptly and effectively to reports of such behavior, and will take appropriate action to prevent, correct, address the effects, and when necessary, discipline behavior that violates this Policy and/or District Policy 2.7 on Unlawful Discrimination and Sexual Harassment.

Title IX of the Education Amendments of 1972 is a federal civil rights law that prohibits discrimination on the basis of gender in the District's educational programs and activities, including all District classes and services and in its residence program. The Superintendent/President delegates general authority for compliance with Title IX to the Vice President of Human Resources who shall act as the District Title IX Coordinator. The District Title IX Coordinator is responsible for managing the District's Title IX compliance program, including coordinating the investigation of allegations of gender discrimination and addressing problems revealed by such allegations or investigations. Questions and complaints regarding gender discrimination may be directed to the Title IX Coordinator/ Vice President of Human Resources. The Superintendent/President delegates general authority for compliance with all mandated crime reporting to the Chief of Police for the Sonoma County Junior College District.

This Policy applies to all District employees and students at all District locations and all District related activities regardless of location. This Policy may apply to other locations not associated with the District based on the relationship between the affected party and accused. A person who engages in conduct prohibited under this Policy is subject to all applicable punishment within the jurisdiction of the District, including employee or student discipline procedures. Employees may be disciplined up to and including termination from District employment and students may be disciplined up to and including expulsion from the District. Such conduct may also lead to civil and/or criminal prosecution.

Students and employees affected by gender discrimination, including sexual misconduct (the "Affected Party") shall be treated with dignity and provided support and assistance.

## A. DEFINITIONS

Sexual Harassment. Unwelcome sexual advances, requests for sexual favors, and other unwelcome verbal, nonverbal, written, visual or physical conduct of a sexual nature, made by someone from or in the work or educational setting, under any of the following conditions:

1. Submission to the conduct is explicitly or implicitly made a term or a condition of an individual's employment, academic status, or progress.
2. Submission to, or rejection of, the conduct by the individual is used as the basis of employment or academic decision affecting the individual.
3. The conduct has the purpose or effect of having a negative impact upon the individual's work or academic performance or of creating an intimidating, hostile, or offensive work or educational environment.
4. Submission to, or rejection of, the conduct by the individual is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the educational institution.

Sexual harassment is sexual in nature or based on sex, gender, gender identity, gender expression, or sex- or gender-stereotyping. Sexual harassment is conduct that explicitly or implicitly affects a person's employment or education or interferes with a person's work or educational performance or creates an environment such that a reasonable person would find the conduct intimidating, hostile, or offensive. Sexual harassment includes sexual assault.

Sexual harassment may include incidents between any members of the District community, including faculty, staff, managers, student employees, students, coaches, interns, and non-student or non-employee participants in District activities (e.g., vendors, contractors and visitors). Sexual harassment may occur in hierarchical relationships, between peers, or between individuals of the same sex or opposite sex. To determine whether the reported conduct constitutes sexual harassment, consideration shall be given to the record of the conduct as a whole and to the totality of the circumstances, including the context in which the conduct occurred.

Affirmative Consent. The District shall apply this affirmative consent standard in any determination of whether consent was given by both parties to sexual activity.

Affirmative Consent is consent that is informed, clearly affirmative, unambiguous, and a conscious decision by each participant to engage in mutually agreed-upon sexual activity. Silence or a lack of protest or resistance does not mean consent.

Consent is *voluntary*. It must be given without coercion, force, threats, or intimidation. Consent means positive cooperation in the act or expression of intent to engage in the act pursuant to an exercise of free will. Whether one has taken advantage of a position of influence over another may be a factor in determining consent.

Consent is *revocable*. Consent to some form of sexual activity does not imply consent to other forms of sexual activity. Consent to one act by itself does not constitute consent to another act. Consent to sexual activity on one occasion is not consent to engage in sexual activity on another occasion. A current or previous dating or sexual relationship, by itself, is not sufficient to constitute consent. Even in the context of a relationship, there must be mutual consent to engage in sexual activity.

Consent must be ongoing throughout a sexual encounter and can be revoked at any time. Once consent is withdrawn, the sexual activity must stop immediately.

Consent cannot be given when a person is *incapacitated*. A person cannot consent if s/he is unconscious or coming in and out of consciousness. A person cannot consent if s/he is under the threat of violence, bodily injury or other forms of coercion. A person cannot consent if his/her understanding of the act is affected by a physical or mental impairment.

If the Affected Party states affirmative consent was not given, it shall not be a valid excuse that the accused believed consent was given to sexual activity under either of the following circumstances: (1) belief the consent arose from the intoxication or recklessness of the Affected Party or (2) the accused did not take reasonable steps at the time of the alleged incident, to determine if the Affected Party affirmatively consented.

Similarly, it shall not be a valid excuse that the accused believed the Affected Party affirmatively consented to sexual activity if the accused knew or should have known that the affirmative consent could not be given because the Affected Party (1) was asleep or unconscious, (2) was incapacitated due to the influence of drugs, alcohol, or medication or could not understand the nature, or extent of the sexual activity, or (3) was unable to communicate due to a mental or physical condition.

For purposes of this *Policy*, the age of consent is consistent with current California Penal Code.

Dating Violence. Abuse committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim.

Domestic Violence. A felony or misdemeanor crime of violence committed by a spouse or former spouse, cohabitant or former cohabitant of the victim, or someone with whom the accused has a child, has an existing dating or engagement relationship, or has had a former dating or engagement relationship, or abuse perpetrated against any persons described in Family Code section 6211.

Incapacitation. Physical and/or mental inability to make informed, rational judgments. States of incapacitation include, but are not limited to, unconsciousness, sleep, and blackouts. Where alcohol or drugs are involved, incapacitation is defined with respect to how the alcohol or other drugs consumed affects a person's decision-making capacity, awareness of consequences, and ability to make fully informed judgments. If a person is mentally or physically incapacitated so that the person cannot understand the fact, nature or extent of the sexual situation, there is no consent; this includes conditions due to alcohol or drug consumption or being asleep or unconscious. One person or more than one person being intoxicated by drugs or alcohol does not diminish one's responsibility to obtain consent for any sexual activity. The factors to be considered when determining whether consent was given include whether the accused knew, or whether a reasonable person should have known, that the Affected Party was incapacitated.

Sexual Assault. Sexual activity without the consent of the other person or when the other person is unable to consent to the activity. The activity or conduct may include physical force, violence, threat, or intimidation, ignoring the objections of the other person, causing the other person's intoxication or incapacitation through the use of drugs or alcohol, or taking advantage of the other person's incapacitation (including voluntary intoxication). Sexual assault includes, but is not limited to, fondling, rape, forced sodomy, forced oral copulation, rape by a foreign object, sexual battery, incest, statutory rape, or threat of sexual assault.

Sexual Misconduct. Sexual misconduct includes discrimination based on gender, sexual harassment, dating violence, domestic violence, sexual assault, stalking, sexual violence, sexual coercion, and hate crimes based on gender.

Stalking. A course of conduct in which a person repeatedly engages in actions directed at a specific person that places that person in reasonable fear of his or her safety or the safety of others or causes substantial emotional distress. A course of conduct means two or more acts, including, but not limited to acts in which the stalker directly, indirectly, or through third parties by any method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about a victim, or interferes with the property of the victim.

**B. PROHIBITED ACTS**

This *Policy* prohibits sexual misconduct. Sexual misconduct by an employee is considered to be outside the course and scope of employment and shall be investigated and considered for discipline under applicable District Policy and Procedure. Sexual misconduct by a student is considered a violation of the Student Conduct Code and shall be investigated and considered for discipline under applicable District Policy and Procedure.

**C. CONSENSUAL RELATIONSHIPS**

This *Policy* covers unwelcome conduct of a sexual nature. Consensual romantic relationships between members of the District community are subject to applicable District Policy.

While romantic relationships between members of the District community may begin as consensual, they may evolve into situations that lead to charges of sexual misconduct.

**D. RETALIATION**

This *Policy* prohibits retaliation against a person who reports sexual harassment, domestic or dating violence, or stalking. Retaliation is prohibited against any person who assists someone with a report of this type of misconduct, or participates in any manner in an investigation or resolution of the misconduct report. Retaliation includes threats, intimidation, reprisals, and/or adverse actions related to employment or education.

**E. PREVENTION PROGRAMMING, TRAINING AND DISSEMINATION OF POLICY INFORMATION**

The District's commitment to providing a working and learning environment free from sexual misconduct includes a multi-faceted approach to preventive education and programming for administrators, faculty, staff and students. This includes the dissemination of information on the dynamics of sexual violence, access to care, victim response, District procedures, and federal/state laws. Educational programming provided includes information on risk reduction, teaches bystander intervention techniques, and addresses the role of consent in sexual relationships. Prevention education and information on this *Policy* shall be disseminated widely to the District community through publications, websites, new employee orientations, student orientations, and other appropriate channels of communication. In addition, the District will provide annual training to investigators and hearing officers.

**F. FREE SPEECH AND ACADEMIC FREEDOM**

As participants in a public community college, the faculty and other academic appointees, staff, and students of Sonoma County Junior College District enjoy free speech protections guaranteed by the First Amendment of the United States Constitution and Article I, Section I of the California Constitution. This *Policy* is intended to protect members of the District community from discrimination, not to regulate protected speech. However, freedom of speech and academic freedom are not limitless and do not protect speech or expressive conduct that violates federal or state anti-discrimination laws.

**G. ENFORCEMENT INFORMATION**

Allegations of gender discrimination or sexual misconduct may be filed with the District's Title IX Coordinator. The Office of the Title IX Coordinator is located at 1988 Armory Drive, Santa Rosa, CA 95401 and can be contacted by telephone at (707) 527-4954. The mailing address is 1501 Mendocino Avenue, Santa Rosa, CA 95401.

Student allegations of gender discrimination may also be filed with the U.S. Department of Education, Office for Civil Rights (OCR) 50 Beale Street, Suite 7200, San Francisco, CA 94105, (415) 486-5555, ([www2.ed.gov/ocr](http://www2.ed.gov/ocr)) or with the Chancellor of the California Community Colleges at [www.cccco.edu](http://www.cccco.edu) or Chancellor's Office, California Community Colleges, 1102 Q Street, Suite 4554, Sacramento, CA 95811-6549, Attention: Legal Affairs Division.

Employee allegations of gender discrimination may also be filed with the Equal Employment Opportunities Commission, 350 The Embarcadero, Suite 500, San Francisco, CA 94105 ([www.eeoc.gov](http://www.eeoc.gov)) or with the California Department of Fair Employment and Housing ([www.dfeh.gov](http://www.dfeh.gov)).



2.15P

PREVENTION AND RESPONSE TO SEXUAL ASSAULT, SEXUAL HARASSMENT, DOMESTIC  
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ADOPT: July 14, 2015  
ED CODE: 67380-67385.7, 67386 & 67390-67393 et seq  
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The intention of the Prevention and Response to Sexual Assault, Sexual Harassment, Domestic Violence, Dating Violence and Stalking Procedure is to investigate and resolve alleged violations of these offenses.

A. INTRODUCTION

The Sonoma County Junior College District is committed to creating and maintaining an educational community where all individuals who participate in District programs and activities can work and learn together in an atmosphere free of unlawful discrimination, harassment, exploitation, or intimidation. Board Policy 2.15 prohibits sexual assault, sexual harassment, domestic violence, dating violence, and stalking (collectively referred to herein as "sexual misconduct"). Board Policy 2.7 (Unlawful Discrimination and Sexual Harassment) and Procedure 2.7P (Unlawful Discrimination and Sexual Harassment Complaint Procedures) prohibit unlawful discrimination and sexual harassment. Board Policy and Procedure 8.2.8 and 8.2.8P (Student Conduct and Discipline Due Process) prohibit student conduct that constitutes gender discrimination, sexual harassment, sexual assault and sexual misconduct as defined in Board Policy 2.15.

The District is committed to preventing sexual misconduct from occurring or recurring; to responding to reports or complaints about prohibited sexual misconduct by taking prompt and effective steps to end sexual misconduct; to eliminating hostile educational environments; and to providing remedies if improper conduct is found to have occurred.

B. REPORTING SEXUAL ASSAULT, SEXUAL HARASSMENT, DOMESTIC AND DATING VIOLENCE, AND STALKING

Any member of the District community may report conduct that may constitute sexual misconduct to any supervisor, manager, or directly to the Title IX Coordinator, or designee. Supervisors and managers are required to promptly forward such reports to the Title IX Coordinator/Vice President of Human Resources or designee. Any manager or supervisor who knew about the incident and failed to report the prohibited act may be subject to disciplinary action. All employees who learn of incidents of sexual misconduct or concerns of sexual misconduct should refer the issue to the Title IX Coordinator and encourage direct reporting to the Title IX Coordinator as well.

### C. CONFIDENTIALITY

Requests regarding the confidentiality of reports of sexual misconduct to non-confidential District resources will be considered in determining an appropriate response. The District preserves individual privacy and the confidentiality of sensitive information to the extent reasonable and appropriate, recognizing that it cannot ensure that reported information can be completely protected from disclosure. If a student or employee affected by sexual misconduct (the "Affected Party") requests that his/her allegations of sexual misconduct be confidential, the District may be limited in its ability to respond to such allegations. In such cases, the District's ability to investigate, to take remedial actions, or to take disciplinary action against an accused student or employee may be impeded. Although the District seriously considers requests for confidentiality, it must consider such requests in light of its obligations to provide a nondiscriminatory environment and District safety concerns.

The Title IX Coordinator, or designee, shall advise Affected Parties about requesting confidentiality from the District and evaluate such requests. The Title IX Coordinator shall ensure that employees who are required to report sexual misconduct are trained in advising Affected Parties about confidential reporting.

The District has identified the confidential resources with which Affected Parties or members of the District community can consult for advice and information regarding making a report of sexual misconduct. These are the professional staff operating under licensure in Student Health Services and Student Psychological Services or other community agencies that have the specialized skills and training to provide resources such as rape crisis centers.

### D. ENCOURAGEMENT OF REPORTING

Students and employees are encouraged to report conduct that they, in good faith, believe constitutes sexual misconduct. To encourage reporting, an Affected Party or witness to alleged sexual misconduct shall not be disciplined for student conduct violations, such as drugs and alcohol, which occurred at or around the time of the reported incidents, unless the District finds the violations egregious, including, but not limited to, an action that places the health or safety of any other person at risk or involves plagiarism, cheating, or academic dishonesty.

### E. RESPONSE TO REPORTS OF SEXUAL ASSAULT, SEXUAL HARASSMENT, DOMESTIC AND DATING VIOLENCE, AND STALKING

The District shall provide prompt and effective response to reports of sexual misconduct which may include early resolution, formal investigation, interim or permanent remedies and/or targeted prevention training or educational programs. The District's response process is intended to provide prompt and equitable means to respond to allegations of unlawful gender discrimination, sexual harassment and assault, and sexual misconduct in accordance with federal and state due process requirements. All procedures, from initial investigation to a final disciplinary result, are intended to be prompt, fair, and impartial.

Allegations of student sexual misconduct are subject to the applicable Student Conduct procedure. Allegations of employee sexual misconduct are subject to the procedure set forth in District Policy, the Education Code, and/or collective bargaining agreements. Allegations or complaints may be filed by the Affected Party or by others on the Affected Party's behalf. If the District receives a credible report of sexual misconduct against a student(s) or employee(s), it will investigate even in the absence of an allegation or complaint from an individual.

Alleged sexual misconduct will be evaluated from the perspective of a reasonable person in the Affected Party's position, considering all the circumstances.

These procedures are not intended to substitute for criminal or civil complaints that may be initiated simultaneously.

When an individual reports to the District that he or she has been a victim of sexual misconduct, he or she shall be provided with a written explanation of his or her rights, options, and resources whether the offense occurred on or off District property.

The District shall investigate reports of sexual misconduct utilizing investigators trained in civil rights/sexual misconduct investigation. The investigation and adjudication process shall conclude within 60 calendar days unless reasonable delays beyond the control of the District occur. The investigation, fact finding, and the employee and student conduct processes shall use a "preponderance of evidence" standard to draw findings or conclusions, meaning the act was more likely than not to have occurred.

The District shall maintain memoranda of understanding (i.e., MOU's) with local law enforcement agencies for the sharing of information from incidents reported to law enforcement with the intent of relieving the Affected Party from unnecessary repetition of information that may be traumatic.

Both during an investigation and upon a finding of sexual misconduct, the District may offer remedies to the individual or individuals harmed by the misconduct consistent with applicable complaint resolution and grievance procedures. Remedies may include counseling, an opportunity to repeat course work without penalty, change in class section, District-initiated employee transfer, or other appropriate interventions.

Any employee of the District who is found to have engaged in sexual assault, sexual harassment, domestic violence, dating violence, or stalking is subject to disciplinary action up to and including dismissal in accordance with the applicable District disciplinary procedures, and collective bargaining agreement.

Any student of the District who is found to have engaged in sexual assault, sexual harassment, domestic violence, dating violence, or stalking is subject to disciplinary action up to and including expulsion in accordance with the applicable Student Conduct and Discipline Due Process policy and procedure.



8.2.8

**STUDENT CONDUCT AND DISCIPLINE DUE PROCESS**

ADOPT: APRIL 8, 1985

REVISED: NOVEMBER 14, 1995

REVIEWED: NOVEMBER 14, 2000

REVIEWED: MAY 13, 2008

REVIEWED/NO CHANGE: JANUARY 10, 2012

CATEGORY 3 REVISION: FEBRUARY 10, 2015

PENAL CODE: 245, 415, 502, 626.2

ED CODE: 76033, 67361

HEALTH &amp; SAFETY CODE: 11014.5, 11053, 11054

BUSINESS &amp; PROFESSIONAL CODE: 4240

TITLE IX

DISTRICT POLICY: 2.7, 3.11

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The Sonoma County Junior College District supports a safe, productive learning environment to foster intellectual curiosity, integrity and accomplishment as defined in the District Mission and Goals.

The District holds that students shall conduct themselves in a manner which reflects their awareness of common standards of decency and the rights of others. Interference with the District's mission, objectives, or community life shall be cause for disciplinary action.

A student is defined as a person who is currently enrolled as a student in a credit or noncredit class or in community service offerings of the District; engaged in District activities in preparation for enrollment; or enrolled as a student or preparing for enrollment at the time of an alleged violation of the Standards of Conduct.

In some circumstances these standards of conduct may apply to conduct that occurs off campus when the Conduct Dean determines there is reasonable association with the District. In cases involving sexual misconduct, the jurisdiction will be determined by the Title IX Officer/Vice President, Human Resources.

Students shall be subject to District discipline only for good cause which shall include, but not be limited to, the following categories of misconduct that occurs at any time, in any format with a member of the District community, or at a District-approved activity or sponsored event.

**ACTS OF MISCONDUCT**

- A. Dishonesty, such as cheating, plagiarism, or knowingly furnishing false information to the District.
- B. Forgery, alterations, or misuse of District documents, records, or identification.

- C. Use of any electronic listening or recording device in any classroom without the prior consent of the instructor, except as necessary to provide reasonable auxiliary aids and academic accommodations to a student with a disability.
- D. Making a video recording, audio recording, taking photographs, or streaming audio/video of any person in a location where the person has a reasonable expectation of privacy, without that person's knowledge and express consent.
- E. Sale, preparation, or distribution for any commercial purpose course lecture notes or video or audio recordings of any course, unless authorized by the authoring faculty or District representative in advance. The unauthorized sale or commercial distribution of course notes or recordings by a student is a violation of this policy whether or not it was the student or someone else who prepared the notes or recordings.
- F. Obstruction or disruption of teaching, research, administration, disciplinary procedures, District activities, or other activities authorized by the District including its public service functions, or of other authorized activities.
- G. Solicitation or acceptance of money or other item of value as an inducement, encouragement, or reward for intercollegiate participation or false declarations regarding eligibility for participation in intercollegiate athletics.
- H. Sexual misconduct including but not limited to lewd or indecent behavior, sexual assault, sexual battery, sexual harassment, or threat of sexual misconduct as defined by law or policy of the District.
- I. Participation in hazing or any method of initiation or pre-initiation into a campus organization or other activity engaged in by the organization or members of the organization at any time that causes, or is likely to cause, physical injury or personal degradation or disgrace resulting in psychological harm to any student or other person.
- J. Harassment, bullying, or discriminatory behavior defined as conduct that is objectively severe, pervasive, and offensive, and that so substantially impairs a person's access to District programs or activities that the person is effectively denied equal access to the District's resources and opportunities.

Harassment includes, but is not limited to, conduct that is motivated on the basis of a person's race, color, national or ethnic origin, citizenship, sex, religion, age, sexual orientation, gender identity, pregnancy, marital status, ancestry, service in the uniformed services, physical or mental disability, medical condition, or perceived membership in any of the classifications.

- K. Stalking behavior in which a student repeatedly engages in a course of conduct directed at another person and makes a credible threat with the intent to place that person in reasonable fear for his or her safety, or the safety of his or her family; where the threat is reasonably determined by the District to seriously alarm, torment, or terrorize the person; and where the threat is additionally determined by the District to serve no legitimate purpose.
- L. Physical, verbal, written, or image based abuse of any person, or conduct which threatens or endangers the health or safety of any such person.

- M. Assault, battery, or any threat of force or violence upon a person.
- N. Possession or use of any deadly weapon, replica weapon, explosive, or other destructive device on District Property including, but not limited to firearm, dirk, dagger, ice pick, knife, or any other object used as a weapon.
- O. Willful misconduct resulting in injury or death to a person or which results in cutting, defacing, or other damage to any District or personal property.
- P. Committing, attempting, or being an accomplice to robbery or extortion on District property or at a District activity.
- Q. Theft of or damage to property of the District or of a member of the District community or campus visitor. This includes abuse of District computers and other District electronic resources such as computer and electronic communications facilities, systems, and services. Abuses include, but are not limited to, unauthorized entry, use, transfer, or tampering with the communications of others; interference with the work of others and with the operation of computer and electronic communications facilities, systems, and services.
- R. Willful or persistent smoking or use of electronic or vapor smoking device in any area on District property where smoking has been prohibited by law or by regulation of the Board of Trustees of Sonoma County Junior College District.
- S. Unauthorized entry to, possession of, receipt of, or use of any District services, equipment, resources, or properties, including the District or College name or logo. Unauthorized possession, duplication, or use of keys or entry devices to any District facilities.
- T. Violation of District regulations maintained by the Office of Student Affairs concerning student organizations, or the time, place and manner of public expression, including participation in a disturbance of the peace or unlawful assembly.
- U. Engaging in expression which is libelous or slanderous or which so incites others as to create a clear and present danger of the commission of unlawful acts on District premises or at District-sponsored or supervised functions, or the violation of lawful District administrative procedures, or the substantial disruption of the orderly operation of the District.
- V. Unlawful possession, use, sale, offering to sell, or furnishing, or being under the influence of, any controlled substance, alcoholic beverage, or intoxicant or poison or unlawful possession of, or offering, arranging or negotiating the sale of any drug paraphernalia.
- W. Continued disruptive behavior, failure to comply with directions of District officials acting in the performance of their duties, continued willful disobedience, habitual profanity or vulgarity, open and persistent defiance of authority or persistent abuse of District personnel requiring inordinate drains on staff time, resources and supervision.

- X. Failure to identify oneself to, or comply with the directions of a District official acting in the performance of their duties or resisting or obstructing such District official in the performance of or the attempt to perform their duties.
- Y. Failure to observe precautions the District deems necessary to ensure the safety of the student or others.

**WRITTEN NOTICE**

For the purpose of this policy and procedures, and unless otherwise specified, “written notice” means notice that is served by U. S. mail and email at the student’s most recent addresses on file in the District’s Admissions and Records Office and shall be deemed received by the student two (2) working days after deposit in the mail or received immediately by the student upon email delivery.

8.2.8P

STUDENT CONDUCT AND DISCIPLINE DUE PROCESS

ADOPT: FEBRUARY 10, 2015

ED CODE: 66017, 66300, 66301, 67362, 70902, 72122, 76030 et seq., 76033, 78907, 87708

PENAL CODE: 415.5, 502, 626.2, 626.4

DISTRICT POLICY 3.11, 2.7

TITLE IX

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The intention of the Student Discipline and Due Process Procedure is to resolve alleged violations of the standards of conduct in a fair, honest manner that honors the needs and protects the safety of the District community.

These procedures provide a prompt and equitable means to address violations of the Santa Rosa Junior College Student Standards of Conduct in accordance with the due process rights guaranteed to students. These procedures do not substitute for criminal or civil proceedings that may be separately initiated.

These procedures are not intended to infringe in any way on the rights of students to engage in protected free expression.

The Superintendent/President delegates general authority for the implementation of this Administrative Procedure to the Dean, Student Conduct or designee. The Dean of Student Services, Petaluma Campus shall be the Conduct Dean for student conduct matters at the Petaluma Campus.

#### **I. REPORTING MISCONDUCT**

- A. Any member of the college community may make a complaint against a student with allegations of misconduct. Acts of academic dishonesty such as cheating or plagiarism shall be reported to the Dean, Student Services for incidents at the Petaluma campus, and the Dean, Student Affairs and Engagement Programs for all other locations. Acts of sexual harassment shall be reported to the District Title IX Officer/Vice President, Human Resources. All other misconduct shall be reported to the Conduct Dean.
  
- B. Misconduct in the instructional setting may be addressed and resolved by the instructor. The instructor shall privately inform the student of the misconduct, either face to face or by email, with a warning and statement of expected behavior in an effort to redirect the student. The student, at this point, has the right to respond to the instructor's allegations. If the misconduct is severe, or continues after warning, a report shall be sent to the Department Chair and the Conduct Dean.

- C. Any member of the college community including District Police officers, administrators, students, faculty and staff may report misconduct in a non-instructional setting to the Conduct Dean.
- D. Any misconduct that is deemed dangerous or criminal shall be reported to District Police immediately and then the Conduct Dean.

## II. INVESTIGATION AND ADMINISTRATIVE HEARING PROCESS

- A. Upon receiving the conduct referral, the Conduct Dean will investigate the allegations. If the Dean finds there are grounds for charges, a written Statement of Charges shall be provided to the student that will include a statement of the misconduct, the identified conduct violation charges, and the time, date, and place of the Administrative Hearing. The student shall be asked to provide a written response to the Statement of Charges to the Conduct Dean no later than two (2) working days after the student's receipt of the Statement of Charges. The Statement of Charges may be amended at any time upon providing notice to the student of such amendment.
- B. Representation and Advisors
  - 1. The student shall represent him or herself at the hearing, and may, but need not, bring a non-attorney advisor he or she chooses. The non-attorney advisor may advise the student, but may not participate. Failure by the non-attorney to comply with this requirement will result in removal from the hearing.
  - 2. The Conduct Dean may request that the District provide an attorney at the hearing to sit in an advisory capacity and to provide legal counsel. If the District intends to have an attorney assist the Conduct Dean during the hearing, it will notify the student not less than five (5) working days prior to the date of the hearing so that the student may decide whether to obtain his or her own attorney.
  - 3. A student may have an attorney advisor only if (1) the District will have an attorney to assist the Conduct Dean during the hearing, or (2) if criminal charges related to the alleged student misconduct are pending against the student at the time of the hearing. The student is solely responsible for securing and compensating an attorney. The student must notify the District not less than five (5) working days prior to the date of the hearing that they will be accompanied by an attorney under this paragraph.
  - 4. Attorneys who assist the Conduct Dean or a student may be present and provide advice to their client, but beyond stating their names for identification purposes, may not participate by examining witnesses, submitting or objecting to documents, making statements, or asking questions.
  - 5. Any person licensed to practice law is considered an attorney for purposes of the hearing.
- C. The hearing shall be closed and confidential.
- D. At the Administrative Hearing, the Conduct Dean shall give the student the opportunity to respond to the Statement of Charges. The Dean may conduct further investigation of the

allegations and may require additional meetings with the student as part of the Administrative Hearing.

- E. The Dean and the student may discuss voluntary resolution/consent to discipline as part of the Administrative Hearing if deemed appropriate by the Dean.
- F. Waiver of Administrative Hearing
  - 1. A student who fails to attend an Administrative Hearing without excusable reason shall be deemed to have waived his or her right to an Administrative Hearing. Excusable reason means inability to meet due to student's hospitalization, incarceration, or other reason beyond the student's control as determined by the Conduct Dean.
  - 2. Following the Waiver of Administrative Hearing, the Conduct Dean will proceed to determine and provide notice to the student of the Administrative Decision.

### **III. DETERMINATION AND NOTICE OF ADMINISTRATIVE DECISION/RECOMMENDATION**

The Conduct Dean shall issue a written notice of his or her Administrative Decision to the student including recommended sanction, within ten (10) working days of completion of the Administrative Hearing process or within ten (10) working days of the student's waiver of hearing rights. The Conduct Dean may extend the time for issuing written notice if he or she determines an extension is appropriate to support a meaningful disciplinary process. The Administrative Decision shall be based on reasonable and relevant evidence. The Conduct Dean may consider the student's disciplinary history at the District in reaching a decision or recommendation. The Administrative Decision shall include the Statement of Charges, indication of timely written response from the student, factual findings and conclusions as to which Standards of Student Conduct were violated and any discipline sanctions to be imposed.

### **IV. SANCTIONS**

- A. Withdrawal of Consent to Remain on District Property
  - 1. The Superintendent/President, College Chief of Police/designee, Vice President of Student Services/Assistant Superintendent, and Conduct Dean are authorized to notify any person for whom there is a reasonable belief that the person has willfully disrupted the orderly operation of the District that consent to remain on District property has been withdrawn. If the person is on District property at the time, they must promptly leave or be escorted off site.
  - 2. Withdrawal of consent to remain on District property issued to a student shall not exceed fourteen (14) calendar days from the date upon which consent was initially withdrawn.
  - 3. Any student whose consent to remain on District property has been withdrawn who knowingly re-enters the campus during the period in which consent has been withdrawn, except to attend a hearing with the Conduct Dean, is subject to arrest.
  - 4. Withdrawal of consent does not preclude any other disciplinary actions under these procedures for student violation of the District's Student Conduct Standards.

B. Exclusion from Class or Activity

1. An instructor may decide to exclude a student from up to two class meetings and shall notify the Conduct Dean and Department Chair. Classwork missed during an instructor removal may not be made up, and the days of removal are considered unexcused absences.
2. Any faculty or administrative staff who are assigned to supervise a library, tutorial center, instructional laboratory, study facility, or other site of extra-curricular activities such as clubs and athletics may exclude a student for no more than two (2) days of required attendance, or if attendance is not required, for two (2) consecutive days and shall notify the Conduct Dean and supervising administrator.

C. Immediate Interim Suspension

If the Conduct Dean determines it is necessary to protect lives or property and to ensure the maintenance of order, a student may be immediately suspended from some or all classes and class-related activities, pending an opportunity for a hearing within ten (10) calendar days.

D. Probation or Short-term Suspension

If the Conduct Dean determines that good cause exists to impose a period of probation or short-term suspension, the Administrative Decision shall specify the length of time of the probation or suspension and the parameters of activities covered by the sanction. Probation allows for conditional continued enrollment under stated restrictions. Short-term suspension excludes a student from one or more classes and/or extra-curricular activities for a specified period of less than ten (10) days of instruction. The Conduct Dean's determination of probation or short-term suspension or lesser disciplinary action shall be final and cannot be appealed. Violations of either probation or short-term suspension may be cause for more serious disciplinary action.

E. Long-term Suspension

If the Conduct Dean determines that good cause exists to suspend the student from the District on a long-term basis, the Administrative Decision shall specify the length of the long-term suspension, which may range from exclusion from one or more classes for more than ten (10) days of instruction up to one or more terms. A long-term suspension includes exclusion from class-related activities and extra-curricular activities for a concurrent period unless otherwise indicated.

F. Restitution and/or Restorative Remedies

If the Conduct Dean determines that good causes exists to impose restitution for damages caused to District or personal property, the Conduct Dean shall determine monetary penalty as compensation for damage resulting from student misconduct. Restitution may take the form of appropriate services identified by the District. If the Conduct Dean determines that participation in restorative remedies is appropriate a restorative plan will be written in the Notice of Administrative Decision.

G. Expulsion

If the Conduct Dean recommends expulsion, he or she shall forward the matter to the Vice President of Student Services. Expulsion means permanent exclusion of the student by the Board of Trustees from all District courses, activities, and presence on District property. The Vice



President of Student Services shall determine whether to accept, modify, or reject the Conduct Dean's Administrative Decision. If the Conduct Dean's expulsion recommendation is accepted, the Vice President shall forward the recommendation to the Superintendent/President. If the Conduct Dean's Administrative Decision is rejected or modified, the student shall receive written notice of the new Administrative Decision.

## **V. APPEAL PROCEDURES**

### **A. Right to Appeal**

If either long-term suspension or expulsion is recommended, the student may submit a timely request for an appeal hearing unless the student waived the right to appeal by failing to participate in the Administrative Hearing process.

### **B. Request for Appeal Hearing**

If a student who participated in the Administrative Hearing wishes to appeal an Administrative Decision imposing a long-term suspension or recommendation for expulsion, the student shall serve a written Request for Appeal Hearing with the Conduct Dean no later than 5:00 p.m. on or before the fifth working day after the student's receipt of the written Administrative Decision.

If no timely Request for an Appeal Hearing is received by the Conduct Dean, the right to an Appeal Hearing is waived by the student. If the Administrative Decision imposes a long-term suspension, the long-term suspension shall commence immediately upon the expiration of the time to request an Appeal Hearing. If the Administrative Decision recommends expulsion, the matter shall be sent to the Superintendent/President.

### **C. Schedule and Notice of Appeal Hearing**

1. Upon receipt of a student's timely request for an Appeal Hearing, the Conduct Dean will schedule an Appeal Hearing and send written notice to the student of a Notice of Appeal Hearing and Statement of Charges.
2. The Appeal Hearing shall be held within twenty (20) working days after a written request for Appeal Hearing is received from the student. The Conduct Dean or Hearing Officer may determine an extension of the Appeal Hearing date is appropriate to support a meaningful disciplinary process. The Notice of Appeal Hearing and Statement of Charges shall advise the student of the date, time, and place of the Appeal Hearing. The written Notice of Appeal Hearing and Statement of Charges shall be sent to the student at least five (5) working days prior to the Appeal Hearing date.
3. The Statement of Charges shall include the following:
  - a. The alleged misconduct.
  - b. The specific section (s) of the Standards of conduct that the student is accused of violating.
  - c. A brief statement of the facts supporting the Charges.
  - d. The discipline sanction (s) being considered.

4. The Administrative Decision may serve as the Statement of Charges.
5. The student may submit a written response to the Statement of Charges to the Hearing Officer by no later than 5:00 p.m. three (3) working days in advance of the date of the Appeal Hearing.

D. Impartial Appeal Hearing

1. The President/Superintendent shall assign the Appeal Hearing to an impartial District administrative Hearing Officer, such as another dean or vice president. Prior to assigning the matter, the Superintendent/President shall determine to his/her satisfaction that the assigned Hearing Officer does not have personal knowledge of or involvement in the matter and that the Hearing Officer is able to provide a timely and unbiased review and determination of the matter.
2. Prior to the commencement of the Appeal Hearing, the Hearing Officer shall be provided with a copy of the Statement of Charges and any timely written response provided by the student.
3. Formal rules of evidence shall not apply, but relevant evidence may be admitted and considered if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs.
4. Unless the Hearing Officer determines to proceed otherwise, the Conduct Dean and the student may make opening statements. The facts supporting the accusation shall be presented by the Conduct Dean. The student may then present his or her evidence. The Conduct Dean may present rebuttal evidence after the student completes his or her defense. If the student's disciplinary history is introduced, the student may address his or her discipline history, but shall not be permitted to call witnesses or introduce documents to refute the conduct upon which the previous disciplinary action(s) were based or the appropriateness of the previous disciplinary action(s). The Conduct Dean and the student may call and question their own witnesses and introduce oral and written testimony relevant to the matter. Written testimony must be signed and dated, and the accuracy of the contents must be verified by the author under penalty of perjury. Notification of names of witnesses and relevance to the case shall be submitted in writing to the Conduct Dean by no later than 5:00 p.m. three (3) working days in advance of the date of the Appeal Hearing. All witnesses shall be excluded from the Appeal Hearing when not testifying. The Hearing Officer does not have the power to subpoena witnesses. The Conduct Dean and the student may make closing statements.
5. A student who fails to appear for the Appeal Hearing at the designated time and place shall be deemed to have waived his or her right to an Appeal Hearing and the discipline sanctions included in the Statement of Charges shall be imposed.
6. The student shall represent him or herself at the Appeal Hearing with the same stipulations regarding attorney and non-attorney advisors as outlined under the Administrative Hearing Process.
7. The Appeal Hearing shall be closed and confidential.
8. The Appeal Hearing shall be audio or stenography recorded by the District and shall be the only recording made unless the Hearing Officer authorizes additional recordings. No witness

who refuses to be recorded shall be permitted to give testimony. Recordings 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 recording at his or her own cost.

E. Preparation of Decision

1. Within thirty (30) working days following the conclusion of the Appeal Hearing, the Hearing Officer shall prepare and send to the Superintendent/President a written Advisory Decision and a complete copy of the record of the Hearing. In matters under the jurisdiction of Title IX, the timeline shall be adjusted to meet the 60 working days guideline for completion of the appeal. The Advisory Decision shall be based upon the preponderance of evidence relevant to the charges adduced at the Hearing. The Advisory Decision shall include factual findings, conclusions as to whether any sections(s) of the standards of Student Conduct were violated, and a recommendation of the disciplinary action to be imposed, if any. The Advisory Decision shall be based only on the record of the hearing.
2. The "record of the hearing" shall include the Statement of Charges (as amended, if applicable), the student's written response, if any, the oral and documentary evidence adduced at the Hearing, the recording made during the Hearing, and the District's record of previous disciplinary issues related to the student, if any.

## **VI. SUPERINTENDENT/PRESIDENT'S REVIEW**

A. President's Review When Student Waived Procedures

If the Conduct Dean recommends expulsion and the student waives his or her right to proceed by failing to attend the Administrative Hearing or by failing to make a timely request for an appeal hearing, the Superintendent/President shall determine whether to accept, modify, or reject the Dean's Administrative Decision.

B. President's Review of Appeal Hearing

1. Within thirty (30) working days of receipt of the Hearing Officer's Advisory Decision and record of the Appeal Hearing, or sooner if required to meet Title IX guidelines, the Superintendent/President shall review the Advisory Decision and the record of the Appeal Hearing and shall determine whether to accept, modify or reject the Advisory Decision. If the Superintendent/President determines to modify or reject the Hearing Officer's Advisory Decision, he or she shall prepare a new written decision which contains specific factual findings and conclusions based on the record of the Appeal Hearing.
2. A decision of the Superintendent/President to uphold the Conduct Dean's suspension of a student shall be final and written notice of the final Administrative Decision shall be sent to the student.
3. If the Superintendent/President determines that expulsion is appropriate, the recommendation for expulsion shall be made in writing to the Board of Trustees and written notice sent to the student.

## **VII. BOARD OF TRUSTEES REVIEW – EXPULSION**

### **A. Consideration of Expulsion Recommendation**

The Board of Trustees shall consider any recommendation from the Superintendent/President for expulsion at the next regularly scheduled meeting of the Board occurring at least 10 working days after receipt of the recommendation or at a special meeting held within 20 working days after receipt of the recommendation. The Board's review may be extended beyond these periods if the Superintendent/President determines that an extension is appropriate to support a meaningful disciplinary process. The Board's consideration consists of a review of the record of Appeal Hearing and the Advisory Decision from the Appeal Hearing (if applicable), or the President's written decision and/or recommendation. The Board review does not provide another evidentiary hearing for the student on the matter.

### **B. Board of Trustees Review**

The student shall be given written notice of the date, time, and place of the Board's meeting at least five (5) working days in advance of the meeting.

The Board shall consider an expulsion recommendation in closed session unless the student or his or her parent, guardian, or conservator, if the student is a minor or conserved, requests an open session.

### **C. Board Decision**

The Board may accept or reject the expulsion recommendation of the Superintendent/President after a review of the Appeal Hearing record or after reviewing the Conduct Dean's Administrative Decision when the student waived his or her right to an Appeal Hearing. If the Board rejects the expulsion recommendation, the Board shall prepare a new written decision which includes factual findings, Standards of Conduct that were violated, and disciplinary action, if any. The decision of the Board shall be based only on the record of the Appeal Hearing or the Dean's Administrative Decision, and the District's record of previous disciplinary issues related to the student, if any.

The Board's decision regarding expulsion is final. The Board's action shall be a public record of the District in accordance with laws related to student records.

Written notice of the Board's final decision shall be sent to the student as soon as practicable after the Board meeting.

## **VIII. SPECIAL CIRCUMSTANCES**

The District may notify the parent(s)/guardian(s) of minor students, or conservators of students known to be under conservatorship for educational decisions of proposed disciplinary action against the minor or conserved student when the disclosure to the parent/guardian/conservator is permitted under the Family Educational Rights and Privacy Act.