

As part of MiraCosta’s culture of care, this procedure is designed to support student success. As a community college, all stakeholders, including students, have responsibilities to ensure a safe and productive learning environment. The purpose of this document is to outline the rights and responsibilities of our students, who are all members of the MiraCosta College community. The purpose of these student conduct procedures is to provide a prompt and clear means to address alleged violations of the MiraCosta College Standards of Student Conduct, which guarantees students the due process rights afforded by state and federal laws. This procedure will be used in a fair manner and not for purposes of retaliation. It is not intended to serve as a substitute for criminal or civil proceedings that may be initiated by other agencies. Rather, this is an educational and developmental approach that is designed to uphold students’ rights and ensure safety throughout our community.

The superintendent/president has designated the dean of student affairs as the administrator responsible for student conduct procedures.

## DEFINITIONS

- A. District: The MiraCosta Community College District (commonly referred to as MiraCosta College).
- B. Student: Any person who has applied, is enrolled, or formerly enrolled, in any course(s) at any site, online, or in any program offered by the district.
- C. Faculty member: Any academic employee of the district in whose class a student subject to conduct procedures is enrolled, or counselor who is providing or has provided services to the student, or other academic employee who has responsibility for the student's educational program.
- D. Days: Unless otherwise stated in this document, the term “days” refers to days when the district is open.
- E. Student conduct administrator: A designated district employee responsible for administering student rights and responsibilities meetings to determine findings of responsibility and issue resolutions.
- F. Hearing administrator: A designated district employee responsible for administering appeal hearings who is impartial and does not have an interest in the outcome of the appeal.

- G. Student rights and responsibilities meeting: The due process meeting by which an allegation of a violation of the standards of student conduct is addressed by the student conduct administrator with the responding party.
- H. Appeal hearing: The meeting that addresses a responding party's request for appeal of a finding of responsibility and/or appeal of a resolution.
- I. Preponderance of the evidence: The standard by which a decision is made by the student conduct administrator or the hearing administrator. The standard is such that a reasonable person would find it more likely than not that a behavior occurred and that it violated one or more of the standards of student conduct.
- J. Advisor: A support person who may accompany the student during a student rights and responsibilities meeting or an appeal hearing.
- K. Witness: Any person with direct knowledge of the incident who may be invited to participate in the student conduct process.
- L. Reporting party: The person who reports behavior that may be in violation of the standards of student conduct. The reporting party may be different than the impacted party.
- M. Impacted party: A person who is commonly known as a victim or survivor of a reported behavior that is in violation of the standards of student conduct.
- N. Responding party: A student reported to be in possible violation of the standards of student conduct.
- O. Resolution: Commonly known as a sanction, the resolution serves as the outcome assigned to the responding party when a student is found responsible for a violation of the standards of student conduct.
- P. *In absentia*: When a student does not schedule or attend a student rights and responsibilities meeting or appeal hearing, the student conduct administrator or hearing administrator may make a determination in the absence of the responding party.
- Q. Expulsion hearing: The hearing held by the board of trustees to address a recommendation for expulsion.
- R. Behavioral Intervention Team: Designated employees of the district who work to assess, prevent, intervene, and respond to situations that may pose a threat to the campus community or require consultation with a multidisciplinary team.

## **STUDENT RIGHTS**

Students have the right to report concerns about behavior, and also have the right to be informed of any credible reports filed about them to provide an opportunity to respond to them in a timely manner. Recognizing that students often manage significant matters outside of their educational responsibilities, the district has outlined the following procedures to support a clear student conduct process. All students have the right to a student rights and responsibilities meeting. Students have a right to review Administrative Procedure 5520: Student Conduct Procedures and Administrative Procedure 5500: Standards of Student Conduct prior to the meeting. These documents can be emailed to the responding party, or the responding party may also request to view a copy in designated areas on campus such as the Office of Student Affairs, or review them on the district website.

Students also have the right to bring an advisor with them to the student rights and responsibilities meeting, appeal hearing, and/or expulsion hearing. If the student chooses to bring a lawyer to serve as their advisor, the student must inform the student conduct administrator no later than five (5) days prior to the meeting or hearing date, so that the district may make accommodations to have their own legal counsel attend the meeting as well.

Students also have the right to request reasonable accommodations. This request must be made in writing to the assigned student conduct administrator in advance of the student rights and responsibilities meeting and/or appeal hearing. The student conduct administrator will review the request and consult with appropriate parties if needed to determine if and how the accommodation request can be fulfilled.

The Family Educational Rights and Privacy Act (FERPA) protects student privacy rights. Student privacy rights are maintained through the student conduct process. Allegations, findings of responsibility, and resolutions remain private to the extent required by law. A record of all cases will be held within the Office of Student Affairs.

To encourage reporting of incidents, students who report policy violations, serve as witnesses, or seek medical aid may be afforded limited amnesty for minor alleged policy violations. If the Student Conduct Administrator determines limited amnesty is applicable, the student will not incur a policy violation, but may be referred to educational meetings or resources for support.

## **STUDENT RESPONSIBILITIES**

When a report about student behavior that may be in violation of the Standards of Student Conduct (Administrative Procedure 5500) is filed with the Office of Student Affairs, the matter is addressed in a student rights and responsibilities meeting. The purpose of the meeting is to address the concern, uphold the student's due process rights, determine if the behavior occurred, offer an educational and developmental dialogue to discuss the impact of the behavior, and determine next steps with identified resolutions as appropriate. Within an equity-minded and educational framework, the student conduct administrator is responsible for upholding the student conduct procedures. The dean of student affairs or a designee has the right to bring a case forward to the Behavioral Intervention Team for review and consultation.

All communication with students will be conducted utilizing the contact information located in the student's account. As a result, it is the student's responsibility to update their contact information in their student account, so that the Office of Student Affairs may reach them to schedule a meeting to discuss the alleged violation of the standards of student conduct. It is also the student's responsibility to check and respond to email and phone communications in a timely manner.

## **INTERIM MEASURES**

Pending the outcome of a student rights and responsibilities meeting, interim measures may be administratively imposed. Student conduct administrators also retain the right to implement interim measures when a report of student behavior

indicates that the student poses a threat of harm or is inimical to the welfare of others, or if it is necessary to ensure the orderly operations of the district. An interim measure may be put in place to ensure the safety of the campus community, provide time for further evidence to be gathered and reviewed, and/or offer support to the responding party. A responding party will receive verbal and/or written notice of the interim measure. Interim measures may include, but are not limited to, no contact orders, withdrawal of consent to remain on campus, restricted use of district property, class removal with academic accommodations, interim suspension, or more as deemed appropriate by the student conduct administrator.

To protect lives, property, and/or to ensure the orderly operations of the district, the student may be suspended for an interim period of up to ten (10) days. In the event of an interim suspension, the student rights and responsibilities meeting will be held within ten (10) days of the notice of interim suspension (Education Code section 66017). Reasonable opportunities, such as academic accommodations, may be provided to the responding party during their interim suspension.

## **STUDENT RIGHTS AND RESPONSIBILITIES MEETING PROCEDURES**

When a report about an alleged violation of the standards of student conduct is made to the Office of Student Affairs, the dean of student affairs or their designee will contact the responding party in written form via email at the email address noted in their student account. This email will inform the responding party that a concern about their behavior has been reported and they may be in violation of the district's standards of student conduct. This email will include the following: (i) a short statement of facts alleged in the report, (ii) the standard(s) of student conduct allegedly violated, (iii) the nature of the resolutions that are being considered, and (iv) information about student conduct procedures and how to schedule a student rights and responsibilities meeting.

Students must arrange a student rights and responsibilities meeting within ten (10) days of the issued notice. Arrangements to hold the student rights and responsibilities meeting outside of the ten (10) day period can be arranged, but must be done so with the approval of the student conduct administrator within ten (10) days of when the meeting notice was issued to the responding party. If a responding party does not schedule a student rights and responsibilities meeting within ten (10) days of the issued notice, the student conduct administrator retains the right to review the allegation *in absentia*, make a determination of finding of responsibility, and issue appropriate resolution(s) without the student's participation.

At the scheduled student rights and responsibilities meeting, the responding party will meet with the student conduct administrator to review the details of the allegation. The responding party has the right to receive notice of the allegations, share their perspective, present evidence related to the event(s) in question, accept or not accept responsibility, share what they have learned, and have the right for an advisor to be present. Formal rules of evidence and court procedures do not apply. Relevant evidence, including hearsay, can be considered if it is the type of evidence that reasonable members of the college community would rely upon to make a decision.

Finding(s) of responsibility will be determined either at the student rights and responsibilities meeting, or at a later date to allow for more consideration, evidence, or witness statements to be shared and reviewed as appropriate at the determination of the student conduct administrator. A finding of responsibility is determined based on the standard of preponderance of the evidence (more likely than not that the behavior occurred and violated a standard of the student conduct). When a finding of responsibility is determined, this information will be shared with the responding party via an in-person meeting, or in writing via email or print form.

If there is a finding(s) of responsibility, the resolution(s) will be determined by the student conduct administrator. The student conduct administrator may consider the responding party's conduct history, the current violation, the impact of their behavior, and other relevant considerations when issuing a resolution.

## **RESOLUTIONS**

When there is a finding of responsibility for a violation of a standard(s) of student conduct, one or more of the following resolutions may be implemented:

- Warning: A written warning is issued as a directive to discontinue the behavior in question and other violations of the standards of student conduct. Warnings may be issued to those found responsible for a first time, low-level violation with minimal impact. Following a warning, any other violations of the standards of student conduct will result in an additional resolution.
- Educational resolution: An educational resolution may be issued when the student conduct administrator deems it appropriate. Educational resolutions may include reflection papers, research assignments, creation of art pieces, active participation at seminars, trainings, institutes, webinars, or any educational outcome that is deemed culturally relevant, equity-minded, proportionate, and relevant to the behavior and/or impact of the reported behavior. Educational resolutions should not be of cost to the responding party and should not conflict with attendance at class requirements. The purpose of educational resolutions is to help students deepen their understanding of their behavior from a new perspective, learn about the impact of their behavior, identify their values and goals, and/or support their learning.
- Restorative resolution: Restorative resolutions focus on addressing impact of behavior and reintegrating responding parties into the community. A restorative resolution requires the full agreement and voluntary participation of the responding party and other parties involved in the case, including but not limited to reporting parties and impacted parties. Restorative resolutions are designed to assist the responding party with identifying the impact or harm that was caused by their behavior, and provide a means for the responding party to repair that harm or impact as an active member of the community. Restorative

resolutions should be timely in response. A responding party has the right to request a restorative resolution for consideration, and a student conduct administrator retains the right to not issue a restorative resolution should they deem it inappropriate for the situation.

- No contact order: A no contact order is an administrative directive that may be implemented with or without a finding of responsibility for a violation of the standards of student conduct. The no contact order between two or more parties prevents any contact between the parties (physical or otherwise, including, but not limited to verbal, written, electronic, text message, email, and social media). Additionally, the parties may not request contact with the other through a third party. A violation of a no contact order will result in an additional violation of the standards of student conduct.
- Restricted access to district property: The student conduct administrator has the right to restrict, modify, or limit a responding party's access to district property, including specific locations and equipment.
- Withdrawal of Consent to Remain on Campus: The student conduct administrator has the right to issue a withdrawal of consent of any person to be on campus, in accordance with California Penal Code Section 626.4, when there is reasonable cause to determine that the person has willfully disrupted the orderly operation of the district.
- Two-Day Removal: A faculty-initiated class removal that involves exclusion of the student from class by an instructor for the day of the exclusion and the next class meeting. If the exclusion is from an online class, then the instructor / faculty member may remove the student for a period of time that equates to two (2) class sessions. This decision cannot be appealed, and the instructor must report the removal to the Office of Student Affairs (Education Code section 76032).
- Hold on Student Account: A student conduct administrator may place a hold on a student's account when deemed appropriate. For example, a hold on a student account will be placed while a student is on an interim suspension, long-term suspension, has a withdrawal of consent to remain on campus, has been issued a recommendation for expulsion, or has been expelled from the district. This hold may be temporarily or permanently lifted when deemed appropriate by the respective student conduct administrator.
- Student Conduct Probation: When the behavior for a violation rises beyond a warning, or is repeated conduct, the student conduct administrator may place a student on Student Conduct Probation. Student Conduct Probation is intended to be educational in nature, and is different from academic or formal probation. During Student Conduct Probation, any other violation of the standards of student conduct may result in an additional resolution, including suspension or expulsion from the district.

- Long-Term Suspension: Following a finding of responsibility, a long-term suspension may be implemented. A long-term suspension is exclusion of the student from one or more classes by the student conduct administrator for good cause for the remainder of the school term, or for one or more terms.
  - If a student wishes to enroll after the completion of a long-term suspension, the student should contact the Office of Student Affairs to request a reinstatement meeting. During the reinstatement meeting, the student conduct administrator, or designee, will meet with the student to review the gravity of the offense, evidence of any subsequent offenses, the likelihood that the student would cause substantial disruption if they are reinstated, and any other relevant matters to make a decision about the student's request for reinstatement. The student conduct administrator may permit conditional reinstatement and specify the conditions under which reinstatement will be permitted (Education Code section 76030).
- Expulsion: An expulsion is permanent exclusion of the student from the district by the Board of Trustees (Education Code Section 76030). Following a finding of responsibility, an expulsion may be implemented for good cause when other means of correction fail to bring about proper conduct, or when the presence of the student causes a continuing danger to the physical safety of the student or others. Expulsions are notated on student transcripts.

## **APPEAL PROCEDURES**

Students have the right to appeal a student conduct administrator's decision when the decision includes a resolution that is a long-term suspension, withdrawal of consent to remain on campus, and/or a recommendation for expulsion. No other decisions or resolutions can be appealed.

### Appeal Procedures: Long-Term Suspension and Withdrawal of Consent to Remain on Campus

The appeal procedures for a long-term suspension and withdrawal of consent to remain on campus follow the same procedure. The responding party may request an appeal of a long-term suspension and/or withdrawal of consent to remain on campus by making a formal appeal hearing request in writing to the student conduct administrator within five (5) days of the issued finding(s) and resolution(s). The written appeal must include the reason for the requested appeal. The student conduct administrator will then present the request to a hearing administrator within five (5) days of receiving the written appeal request.

The hearing administrator will arrange for an appeal hearing to take place in a timely manner. During the appeal hearing, the responding party and student conduct administrator will have an opportunity to meet with the hearing administrator in

person to address the appeal request. If the responding party is not able to meet in person, accommodations can be made to hold the appeal hearing through electronic means, such as video conferencing. The hearing will be audio recorded.

The hearing administrator may review the initial report, the responding party's conduct history, the student conduct administrator's justification for the finding of responsibility and the applicable resolution, the student's transcript, any provided evidence, speak with the responding student, the student conduct administrator, and/or witnesses who have direct knowledge of the incident in question, and review any relevant documentation to determine if the appeal will be granted.

The hearing administrator will explain the rules of the hearing and has final say about what evidence may be submitted and which witnesses may be addressed. Formal rules of evidence and court procedures do not apply. All participating parties will need to agree to tell the truth, the whole truth, and nothing but the truth. The student conduct administrator and the responding party will each be permitted to make an opening statement, limited to five (5) minutes each. Thereafter, the student conduct administrator will be allowed time to address the facts of the case. The student then has the right to respond and address the allegations, and present evidence that supports their appeal. The hearing administrator may ask questions of the responding party and the student conduct administrator. If deemed necessary or appropriate, the hearing administrator may ask questions of the witness(es). The burden is on the student conduct administrator to prove by a preponderance of the evidence that the facts alleged are true. The parties will be permitted to provide questions to the hearing administrator to consider and bring forward to the other parties involved, if deemed appropriate by the hearing administrator.

The hearing administrator will make a determination to either uphold, modify, or remove the long-term suspension and/or withdrawal of consent to remain on campus. The determination of the appeal will be communicated to the responding party within five (5) days of the appeal hearing.

If the student disagrees with the decision of the hearing administrator, a final appeal request may be made in writing to the vice president of student services or their designee. The vice president of student services or designee may review the student's final written appeal statement, the student conduct administrator's hearing summary, the audio recording of the hearing appeal and/or more, if determined necessary by the vice president of student services or designee. The vice president of student services or designee will make a determination to either uphold, modify, or remove the long-term suspension and/or withdrawal of consent to remain on campus. The decision is final. The determination of the appeal will be communicated to the responding party within five (5) days of the final appeal review.

### Appeal Procedures: Recommendation for Expulsion

If the student conduct administrator determines that a violation of the district's standards of student conduct warrants expulsion from the district, the student conduct administrator may make a recommendation for expulsion. The responding party may request an appeal of a recommendation for expulsion by making a formal appeal hearing request in writing to the student conduct administrator within five (5) days of the issued finding(s). The written appeal must include the reason for the requested

appeal. The student conduct administrator will then present the request to a hearing administrator within five (5) days of receiving the written appeal review request.

The hearing administrator will arrange for an appeal hearing to take place in a timely manner. During the appeal hearing, the responding party and student conduct administrator will have an opportunity to meet with the hearing administrator in person to address the appeal request. If the responding party is not able to meet in person, accommodations can be made to hold the appeal hearing through electronic means, such as video conferencing. The hearing will be audio recorded.

The hearing administrator may review the initial report, the responding party's conduct history, the student conduct administrator's justification for the finding of responsibility and the applicable resolution, the student's transcript, any provided evidence, speak with the responding student, the student conduct administrator, and/or witnesses who have direct knowledge of the incident in question, and review any relevant documentation to determine if the appeal will be granted.

The hearing administrator will explain the rules of the hearing and has final say about what evidence may be submitted and which witnesses may be addressed. Formal rules of evidence and court procedures do not apply. All participating parties will need to agree to tell the truth, the whole truth, and nothing but the truth. The student conduct administrators and the responding party will have time to make an opening statement, limited to five (5) minutes each. Thereafter, the student conduct administrator will be allowed time to address the facts of the case. The responding party then has the right to respond and address the allegations, and present evidence that supports their appeal. The hearing administrator may ask questions of the responding party and the student conduct administrator. If deemed necessary or appropriate, the hearing administrator may ask questions of the witness(es). The burden is on the student conduct administrator to prove by a preponderance of the evidence that the facts alleged are true. The parties will be permitted to provide questions to the hearing administrator to consider and bring forward to the other parties involved, if deemed appropriate by the hearing administrator.

The hearing administrator will make a determination to either uphold, modify, or remove the recommendation for expulsion. The determination of the appeal will be communicated to the responding party within five (5) days of the appeal hearing.

If the hearing administrator upholds the recommendation for expulsion, the hearing administrator will issue a recommendation to the vice president of student services. If the vice president of student services supports the recommendation for expulsion, the recommendation will be forwarded to the board of trustees for an expulsion hearing.

The expulsion hearing will take place within thirty (30) days of the receipt of the recommendation. The board of trustees may hold the expulsion hearing during a regularly scheduled meeting or convene a special meeting. The student will be notified of the board of trustees expulsion hearing at least five (5) days prior to the board of trustees meeting at which the expulsion recommendation will be considered. The notification will include the date, time, and location of the board meeting.

The board of trustees expulsion hearing will be conducted in closed session unless the responding party, within forty-eight (48) hours after receipt of the notice of hearing, formally requests in writing to the superintendent/president that the hearing be conducted in open session. Even if a responding party has requested the board consider an expulsion recommendation in an open session, the board will hold any discussion that might be in conflict with the right of privacy of any other student, other than the responding party, in closed session (Education Code section 72122).

During the hearing, the president of the board of trustees or a designee will serve as the hearing administrator. The hearing administrator will explain the rules of the hearing and has final say about what evidence may be submitted and what witnesses may be addressed. Formal rules of evidence and court procedures do not apply. All participating parties will need to agree to tell the truth, the whole truth, and nothing but the truth. The student conduct administrator and the responding party will have time to make an opening statement, limited to five (5) minutes each. Thereafter, the student conduct administrator will be allowed time to address the recommendation for expulsion. The student then has the right to respond and address the allegations, and present evidence that supports their appeal. The board may ask questions of the student and the student conduct administrator. If deemed necessary or appropriate, the board may ask questions of the witness(es). The parties will be permitted to provide questions to the hearing administrator to consider and bring forward to the other parties involved, if deemed appropriate by the hearing administrator.

After the hearing, the board of trustees will deliberate. The board may accept, modify, or reject the student conduct administrator's recommendation for expulsion. The board will take action in open session and the result of the action will be public record. The name of the student will not be released in public record unless required by law (Education Code section 72122).

The Office of Student Affairs will notify the responding party of the decision in writing within five (5) days of the hearing. If the student is expelled by the board of trustees, the student will be permanently excluded from enrolling at the district. The decision is final.

## **REFERENCES**

Education Code Sections 66017, 66300, 66301, 72122, 76030-76037, 76234