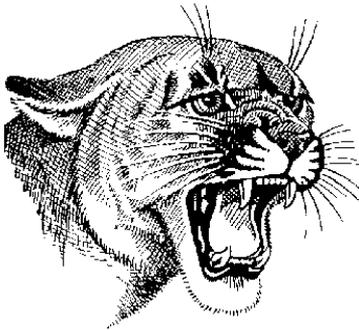

Student Conduct Code



College of the
Canyons

Office of Student Services



COLLEGE OF THE CANYONS

Revised June 2018
Effective July 1, 2018

**Santa Clarita Community College District
Board of Trustees Policies 5529, 5530, 5531
Revised June, 2018
Effective July 1, 2018**

This document is also available on the web at:

http://www.canyons.edu/Offices/BOT/Documents/BoardPolicies/5000/BP_5529.pdf

http://www.canyons.edu/Offices/BOT/Documents/BoardPolicies/5000/BP_5530.pdf

http://www.canyons.edu/Offices/BOT/Documents/BoardPolicies/5000/BP_5531.pdf

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Student Conduct (Board Policy 5529)

Introduction (5529.1)

The California Education Code (section 66300) requires every community college governing board to adopt specific rules governing student behavior along with applicable penalties for violation of such rules.

Students enrolling at College of the Canyons (the College) assume an obligation to abide by all College regulations.

- A. For the purposes of this policy, at the time an alleged violation occurs, a student is defined as an individual who:
1. has submitted an application to the College for the current or upcoming terms; or
 2. is enrolled in, or registered in an academic program of the College, including classes for credit, noncredit classes, fee based training classes, and programs including but not limited to the Employee Training Institute, Community Education, and free workshops where teaching or training occurs, or;
 3. has met the conditions for part one (1) or two (2) above in the immediately preceding semester or intersession.

Grounds for Disciplinary Action (5529.2)

A student may be disciplined for one or more of the following causes, which must be College/District related and which may occur either on any District site or elsewhere off-site during a College-sponsored activity or event, or through any online interaction the student may have with another member of the campus community. In cases involving alleged rape, sexual assault, domestic violence, dating violence or stalking, in which both the alleged complainant

and the accused are both students of the College, jurisdiction extends to matters which may occur either on or off campus, and not necessarily in conjunction with a College-sponsored activity or event.

This list is not intended to be exhaustive, but is an example of good and sufficient causes for disciplinary action.

- A. Any theft, conversion, or damage or destruction, including, but not limited to, cutting, defacing, vandalizing, or marking with graffiti, of and/or to any property, real or personal, belonging to the College, a member of the College staff, a student, or a campus visitor, or knowingly receiving stolen College or District property or private property on campus.
- B. Forgery, alteration or misuse of College documents, keys, records, or identification, or knowingly furnishing false information to the College or one of its officials, or any fraud activity including, but not limited to, reversing credit card charges to avoid paying fees, or failure to make good on returned checks cashed by the College.
- C. Cheating, plagiarism, fabrication, and other forms of academic dishonesty, and/or facilitating academic dishonesty, including, but not limited to: having other students or non-students take courses, tests, placement exams, or write papers; access to, or use of electronic devices, during exams; opening internet browsers while taking closed book, closed note proctored exams.
- D. Violation of classroom rules, as determined by each course syllabus, including, but not limited to, the use of cell phones, and other unauthorized devices, attendance and punctuality standards, decorum standards, safety standards, including, but not limited to the wearing of specified footwear and/or safety gear and/or protective clothing or uniforms, and other standards found in the course syllabus.

E. Physical or verbal abuse, or harassment, including, but not limited to, sexual harassment, or any threat of force or violence including physical altercation, flaming, bashing, bullying, intimidation, harassment, sharking or any abusive, threatening, coercive, or hostile behavior, including online interaction, directed toward any member of the College, or members of his or her family, or a campus visitor, or any harassing or discriminatory behavior based on race, sex, sexual orientation, religion, age, national origin, disability, or any other status protected by law.

F. Sexual Harassment

Sexual harassment is defined as unwelcome conduct of a sexual nature that may include unwelcome sexual advances, requests for sexual favors, and/or other verbal, non-verbal, or physical conduct of a sexual nature. Sexual harassment also encompasses nonsexual conduct, provided the behavior is unwelcome, is based on sex or sexual stereotyping, and has the effect of interfering with a student's ability to participate in or benefit from a school program, such as participation in athletics, employment or co-curricular activities.

Examples of sexual harassment include, but are not limited to:

- making sexual propositions or pressuring students and other members of the campus community for sexual favors;
- unwanted touching of a sexual, or non-sexual, nature;
- writing graffiti of a sexual nature;
- displaying or distributing sexually explicit drawings, pictures, photographs, or written materials;
- performing sexual gestures or touching oneself sexually in front of others;
- telling sexual or dirty jokes;
- spreading sexual rumors or rating other students and other members of the campus community as to sexual activity or performance;

- circulating or showing e-mails or Web sites of a sexual nature;
- requesting another person to provide nude photographs or photographs of a sexual or illicit nature of him/herself.

G. Sexual Assault/Rape

Sexual assault occurs when physical sexual activity is engaged in without the consent of the other person, and includes, but is not limited to, rape, forced sodomy, forced oral copulation, rape by a foreign object, sexual battery, or threat of sexual assault.

Sexual assault is defined as actual or attempted sexual contact with another person without that person's consent, regardless of the victim's affiliation with the community college, including, but not limited to, any of the following:

1. Intentional touching of another person's intimate parts without that person's consent or other intentional sexual contact with another person without that person's consent.
2. Coercing, forcing, or attempting to coerce or force a person to touch another person's intimate parts without that person's consent.
3. Rape, which includes penetration, no matter how slight, without the person's consent, of either of the following:
 - a. The vagina or anus of a person by any body part of another person or by an object.
 - b. The mouth of a person by a sex organ of another person (Education Code Section 76033).
4. For the purposes of this policy Sexual Assault may occur in the absence of affirmative consent.

- a. “Affirmative Consent” means affirmative, conscious, and voluntary agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that he or she has the affirmative consent of the other or others to engage in the sexual activity. Lack of protest or resistance does not mean consent, nor does silence mean consent. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of consent.

- b. “Incapacitation” is defined as the 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 drug consumed affects a person’s decision-making capacity, awareness or consequences, and ability to make fully informed judgments. Being intoxicated by drugs or alcohol does not diminish one’s responsibility to obtain consent. 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 complainant was incapacitated.

- c. “Developmental incapacitation” is defined as the inability for a person to provide consent based upon diminished developmental disability.

H. Sexual Misconduct: Sexual misconduct is non-consensual sexual activity that does not involve touching. The misconduct may include, but is not limited to:

- Electronically recording, photographing, or transmitting intimate or sexual utterances, sounds, or images of another person
- Allowing third parties to observe sexual acts
- Engaging in voyeurism
- Exposing oneself
- Transmitting sexually explicit photos or videos of oneself to others through any means electronically, including, but not limited to, social media, email, texting, or any other form of electronic transmission, or through any other forms of delivery

I. Sexual Exploitation

Sexual exploitation, is defined as a person taking sexual advantage of another person for the benefit of anyone other than that person without that person's consent, regardless of the victim's affiliation with the community college, including, but not limited to, any of the following:

1. Prostituting another person
2. Recording images, including video or photograph, or audio of another person's sexual activity, intimate body parts, or nakedness without that person's consent.
3. Distributing images, including video or photograph, or audio of another person's sexual activity, intimate body parts, or nakedness, if the individual distributing the images or audio know or should have known that the person depicted in the images or audio did not consent to the disclosure and objected to the disclosure.

4. Viewing another person's sexual activity, intimate body parts, or nakedness in a place where that person would have a reasonable expectation of privacy, without that person's consent.
5. Viewing another person's sexual activity, intimate body parts, or nakedness in a place where that person would have a reasonable expectation of privacy, without that person's consent, and for the purpose of arousing or gratifying sexual desire. (Education Code Section 76033)

J. Stalking

Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for his or her safety or the safety of others, or to suffer substantial emotional distress. Alleged stalking activity includes, but is not limited to, that which occurs in person, through electronic devices, online, or through social media.

Examples of stalking include, but are not limited to:

- Following
- Obsessive behavior
- Unwanted and/or excessive phone calls or other forms of communication
- Unwanted letters or messages
- Unwanted gifts or threatening gifts
- Damage to property
- Appearance at places of residence, school, work
- Threats to person, family, or friends
- Inappropriate confrontations and approaches

K. Dating Violence

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

victim. The existence of a romantic or intimate relationship will be determined based on the length of the relationship, the type of relationship and the frequency of interaction between the persons involved in the relationship.

L. Domestic Violence

Includes felony or misdemeanor crimes of violence committed by:

1. A current or former spouse of the victim;
2. A person with whom the victim shares a child in common;
3. A person who is cohabitating with or has cohabitated with the victim as a spouse;
4. A person who is cohabitating with or has cohabitated with the victim other than as a spouse;
5. A person similarly situated to a spouse of the victim under California law; or
6. Any other person against an adult or youth victim who is protected from that person's acts under California law.

- M. Misuse of any student contact information obtained in any manner, including, but not limited to, sending harassing, stalking, threatening, offensive, indecent, lewd, or obscene correspondence or photos either through email, texting or social media, or making harassing, stalking, threatening, offensive, indecent, lewd, or obscene phone calls to another student.

- N. Misuse of email or engaging in other inappropriate forms of communication with College faculty or staff, including, but not limited to, communication by written notes, phone, voicemail, or any form of electronic communication.
- O. Manufacture, use, possession, distribution, sale, offer to sell, furnishing, arranging or negotiating the sale of any drug or drug paraphernalia, or being under the influence of alcohol, narcotics, recreational drugs (whether legal or illegal), or other dangerous drugs, or the abuse of any lawfully prescribed medication which causes the student to be so impaired as to be a danger to oneself or others, or to be disruptive to the educational or administrative process, on campus, or off campus at any College-sponsored event, including day and night while the student is under the supervision of the College and its personnel, even when formal activities of the event (athletic event, conference, field trip, etc.) have ended.
- P. Unauthorized entry into, unauthorized use of, possession of, or misuse of, College or District property, facilities, supplies or equipment, or vehicles, or unauthorized occupancy of any buildings or other facilities owned, rented, leased, or otherwise under the control of the College or District.
- Q. Disorderly, lewd, indecent, obscene, or offensive conduct on District-owned or controlled property or at College-sponsored or supervised functions, or engaging in expression which is libelous or slanderous, or which so incites students as to create a clear and present danger of the commission of unlawful acts on College or District premises, or the violation of lawful College or District regulations, or the substantial disruption of the orderly operation of the College or District.

- R. Possession, use, or sale of any weapons including, but not limited to, firearms, knives, explosives, dangerous chemicals, or other potentially harmful implements, substances, or objects, which could be classified as a weapon, or any imitation or replica weapons, which may cause alarm to the College community while on the College campuses or at a College or District-sponsored function without prior authorization of the Chief Executive Officer (CEO) or designee.
- S. Failure to identify oneself to or failure to comply with directions of College officials acting in performance of their duties including, but not limited to, the provisions of the Penal Code Sections 626.6 and 626.8.
- T. Obstruction or disruption, on or off campus, of the College's education process, administrative process, or other College function, or the open and persistent defiance of authority. This includes all extracurricular activities including, but not limited to, internships, service-learning activities, athletic events, conference travel, and field trips during all hours the student is under supervision of the College and its personnel.
- U. Violation of any order of the CEO or designee, notice of which has been given prior to such violation and which order is not inconsistent with any of the other provisions of this policy. This notice may be given by publication in the College newspaper, web site, social network, or by posting on an official bulletin board designated for this purpose.
- V. Soliciting or assisting another to undertake any act, which would subject a student to expulsion, suspension, probation, or other discipline pursuant to this policy.
- W. Abusive behavior directed toward, or hazing of, a member of the College community, or any act, which injures,

degrades, disgraces or tends to injure, degrade, or disgrace any fellow student or member of the campus community.

- X. Any other cause not listed which is identified as good cause by Education Code Sections 76032 and 76033.
- Y. Abuse of computing facilities or computer time, including but not limited to unauthorized entry into a file to use, read, or change the contents or any other purpose; unauthorized transfer of a file; unauthorized use of another individual's identification or password; use of computing facilities to interfere with the work of another student, faculty member, or College official; and/or use of computing facilities to interfere with a College computing system. For specifics, refer to the College of the Canyons Acceptable Use Agreement.
- Z. Committing any act or engaging in any behavior that threatens or endangers the health or safety of another individual on campus or at any college sponsored activity or event.
- AA. Willful misconduct that results in injury or death to a student or to College or District personnel or a campus visitor.
- BB. Unauthorized preparation, selling, giving, transfer, distribution, or publication, for any commercial purpose, of any contemporaneous recording of an academic presentation in a classroom or equivalent site of instruction, including but not limited to handwritten or typewritten class notes, or any materials that are the intellectual property of a faculty member, except as permitted by any district policy or administrative procedure.
- CC. Gambling on College or District property.

- DD. Willful or persistent smoking of tobacco products, or the use of an electronic cigarette, hookah pen or pipe, or similar device used to ingest flavored serums, with or without nicotine and which dispense vapors, in any area where smoking or use of vapor emitting electronic cigarettes, pens, pipes or similar devices has been prohibited by law or by regulation of the College or District.
- EE. Failure to follow and comply with established guidelines and regulations of off-site entities while participating in college-sponsored, off-campus activities including, but not limited to, conferences, retreats, field trips, excursions, internships, externships, service-learning or volunteer placements, and athletic events.
- FF. Violation of College or District policies or of campus regulations including those concerning chartering and registration of student organizations, use of College or District facilities, or the time, place and manner of public expression.
- GG. Any attempt to misuse a campus parking permit issued by the College or District including, but not limited to, selling a College-issued student parking permit to another student, giving an expired student parking permit to another student, allowing a current or expired student parking permit to be borrowed by another student, making use of any stolen College-issued parking permit, creating or making any form of falsified or fake student or faculty/staff parking permit with the intent for use on a District campus.
- HH. Violations of California Vehicle Code or local traffic violations, which cause a threat to persons or property, or the orderly operation of the College by virtue of the nature or frequency of the violations.

- II. Failure to pay, in a timely manner, parking citations written by the College's Campus Safety Officers for parking violations, which occur on the College's campuses.
- JJ. False accusations or malicious charges against another student or member of the campus community.
- KK. Violation of federal, state, or local statute or ordinance, or District policy, rule, or regulation while on College property and during all hours, off campus, while the student is under the supervision of the College and its personnel.
- LL. Attempting to perform any actions that are cause for disciplinary action identified above.

Disciplinary Action (Board Policy 5530)

Introduction (5530.1)

The following policies regulating student disciplinary actions are adopted for the purpose of providing a uniform method of disciplining students for misconduct, and assuring that all students are accorded fair and objective treatment. Every effort shall be made to make the student aware of these policies.

A. Types of Disciplinary Action (Sanctions)

The following types of disciplinary action may be imposed, or imposed and suspended, by appropriate College authorities when a student is found in violation of College rules and regulations.

1. Warning

Notice to the student that continuation or repetition of specified misconduct may be cause for other disciplinary action.

2. Restitution

The student is required to make payment to the College, or to other persons, groups, or organizations for damages, loss, or injury incurred as a result of a violation of this policy. Restitution may take the form of appropriate service, monetary reimbursement, or materials replacement, as permitted by law.

3. Fine

A fine, payable to the College, may be imposed for violations of this policy. Failure to pay the specific fine by the established date will result in a Hold on the student's record and ability to register, in any district program, for future terms.

4. Official Reprimand

A written reprimand is for violation of specified regulations or misconduct. It serves to place on record that a student's conduct in a specific instance does not meet with the student's expected performance at the College. A person receiving a reprimand is notified that continued conduct of the type described in the reprimand may result in additional disciplinary action against the student. The student is further informed that records of reprimands are destroyed four years after the last entry has been made concerning disciplinary action against an individual student and that such records are not considered part of a student's permanent record at the College.

5. Loss of Privileges

Exclusion from extracurricular activities, removal from campus(es), removal from campus organizations, or denial of specified privileges for a designated period of time. An organization may also lose campus privileges, including, but not limited to, the forfeiture of official recognition by COC.

6. Disciplinary Probation

Disciplinary probation is a status imposed by the College for a specific length of time during which the student must conform to College standards of conduct. Conditions restricting privileges and/or eligibility may be imposed. For example, students may be removed from all College organization offices and denied the privilege of participating in all College and student-sponsored activities, including public performances. Other conditions, such as community service and academic workshops, may be imposed. The term of disciplinary probation shall be not less than one college month nor longer than four (4) college years. Repetition during the probationary period of conduct resulting in disciplinary probation may be cause for suspension or other, more stringent, disciplinary action.

7. Removal by Instructor

- a. An instructor may remove a student from his/her class, including face-to-face, online, or through a learning management system, field trip, lab, or other educational program when the student has interfered with the instructional process (Education Code Section 76030). The duration will be for the day of the removal, at a minimum, and the next class meeting at the instructor's discretion. The instructor shall immediately report the removal to the Office of Student Services for appropriate action.
- b. If the student who is being removed for two class meetings is a minor, the Dean or designee shall notify the parent or guardian of the student involved in the incident, and shall hold a conference regarding the suspension as soon as possible with the student, his or her parent or guardian and the faculty member, (Education Code 76032).

8. Disciplinary Suspension

- a. Disciplinary suspension consists of the temporary removal of the student from enrollment or participation in all College curricular, or extracurricular activities, as well as noncredit, fee based training classes, and programs including but not limited to the Employee Training Institute, Community Education, and free workshops.
- b. A student may be suspended from one or more classes for the remainder of the school term; or from all classes and activities of the College for one or more terms.
- c. A suspended student is not to occupy any portion of the campus or campuses, or learning management system, and is denied all College privileges including face-to-face, and online class attendance and privileges noted under "Disciplinary Probation."
- d. Removal of a student suspended from one or more courses may be notated on the student's transcript as W for withdrawal.
- e. Whenever a minor is suspended from a community college (all courses, programs, and, activities), the parent or guardian shall be notified in writing by the Chief Executive Officer (CEO) or designee (Education Code 76031).

9. Expulsion

Expulsion consists of the permanent and unconditional removal of the student from the College and all its programs. Students may be expelled from the College only by action of the Board of Trustees upon recommendation of

the CEO (Education Code 76030). Notation of the expulsion may be noted on the student's official transcript for an indefinite period of time. Appeal of this notation may be made to the CEO using the process established in Policy 5531.3(F) – Due Process.

10. Interim Suspension

Interim suspension consists of temporary removal of the student from the College for both academic and extra-curricular activities during the limited time necessary to complete an investigation and is not necessarily considered a disciplinary action.

Interim Suspension shall be:

- a. Imposed by the CEO of the College, or designee, pending a hearing, only when such action is deemed to be necessary for the immediate safety and welfare of the students and staff members or for the protection of the District property;
- b. Limited to only that period of time necessary to assure that the purpose of interim suspension is accomplished;
- c. For not more than a maximum of ten (10) College days.
- d. Students suspended on an interim basis shall be given an opportunity for a hearing within ten (10) days of being placed on Interim Suspension.
- e. Students found not culpable at the conclusion of an Interim Suspension may be provided an opportunity to make up all work missed for all courses in which they are enrolled in, at the time.

11. Administrative Hold

A hold placed on a student's record to prevent the student from re-enrolling in COC courses or the ability to receive any and all college services. This action shall be taken when a student has been suspended or expelled from the Santa Clarita Community College District. A hold may also be implemented after a student fails to attend a mandatory disciplinary hearing with the Dean or designee, and, depending upon the outcome of the hearing, the hold may be removed after the student has attended the required hearing. An administrative hold may also be placed upon a student's record if the student has excessive parking citations, or owes other fees or penalties determined to be a violation of this Code.

12. Campus Restraining Order (CRO)

The CRO shall prohibit named students from intentionally contacting, telephoning, texting, emailing, or otherwise disturbing the peace of others specifically named, for a specified period of time. A violation of a term or condition of such an Order may be regarded as actionable misconduct and may subject the student to further disciplinary action. A copy of the CRO will be provided to the alleged victim.

13. Reinstatement Process

- a. Notwithstanding any other law, if an order requested by a community college district to protect a campus of a community college district or any person regularly present on a campus of that district is issued upon a finding of good cause by a court against a student of that community college district, and the order prevents that student from attending classes and maintaining his or her academic standing, the community college district may require the student to apply for reinstatement after the expiration of that order. If the district requires the student to apply for reinstatement,

the District shall do so before the expiration of the protective order. If a student applies for reinstatement under this paragraph, a review with respect to the application shall be conducted by the Dean of Students (or designee). This review, at a minimum, shall include consideration of all of the following issues:

- (1) The gravity of the offense.
 - (2) Evidence of subsequent offenses, if any.
 - (3) The likelihood that the student would cause substantial disruption if he or she is reinstated.
- b. The governing board of the community college district, or the person to whom authority is delegated pursuant to subdivision (f) of Education Code Section 76038, shall take one of the following actions after conducting a review under paragraph (a):
- (1) Deny reinstatement.
 - (2) Permit reinstatement.
 - (3) Permit conditional reinstatement and specify the conditions under which reinstatement will be permitted.

Due Process: Student Disciplinary Action (Board Policy 5531)

Students are members of both society and the academic community with attendant rights and responsibilities. Students are expected to comply with the general law as well as College policies. The procedures below apply to alleged misconduct of students on campus, or at official College events off campus.

In cases involving alleged rape, sexual assault, domestic violence, dating violence or stalking, in which both the alleged complainant

and the accused are both students, of the College, as defined below, jurisdiction extends to matters which may occur either on or off campus, and which may not be limited to College events.

The following procedures outlined in sections 5531.3, 5531.4, and 5531.5 represent steps that may be employed to reach a resolution in cases of alleged misconduct. The reader should note that each case is handled individually and that while due process is always employed, some of the procedures outlined below may not be necessary in every case. Due process rights, as outlined below, do not restrict or unnecessarily delay the Title IX protections for the complainant. Questions concerning these procedures should be addressed to the Office of the Dean of Students.

Definition of Terms (5531.2)

- A. For the purposes of this policy, at the time an alleged violation occurs, a student is defined as an individual who:
 - 1. has submitted an application to the College for the current or upcoming terms; or
 - 2. is enrolled in, or registered in an academic program of the College, including classes for credit, noncredit classes, fee based training classes, and programs including but not limited to the Employee Training Institute, Community Education, and free workshops where teaching or training occurs, or;
 - 3. has met the conditions for part one (1) or two (2) above in the immediately preceding semester or intersession.

- B. Complainant: The term “complainant” is defined as any individual who files a formal complaint that a student has allegedly violated one or more sections of the Student Code of Conduct.

- C. Respondent: The term “respondent” is defined as a student against whom a complaint has been filed and who is alleged to have violated one or more sections of the Student Code of Conduct.
- D. Accused: The term “accused” is defined as a student against whom a complaint has been filed and who is accused by a complainant of having committed one, or more, of the following acts: sexual assault or rape; sexual harassment, sexual misconduct, sexual exploitation, stalking, dating violence, or domestic violence, each of which is a violation of one or more sections of the Student Code of Conduct.
- E. Notice: Whenever this Policy requires giving notice to any student, mailing such notice, to the mailing address most recently provided by the student or, if undeliverable at that address, to the student’s permanent address of record, shall constitute notice.
- F. Days: For purposes of this Policy, the term “days” means normal business days and shall not include Saturdays, Sundays, or administrative holidays.
- G. Student Conduct Committee: This committee consists of five members of the campus community who convene as needed to adjudicate cases of misconduct. See 5531.4 for additional information.

Due Process (5531.3)

A. Referral of Cases:

Any member of the campus community who has knowledge of alleged misconduct of students may bring the matter to the attention of the Office of the Dean of Students. The Dean (or

designee) may require a written statement relative to the alleged misconduct. The Dean of Students in consultation with the Academic Senate will develop specific procedures to address alleged violations of academic and/or classroom misconduct. Referrals to the Office of the Dean of Students shall be made within thirty days following the discovery of the alleged misconduct. The CEO may grant exceptions to this timeline.

B. Investigation and Notice to Student:

Upon receiving notice of the alleged violation, the Dean of Students (or designee) may consider information acquired from a complainant and may augment that information through further investigation in order to determine if there is cause to believe that a violation may have occurred.

1. In cases involving an allegation of sexual assault it shall not be a valid excuse that the accused believed that the complainant affirmatively consented to the sexual activity if the accused knew or reasonably should have known that the complainant was unable to consent to the sexual activity under any of the following circumstances:
 - a. The complainant was asleep or unconscious.
 - b. The complainant was incapacitated due to the influence of drugs, alcohol, or medication, so that the complainant could not understand the fact, nature, or extent of the sexual activity.
 - c. The complainant was unable to communicate due to a mental or physical condition.
2. The District will investigate all complaints alleging sexual assault under the procedures for sexual harassment

investigations described in AP 3435 (staff), and BP 5531 (student), regardless of whether a complaint is filed with local law enforcement.

3. All victims of rape, sexual assault, domestic violence, dating violence, or stalking, occurring on or off campus, shall be kept informed, through the Dean of Students Office, or the Office of Human Resources (depending on the status of the accused) of any ongoing investigation. Information shall include the status of any student or employee disciplinary proceedings or appeal; victims of domestic violence, dating violence, sexual assault, or stalking are required to maintain any such information in confidence, unless the alleged assailant has waived rights to confidentiality. The college will disclose to the alleged victim the final results of a disciplinary proceeding against the alleged perpetrator, regardless of whether the institution concluded that a violation was committed.
4. With the exceptions noted in Administrative Procedure 3515 (Reporting of Crimes - Confidentiality), the District shall maintain in confidence the identity of any alleged victim, witness, or third-party reporter of domestic violence, dating violence, sexual assault, or stalking, occurring on or off campus, as defined above, unless the alleged victim, witness, or third-party reporter specifically waives that right to confidentiality. All inquiries from reporters or other media representatives about alleged domestic violence, dating violence, sexual assaults, or stalking, occurring on or off campus, shall be referred to the District's Public Information Office, which shall work with the Dean of Students or Vice President of Human Resources to assure that all confidentiality rights are maintained.

5. In cases in which the Dean (or designee) determines that there is not cause to believe that a violation may have occurred, the Dean (or designee) may decide that the case will not be pursued further. If the allegation concerned academic and/or classroom misconduct, the Dean (or designee) will contact the complainant to explain his or her reasoning. The complainant may appeal the decision to not pursue discipline, within 10 working days, to the Vice President of Instruction.
6. The Dean (or designee) may refer the matter to other campus and/or community resources.
7. The Dean (or designee) shall notify the student respondent in writing of the following:
 - a. the nature of the alleged conduct in question, including a brief statement of the factual basis of the charges; the time, date, and place it is alleged to have occurred; and the campus regulations allegedly violated;

1) Temporary Campus Restraining Order (TCRO):

In cases in which the Dean (or designee) has a reasonable suspicion to believe that an alleged violation of Policy 5529.2(D) and/or 5529.2(M) occurred, the Dean (or designee) may issue, in addition to the letter of notification, a Temporary Campus Restraining Order (TCRO). The TCRO shall prohibit named students from intentionally contacting, telephoning, texting, emailing, or otherwise disturbing the peace of others specifically named for a specified period of time. A TCRO shall not include a provision that terminates the respondent's student status as a student, nor shall it be construed as a finding of culpability on the part of any student respondent.

Nevertheless, violation of a term or condition of such an Order may be regarded as actionable misconduct and may subject the student respondent to disciplinary action without regard to the outcome of the case that occasioned the issuance of the TCRO. A copy of the TCRO will be provided to the alleged victim.

- 2) a copy of the student conduct procedures; and
- 3) that an interview with the Dean (or designee) must be scheduled within seven (7) days for the purpose of an initial hearing. The student respondent may waive the right to an initial hearing and request that the matter be referred directly to the Student Conduct Committee for a hearing.

C. Placement and Notice of Hold:

In the event that the student respondent does not contact the Office of the Dean of Students within the seven (7) day period, or fails to keep any scheduled appointment, the Dean (or designee) may then place a Hold on the student respondent's College records and notify the student respondent that this action has been taken. Notification may be in the form of pre-notification by way of the summons letter which shall indicate a date certain by which the student respondent, must reply or keep an appointment in order to avoid the hold being placed on the student respondent's College records; or, in certain cases, notification of the placement of the hold shall be made at the time the summons and notice of allegations are mailed to the student respondent. Such Hold will be removed only when the student respondent either appears at the Office of the Dean of Students (or designee) for a scheduled interview, or requests in writing that the case be referred directly to the Student Conduct Committee for a hearing.

D. Initial hearing with the Dean:

The Dean of Students (or designee) shall, at the initial hearing:

1. determine that the student respondent has received a copy of these procedures;
2. discuss confidentiality; inform the student respondent that the content of this and all subsequent communications with the Office regarding information not relevant to the case shall, insofar as allowed by law, be treated confidentially, unless such confidentiality is waived by the student; and that information relevant to the case may be divulged to those who have a legitimate educational interest;
3. describe to the student respondent as completely as possible the allegation, and the College policies allegedly violated, hear the student respondent's defense to such charges and;
4. provide the student respondent with an opportunity to inspect all documents relevant to the case which are in the possession of the Dean at the time of the hearing, and all such documents arriving after the initial hearing but before disposition of the case by the Dean of Students (or designee);
5. provide the student respondent with copies of the documents relevant to the case, at the student respondent's request, and;
6. counsel the student respondent regarding the campus discipline process as appropriate.

E. Right of Student to be Accompanied at Initial Hearing

1. If the student respondent is accompanied by a person or persons (not affiliated with the allegation) of their choice at the initial hearing with the Dean (or designee), it shall be recognized that the student respondent has provided implied consent for the presence of a third party person at the initial hearing.
2. At the initial hearing, the student respondent must represent him or herself. Any person accompanying the student respondent must not address the Dean (or designee)
3. The Dean (or designee) may excuse any person accompanying the student respondent, from the initial hearing, if the Dean (or designee) deems that person's presence is being disruptive to the hearing PROCESS.

F. Disposition by the Dean of Students (or designee):

After meeting with the student respondent, the Dean (or designee) may take one of several actions:

1. Insufficient Evidence:

If the Dean (or designee) concludes that there is insufficient evidence to sustain a finding of culpability, he or she may decide not to refer the case to the Student Conduct Committee. The complainant may still attempt to resolve the matter through campus and/or community resources.

In the cases of alleged violations of classroom and/or academic misconduct the Dean (or designee) will notify the complainant of this outcome (if allowed by law). The complainant may appeal this decision, within ten working days, to the Vice President of Academic Affairs.

2. Informal Agreement of Resolution:

In cases in which the Dean (or designee) determines that an Informal Agreement of Resolution is appropriate, the student respondent will be informed that this Resolution, while not a part of the student respondent permanent record, is binding. If the student respondent fails to abide by the Informal Agreement of Resolution, such failure will be regarded as actionable misconduct, under District Policy 5529.2(L), and may subject the student respondent to disciplinary action by the College.

Each Informal Agreement of Resolution shall be regarded as binding within the College and may include:

- a. Direction by the Dean (or designee) to the student respondent to refrain from the behavior(s) described by the Dean (or designee) and/or restrictions regarding contact with others involved in the case.
 - 1) Required participation by the student respondent in educational programs and/or reconciliation processes, including mediation.
 - 2) Required participation by the student respondent as an unpaid volunteer in activities that serve the College and/or community.
 - 3) Retention of the case file and the Informal Agreement of Resolution in the Office of the Dean of Students for two (2) years from the date appearing on the Agreement. During those two (2) years, should the Dean (or designee) have a reasonable suspicion to believe that the student respondent has engaged in misconduct related in nature to the conduct which

occasioned the Agreement, both cases may be subject to College disciplinary action.

3. Formal Disciplinary Action:

- a. If the student respondent does not admit culpability, and if the Dean (or designee) concludes that an Informal Agreement of Resolution is not appropriate, and that there is sufficient evidence such that a student Conduct Committee could find, by a preponderance of the evidence, that the student respondent has violated College policy, the Dean (or designee) shall refer the case to the Student Conduct Committee for a hearing.
- b. If the Dean (or designee) determines at the initial hearing to refer the case to the Student Conduct Committee for a hearing, the Dean (or designee) shall inform the respondent, at the conclusion of the initial hearing, of the range of sanctions the Student Conduct Committee may consider for the alleged violation by the respondent, based on sanctions imposed in similar cases.
- c. If the student respondent does admit culpability, and if the Dean (or designee) concludes that there is sufficient evidence to sustain a finding of culpability, the Dean (or designee) may impose, or impose and suspend, one or more of the sanctions listed in Santa Clarity Community College District Policy 5530 (excluding expulsion); moreover, the imposition of any sanction may be effective retroactively. Regardless of the action taken, the Dean (or designee) shall confirm his or her disposition of the case in a written notice mailed to the student respondent within ten (10) days of the action.

- 1) In cases involving an allegation of sexual assault it shall not be a valid excuse to alleged lack of affirmative consent that the accused believed that the complainant consented to the sexual activity under either of the following circumstances:
 - i. The accused's belief in affirmative consent arose from the intoxication or recklessness of the accused.
 - ii. The accused did not take reasonable steps, in the circumstances known to the accused at the time, to ascertain whether the complainant affirmatively consented.

F. Appeal of the Sanction Imposed by the Dean:

1. If the Dean (or designee) imposes a sanction of Suspension or recommends Expulsion, the student respondent may submit a written appeal of the imposed Suspension or Expulsion to the CEO within five (5) days of the date appearing on the Dean's (or designee's) written confirmation of his or her action. The imposition of a sanction of Suspension may be withheld during such appeal. The CEO's review of such appeal shall be in accordance with the provisions set forth in Section 5531.5, The CEO, below. The CEO's decision is final.
2. Withdrawal of Consent to Remain on Campus: The Dean (or designee) may notify a respondent that, for whom there is a reasonable belief that he/she may willfully disrupt the orderly operation of the campus, consent to remain on campus has been withdrawn. If the respondent is on campus at the time, he/she must promptly leave or be escorted off campus. If consent is withdrawn by the Dean

(or designee), a written report must be promptly made to the CEO.

The respondent from whom consent has been withdrawn may submit a written request for a hearing on the withdrawal within the period of the withdrawal. The request shall be granted not later than seven days from the date of receipt of the request. The hearing will be conducted in accordance with the same procedure relating to interim suspensions except the hearing will be held under the authority of a student conduct dean other than the dean who imposed the withdrawal of consent to remain on campus. (Board Policy 5530.A.10)

Any respondent to whom consent to remain on campus has been withdrawn who knowingly reenters the campus during the period in which consent to remain on campus has been withdrawn, except to attend a hearing on the appeal of the withdrawal of consent to remain on campus, is subject to arrest under Penal Code Section 626.4.

The Student Conduct Committee (5531.4)

- A. The Student Conduct Committee shall provide a hearing for all cases referred to it under this Policy.
- B. The Student Conduct Committee shall be comprised of five members of the campus community. Two full-time faculty members, one of which shall act as chair; one classified staff member; and two students. Three members must be present to constitute a quorum. A classified staff member shall act as the Hearing Coordinator and provide appropriate administrative support to the process. Alternate members from each constituent group named above shall be identified and trained.

- C. It is the intention of this Policy that hearings be set as soon as reasonably possible after referral to the Student Conduct Committee.
- D. Hearings shall be held in accordance with generally accepted standards of procedural due process, including, but not limited to, the opportunity to present evidence, and the right to examine and cross-examine witnesses in an orderly manner. The student respondent may be advised by any person of the student respondent's choice, at the student respondent's own expense; however, the student respondent must represent him or herself. The Committee Chair may grant exceptions (for example pending criminal charges against the student respondent). The Committee Chair shall rule on all questions of procedure. Evidence may be received of the sort upon which responsible persons are accustomed to rely in the conduct of serious affairs, and is not restricted to evidence admissible under the strict rules of evidence of a court of law.
- E. When the hearing involves an allegation of rape, or other forms of sexual assault, evidence of the complainant's past sexual history, including opinion evidence, reputation evidence, and evidence of specific instances of the complainant's sexual conduct, shall not be admissible by the accused student unless the Committee Chair makes a specific finding of relevance after an offer of proof by the accused student. Under no circumstances is past sexual history admissible to prove consent. The offer of proof must be made and resolved by the panel before the complainant testifies.
- F. No inference shall be drawn from the silence of the student respondent. The standard of proof to be applied in these hearings is that of a preponderance of the evidence. Hearings shall be recorded and the student respondent shall receive,

upon request, a copy of the record without charge. The record may be an audio-tape recording of the hearing.

- G. The hearing shall be closed to spectators unless a student, who is a respondent to the allegation, specifically requests a public hearing.
- H. The Committee Chair has the right to exclude spectators from the hearing room if deemed necessary for the quiet or secure conduct of the hearing. When the hearing involves an allegation of rape or other forms of sexual assault, the hearing shall be closed to spectators except for the following:
 - 1. The complainant shall be entitled, for support, to have up to two persons of the complainant's choice accompany the complainant to the hearing. A support person may be called as witness, and the fact that he or she is to act as a witness shall not preclude that person's attendance throughout the entire hearing. If a support person is also a witness, the Committee Chair may require him or her to testify before the complainant. Neither of these persons shall be entitled to represent or defend the complainant. Similar rights shall be afforded the accused student.
 - 2. The complainant shall have the right to be present during the entire hearing, notwithstanding the fact that the complainant is to be called as a witness.
 - 3. An individual who participates as a complainant or witness in an investigation of sexual assault, domestic violence, dating violence, or stalking will not be subject to disciplinary sanctions for a violation of the institution's student conduct policy at or near the time of the incident, unless the institution determines that the violation was 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.

I. Responsibility for Presentation of Cases:

1. At the hearing, the student respondent must represent him or herself (exceptions may be granted by the Committee Chair); however he or she may receive advice, from any person at the student respondent's own expense. An advisor is not allowed to address the Committee directly and must conduct him or herself in an appropriate manner.
2. The Committee Chair may excuse any advisor for the student respondent from a hearing, if the Chair deems the advisor is being disruptive to the hearing process.
3. If the student respondent wishes the Hearing Coordinator to direct communications concerning the case to his or her advisor, as well as to him or herself, he or she must provide the Hearing Coordinator with such a request, including the name and address of his or her advisor, in writing.
4. The College's representative shall be the Dean of Students or the Dean's designee. The Dean (or designee) shall present the case to the Committee; provide training to the Committee regarding due process; and act as a moderator during the hearing. The Dean (or designee) may consult with legal counsel.
5. Committee members may ask questions of the student respondent witness(es), and other involved individuals in the case, until they are satisfied they have received all the relevant facts of the matter.

J. Continuing Informal Resolution:

Until the Student Conduct Committee makes its report to the CEO, any agreement between the student respondent and the Dean of Students (or designee) as to the disposition of the matter shall bind all parties and terminate all proceedings.

K. Reports to the CEO:

Within fifteen (15) days after the conclusion of a hearing, the Committee Chair shall submit a report advising the CEO of:

1. the Committee's specific finding of fact;
2. whether, in the opinion of a majority of the Committee the student respondent has violated one or more College policies; and
3. a recommendation of sanction, provided that prior to recommending any sanction, the Committee is briefed by the Dean of Students (or designee) regarding sanctions imposed in similar cases, and any previous cases of misconduct by the student respondent on file with the Office of the Dean of Students; and provided further that the Committee indicate the rationale for such recommendation.

- L. The CEO may grant an extension of time for submission of the report for good cause shown and upon such terms as shall avoid undue prejudice to the student respondent. Any member of the Committee may submit a minority report to the CEO.

- M. A copy of all reports required to be submitted to the CEO by this Policy, including any minority reports, shall be sent to the student respondent, the Dean of Students (or designee), and

the complainant (if allowed by law), when transmitted to the CEO.

- N. The student respondent shall have ten (10) days from the date appearing on the Committee report in which to submit to the CEO any written argument supporting the student respondent's position.
- O. If a student does not meet with the Dean (or designee) and/or does not appear at the hearing, or has withdrawn from the College while subject to pending disciplinary action, the case may proceed to disposition without the student respondent's participation.

The CEO (5531.5)

A. Decision by the CEO:

The final decision regarding the case shall be made by the CEO except in cases which:

- 1. are resolved by the Dean of Students (or designee), and no written appeal is made by the student respondent;
- 2. include a recommendation for expulsion.

B. Basis for Decision:

The CEO shall base his or her decision upon:

- 1. the report submitted by the Student Conduct Committee;
- 2. counsel solicited from the Dean (or designee), regarding sanctions imposed in similar cases, and any previous cases of misconduct by the student respondent on file with the Office of the Dean of Students.

C. Sanctions:

The CEO may decide to impose, or impose and suspend, one or more of the sanctions listed in Section 5530, with the exception of expulsion (discussed below). The CEO is not limited to those sanctions imposed by the Dean, or to those recommended by the Student Conduct Committee, even though such decision may result in a decrease of the student respondent's penalty; moreover, the imposition of any sanction may be effective retroactively.

D. Recommendation for Expulsion:

1. The CEO or designee, shall, in writing, by first class mail, notify the student respondent, or in the case of a minor, his or her parent or guardian, of the intent of the Board to hear the matter of his or her expulsion. Unless the student respondent, or, in the case of a minor, his or her parent or guardian, request in writing, within 48 hours after receipt of such written notice of intention, that the Board consider the matter in a public meeting, then the hearing to consider such matters shall be conducted by the Board in closed session, without the student respondent and his or her parent or counsel present. If such written request is served upon the CEO, the meeting shall be public, except that any discussion at such meeting that might be in conflict with the right to privacy of any student, other than the student respondent requesting the public meeting, or on behalf of whom such meeting is requested, or the right of privacy of any employee, then the meeting shall be in closed session, without the student respondent, his or her parent or counsel present. Whether the matter is considered in a closed session or in a public meeting, the final action of the Board shall be taken in a public meeting and the result of such action shall be a public record (Education Code 72122).

2. If the student respondent is being represented by counsel in his or her appeal to the Board of Trustees, the student respondent's counsel can only address the Board in open session.

E. Appeal:

1. The student respondent may appeal the Student Conduct Committee's or Dean's (or designee's) decision to recommend expulsion to the Board of Trustees by filing an appeal with the CEO. Any such appeal shall be submitted in writing within five (5) days following receipt of the Committee's or Dean's (or designee's) decision and shall specifically state the grounds for appeal. The appeal shall be based only on the disciplinary record and the Committee's or Dean's (or designee's) decision.
2. The appeal and the recommended disciplinary action shall be consolidated and the Board shall consider the action as one.
3. Withdrawal of Consent to Remain on Campus: The CEO (or designee) may notify a respondent that, for whom there is a reasonable belief that he/she may willfully disrupt the orderly operation of the campus, consent to remain on campus has been withdrawn. If the respondent is on campus at the time, he/she must promptly leave or be escorted off campus.

Any respondent as to whom consent to remain on campus has been withdrawn who knowingly reenters the campus during the period in which consent to remain on campus has been withdrawn, except to attend a hearing on the appeal of the withdrawal of consent to remain on campus, is subject to arrest under Penal Code Section 626.4.

F. CEO:

Not later than twenty (20) days after the date appearing on the written appeal of the student respondent; or the report of the Student Conduct Committee, if any, whichever is latest, written notification of the CEO's decision shall be delivered to:

1. the student respondent;
2. the Chair of the Student Conduct Committee, if the Committee heard or reviewed the case and made a report to the CEO, and
3. the Office of the Dean of Students.
4. The CEO may also notify other parties of his or her decision. The CEO may direct the Dean of Students (or designee) to notify others, if there is an institutional interest in doing so, and if such parties are authorized to receive such information under the "Santa Clarita Community College District Policy on the Disclosure of Information from Student Records."

Disciplinary Files (5531.6)

- A. The College considers disciplinary files generated by disciplinary due process to be confidential.
- B. Such disciplinary files will be kept separate from other, non-disciplinary files, retained by the College.
- C. With the exception of cases ending in Expulsion from the College, disciplinary files shall be retained for four (4) years following the conclusion of the sanction. At such time, both electronic disciplinary files and paper disciplinary files will be destroyed.

1. Disciplinary files for cases that result in the expulsion of a student will be kept indefinitely.
- D. The Dean of Students (or designee) may grant exceptions to this timeline.