

RESOLUTION ON REVISED STUDENT DISCIPLINARY POLICY
(#04-93/94-SA)

- WHEREAS, The student disciplinary policy currently in place was introduced in 1972, and
- WHEREAS, The current policy is complicated, cumbersome, and ignored any informal arbitration processes, and
- WHEREAS, A Chancellor's Office subcommittee has extensively revamped the procedure, and
- WHEREAS, Student and faculty input is formally being sought; therefore, be it
- RESOLVED: That the Academic Senate of Humboldt State University recommends support of the concept and intent of the Draft Revised Student Disciplinary Procedure (AAES 93-51) [attached]; and be it further
- RESOLVED: That the Academic Senate of Humboldt State University communicate its questions and concerns of the document to the Chancellor's Office by the October 27, 1993 deadline.

D R A F T (AAES 93-51)

**STUDENT DISCIPLINARY PROCEDURES
FOR
THE CALIFORNIA STATE UNIVERSITY**

ARTICLE I: AUTHORITY AND PURPOSE

1. Authority

These procedures are established pursuant to Section 41304 of Title 5 of the California Code of Regulations. They govern determinations under Article 2, Subchapter 4, Chapter 1, Division 5 of that Code and other state and federal laws which require institutional hearings.

2. Purpose

It is the purpose of this document to provide procedures which are fair and just to both the student charged and the University, by which it can be determined whether violations of Section 41301 of Title 5 of the California Code of Regulations have occurred.

ARTICLE II: DEFINITIONS

1. The term "**appeal**" means the process by which a reviewer authorized by the President reviews a request for reconsideration from either a Hearing Officer's or a Disciplinary Panel's determination that a student has violated the Student Code.
2. The term "**Coordinator of University Student Discipline**" means a University official assigned by the President to be in charge of the administration of these procedures and to perform the duties prescribed in these procedures.
3. The term "**crime of violence**" means (a) an offense that has as an element the use, attempted use, or threatened use of physical force against the person or property of another, or (b) any other offense that is a felony and that, by its nature, involves a substantial risk

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that physical force against the person or property of another may be used in the course of committing the offense.

4. The term “**disciplinary conference**” means an informal, nonadversarial meeting between the student charged and the Coordinator of University Student Discipline to determine if the charges have merit and if they can be disposed of administratively by mutual consent of the student charged and the Coordinator of University Student Discipline.
5. The term “**disciplinary panel**” means two or more persons appointed by the Coordinator of University Student Discipline to determine whether a student has violated the Student Code and to recommend imposition of sanctions.
6. The term “**faculty member**” means any person hired by the University to conduct classroom activities.
7. The term “**hearing officer**” means a person or persons appointed by the Coordinator of University Student Discipline to determine whether a student has violated the Student Code and to recommend imposition of sanctions.
8. The term “**judicial body**” is used to refer to the Hearing Officer or Disciplinary Panel depending on the type of hearing being held.
9. The term “**may**” is used in the permissive sense.
10. The term “**member of the campus community**” includes any person who is a student, faculty member, University official, any other person employed by the University and others as designated by the President.

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11. The term "**President**" refers to the Chief Executive Officer of the campus or that person's designee.
12. The term "**reviewer**" means any person authorized by the President to review a request for reconsideration from either a Hearing Officer's or a Disciplinary Panel's determination that a student has violated the Student Code.
13. The term "**shall**" is used in the mandatory sense.
14. The term "**student**" means all persons taking courses at the University, both full-time and part-time, including summer session and Extended Education; and in accordance with Section 41303 of Title 5 of the California Code of Regulations, may include applicants for admission. Persons who are not officially enrolled for a particular term but who have a continuing relationship with the University are considered "students."
15. The term "**Student Code**" is defined as the causes for discipline listed in Section 41301 of Title 5 of the California Code of Regulations.
16. The term "**University**" means a campus of the California State University.
17. The term "**University official**" includes any person employed by the University, performing assigned administrative or professional responsibilities.
18. The term "**University premises**" includes all land, buildings, facilities, and other property in the possession of or owned, used, or controlled by the University (including adjacent streets and sidewalks).
19. The term "**working day**" shall mean any day during the academic year, summer session and summer term other than a Saturday, Sunday, academic holiday of the University as that

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term is used in Section 42800 of Title 5 of the California Code of Regulations, or holiday as defined in California Government Code Section 18025.

ARTICLE III: DUTIES OF PRESIDENT

1. The President shall assign a university official to be the Coordinator of University Student Discipline.
2. The President shall appoint one or more University officials to serve as reviewers.
3. The President shall have the responsibility of making the final decision regarding disciplinary action after reviewing a judicial body's or reviewer's written report.
4. The President shall cause notice of his or her decision to be sent to the student charged as provided in Section 6.b. of Article VIII and in Section 7.e. of Article VIII.
5. The duties of the President may be delegated to individual designees who are University officials and who shall exercise those duties in the President's name.

ARTICLE IV: DUTIES OF COORDINATOR OF UNIVERSITY STUDENT DISCIPLINE

1. The Coordinator of University Student Discipline shall serve at the pleasure of the President.
2. The Coordinator of University Student Discipline shall make the decision as to whether disciplinary action shall be taken.

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3. If a disciplinary matter proceeds to hearing, the Coordinator of University Student Discipline shall decide whether the hearing will be conducted by either a Hearing Officer or a Disciplinary Panel.
4. The Coordinator of University Student Discipline shall determine the composition of disciplinary panels.
5. The Coordinator of University Student Discipline shall appoint one or more individuals to serve as Hearings Officers. Hearing Officers may be employees of the University, attorneys who are admitted to practice law in California or administrative law judges from the Office of Administrative Hearings.
6. The Coordinator of University Student Discipline shall make all physical and scheduling arrangements for all hearings held under these procedures.
7. The Coordinator of University Student Discipline shall represent the University in all hearings in which the student charged is not represented by an attorney. For those hearings in which the student charged is represented by an attorney, the Office of General Counsel shall represent the University.
8. The Coordinator of University Student Discipline shall notify alleged victims of sexual assault or physical abuse of the results of any disciplinary action taken and of the results of any appeal within three (3) working days following that disciplinary action or appeal.
9. The Coordinator of University Student Discipline may notify alleged victims of a crime of violence of the results of any disciplinary action taken and the results of any appeal within three (3) working days following that disciplinary action or appeal.

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ARTICLE V: PROHIBITED CONDUCT

1. Jurisdiction of the University

University jurisdiction and discipline shall be limited to conduct which occurs on University premises or at off-campus functions or programs sponsored by the University.

2. Conduct -- Rules and Regulations

Any student found to have violated the Student Code is subject to the disciplinary sanctions outlined in Article VI.

3. Violation of Law and University Discipline

At the University's discretion disciplinary proceedings may be instituted against a student charged with a violation of law which is also a violation of the Student Code, for example, if both violations result from the same factual situation, without regard to the pendency of civil litigation in court or criminal arrest and prosecution. Proceedings under these procedures may be carried out prior to, simultaneously with, or following civil or criminal proceedings off-campus.

ARTICLE VI: SANCTIONS

1. The following sanctions may be imposed upon any student found to have violated the Student Code:

- a. **Warning:** A notice in writing to the student that the student is violating or has violated the Student Code and that further violations of the student code may result in stronger sanctions.

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- b. **Probation:** A written reprimand for violation of the Student Code. Probation is for a designated period of time and includes the probability of more severe disciplinary sanctions if the student is found to be violating the Student Code during the probationary period.
 - c. **Loss of Privileges:** Denial of specified privileges for a designated period of time.
 - d. **Fines:** Previously established and published fines may be imposed.
 - e. **Restitution:** Compensation for loss, damage or injury. This may take the form of appropriate service and/or monetary or material replacement.
 - f. **Discretionary Sanctions:** Work assignments, service to the University, requirement to attend counseling and/or psychiatric sessions or other related discretionary assignments (such assignments must have the prior approval of the Coordinator of University Student Discipline).
 - g. **Suspension:** Separation of the student from the University for a definite period of time, after which the student is eligible to return. Conditions for readmission may be specified. Suspension may include denial of access to University premises or University functions during all or a portion of the period of suspension.
 - h. **Expulsion:** Permanent separation of the student from the University.
2. More than one of the sanctions listed above may be imposed for any single violation.
 3. Sanctions imposed by one University shall be in effect on all campuses of the California State University.

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4. Expulsion, suspension or probation shall be made part of the student's permanent academic record. Other disciplinary sanctions may become part of the student's academic record. Cases involving the impositions of sanctions other than expulsion, suspension or probation shall be expunged from the student's academic record no more than five (5) years after the student is no longer enrolled. Records may be expunged sooner with the consent of the President.

ARTICLE VII: INTERIM SUSPENSION

1. The President may immediately impose an interim suspension where there is reasonable cause to believe that such is required to protect personal safety or property and to insure the maintenance of order.
2. A student placed on interim suspension shall be given prompt notice of the charges and the opportunity for a hearing within ten (10) working days of the imposition of the suspension. The hearing shall be held pursuant to the provisions of Article VIII of these procedures.
3. During the period of the interim suspension, the student shall not, without prior written permission of the President, enter any campus of the California State University other than to attend the hearing. Violation of any condition of interim suspension shall be grounds for expulsion.
4. If a hearing is held, the hearing shall be limited to determining whether continued suspension pending a disciplinary hearing is required to protect personal safety or property and to insure the maintenance of order. This hearing may serve as a disciplinary hearing in accordance with the procedures outlined in Article VIII, Section 4, provided proper notification has been given as delineated in Article VIII, Section 2.

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ARTICLE VIII: PROCEEDINGS

1. Filing of Charges

Any member of the campus community may file charges against any student for misconduct. Charges shall be prepared in writing and directed to the Coordinator of University Student Discipline. Any charge should be submitted as soon as possible after the event takes place. Charges must be submitted within six (6) months of the alleged violation. Exceptions to this time limit can be made by the President.

2. Notice of Charges

- a. The Coordinator of University Student Discipline shall initiate the disciplinary action process by a written Notice of Charges served in person or served by certified mail return receipt requested to the student charged. Notices addressed to the student at the last known address on University records and deposited in the United States mail, postage prepaid, shall be presumed to have been received by the student charged.
- b. The Notice of Charges shall include the following:
 - 1) A statement of the specific sections of the Student Code which the student is being charged with violating.
 - 2) A factual description of the conduct upon which the charges are based.
 - 3) A request that the student attend a disciplinary conference for the purpose of determining whether the charges have merit and if they may be disposed of administratively by mutual consent of the student charged and the Coordinator of University Student Discipline.

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- 4) Notification that should the student elect to participate in the disciplinary conference, any agreement reached during that conference shall be final and not subject to appeal.
 - 5) Notification that should the student fail to attend the disciplinary conference or should an agreement not be reached during the conference, the matter shall proceed to hearing.
 - 6) The office at the University where additional information regarding the evidence may be obtained.
 - 7) A copy of these procedures or notification of where the student may obtain a copy without charge. If consent to remain on campus has been withdrawn from the student at the time the Notice of Charges is sent, a copy of these procedures shall be enclosed with the notice.
- c. The Notice of Charges may be amended at any time. If the amendment would require the student to prepare a defense which is substantially different from that required by the prior Notice of Charges, any hearing or disciplinary conference which has been scheduled may be postponed for a reasonable time. If the Notice of Charges is amended after a hearing has commenced, the judicial body may postpone the hearing for a reasonable period of time.
3. **Notice of Hearing**
- a. The Coordinator of University Student Discipline shall initiate hearing proceedings by a written Notice of Hearing served in person or served by certified mail return receipt requested to the student charged. Notices addressed to the student at the last known address on University records and deposited in the United States mail, postage prepaid, shall be presumed to have been received by the student charged.

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- b. The Notice of Hearing shall be served on the student at least seven (7) working days prior to the hearing. If all parties agree, the seven day waiting period may be waived.

- c. The Notice of Hearing shall include the following:
 - 1) The charges and the reason that the matter is proceeding to hearing (i.e., student's failure to attend disciplinary conference or failure to reach an agreement during the disciplinary conference).
 - 2) Notification of the date, time and place of the hearing.
 - 3) Notification of the type of hearing to be held (i.e., by Hearing Officer or Disciplinary Panel).
 - 4) Notification that the student may be accompanied by one advisor of his or her choice, who may act on his or her behalf. Notification that if that advisor is an attorney, the student must give written notice of the name and office address of the attorney to the Coordinator of University Student Discipline at least five (5) working days prior to the hearing.
 - 5) Notification that if the student fails to give notice as required by this section that his or her advisor is an attorney, the judicial body may, in its discretion, (1) postpone the hearing, (2) convene the hearing without counsel present for either the student charged or the University or (3) convene the hearing with counsel present for the student if the Coordinator of University Student Discipline and counsel from the Office of General Counsel consent.
 - 6) Such information as notice of an immediate suspension and withdrawal of consent to remain on campus where such action has been decided upon.

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4. Hearings

- a. All hearings held under these procedures, whether by Hearing Officer or Disciplinary Panel, shall be conducted according to the following:
- 1) Hearings shall be closed to all persons other than the persons conducting the hearing, the student charged, the Coordinator of University Student Discipline, a single advisor for student charged and the Coordinator of University Student Discipline, the person designated to record the hearing and witnesses while they are testifying.
 - 2) The student may be accompanied by one advisor of his or her choice, who may act on his or her behalf. If that advisor is an attorney, the student must give written notice of the name and office address of the attorney to the Coordinator of University Student Discipline at least five (5) working days prior to the hearing. If the student fails to give notice as required by this section, the judicial body may, in its discretion, (1) continue the hearing, (2) convene the hearing without counsel present for either the student charged or the University or (3) convene the hearing with counsel present for the student if the Coordinator of University Student Discipline and counsel from the Office of General Counsel consent.
 - 3) The University and the student charged shall have the privilege of presenting witnesses, subject to the right of cross examination by the judicial body. If the student charged elects to testify, he or she shall be subject to cross examination. Any evidence deemed relevant by the judicial body shall be admitted.
 - 4) Pertinent records, exhibits and written statements may be accepted as evidence for consideration at the discretion of the judicial body.

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- 5) A tape recording shall be kept of the hearing. The student charged may, at his or her own expense, request a copy of such recording. No tape recording by the student charged or other persons at the hearing shall be permitted. However, the student charged may, at his or her own expense, furnish a certified court reporter provided that the University shall be permitted to make copies of the transcript at its own expense.
 - 6) The student charged may not be found to have violated the Student Code solely because he or she fails to appear before a judicial body. If the student charged does not appear, the hearing shall proceed without him or her and a decision shall be rendered on the evidence presented.
 - 7) Arguments by the student charged or his or her advisor concerning the legal (as distinguished from factual) applicability, or legal validity of any provision on the basis of which the student is charged, or of these procedures shall not be addressed to the judicial body hearing the case, but to the President in writing within three (3) working days following the conclusion of the hearing. The President shall seek advice on the matter from the Office of General Counsel. Such advice shall be considered by the President before a final decision is rendered.
 - 8) Where the person testifying is a survivor of sexual or physical assault which is the basis for the disciplinary action, that person may be accompanied by an advisor. The advisor is not permitted to speak or to participate directly in the hearing. Cross examination of the survivor shall be limited to the alleged incident leading to the charge and the events surrounding the charge.
- b. Where more than one student is charged with conduct arising out of a single occurrence or out of connected multiple occurrences, if the Coordinator of University Student Discipline and the students charged consent, a single hearing

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may be held for all of the students so charged. Students may request that their case be consolidated with others, or separated from others. The Coordinator of University Student Discipline shall make determinations regarding consolidation. All such determinations shall be subject to revision by the judicial body. In the event of such revision, all cases affected shall be rescheduled for hearing. The separation of one or more cases from a group of cases previously set for a consolidated hearing shall not be considered to affect the remaining cases in the group.

- c. At any time during the hearing process, the student charged may elect to waive the hearing and accept a sanction recommended by the Coordinator of University Student Discipline. The student charged may accept the sanction without admitting the conduct charged. The waiver and acceptance of the recommended sanction shall be in writing and not subject to appeal.

5. Recommendation(s) of the Judicial Body

- a. After the hearing, the judicial body shall determine whether the student has violated each section of the Student Code with which the student is charged.
 - 1) The judicial body's determination shall be made on the basis of whether it is more likely than not that the student charged violated the Student Code (i.e., by a preponderance of the evidence).
- b. After having made their determination, the judicial body shall submit a written report to the President which includes their determination as to whether the student charged violated the Student Code and the judicial body's recommended sanction, if any. The judicial body's report shall be submitted to the President within ten (10) working days of the conclusion of the hearing.

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6. Presidential Action

- a. After reviewing the judicial body's report, the President shall make the final decision regarding disciplinary action. The President may impose the sanction recommended, adopt a lesser sanction, refer the matter back to the judicial body for further findings on specified issues or adopt a more severe sanction. The President normally shall render a decision within five (5) working days of receipt of the judicial body's report.
- b. The President shall cause notification of his or her decision to be delivered to the student charged. The notification shall be delivered in person or sent by certified mail receipt requested to the student charged. Notices addressed to the student at the last known address on University records and deposited in the United States mail, postage prepaid, shall be presumed to have been received by the student. The report of the judicial body shall be made available to the student charged upon request.

7. Appeals

- a. A decision reached by the President may be appealed by the student within thirty (30) working days of notification of the President's decision. Such appeals shall be in writing and shall be delivered to the President. The President shall refer the appeal to a reviewer for reconsideration and recommendation.
- b. Except as required to explain the basis of new evidence, an appeal shall be limited to review of the verbatim record of the hearing and supporting documents for one or more of the following purposes:

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- 1) To determine whether the hearing was conducted fairly in light of the charges and evidence presented, and in conformity with prescribed procedures.
 - 2) To determine whether the decision reached regarding the student charged was based on substantial evidence, that is, whether the facts in the case were sufficient to establish that a violation of the Student Code occurred.
 - 3) To determine whether the sanction(s) imposed are appropriate for the violation(s) of the Student Code which the student was found to have committed.
 - 4) To consider new evidence, sufficient to alter a decision, or other relevant facts not brought out in the hearing, because such evidence and/or facts were not known to the student charged at the time of the hearing.
- c. The reviewer shall submit a written report to the President which includes a recommendation based on his or her review of the matter. The reviewer's report shall be submitted to the President within ten (10) working days of the reviewer's receipt of the appeal. Review of the sanction(s) by the reviewer may not result in more severe sanction(s) for the student charged.
- d. The President may impose the sanction recommended by the reviewer, impose a lesser sanction or order a new hearing. The President shall render a decision within five (5) working days of receipt of the reviewer's report.
- e. The President shall cause notification of his or her decision to be delivered to the student charged. The notification shall be delivered in person or sent by certified mail receipt requested to the student charged. Notices addressed to the student at the last known address on University records and deposited in the United States

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mail, postage prepaid, shall be presumed to have been received by the student. The report of the reviewer shall be made available to the student charged upon request.