

DISTRICT AND COLLEGE POLICIES

I. DISCRIMINATION COMPLAINT PROCEDURES

The Peralta Community College District as a public institution, prohibits discrimination in any and all of its activities, including: employment; procuring of goods and services; availability of its educational offerings; and other programs and activities such as financial aid and special services. In order to accomplish these tasks, the Office of Equal Opportunity is assigned the responsibilities of overseeing and investigating any charges of discrimination or other complaints. A discrimination complaint log will be maintained as well as complete records of complaints and resolutions. The Office of Equal Opportunity will handle both student and employee complaints by working with the Vice Presidents of Student Services for student complaints and with the Vice President of Instruction for employee complaints.

To insure that students and employees of the District are aware of the provisions of this policy, a general statement will be published in each class schedule and a bulletin will be circulated to each District employee.

The following procedures are in compliance with the guidelines of state law:

1. Student discrimination complaints may be filed with the Office of Student Services at each campus.
2. Employee complaints may be filed with the Office of Instruction at each campus.
3. All complaints should be forwarded to the District Equal Opportunity Officer on the approved district form.
 - a. Upon receipt of a complaint, a copy will be forwarded to the State Chancellor's Office on the appropriate form.
 - b. Defective complaints will be returned to the complainant with an explanation of the deficiencies and how they may be corrected if the complaint is to be considered.
4. Within fourteen (14) days of the complaint, an investigation will commence with notification to the complainant of the initiation of the investigation.
5. If the complaint proves to be accurate, a resolution of the problem will be proposed and corrective actions taken to ensure that the act is not repeated.
6. After a proposed resolution is developed and approved, the complainant will be notified of the resolution. Should

the complainant not be satisfied, he/she may object to the proposed resolution through the State Chancellor's Office within thirty (30) days. The Office of Equal Opportunity will furnish the complainant with necessary information regarding where and how to file the objection with the State.

7. After the resolution proposal is sent to the complainant, the District will forward the complete file of the complaint; findings of the investigation; the District's proposed resolution; the letter to the complainant informing him/her of the proposal; and any relevant material to the State Chancellor's Office.

POLICY PROHIBITING DISCRIMINATION (INCLUDING SEXUAL AND RACIAL HARASSMENT AND DISCRIMINATION) TOWARD STUDENTS

The Peralta Community College District, in accordance with applicable Federal and State laws and Board Policy, prohibits unlawful discrimination towards students on the basis of race, creed, color, ancestry, religion, sex, national origin, age (40 and over), marital status, medical condition (cancer related), disability, political views and affiliations, sexual orientation/preference, and transgender status at any stage in any and all of its programs and activities, including availability of its educational offerings; and other programs and activities such as financial aid and special services. To that end, the District will take immediate, appropriate steps to investigate complaints of discrimination to eliminate current discrimination and prevent further discrimination. The District prohibits retaliation against any individual who files a complaint or who participates in a discrimination or discriminatory harassment inquiry.

The Peralta District is subject to Title IX of the Educational Amendments of 1972, Titles VI and VII of the Civil Rights Act of 1964 and 1972, Age Discrimination in Employment Act of 1967, Age Discrimination Act of 1975, Section 504 of the Rehabilitation Act of 1973, and the Americans with Disabilities Act of 1990 (ADA).

The Title IX, Section 504 and ADA Coordinator for the Peralta District is the District Equal Opportunity Officer whose office is located at 333 E. 8th Street, Oakland, California 94606; telephone (510) 466-7252.

Each college has an ADA Coordinator who can be reached by calling the main number of the college.

Students, faculty, employees, and applicants for employment who believe they have been discriminated against may file a discrimination complaint with the President of the college, Vice President of Student Services (for students), Vice President of Instruction (for faculty or employees) or the District Equal Opportunity Officer. Complaint forms and procedures are available in the offices of the President, Vice Presidents, and Equal Opportunity Officer.

The Peralta Colleges encourage "mainstreaming" students with disabilities into regular classes. The colleges offer support services to make education accessible. Each main campus has an Enabler/Coordinator who coordinates the Disabled Students Program. Students who find that a class is not accessible should contact the Disabled Students Programs and Services Office for assistance. Services provided include classroom interpreters, notetakers, readers, special counseling on disability management, peer counseling groups, and special adaptive equipment.

The lack of English language skills will not be a barrier to admission and participation in the colleges' vocational education programs.

POLÍTICA QUE PROHÍBE LA DISCRIMINACIÓN HACIA LOS ESTUDIANTES (INCLUYENDO LA DISCRIMINACIÓN Y EL ACOSO SEXUAL Y RACIAL)

El Distrito de los Colegios Universitarios Comunitarios de Peralta, de conformidad con las leyes federales y estatales pertinentes y con la Política de la Junta, prohíbe que los estudiantes sean sometidos a discriminación y acoso discriminatorio ilícitos basados en la raza, las creencias, el color, la ascendencia, la religión, el sexo, el origen nacional, la edad (40 años de edad o más), el estado civil, los problemas médicos (relacionados con el cáncer), las incapacidades, las afiliaciones y opiniones políticas, la orientación/preferencia sexual o la transmutación de sexo en cualquier etapa, en cualquiera de los programas y actividades del Distrito, incluyendo la disponibilidad de los ofrecimientos educacionales; y en otros programas y actividades como la ayuda financiera y los servicios especiales. Por ello, el Distrito investigará las quejas de discriminación inmediatamente, siguiendo los pasos pertinentes, a fin de eliminar la discriminación actual y evitar discriminación futura. El Distrito prohíbe las represalias contra cualquier individuo que presente una queja o participe en una investigación con relación a discriminación o acoso discriminatorio.

El Distrito de Peralta está sujeto al Título IX de las Enmiendas Educativas de 1972, los Títulos VI y VII del Acta de Derechos Civiles de 1964 y 1972, el Acta de Discriminación por la Edad en Empleo de 1967, el Acta de Discriminación por la Edad de 1975 y la Sección 504 del Acta de Rehabilitación de 1973 y al Acta de 1991 referente a los Americanos incapacitados.

El Coordinador del Título IX y Sección 504 para el Distrito de Peralta es el Funcionario de Oportunidad Igual del Distrito, cuya oficina se encuentra situada en el 333 E. 8th Street, Oakland, CA 94606; teléfono (510) 466-7252.

Los estudiantes, miembros de la facultad, empleados y solicitantes de empleo que crean que hayan sido discriminados pueden presentar una queja de discriminación ante alguno de los siguientes funcionarios: el Presidente del colegio correspondiente, el Vice Presidente de Servicios Estudiantiles (en el caso de los alumnos), el Vice Presidente de Enseñanza (en el caso de facultad o empleados) o el Funcionario de Oportunidad Igual del Distrito. Los formularios de queja y los procedimientos correspondientes se encuentran a su disposición en las oficinas del Presidente, de los Vice Presidentes y de Oportunidad Igual.

Todos los colegios del Distrito de Peralta fomentan la incorporación de alumnos con incapacidades físicas y mentales a las clases regulares. Los colegios ofrecen servicios de apoyo a fin de brindar una educación accesible. Cada colegio tiene un Coordinador cuya función es administrar el programa para estudiantes incapacitados. Los estudiantes que encuentren que una clase no es accesible deben comunicarse con el Centro de Recursos para Estudiantes Incapacitados a fin de recibir asistencia. Los servicios del Centro incluyen asistencia por medio de intérpretes en el aula, personas que puedan tomar los apuntes, lectores, un servicio de asesoramiento especial para el manejo de las incapacidades y un grupo de asesoramiento constituido por personas con problemas similares. También hay libros de texto en sistema Braille, libros de texto grabados y otros equipos especiales.

La falta de fluidez en el idioma inglés no es un obstáculo para el ingreso y la participación en los programas de educación vocacional de los colegios.

IMPLEMENTING PROCEDURES PROHIBITING SEXUAL, RACIAL, AND DISABILITY HARASSMENT AND DISCRIMINATION TOWARD STUDENTS

A. DISSEMINATION

The policy and procedures shall be published in all student, faculty and staff handbooks, each college's catalog and schedule of classes, and other printed material deemed appropriate by each college's Vice President of Student Services.

The policy and procedures will also be disseminated to students at each college's new student orientation and at periodic workshops to be scheduled by each college's Vice President of Student Services.

The policy and procedures will also be disseminated to each faculty member, all members of the administrative staff, and all members of the support staff both at time of hire and at the beginning of each school year.

The policy and procedures shall also be displayed in a prominent location at each college along with the other notices regarding the college's procedures and standards of conduct. A copy of the Policy and Procedures shall be made available to any person expressing a verbal complaint about such matters.

B. SEXUAL, RACIAL, AND DISABILITY HARASSMENT AND DISCRIMINATION DEFINED

The Peralta Community College District expressly forbids sexual, racial, and disability harassment of its students by faculty, administrators, supervisors, District employees, other students, vendors or members of the general public. The District also prohibits discrimination of its students by subjecting any student to adverse or differential treatment, or depriving that student of any benefits of the District because of that student's sex, race, or disability. Furthermore, the District prohibits retaliation against any individual who files a complaint or participates in a discrimination inquiry.

Sexual harassment includes, but is not limited to, unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature, made by someone from or in the educational setting, under any of the following conditions:

1. Submission to the conduct is explicitly or implicitly made a term or a condition of a student's academic status, or progress.
2. Submission to, or rejection of, the conduct by a student is used as the basis of academic decisions affecting the student.
3. The conduct has the purpose or effect of having a negative impact upon a student's academic performance, or of creating an intimidating, hostile, or offensive educational environment.
4. Submission to, or rejection of, the conduct by a student is used as the basis for any decision affecting the individual regarding benefits and services, honors, programs, or activities available at or through the educational institution.
5. Any other such conduct that may have an effect on a student's learning environment or his or her ability to enjoy any privileges or benefits provided by the District.

The prohibition of racial harassment similarly enjoins conduct or incidents based on race that may interfere with or limit the ability of an individual to participate in or benefit from the services, activities, or privileges provided by the District.

The prohibition of disability harassment similarly enjoins conduct or incidents based on disability that may exclude an individual from participation in or be denied the benefit of the services, programs, or activities provided by the District to other non-disabled students.

A harassing environment is created if conduct of a sexual or racial nature or conduct based on student's disability is sufficiently severe, persistent, or pervasive to limit a student's ability to participate in or benefit from the education program by the District or to create a hostile or abusive educational environment.

C. EXAMPLES OF PROHIBITED HARASSMENT

Sexual, racial, disability harassment includes, but is not limited to, the following examples of conduct that is undertaken because of the sex, race, or disability of the student victim:

1. Unwanted physical touching (beyond normal greetings).
2. Displays of offensive materials, objects, photos, etc., with a sexual, racial, or disabled theme.
3. Situations affecting a student's studying and learning conditions and making the learning environment unpleasant and uncomfortable, whether the actions are purposeful or not.

4. Verbal insults (in reference to gender, race, sexual orientation, or disability).
5. Rumors designed to cause the individual emotional distress or place him or her in a bad light.
6. Physical assault.
7. Unwelcome direct propositions of a sexual nature.
8. Subtle pressures for unwelcome sexual activity, an element of which may be conduct such as repeated and unwanted staring.
9. A pattern of conduct not legitimately related to the subject matter of a course, which is sufficiently severe, persistent, or pervasive to limit a student's ability to participate in or benefit from the education program or to create a hostile or abusive educational environment, that includes one or more of the following:
 - (a) Comments of a sexual/racial nature or which are demeaning or derogatory based on a disability, or
 - (b) Sexually explicit statements, questions, jokes, or anecdotes.
10. Unwanted attempts to establish a personal relationship.
11. A pattern of conduct that would cause discomfort or humiliate, or both, a reasonable person at whom the conduct was directed that may include one or more of the following:
 - (a) Unnecessary touching, patting, hugging, or brushing against a person's body,
 - (b) Remarks of a sexual nature about a person's anatomy or clothing, or
 - (c) Remarks about sexual activity or speculations about a previous sexual experience.

All persons should be aware that conduct towards a student that is not specifically identified in this policy may nonetheless constitute impermissible sexual, racial or disability harassment.

D. ACADEMIC FREEDOM AND FREEDOM OF SPEECH

As participants in a public institution, the faculty and staff of the Peralta Community College District enjoy significant free speech protections found in the First Amendment of the United States Constitution and Article I Section I of the California Constitution. The right of academic freedom includes a special area of protected speech. Consistent with the principles of academic freedom, course content and teaching methods remain the province of individual faculty members. Academic freedom, however, is not limitless. Academic freedom does not protect classroom speech that is unrelated to the subject matter of the course or in violation of federal or state anti-discrimination laws. Some speech may constitute environmental sexual harassment, harassment based on another impermissible char-

acteristic or discrimination. If a faculty member engages in unwelcome sexual behavior or other improper behavior based on a characteristic protected by this policy that has the purpose or effect of unreasonably interfering with an employee's work environment or a student's academic performance or creates a hostile and intimidating work or academic environment, then it may constitute environmental harassment or discrimination, as outlined in Board Policy and these implementing procedures.

The District must balance these two significant interests: the right of academic freedom and the right to be free from discrimination and harassment. The First Amendment protections, including those of academic freedom, are not absolute. When a faculty member raises academic freedom as a defense against charges of discrimination or discriminatory harassment, the District must examine the nature and context of the faculty member's behavior. A key to this examination is determining whether the behavior of the faculty member is related to his or her legitimate academic judgments within the context of furthering the institution's legitimate mission.

Nothing in the District's Discrimination and Discriminatory Harassment Policy should be construed to prevent faculty members from rigorously challenging fundamental beliefs held by students and society. These challenges should be done in a manner that, in the professional judgment of the faculty member, is most pedagogically advisable. Indeed, this is at the core of academic freedom; however, faculty members may not interject into the academic setting an element of discrimination or discriminatory harassment that is unrelated to any legitimate educational objective. Nor, may a faculty member create, or allow, the educational setting to be so charged with discrimination or discriminatory harassment, that our students are prevented from effectively participating in the academic environment. As such, faculty members must be aware that the District will investigate and respond to employee or student complaints that involve course content in accordance with its general discrimination and discriminatory harassment policy and faculty members may be subject to discipline for egregious conduct, in the same manner as provided in Board Policy and any implementing procedures for all other District employees.

The Peralta Community College District is committed to insuring that the academic freedom rights of our faculty are secure, and to insuring our students an academic environment free of discrimination and harassment. Nothing in this section is intended to abrogate rights of Academic Freedom stated in the collective bargaining agreement with the Peralta Federation of Teachers.

E. CONSENSUAL RELATIONSHIPS

1. Definitions:
 - (a) The terms “instructors” and “faculty member” are defined as any person who teaches in the District, is in an academic position, or by virtue of their position has control or influence on student performance, behavior, or academic career.
 - (b) A “District employee” is defined as any person who is employed by the Peralta Community College District, or acts as its agent and operates within the District’s control.
2. Rationale:

The District’s educational mission is promoted by professionalism in faculty/student, as well as supervisor/subordinate, relationships. Professionalism is fostered by an atmosphere of mutual trust and respect. Actions of faculty members and supervisors that harm this atmosphere undermine professionalism and hinder fulfillment of the educational mission. Trust and respect are diminished when those in positions of authority abuse their power in such a context as to violate their duty to the educational community and undermine the trust placed in the District as a public employer and an educational institution.
3. Ethical Violation:

Recognizing that the unequal power of adult consenting parties is inherent in consensual relationships between supervisor and employee or student and teacher, the District will view it as unethical behavior if faculty members or supervisors engage in romantic relations with students enrolled in their classes or employees under their supervision even though both parties appear to have consented to the relationship.
4. Presumption of a Policy Violation:

The faculty member or supervisor who contemplates a romantic relationship with a student or employee must realize the complexity of the situation and its potential negative consequences. Regardless of consent or mutual attraction, the faculty member or supervisor generally will be judged guilty of sexual harassment if any complaint eventually emerges, either from the partner in the relationship or from his or her fellow students or co-workers. A romantic relationship between any minor employee or student and an adult employee is presumptively deemed not to be a consensual relationship and constitutes sexual harassment.
5. Voluntary Consent Not a Defense:

Faculty members and supervisors exercise power over students and their subordinates, whether in giving or

failing to give praise, criticism, performance evaluations, promotions or other similar actions. Romantic relationships between faculty members and students, or between supervisors and subordinates, can destroy necessary professional relationships. Voluntary consent by the student or subordinate is always suspect, given the asymmetric nature of the relationship. Moreover, such unprofessional behavior, or even the appearance of such may affect other students, faculty, and staff, because it gives one student or subordinate the appearance, correctly or incorrectly, of power or favor at the expense of others.

F. HARASSMENT AND DISCRIMINATION COMPLAINT PROCEDURES

In order to accomplish the task of prohibiting discrimination and harassment, the District’s Equal Opportunity Officer is assigned the responsibilities of overseeing and investigating any charges or complaints of discrimination or harassment. The District’s Equal Opportunity Officer will maintain a discrimination and harassment complaint log and complete records of complaints, investigations and resolutions.

The District’s Equal Opportunity Officer will work with the Vice President of Student Services of each college for processing all discrimination and harassment complaints.

In compliance with the guidelines established by state and federal law, the following procedures will be implemented to investigate and resolve complaints of unlawful discrimination and harassment:

1. Complaints of unlawful discrimination may be filed by a student who has personally suffered discrimination or by a person who has knowledge of such discrimination, within one year of the date of the alleged unlawful discrimination or within one year of the date on which the complainant knew or should have known of the facts underlying the allegation of unlawful discrimination or harassment.
2. Student discrimination or harassment complaints may be filed with the District’s Equal Opportunity Officer (at 333 East Eighth Street, Oakland, CA 94606; (510) 466-7252).
3. Student discrimination and harassment complaints may also be filed with the Vice President of Student Services as follows:
 - College of Alameda, Building A, Room 111,
(510) 748-2204
 - Laney College, Tower Building, Room 412,
(510) 464-3162

Merritt College, Building P, Room 311,
(510) 436-2478

Vista Community College, 2020 Milvia St.,
Berkeley, 3rd Floor, (510) 981-2820

4. All complaints not filed directly with the District's Equal Opportunity Officer should be immediately forwarded to that Officer on the approved District form.
5. Whenever any person brings charges of unlawful discrimination to the District Equal Opportunity Officer's attention, that Officer shall:
 - (a) Inform the complainant that he or she may, but is not required to, informally resolve the charges and that s/he has the right to end the informal resolution effort and begin the formal stage at any time;
 - (b) Notify the complainant of the procedures for filing a complaint;
 - (c) Discuss with the complainant what actions he or she is seeking in response to the alleged discrimination; and
 - (d) Advise the complainant that he or she may file a complaint with the Office for Civil Rights of the United States Department of Education.
 - (e) Immediately upon receipt of a complaint, the District's Equal Opportunity Officer will forward a copy to the State Chancellor's Office on the appropriate form.
 - (f) The District's Equal Opportunity Officer will return defective complaints to the complainant with an explanation of the deficiencies and how they may be corrected if the complaint is to be considered.
 - (g) Upon receipt of the complaint, the District Equal Opportunity Officer will review the complaint and determine the need for any interim measures of relief pending completion of the investigation.
6. Within fourteen (14) days of receiving the complaint, a thorough and impartial investigation will commence with notification to the complainant and the Chancellor of the initiation of the investigation. Complaints will be investigated and resolved in accordance with the District's unlawful discrimination complaint procedures. To ensure a prompt and equitable investigation of complaints, the investigation shall include an opportunity for the complainant and the accused to present witnesses and other evidence on their behalf. Thus, the investigation shall include private interviews with the complainant, the accused individual and each of the witnesses identified by both parties. Sufficient information about the allegations of the complaint shall be disclosed to the accused to provide him/her with an opportunity to respond to the allegations of the complaint and provide additional information. To the extent appropriate, the District will keep the complainant apprised of the progress of the investigation.
7. Complaints will be handled promptly in an appropriately confidential manner — that is, the District's Equal Opportunity Officer will disclose the identities of the parties only to the extent necessary to carry out an investigation.
8. The results of the investigation shall be set forth in a written report which shall include at least all of the following:
 - (a) Description of the circumstances giving rise to the complaint;
 - (b) A summary of the testimony provided by each witness, including the complainant and any witnesses identified by the complainant;
 - (c) An analysis of any relevant data or other evidence collected during the course of the investigation; and
 - (d) A specific finding as to whether discrimination did or did not occur with respect to each allegation in the complaint.
9. Within ninety (90) days of receiving a complaint, the District shall complete its investigation and provide the complainant with the following information:
 - (a) A written notice setting forth:
 - (1) A copy or summary of the District's investigative report;
 - (2) The District's determination on the merits of the complaint; the proposed resolution of the complaints, to the extent that disclosure does not invade any person's privacy rights; and
 - (3) The complainant's right to appeal to the District governing board and the Chancellor.

Likewise, the accused individual shall be notified of the outcome of the investigation.
10. If the allegation of sexual, racial, or disability harassment is substantiated, the District will take reasonable, timely and effective steps to end the harassment. Depending upon the severity of a given case and/or prior incidents of harassment, a violation of this rule shall lead to disciplinary action including the possibility of expulsion or termination from the District. Remedial measures will be offered if appropriate to correct the discriminatory effects on any individual who has experienced harassment. The District's policy against discriminatory harassment will be interpreted consistently with any federally guaranteed rights involved in a complaint proceeding, including student's First Amendment rights to free speech and the accused individual's right to due process.
11. Should the Complainant not be satisfied, he or she may

appeal the proposed resolution within ten (10) days of the date of the proposed resolution to the Chancellor. The Chancellor may request an additional investigation, sustain the administrative determination, reverse the administrative determination or take any other appropriate action. If the Chancellor makes the administrative determination, the Complainant may appeal directly to the Board of Trustees within the same time periods set forth above. If the Chancellor sustains the administrative determination or the Complainant is not otherwise satisfied with the Chancellor's decision, the Complainant may appeal to the Board of Trustees within fifteen (15) days of the Chancellor's decision. All appeals shall be filed with the Chancellor's Office at 333 East 8th Street, Oakland, CA 94606. Should the complainant not be satisfied, he or she may appeal the proposed resolution to the District governing board within fifteen (15) days. The District board shall review the original complaint, the investigative report, the determination and the appeal and may issue a final District decision within forty-five (45) days of receiving the appeal. The decision of the Administration will become final if the Board does not act within forty-five (45) days. The student may then appeal the final District decision to the State Chancellor's Office within thirty (30) days. The Office of Equal Opportunity will furnish the complainant with necessary information regarding where and how to file the objection with the State Chancellor's Office.

12. Within 150 days of receiving the complaint, and after the resolution proposal is sent to the complainant, the District will forward the complete file of the complaint, findings of the investigation, the District's proposed resolution, the letter to the complainant informing him or her of the proposal, and any relevant material to the State Chancellor's Office.

SEXUAL ASSAULT POLICY AND PROCEDURES

1.0 POLICY

- 1.1. Unlawful sexual assault is a criminal activity prohibited in all employee and student areas, buildings, properties, facilities, service areas, satellite centers of the PCCD and all non-District areas where Peralta classes/instruction are conducted. It is the policy of the PCCD to ensure, to the extent possible, that students, faculty and staff who are victims of a sexual assault committed at or upon the grounds of or upon off-campus grounds or facilities maintained by the District or its colleges, shall receive information, follow-up services, and referrals to local

community treatment centers.

- 1.2. Each college, through the Office of the Vice President of Student Services, shall make available sexual assault awareness information to students and employees.

2.0 DEFINITION OF SEXUAL ASSAULT (EDUCATION CODE 67365)

- 2.1. "Sexual Assault" includes, but is not limited to, rape, forced sodomy, forced oral copulation, rape by a foreign object, sexual battery, or threat of sexual assault.

3.0 PROCEDURE

The Office of the Vice President of Student Services shall have full responsibility, except for public information, for the administration and follow-up of the sexual assault program required. This includes:

- ❑ Making available to students and staff the District policy on sexual assault.
- ❑ Meeting legal reporting requirements.
- ❑ Identifying available services for the victim.
- ❑ Developing and updating a description of campus resources available to victims as well as appropriate off-campus services.
- ❑ Implementing procedures for keeping the victim informed of the status of any student disciplinary proceedings in connection with the sexual assault.
- ❑ Providing confidentiality.

- 3.1. It shall be the responsibility of the Vice President of Student Services to see to it that victims of sexual assault committed at or upon the grounds of, or upon off-campus grounds or facilities maintained by the District, shall receive information and referral for treatment. Services available include immediate short-term crisis counseling, and long-term counseling referral to agencies in the community. This information shall be provided with sensitivity and in consideration of the personal needs of the victim.

- 3.1.1. Any student, faculty, or staff member who is a victim of sexual assault at a District facility referred to in Section 1.1 of this policy is encouraged to notify the Vice President of Student Services. The Vice President of Student Services, with the consent of the victim, shall notify the Campus/District Police Services.

- 3.1.2. Pursuant to legal requirements, the Campus/District Police will notify the appropriate local law enforcement agency of the reported sexual assault, and obtain an ambulance to transport the victim to the hospital, as

necessary.

- 3.1.3. In accordance with the Campus Crime Awareness and Security Act of 1990, the District, on an annual basis, shall notify students and employees of statistics concerning specific types of crime, including sexual assault. This notice shall be made through appropriate publication/mailings. The names of the victims will not be reported in the statistics.
- 3.1.4. In cases of violent crimes considered to be a threat to other students and employees, each college's President or the Chancellor of the District shall make timely reports, respecting the confidentiality of the victim, to the college community in a manner that will aid in the prevention of similar occurrences.
- 3.1.5. Upon notification of a sexual assault, the Campus/District Police Services will distribute to the victim a description of campus resources and services available to the victim, as well as appropriate off-campus services. Each student or employee should have a copy of this policy.
- 3.1.6. The listing of resources and services shall be available through the Campus/District Police Services, each college's Counseling Department, and Health Services Unit.
- 3.1.7. A victim of sexual assault shall be provided with information about pursuing the following remedies or actions against the perpetrator:
Employees: Criminal Prosecution/Civil Prosecution:
 District disciplinary process:
 Violation of this policy will cause disciplinary action which may include termination of employment or may require an employee to participate in a rehabilitation program.
Students: Criminal Prosecution/Civil Prosecution:
 District disciplinary process:
 Students are required to comply with this policy to remain in good standing and as a condition of continued attendance at any of the District's colleges. Violation of this policy will be cause for disciplinary action against the student, up to and including expulsion, and/or may require the student to participate in a rehabilitation program. Student discipline shall be accomplished in accordance with provisions of Article 3 of the Title 3, Division 7, Part 47, of the *California Education Code*.
Non-Student/Employer: Criminal Prosecution/Civil Prosecution.
- 3.1.8. A victim of sexual assault shall be kept informed by the college President/designee or the Chancellor of the

status of and disposition of any District/College disciplinary proceedings in connection with the sexual assault.

- 3.1.9. The Counseling Department and Health Services shall assist, upon request, the victim of sexual assault in dealing with academic difficulties that may arise because of the victimization and its impact.
- 3.1.10. The identity of a victim of sexual assault shall remain confidential unless otherwise prescribed by law. Requests for information regarding the sexual assault from the press, concerned students, parents, and Peralta employees not involved in the assault or its investigation, will be handled by the college's Public Information Office or the District's Office of Marketing in accordance with these regulations: the Family Educational Right and Privacy Act, applicable *California Education* and *Administrative Code* sections, and Peralta Community College District Policy.

4.0 DISSEMINATION

- 4.1. These procedures shall be published in all student, faculty and staff handbooks, each college's catalog and schedule of classes and other printed material deemed appropriate by each college's Vice President of Student Services.
- 4.2. These procedures will also be disseminated at each college's orientation and at periodic workshops to be scheduled by each college's Vice President of Student Services.

II. STUDENT GRIEVANCE PROCEDURES

The purpose of this procedure is to provide a prompt and equitable means of resolving student grievances. This procedure shall be available to any student who reasonably believes an experience or decision has adversely affected his or her status, rights or privileges as a student. A grievance may be initiated by a student against an instructor, an administrator, or a member of the classified staff. A grievance may also be initiated against another student.

A. GROUNDS FOR FILING STUDENT GRIEVANCES

The Student Grievance Procedure shall apply **only** to grievances involving:

1. Academic (Grade) Grievance: A complaint alleging mistake, fraud, bad faith or incompetence in the academic (grade) evaluation of student performance. (Board Policy 4.43A)

2. Violation of Law, Policy, and Procedures:
 - a. Violation of rights which a student is entitled to by law or District policy, including financial aid, exercise of free expression, rules for student conduct, admission, probation, or suspension or dismissal policies.
 - b. Act or threat of physical aggression.
 - c. Act or threat of intimidation or harassment.

This Student Grievance Procedure does **not** apply to:

1. Police citations (i.e. “tickets”): Complaints about citations must be directed to the Campus Police in the same way as any traffic violation.
2. Discrimination, Sexual Assault or Sexual Harassment: Any student who feels he/she has been or is presently an alleged victim of sexual harassment, may first contact the Vice President of Student Services to file a complaint verbally or in writing, or may directly contact the District’s Equal Opportunity Officer at 333 East Eighth Street, Oakland, CA 94606, (510) 466-7220. At the time a complaint is made known, a copy of the complaint procedures and a complaint form shall be made available to the complainant. For additional information regarding reporting of discrimination, sexual assault or sexual harassment, please refer to Discrimination Complaint Procedures in this catalog.

B. DEFINITIONS

Party: The student or any persons claimed to have been responsible for the student’s alleged grievance, together with their representatives. “Party” shall not include the Grievance Hearing Committee.

Student: A currently enrolled student, a person who has filed an application for admission to the college, or a former student. A grievance by an applicant shall be limited to a complaint regarding denial of admission. Former students shall be limited to grievances relating to course grades to the extent permitted by Education Code Section 76224(a).

Respondent: Any person claimed by a grievant to be responsible for the alleged grievance.

Observer: An individual who is present at a hearing to observe the proceeding, but shall not be allowed to speak and address the committee.

Written Notice/Written Decision: Notice sent by personal service or by registered or certified mail with return receipt requested via the U.S. Postal Service.

Day: Unless otherwise provided, day shall mean a day during which the college is in session and regular classes are held, excluding Saturdays, Sundays, and District holidays.

C. GRIEVANCE PROCESS

1. Step One: Informal Resolution

Within 30 days of the allegation, each student who has a grievance shall make a reasonable effort to resolve the matter on an informal basis prior to requesting a grievance hearing:

- a. For an academic (grade) grievance, the student shall make an appointment with the faculty against whom he/she has a grievance during the faculty member’s posted office hours or at a mutually-agreed-upon time, in order to discuss the student’s complaint. Should the faculty against whom the student has an academic complaint fail to meet with the student in a timely manner, the student may meet with the Division Dean of Instruction of the faculty member.
- b. For a grievance based on an alleged violation of law, policy, and procedures, the student shall attempt to solve the problem with the person with whom the student has the grievance, that person’s immediate supervisor, or the Vice President of Student Services (or designee).

2. Step Two: Formal Complaint Procedures

Any student who believes he/she has a grievance must file an approved grievance complaint form with the Vice President of Student Services (or designee). The student may obtain the form from the Office of the Vice President of Student Services.

The student must file within 90 days of the incident on which the grievance is based; or after the student knew or should have known of the basis for the grievance, whichever is later. The grievance complaint must be filed whether or not the student has already initiated efforts at informal resolution, if the student wishes the grievance to become official. Failure to file a formal complaint within such ninety (90) day period constitutes waiver of the student’s right to appeal.

a. Filing Complaint

The complaint must include the following:

- The exact nature of the complaint (grounds).
- The specific details of the complaint (e.g., chronology of the event and an explicit description of the alleged violation).
- A description of the informal meeting and attempted resolution, if any.
- The specific resolution/remedy sought.

Complaint should be filed with Vice President of Student Services.

b. Meeting with Vice President of Student Services (or designee)

The Vice President of Student Services (or designee) shall provide to the person against whom the grievance has been filed a copy of the grievance and a copy of the procedure.

The Vice President of Student Services (or designee) will provide the grievant with a written copy of the policy and procedures and answer all questions regarding the policy including the student's rights and responsibilities in the process of filing a grievance. For academic (grade) grievance, the Vice President of Student Services (or designee) will inform the student that a grade change may only be made where there is a finding of fraud, mistake, bad faith or incompetence.

The student and Vice President of Student Services (or designee) shall attempt to reach an informal resolution.

c. Request for Grievance Hearing

If an informal resolution cannot be reached, the Vice President of Student Services (or designee) shall make a request for records and documents from the student filing the complaint and forward copies of all documents pertinent to the alleged violation to the Chair of the Grievance Committee and the parties. Documents or accusations not specifically related to the alleged violations shall not be forwarded to the committee or the parties.

1. For academic (grade) grievance, the Chair shall request records and documents from the faculty member against whom the complaint has been filed.
2. For grievance based on an alleged violation of law, policy, and procedures, the Chair shall request records and documents from the party against whom the complaint has been filed.

d. Grievance Hearing Committee

Within 90 calendar days following receipt of the grievance complaint form, the Grievance Hearing Committee shall conduct a hearing. The following College Grievance Committee members shall be appointed for a term of one academic year as follows:

- The Vice President of Instruction, who shall Chair the committee;
- One faculty member (and one alternate) jointly appointed by the PFT and the Faculty Senate;
- One administrator (and one alternate) appointed by the College President;
- One student (and one alternate) appointed by the President of the Associated Students.

Additional committee member:

- For academic (grade) grievances, one faculty member (and one alternate) jointly appointed by the PFT and the Faculty Senate; or
- For other grievances, one classified employee (and one alternate) jointly appointed by Local 790 and the Classified Senate.

A committee member shall withdraw from participation in the hearing if a conflict of interest is anticipated, in which case the alternate member shall serve. The members of the Committee shall be provided with a copy of the grievance and any written response provided by the respondent before the hearing begins. Four-fifths of the members of the committee shall be present in order for the committee to act.

e. Hearing Procedure

1. The Vice President of Instruction, as Chair, shall provide written notice, including the date, time and place of the hearing to both parties at least ten days prior to the hearing. The notice shall be hand-delivered or sent by certified mail and shall include a copy of the complaint.
2. The Chair shall provide the involved complainant with a written summary of rights he/she may be entitled to by law or contract at least 10 days before the hearing. For academic (grade) grievance, the Chair of the committee shall provide the involved faculty member with a written summary of rights he/she may be entitled to by law or contract at least 10 days before the hearing. Both parties shall be given adequate time (at least 10 days) to read and review all documents, consistent with privacy laws. This right may be waived by either party. Both parties shall be informed that all relevant evidence presented to the hearing committee, whether written or oral, may be used

against them in this or any other proceeding unless otherwise prohibited by law. The written notice shall inform the parties of this fact. The Chair of the committee shall inform both parties orally of this fact at the commencement of the hearing.

3. The decision of the Chair shall be final on all matters relating to the conduct of the hearing unless there is a vote by a majority of the other members of the panel to the contrary. The Chair may do whatever is necessary, so long as it is legally permissible, to ensure that the hearing is conducted in a fair, dignified and orderly manner.
4. The Chair of the committee may exclude a witness from the hearing when the witness is not giving testimony.
5. Anyone who disrupts the proceeding or interferes shall be excluded from the proceeding.
6. All information derived from the complaint is confidential. Information may not be made public nor discussed with anyone except those with a legitimate need to know.
7. The hearing shall be open only to persons directly involved in the matters to be heard. The bargaining agent representing the respondent may send an observer to any hearing.
8. The committee may call in "expert witnesses" if the subject of the grievance is beyond their expertise.
9. The committee shall inform the witnesses (other than the accused) in writing that they are sought for interview purposes and their participation in the process is requested by the committee. Witnesses shall also be informed as to the purpose of the interview, the general subject of the interview, and their right to request representation by anyone of their choosing prior to and during said interview.
10. Any member of the committee may ask questions of any witness.
11. The hearing shall be conducted so as to bring all of the relevant information and evidence to the members of the committee in an orderly and intelligible form. Formal rules of evidence shall not apply. Any relevant evidence shall be admitted, if it is the sort of evidence on which responsible persons are accustomed to rely upon in the conduct of serious affairs. Accusations not specifically related to the alleged violation shall not be considered relevant. The rules of privilege shall apply to the same extent that they are recognized in civil actions.
12. At all steps of the process, both the student filing and the other party have the right to be accompanied, advised and represented by a person or counsel of their choosing. If either party wishes to be represented by an attorney, a request must be presented not less than 10 days prior to

the date of the hearing. If the student is permitted to be represented by an attorney, the college representative may request legal assistance. The hearing committee may also request legal assistance; any legal advisor provided to the panel may sit with it in an advisory capacity to provide legal counsel but shall not be a member of the panel nor vote with it.

13. If the respondent or his/her representative, or both, are absent from all or a part of the hearing, the committee shall make its recommendations on the basis of whatever evidence is submitted before the hearing and on whatever evidence and testimony is presented to the committee during the hearing.
14. The committee shall make all evidence, written or oral, part of the record.
15. The committee shall judge the relevancy and weight of testimony and evidence and make its findings of fact, limiting its investigation to the formal charge. The decision shall be based only on the record of the hearing, and not on matters outside of that record.
16. The burden shall be on the grievant to prove by a preponderance of the evidence that the facts alleged are true and a grievance has been sufficiently established.
17. The hearing date may be postponed or continued at the discretion of the Chair of the committee. Both parties shall be given notice of the new or continued hearing date.
18. The votes of the majority of the members present (at least 3 votes) are necessary in order for the committee to make a recommendation to the Vice President of Student Services.
19. The Chair of the committee shall notify the Vice President of Student Services of the committee's recommendation within 10 days.
20. A summary record of the proceedings held in a closed session shall be kept in a confidential file by the Vice President of Student Services and shall be available at all times to the accused person. The Vice President of Student Services has the responsibility to ensure that a proper record is maintained and available at all times.

f. Final Decision by Vice President of Student Services

Based on the grievance hearing committee's recommendations, the Vice President of Student Services (or designee) may accept the recommendation, return it to the committee for further review, or reject it. Within 10 days of receipt of the committee's recommendation, the Vice President of Student Services (or designee) shall send written notification to the parties and committee informing them of:

- The committee's recommendation;
- The final decision by Vice President of Student Services; and
- Appeals procedure.

Any decision to reject findings of the committee must be supported by a summary finding of fact. The decision to recommend a grade change must be supported by a summary finding of fact, establishing mistake, fraud, bad faith or incompetence.

3. Appeals

a. President's Decision

The Vice President of Student Services' (or designee's) decision may be appealed by either party in writing within 10 days of the Vice President of Student Services' (or designee's) decision.

The College President shall issue a written decision to the parties and their representatives within ten (10) school days of receipt of the appeal. A decision to change a grade must be supported by a summary finding of fact, establishing mistake, fraud, bad faith or incompetence.

b. Chancellor's Decision

The College President's decision may be appealed to the Chancellor in writing within 10 days of receipt of the decision.

The Chancellor, or designee, shall issue a written decision to the parties and the representatives by certified mail within 10 days of the receipt of the decision. A decision to change a grade must be supported by a summary finding of fact, establishing mistake, fraud, bad faith or incompetence.

c. Board of Trustees' Decision

The Chancellor's (or designee's), decision may be appealed to the Board of Trustees in writing within 10 days of the receipt of the decision.

The Board will review the documentation of the prior steps of the case and determine whether to confirm the Chancellor's decision or hear the appeal. If the Board confirms the Chancellor's decision, the appellant has exhausted his or her remedies. If the Board decides to consider the appeal, it will do so in closed session subject to Education Code 72122, and will issue a final decision within forty-five (45) school days after receipt of the decision.

A decision to change a grade must be supported by a summary finding of fact, establishing mistake, fraud, bad faith or incompetence. Implementation of any grade change shall be held in abeyance until the internal appeal process has been exhausted.

All recommendations, resolutions, and actions taken by the Board of Trustees shall be consistent with the State and Federal law, the Peralta Community College District Policies and Procedures, and the PFT and Local 790 Collective Bargaining Agreements. (In the event of a conflict between the Collective Bargaining Agreement and the PCCD Policies and Procedures, the Collective Bargaining Agreement shall govern.)

4. Time Limits

Any times specified in these procedures may be shortened or lengthened if there is mutual concurrence by all parties.

III. STUDENT CONDUCT, DISCIPLINE, AND DUE PROCESS RIGHTS

The purpose of this procedure is to provide a prompt and equitable means to address violations of the Code of Student Conduct, which ensures to the student or students involved the due process rights guaranteed them by state and federal constitutional protections. This procedure will be used in a fair and equitable manner, and not for purposes of retaliation. It is not intended to substitute for criminal or civil proceedings that may be initiated by other agencies.

These procedures are specifically not intended to infringe in any way on the rights of students to engage in free expression as protected by the state and federal constitutions, and by Education Code Section 76120, and will not be used to punish expression that is protected.

A student excluded for disciplinary reasons from one college in the Peralta Community College District may be denied enrollment into other colleges in the District, depending on the specific form of discipline. The President of a college may also deny admission to a student suspended or excluded for disciplinary reasons from other colleges or universities.

A. STUDENT CODE OF CONDUCT

Students are responsible for complying with all college regulations and for maintaining appropriate course requirements as established by the instructors.

Disciplinary action may be imposed on a student for violation of college rules and regulations, the *California Education Code*, *California Penal Code*, and the *California Administrative Code*. Student misconduct may result in disciplinary action by the college and prosecution by civil authorities. Misconduct that may result in disciplinary action includes, but is not limited to, the following violations:

1. Violation of District policies or regulations including parking and traffic regulations (subject to Education Code Section 76036), policies regulating student organizations, and time, place and manner regulations in regard to public expression.
2. Willful misconduct which results in injury or death of any person on college-owned or –controlled property, or college-sponsored or supervised functions; or causing, attempting to cause, or threatening to cause physical injury to another person.
3. Conduct which results in cutting, defacing, damaging, or other injury to any real or personal property owned by the college or to private property on campus.
4. Stealing or attempting to steal college property or private property on campus; or knowingly receiving stolen college property or private property on campus.
5. Unauthorized entry to or use of college facilities.
6. Committing or attempting to commit robbery or extortion.
7. Dishonesty such as cheating, plagiarism (including plagiarism in a student publication), forgery, alteration or misuse of college documents, records, or identification documents, or furnishing false information to the college.
8. The use, sale, or possession on campus of, or presence on campus under the influence of, any controlled substance, or any poison classified as such by Schedule D in Section 4160 of the Business and Professions Code or any controlled substance listed in California Health and Safety Code Section 11053 *et seq.*, an alcoholic beverage, or an intoxicant of any kind; or unlawful possession of, or offering, arranging or negotiating the sale of any drug paraphernalia, as defined in California Health and Safety Code Section 11014.5.
9. Possession, sale or otherwise furnishing any firearm, knife, explosive or other dangerous object, including but not limited to any facsimile firearm, knife or explosive, unless, in the case of possession of any object of this type, the student has obtained written permission to possess the item from an authorized college employee.
10. Willful or persistent smoking in any area where smoking has been prohibited by law or by regulation of the governing board.
11. Lewd, indecent, or obscene conduct or expression on college-owned or –controlled property, or at college-sponsored or supervised functions; or engaging in libelous or slanderous expression; or expression or conduct which so incites students as to create a clear and present danger of the commission of unlawful acts on college premises, or substantial disruption of the orderly operation of the college.
12. Disruptive or insulting behavior, willful disobedience, habitual profanity or vulgarity; or the open and persistent defiance of the authority of, refusal to comply with directions of, or persistent abuse of, college employees in the performance of their duty on or near the school premises or public sidewalks adjacent to school premises.
13. Obstruction or disruption of teaching, research, administrative procedures or other college activities.
14. Committing sexual harassment as defined by law or by college policies and procedures; or engaging in harassing or discriminatory behavior based on race, sex, religion, age, national origin, disability, or any other status protected by law.
15. Persistent, serious misconduct where other means of correction have failed to bring about proper conduct.

In accordance with Education Code Section 76234, the results of any disciplinary action or appeal in connection with any alleged sexual assault, physical abuse or threat of the same shall be made available within 3 school days of the results, to the alleged victim, who shall keep such information confidential.

B. FORMS OF DISCIPLINE

Students facing disciplinary action are subject to any of the following actions:

Written or verbal reprimand: An admonition to the student to cease and desist from conduct determined to violate the Code of Student Conduct. Written reprimands may become part of a student's permanent record at the college. A record of the fact that a verbal reprimand has been given may become part of a student's record at the college for a period of up to one year.

Probation: A period of time specified for observing and evaluating a student's conduct, with or without special conditions. Probation will be imposed for a specific period of time; the student is considered removed from probation when the period expires. Violation of any conditions during the period of probation may be cause for further disciplinary action.

Loss of Privileges and Exclusion from Activities: Exclusion from participation in designated privileges and extracurricular activities for a specified period of time. Violation of any conditions or Code of Student Conduct during the period of sanction may be cause for further disciplinary action.

Educational Sanction: Work, research projects, counseling, or community service projects may be assigned. Violation of any requirements of assignment or Code of Student Conduct during the period of sanction may be cause for further disciplinary action.

Treatment Requirement: Require enrollment in anger management, drug and alcohol rehabilitation treatment. Such requirement must receive prior approval from the Vice President of Student Services (or designee).

Group Sanction: Sanctions for the misconduct of groups or organizations may include temporary or permanent revocation or denial of group registration as well as other appropriate sanctions.

Removal from Class: Exclusion of the student by an instructor for the day of the removal and the next class meeting. Instructor must immediately report the removal to the Vice President of Student Services (or designee).

Exclusion from Areas of the College: Exclusion of a student from specified areas of the campus. Violation of the conditions of exclusion or Code of Student Conduct during the period of exclusion may be cause for further disciplinary action.

Withdrawal of Consent to Remain on Campus: Withdrawal of consent by the Campus Police for any person to remain on campus in accordance with California Penal Code Section 626.4/626.6 where the Campus Police has reasonable cause to believe that such person has willfully disrupted the orderly operation of the campus. Any person as to whom consent to remain on campus has been withdrawn who knowingly reenters the campus during the period in which consent has been withdrawn, except to come for a meeting or hearing, is subject to arrest.

Short-term Suspension: Exclusion of the student by the President (or designee) for good cause from one or more classes for a period of up to ten consecutive days of instruction.

Long-term Suspension: Exclusion of the student by the President (or designee) for good cause from one or more classes for the remainder of the school term or school year, or from all classes and activities of the college and District for one or more terms.

Expulsion: Exclusion of the student by the Board of Trustees from all colleges in the District.

Disciplinary action may be imposed on a student by:

1. A college faculty member who may place a student on probation or remove the student from class and/or a college activity for the remainder of that class/activity period.
2. The President (or designee) who may impose any form of discipline, including summarily suspending a student when deemed necessary for the welfare and safety of the college community.
3. The President who may recommend "expulsion" to the Board of Trustees.
4. The Board of Trustees who may terminate a student's privilege to attend any college of the District.

C. DUE PROCESS RIGHTS FOR SUSPENSIONS AND EXPULSIONS

Definitions

Student: Any person currently enrolled as a student at any college or in any program offered by Peralta Community College District.

Faculty Member: Any instructor (an academic employee of the District in whose class a student subject to discipline is enrolled), counselor, librarian, or any academic employee who is providing services to the student.

Day: A day during which the District is in session and regular classes are held, excluding Saturdays, Sundays, and District holidays.

Written Notice/Written Decision: Notice sent by personal service or by registered or certified mail with return receipt requested via the United States Postal Service.

Short-term Suspensions, Long-term Suspensions, and Expulsions

Before any disciplinary action to suspend or expel is taken against a student, the following procedures will apply:

Notice: The Vice President of Student Services (or designee) will provide the student with written notice of the conduct warranting the discipline. The written notice will include the following:

- The specific section of the Code of Student Conduct that the student is accused of violating.
- A short statement of the facts (such as the date, time, and location) supporting the accusation.
- The right of the student to meet with the Vice President of Student Services (or designee) to discuss the accusation, or to respond in writing.
- The nature of the discipline that is being considered.

Time limits: The notice must be provided to the student within 5 days of the date on which the conduct took place or became known to the Vice President of Student Services (or designee); in the case of continuous, repeated or ongoing conduct, the notice must be provided within 5 days of the date on which conduct occurred or became known to the Vice President of Student Services (or designee) which led to the decision to take disciplinary action.

Conference Meeting: A student charged with misconduct must meet with the Vice President of Student Services (or designee) for a conference regarding the basis of the charge and the possible disciplinary action that may arise as a consequence. If the student fails to respond within 5 days after receipt of the written notice, the Vice President may proceed on the assumption that the charge(s) is (are) valid.

The conference with the Vice President of Student Services (or designee) will be for the purpose of:

- a. Reviewing the written statement of the charge(s) as presented to the student;
- b. Providing a reasonable opportunity at the meeting for the student to answer the charge(s) verbally or in writing to the accusation;
- c. Informing the student in writing of possible disciplinary action that might be taken;
- d. Presenting to the student the College Due Process Procedures.

One of the following scenarios will occur:

- a. The matter is dismissed, in which case no public record of this incident shall be retained; however, an annual confidential report is required to be submitted to the Peralta Board of Trustees.
- b. A disciplinary action is imposed, and the student accepts the disciplinary action.
- c. A disciplinary action is imposed, and the decision of the Vice President of Student Services (or designee) is final due to the form of the discipline.
- d. A disciplinary action of a long-term suspension is imposed and the student does not accept the long-term suspension. The student must file at the Office of the President a written notice of intent to appeal to the Student Disciplinary Hearing Panel within 5 days of the written decision from the Vice President of Student Services (or designee).
- e. A recommendation for expulsion is made by the Vice President of Student Services (or designee) to the College President.

Short-term Suspension

Within 5 days after the meeting described above, the Vice President of Student Services (or designee) shall decide whether to impose a short-term suspension, whether to impose some lesser disciplinary action, or whether to end the matter. Written notice of the Vice President of Student Services' (or designee's) decision shall be provided to the student. The written notice will include the length of time of the suspension, or the nature of the lesser disciplinary action. The Vice President of Student Services' (or designee) decision on a short-term suspension shall be final.

Long-term Suspension

Within 5 days after the meeting described above, the Vice President of Student Services (or designee) may decide to impose a long-term suspension. Written notice of the Vice President of Student Services' (or designee) decision shall be provided to the student. The written notice will include the right of the student to request a formal hearing and a copy of the College Student Discipline (Due Process) Procedures describing the procedures for a hearing.

Expulsion

Within 5 days after the meeting described above, the Vice President of Student Services (or designee) may decide to recommend expulsion to the President. The Student Disciplinary

Hearing Panel shall be convened to provide a recommendation to the President. The President shall then decide whether to make a recommendation of expulsion to the Chancellor and Board of Trustees. Written notice of the President's (or designee) decision to recommend expulsion shall be provided to the student. The written notice will include the right of the student to a formal hearing with the Board of Trustees before expulsion is imposed, and a copy of the College Student Discipline (Due Process) Procedures describing the procedures for a hearing.

Hearing Procedures

Request for Hearing: Within 5 days after receipt of the Vice President of Student Services' (or designee's) decision regarding a long-term suspension, the student may request a formal hearing. The request must be made in writing to the President (or designee). Any charge(s) to which the student does not respond shall be deemed valid.

Any recommendation for expulsion by the Vice President of Student Services (or designee) shall be automatically reviewed by the Student Disciplinary Hearing Panel.

Schedule of Hearing: The formal hearing shall be held within 10 calendar days after a written request for hearing is received. Student's failure to confirm attendance at hearing or failure to appear at the hearing without reasonable cause constitutes waiver of the student's right to appeal.

Student Disciplinary Hearing Panel: The hearing panel for any disciplinary action shall be composed of one faculty (selected by the President of the Faculty Senate), one classified (selected by the President of the Classified Senate), one administrator (selected by the President of the College) and one student (selected by the Associated Students).

The President (or designee), at the beginning of the academic year, will establish the panel, along with alternates. The chair of the committee will be appointed by the President.

Hearing Panel Chair: The President (or designee) shall appoint one member of the panel to serve as the chair. The decision of the hearing panel chair shall be final on all matters relating to the conduct of the hearing unless there is a vote by two other members of the panel to the contrary.

Conduct of the Hearing:

The members of the hearing panel shall be provided with a copy of the accusation against the student and any written response provided by the student before the hearing begins.

The facts supporting the accusation shall be presented by a college representative who shall be the Vice President of Student Services.

The college representative and the student may call witnesses and introduce oral and written testimony relevant to the issues of the matter.

Formal rules of evidence shall not apply. Any relevant evidence shall be admitted.

Unless the hearing panel determines to proceed otherwise, the college representative and the student shall each be permitted to make an opening statement. Thereafter, the college representative shall make the first presentation, followed by the student. The college representative may present rebuttal evidence after the student completes his or her evidence. The burden shall be on the college representative to prove by substantial evidence that the facts alleged are true.

The student may represent himself or herself, and may also have the right to be represented by a person of his or her choice, except that the student shall not be represented by an attorney unless, in the judgment of the hearing panel, complex legal issues are involved. If the student wishes to be represented by an attorney, a request must be presented not less than 5 days prior to the date of the hearing. If the student is permitted to be represented by an attorney, the college representative may request legal assistance. The hearing panel may also request legal assistance; any legal advisor provided to the panel may sit with it in an advisory capacity to provide legal counsel but shall not be a member of the panel nor vote with it.

Hearings shall be closed and confidential unless the student requests that it be open to the public. Any such request must be made no less than 5 days prior to the date of the hearing.

In a closed hearing, witnesses shall not be present at the hearing when not testifying, unless all parties and the panel agree to the contrary.

The hearing shall be recorded by the District either by tape recording or stenographic recording, and shall be the only recording made. No witness who refuses to be recorded may be permitted to give testimony. In the event the recording is by tape recording, the hearing panel chair shall, at the beginning of the hearing, ask each person present to identify himself or herself by name, and thereafter shall ask witnesses to identify themselves by name. Tape recording shall remain in the custody of the District at all times, unless released to a professional

transcribing service. The student may request a copy of the tape recording.

All testimony shall be taken under oath; the oath shall be administered by the hearing panel chair. Written statements of witnesses under penalty of perjury shall not be used unless the witness is unavailable to testify. A witness who refuses to be tape-recorded is not unavailable.

Within 10 days following the close of the hearing, the hearing panel shall prepare and send to the President (or designee) a written recommendation regarding the disciplinary action to be imposed, if any. The recommendation shall include specific factual findings regarding the accusation, and shall include specific conclusions regarding whether any specific section of the Standards of Student Conduct were violated. The decision shall be based only on the record of the hearing, and not on matters outside of that record. The record consists of the original accusation, the written response, if any, of the student, and the oral and written evidence produced at the hearing.

President's (or designee's) Decision:

Long-term suspension: Within 5 days following receipt of the hearing panel's recommendation, the President (or designee) shall render a final written decision based on the recommendations of the hearing panel and the Vice President of Student Services (or designee). If the President (or designee) modifies or rejects the hearing panel's recommendation, the President shall review the record of the hearing, and shall prepare a written decision that contains specific factual findings and conclusions. The decision of the President (or designee) shall be final.

Expulsion: Within 5 days following receipt of the hearing panel's recommendation, the President (or designee) shall render a written decision either to recommend expulsion or to impose a lesser form of discipline. If the President (or designee) modifies or rejects the hearing panel's decision, he or she shall review the record of the hearing, and shall prepare a written decision that contains specific factual findings and conclusions. If the President (or designee) decides to recommend expulsion, such recommendation shall be forwarded to the Chancellor and Board of Trustees.

Chancellor's Decision:

A student may, within 10 days of the President's decision to impose long-term suspension or to recommend expulsion, appeal the decision in writing to the Chancellor. For long-term suspensions, the Chancellor (or designee) shall issue a written

decision to the parties and the representatives within ten days of the receipt of the President's decision. For expulsions, the Chancellor shall forward the President's recommendation to the Board of Trustees within 10 days and provide an independent opinion as to whether he or she also recommends expulsion.

Board of Trustees' Decision:

The Chancellor's (or designee's) decision regarding long-term suspension may be appealed to the Board of Trustees within 10 days of receipt of the Chancellor's decision.

The Board of Trustees shall consider any recommendation from the President for expulsion at the next regularly scheduled meeting of the Board after receipt of the recommended decision.

The Board shall consider an expulsion recommendation in closed session, unless the student has requested that the matter be considered in a public meeting in accordance with these procedures. (Education Code Section 72122)

The student shall receive written notice at least three days prior to the meeting of the date, time, and place of the Board's meeting.

The student may, within 48 hours after receipt of the notice, request that the hearing be held as a public meeting.

Even if a student has requested that the Board consider an expulsion recommendation in a public meeting, the Board will hold any discussion that might be in conflict with the right to privacy of any student other than the student requesting the public meeting in closed session.

The Board may accept, modify or reject the findings, decisions and recommendations of the President (or designee) and Chancellor (or designee). If the Board modifies or rejects the decision, the Board shall review the record of the hearing, and shall prepare a written decision that contains specific factual findings and conclusions. The decision of the Board shall be final.

The final action of the Board on the expulsion shall be taken at a public meeting, and the result of the action shall be a public record of the District.

Time Limits:

Any times specified in these procedures may be shortened or lengthened if there is mutual concurrence by all parties.

Student Grievance:

Students who believe that they have been improperly subjected to any of the disciplinary measures stated in this policy may file a Student Grievance with the Vice President of Student Services in accordance with Board Policy 4.43.

IV. ACADEMIC ACCOMMODATIONS POLICY AND PROCEDURES

A. ACADEMIC ACCOMMODATIONS POLICY FOR STUDENTS WITH DISABILITIES

The Peralta Community College District, as a group of public institutions of higher education and vocational training, commits itself to a policy of equal opportunity and nondiscrimination for students with disabilities. It is the policy of the District to accommodate requests involving academic adjustments consistent with local, state, and federal laws and regulations.

In the case of a dispute involving the student's request for academic accommodations or a student's inquiry regarding the District's compliance with applicable laws and regulations, the Vice President of Student Services reviews the case and makes an interim decision pending resolution through the grievance procedure, Board Policy 4.43. The finding of the grievance committee may be appealed directly to the District Equal Opportunity Officer. (BP 5.24)

B. ACADEMIC ACCOMMODATION PROCEDURES FOR STUDENTS WITH DISABILITIES - IMPLEMENTING PROCEDURES FOR BOARD POLICY 5.24

Pursuant to Section 504 of the Rehabilitation Act of 1973, Title 5, Section 56027, and Board Policy 5.24, the Peralta Community College District has developed the following procedures to respond in a timely manner to requests by students with disabilities for academic accommodations. Pursuant to Title 5, Sections 56000-56088, the District has developed Disabled Student Programs and Services (DSP&S) at each college to assist students with disabilities in securing appropriate instruction, academic accommodations and auxiliary aids.

The goal of all academic accommodations and auxiliary aids is to minimize the effects of the disability on the educational process. The student with a disability shall be given the opportunity both to acquire information and to be evaluated in

a way that allows the student to fully demonstrate his/her knowledge of the subject. The goal is to maintain academic standards by giving the student assignments that are comparable in content, complexity, and quantity.

1. Process to Request Services

When a student requests disability-related services, the student's disability is verified by the DSP&S professional¹ according to state-mandated criteria. If the student is deemed ineligible for services and wishes to appeal this decision, he/she will follow the District Student Grievance Procedure. Concurrently, the college ADA Coordinator will review the case and make an interim decision pending resolution through the student grievance procedure. The finding of the grievance committee may be appealed directly to the District Equal Opportunity Officer.

The DSP&S professional, in consultation with the student, determines educational limitations based on the disability and authorizes the use of any appropriate auxiliary aids and/or academic accommodations. These may include but are not limited to:

- a. Auxiliary aids such as a tape recorder, assistive listening device, calculator, computer, taped text or spelling checker used in the classroom and/or in completing class assignments.
- b. The use in the classroom of a reader, American Sign Language interpreter, note taker, or scribe, or real-time captioner for students who are deaf or hard of hearing or the presence of guide dogs, mobility assistants, or attendants in the classroom.
- c. Testing accommodations such as extended time for test taking and distraction-free test setting.
- d. Extending the length of time permitted for course or degree requirements and flexibility in the manner in which specific course content is obtained.
- e. Substitution for specific courses required for the completion of general education degree requirements, or substitutions or waivers of major or certificate requirements.
- f. Access to Alternate Media such as Braille, large print, video captioning.
- g. With the consent of the student, instructors are informed of authorized auxiliary aids and academic accommodations. It is the responsibility of the instructor to allow auxiliary aids to be used in the classroom or to coordinate with the DSP&S professional for the delivery of academic accommodations. It is the responsibility of the DSP&S

professional to make arrangements for and facilitate the delivery of academic accommodations with the disabled student in coordination with faculty, as appropriate. The DSP&S professional will assist with providing the appropriate accommodations and appropriate follow-up for DSP&S students. An example of appropriate follow-up might be a DSP&S Counselor contacting an instructor and DSP&S student to inquire about the effectiveness of an accommodation.

2. Grievance Procedures

If a student is denied academic accommodations or the use of auxiliary aids by an instructor and wishes to appeal, she/he should contact the DSP&S professional to schedule a meeting with the instructor to discuss and resolve the issue. The student may invite the DSP&S professional (i.e., a DSP&S Coordinator, Counselor, Instructor, Acquired Brain Injury (ABI) Specialist, Learning Disability (LD) Specialist etc.) to attend this meeting. In the case where an unresolved issue becomes a dispute (i.e., an issue that is not resolved informally between the student and the instructor with the assistance of the DSP&S professional), the student may file a complaint through the District Student Grievance Procedure. Concurrently, the college ADA Coordinator or designee will review the case and make an interim decision pending resolution through the student grievance procedure. If the issue is still not resolved, the student may appeal directly to the District Equal Opportunity Officer.

3. Meeting General Education Degree Requirements

When the severity of the disability of an otherwise qualified student precludes successful completion of a course required for graduation from a college within the Peralta Community College District, despite an earnest effort on the part of the student to complete the course or its prerequisite—if appropriate for the disability as determined by a qualified DSP&S Specialist—and despite the provision of academic adjustments and/or auxiliary aids, the student may request a substitution of the course as an alternative method of meeting general education degree requirements. The Evaluation Team will consist of the DSP&S Coordinator, the Department chair or instructor from the discipline of the course or major for which a substitution is being requested, and the appropriate Dean of Instruction. The team may consult, as appropriate, with DSP&S professionals, Associate Vice Chancellor for Admissions and Records and Student Services, and the college Vice President of Instruction in order to make a decision. In assessing requests, the Evaluation Team should consider the anticipated exit skills from the course that can be substituted for comparable exit

skills in another course. These comparable skills may be found in a discipline different from the discipline of the original course.

4. Meeting Major or Certificate Requirements

The process for evaluating requests for major or certificate requirements is the same as stated in the section above except that the student may request a substitution or a waiver of the course as an alternative method of meeting major or certificate requirements.

A course substitution maintains the standards of academic rigor of degree programs because the student is required to demonstrate comparable skills.² Therefore, requesting a course substitution is the preferred option to meet general education degree requirements. For major or certificate course requirements, course substitutions and/or waivers may be considered.

Course substitutions are applicable for Peralta Community College District and may not be recognized by a transfer college.

5. Evaluation of Substitution/Waiver Request

a. Documentation

The student will complete the *Request for Change of Graduation Requirements* Form (available in the DSP&S office) and submit it to the DSP&S professional with the following attachments:

1. PETITION for Substitution/Waiver (obtained from the Admissions Office).
2. LETTER (written by the student) addressing the criteria listed in Part B.
3. EVIDENCE FROM THE DSP&S PROFESSIONAL (DSP&S Coordinator, Counselor, Instructor, Acquired Brain Injury (ABI) Specialist, Learning Disability (LD) Specialist, etc.) verifying the disability and how it relates to the student's request.
4. DOCUMENTATION of the student's academic record, the degree requirements for graduation and information about the course in question regarding whether or not it is essential to the student's course of study, major, transfer goals and/or employment goals as appropriate.
5. ADDITIONAL SUPPORTING DOCUMENTATION can be provided by students.

b. Evaluation of Request

The DSP&S professional will review all documents, outline evidence of the use of all appropriate and available services

and academic adjustments and indicate that, according to CRITERIA listed below, that the request is appropriate. The DSP&S professional then signs the *Request for Change of Graduation Requirements* Form and forwards the packet to the DSP&S Coordinator, who will convene an Evaluation Team.

The Evaluation Team consists of the DSP&S Coordinator, the Department Chair (or an Instructor) from the discipline of the course or major for which a substitution is being requested and the Dean of Instruction with responsibility for the Division, which includes the discipline of the course substitution. The Evaluation Team meeting is to be chaired by the Dean of Instruction and should consult with the Associate Vice Chancellor for Admissions and Records and Student Services, DSP&S professionals, and the College Vice President of Instruction as appropriate.

The Evaluation Team will assess student requests based on the following criteria:

- ❑ Documentation of the student's disability with specific test scores, when appropriate, and a description of educationally-related functional limitations in the academic area under discussion.
- ❑ Evidence of the student's earnest efforts to meet the graduation requirement, which may include:
 - Consistent and persistent efforts in attempting to meet all graduation requirements.
 - Evidence that the student has attempted to take the course in question or its prerequisite with accommodations and has been unable to successfully complete course requirements.
 - Regular attendance (i.e., meeting the attendance requirements of the course); completion of all course assignments.
 - Use of all appropriate and available services such as tutorial assistance or instructional support classes.
 - Use of all appropriate and available academic accommodations such as test accommodations.
 - Agreement among the student, DSPS Counselor and the appropriate Disabilities Specialist that, due to the severity of the disability, the student would not be able to successfully complete the course requirements, even with accommodations.
- ❑ Evidence that the student is otherwise qualified such as: The student's success in completing other course work requirements for the degree/certificate as indicated by a grade point average of 2.0 or greater in degree applicable classes.

Information about the course in question regarding whether or not it is essential to the student's Course of Study, Major, Transfer Goals or Employment Goals. Information about alternatives to the course in question based on the learning/academic goals of that course.

6. Meeting General Education Degree Requirements

The Evaluation Team's decision will be made by majority vote. If the Team recommends a course substitution, the Team will request the department³ to provide a list of previously identified appropriate course substitutions. If the department cannot identify an appropriate course substitution or if the Team concludes that a substitute course is inappropriate due to the severity of the disability, as documented by the *Verification of Disability and Educational Limitations* Form, then the College Vice President of Instruction and the Associate Vice Chancellor for Admissions and Records and Student Services shall be included in the evaluation process to assist with the identification of an appropriate course substitution. To approve recommendations for course substitutions, the Evaluation Team will forward its recommendation to the Vice President of Instruction and then to the Associate Vice Chancellor for Admissions and Records and Student Services. The District Office of Admissions and Records will verify, implement and notify the student.

7. Meeting Major/Certificate Requirements

The process for evaluating requests for major/certificate requirements is the same as those stated above *except* that the student may request a substitution or a waiver of a course as an alternative method of meeting major or certificate requirements.

8. Grievance Procedure

If the student is dissatisfied with the decision of the Evaluation Team, she/he may follow the Student Grievance Procedure. The finding of the grievance committee may be appealed directly to the District Equal Opportunity Officer. Students can obtain the assistance of the District Equal Opportunity Office at any point during this process.

¹DSP&S professional, as defined pursuant to Title 5 Sections 56006, 56048, 56060, 56064 and 56066, is the professional authorized to make these determinations.

²When a student completes a comparable course as established by an Evaluation Team.

³That is, the department in which the student is asking for the course substitution. The departments of the Colleges must go through the normal curriculum process in determining these appropriate course substitutions.

OTHER DISTRICT/COLLEGE POLICIES

ANIMALS ON CAMPUS

Students are urged not to bring animals on campus. Animals running loose or left tied on campus will be impounded in accordance with sections 3-9.16 and 3-9.17 of the Oakland Municipal Code. Seeing-eye dogs are an exception.

PRESERVING A DRUG-FREE CAMPUS

It is the policy of the Peralta Community College District to maintain a campus where students are prohibited from the unlawful manufacture, distribution, dispensing, possession or use of controlled substances as listed in Schedules I through IV of Section 202 of the *Controlled Substances Act* (21 U.S.C. Section 812) and from abuse of alcohol.

For purposes of this policy, campus shall mean those places where a student is engaged in an authorized college activity. The campus includes property owned or leased by the District; property used by the District for student participation in field trips, field study, athletic competition or study travel programs; District or private vehicles while being used for official District business.

All students are required to comply with this policy to remain in good standing and as a condition of continued attendance in any of the District's colleges. Any violation of this policy will be cause for disciplinary action against the student, up to and including expulsion, and/or may require the student to participate satisfactorily in a substance abuse assistance or rehabilitation program. Student discipline shall be accomplished in accordance with the provisions of Article 3 of Title 3, Division 7, Part 47, of the *California Education Code*.

Any student who needs information about substance abuse treatment may consult a counselor, who can provide the student with information about available treatment resources. The District does not provide substance abuse treatment.

The District shall provide annual notice to its students of the prohibitions stated in this policy, including a description of the health risks associated with drug or alcohol abuse and of the District and community resources available for counseling and rehabilitation of those with alcohol or drug-related problems. The District shall also provide notice of the consequences of campus illicit drug and alcohol abuse violations, including possible criminal sanctions and student disciplinary action up

to and including expulsion pursuant to applicable state law and District policy.

SMOKE-FREE CAMPUS

Merritt College is a smoke-free campus. Smoking is not permitted in any of the college's facilities.

STUDENT RIGHT-TO-KNOW DISCLOSURE

In compliance with the Student Right-to-Know and Campus Security Act of 1990, completion and transfer rates for students attending Merritt College can be found on the Peralta Community Colleges web site at <http://www.peralta.cc.ca.us>.

TITLE 5 REGULATIONS

It is the policy of the Peralta Community College District (unless specifically exempt by statute) that every course, wherever offered and maintained by the district, for which the average daily attendance is to be reported for state aid, shall be fully open to enrollment and participation by any person who has been admitted to the college(s) and who meets such prerequisites as may be established pursuant to Chapter 11, Division 2, Part VI, Title 5 of the *California Administrative Code*, commencing with Section 51820.

WEAPONS POLICY

The unauthorized use, possession or storage of weapons, fireworks, or explosives is prohibited on any Peralta College premise (including vehicles) or at any Peralta Community College-sponsored activity. Weapons may include, but are not limited to, firearms, pellet guns, bows and arrows, martial arts equipment, switchblade knives, swords, large knives, and clubs.