California State University Standards of Conduct

Chapter 3 of the Student Handbook, **California State University Standards of Conduct**, is contained either within the Student Handbook or on the Leadership Development area of the Academy's website. Each chapter in the Student Handbook contains information that is necessary knowledge for all cadets.

Chapter 3, also can be found in the Student Handbook, addresses the disciplinary requirements of Federal and California state law as well as the California State University Chancellor's Executive Orders as they apply to student rights and responsibilities, student conduct, hearing boards and appeal procedures.

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CHAPTER 3

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A. CALIFORNIA STATE UNIVERSITY STANDARDS OF CONDUCT

Admission to a campus of the California State University carries with it the assumption of a sense of responsibility for the welfare of the community. Also assumed are the obligations on the part of each individual to respect the rights of others and to protect the Academy as a forum for the free expression of ideas. Therefore, conduct, which violates California State University and/or The California Maritime Academy policy, is considered a detriment to the learning environment and the members of the Academy. Conduct in violation of the offenses listed shall be punishable by expulsion, suspension, probation or other sanctions as outlined in Section 3.A.(2).

(1) STUDENT AUTHORITY FOR STATUTORY DISCIPLINE

The Trustees of the California State University are authorized to establish student disciplinary rules pursuant to Education Code 66300. Section 60017 provides specific authorization for the Trustees to establish procedures to take disciplinary action against students for willfully disrupting the orderly operation of the campus. The statute also authorizes immediate suspension where necessary in order to protect lives or property and to ensure the maintenance of order. Education Code Section 69810, et seq. govern the forfeiture of state aid to students based on either conviction of a public offense or a campus student disciplinary determination that the student willfully and knowingly disrupted the peaceful conduct of the activities of a campus.

Procedures are established pursuant to section 41301 of Title 5 of the California Code of Regulations (Title 5), and govern all student discipline matters system wide.

(2) CAUSES FOR DISCIPLINARY ACTION

- (a) Cheating or plagiarism or other forms of academic dishonesty in connection with an academic program are intended to gain unfair academic advantage.
- (b) Forgery, alteration or misuse of campus documents, records, or identification, or knowingly furnishing false information to a campus authority.
- (c) Misrepresentation of oneself or of an organization to be an agent of a campus.
- (d) Obstruction or disruption, on or off campus property of any member of the campus administrative process, or other campus function.
- (e) Conduct that threatens or endangers the health and safety on or off campus of any person or property within or related to the University community or of members of his or her family, including physical abuse, threats, intimidation, harassment, or sexual misconduct. For additional information refer to Section 6.K.
- (f) Theft of, misappropriation of university resources, or non-accidental damage to, campus property, or property in the possession of, or owned by, a member of the campus community.
- (g) Unauthorized entry into, unauthorized use of, or misuse of campus property.
- (h) On or off campus property, the use, sale, manufacturing, distribution of illegal drugs related paraphernalia or misuse of legal pharmaceutical drugs except as expressly permitted by law and University regulations.
- (i) Possession or misuse of firearms or guns, replicas, ammunition, explosives, fireworks, knives, other weapons, or dangerous chemicals without prior authorization of the campus president on campus or at a university related activity.
- (j) Engaging in disorderly, lewd, indecent, or obscene behavior at a University related activity (on or off campus), or directed toward a member of the University community.
- (k) Abusive behavior directed toward, or hazing of, or conspiracy to haze, a member of the campus community.
- (I) Violation of any order of the President, notice of which had been given prior to such violation and during the academic term in which the violation occurs, either by publication in the campus newspaper or by posting on an official bulletin board designated for this purpose, and which order is not inconsistent with any of the other provisions of this section.
- (m) Soliciting or assisting another to do any act which would subject a student to expulsion, suspension, or probation pursuant to this Section.
- (n) Misuse of computer facilities or recourses, including:
 - (1) Unauthorized entry into a file, for any purpose

- (2) Unauthorized transfer of a file
- (3) Use of another's identification or password
- (4) Use of computer facilities, campus network, or other resources to interfere with the work of another member of the University community
- (5) Use of computing facilities and resources to send obscene or intimidating and abusive messages
- (6) Use of computer facilities and resources to interfere with the normal University operations
- (7) Use of computer facilities and resources in violation of copy write laws
- (8) Violation of a campus computer use policy. For further information, please refer to Section 6.D.
- (o) Willful, material and substantial obstruction of the free flow of pedestrian or other traffic, on or leading to campus property or an off campus University related event.
- (p) Unauthorized recording, dissemination, or publication of academic presentations (includes handwritten notes) for a commercial purpose.
- (q) Failure to comply with directions, or interference with, any university official or any Police Services officer while acting in the performance of his/her duties.
- (r) Any act chargeable as a violation of federal, state, or local law that poses a substantial threat to the safety or well being of members of the University community, to property within the University community or possess a significant threat of disruption or interference with University operations.
- (s) Violation of the Student Conduct Procedures, including:
 - (1) Falsification, distortion, or misrepresentation of information related to a student discipline matter.
 - (2) Disruption or interference with the orderly progress of a student discipline proceeding.
 - (3) Initiation of a student discipline proceeding in bad faith.
 - (4) Attempting to discourage another from participating in the student discipline matter.
 - (5) Attempting to influence the impartiality of any participant in a student disciplining matter.
 - (6) Verbal or physical harassment or intimidation of any participant in a student disciplinary matter.
 - (7) Failure to comply with the sanction(s) imposed under a student discipline proceeding.
- (t) Encouraging, permitting or assisting another to do any act that could subject him or her to discipline.
- (u) For purposes of this article, the following terms are defined:
 - (1) "Campus" and "university" are used interchangeably and both mean the California State University.
 - (2) **Complainant** means an individual who claims to have been injured by, or have knowledge of, a student's violation of the student code of conduct.
 - (3) **Executive Order 1074** is the system wide policy prohibiting Discrimination, Harassment and Retaliation against Students and system wide Procedure for handling Discrimination, Harassment and Retaliation complaints by students.
 - (4) "Member of the university community" means California State University trustees, employees, students, and university guests who are on university property or at a university related activity.
 - (5) "Sexual misconduct" means any non-consensual sexual intercourse, sexual assault, sexual exploitation, indecent exposure, or attempt to commit any of these acts.
 - (6) Student means an applicant for admission to the CSU, an admitted CSU student, an enrolled CSU student, a CSU extended student, a CSU student between academic terms, a CSU graduate awaiting degree, and a CSU student who withdraws from school while a disciplinary matter is pending.
 - (7) "Student Conduct Code" means Section 41301 of Title 5 of the California Code of Regulations.
 - (8) University meaning the California State University, including all 23 campuses.
 - (9) "University official" means any person employed by a campus, performing administrative or professional duties.
 - (10) "University property" means:

- (a) real or personal property in the possession of, or under the control of, the Board of Trustees of the California State University, and
- (b) all campus facilities whether utilized by the university or a campus auxiliary organization.
- (11) "University related activity" means any sponsored by, coordinated with, or directly affecting the university's regular functions.
- (12) "Working day" means any day of the academic year, summer session or special session, other than a Saturday, Sunday, or academic holiday as that term is defined in Section 42800 of Title 5 of the California Code of Regulations.
- (13) "Crime of violence" includes arson, assault offenses, burglary, criminal homicide (manslaughter by negligence), criminal homicide (murder and non-negligent manslaughter), destruction/damage/vandalism of property, kidnapping/abduction, robbery, and forcible and non-forcible sex offenses.
- (14) "Deadly weapon" means any instrument or weapon of the kind commonly known as blackjack, sling shot, billy, sandclub, sandbag, metal knuckles, any dirk, dagger, switchblade knife, pistol, revolver, or any other firearm, and knife having a blade longer then five inches, and razor with an unguarded blade, and any metal pipe or bar used or intended to be used as a club.
- (15) "Behavior" includes conduct and expression.
- (16) "Hazing" is defined as any method of initiation or pre-initiation into a student organization or student body, whether or not the organization or body is officially recognized by an educational institution, which is likely to cause serious bodily injury to any former, current or perspective student of any school, community college, college, university or other educational institution in this state (Penal Code 245.6), and in addition any act likely to cause physical harm, personal degradation or disgrace resulting in physical or mental harm, to any former, current or perspective student of any school, community college, college, university or other educational institution. The term "hazing" does not include customary athletic events or school sanctioned events.

Neither the express or implied consent of a victim of hazing, or the lack of active participation in a particular hazing incident is a defense. Apathy or acquiescence in the presence of hazing is not a neutral act, and is also a violation of this section.

(3) ORGANIZATION AND JURISDICTION OF HEARING OFFICERS AND BOARDS

(a) AUTHORITY OF THE PRESIDENT

The President of the Academy is responsible for student discipline, including the implementation of these procedures and any action taken under this authority. The functions of the President may be delegated to individual designees who are members of the faculty and staff of the Academy, and who shall exercise those functions in the President's names. All references in these procedures to the President include such designees.

- (1) The President of the Academy shall annually appoint faculty and staff to the hearing and appeals boards defined below.
- (2) During periods of campus emergency, as determined by the President of the Academy, the President may place into immediate effect any emergency regulations, procedures, and other measures deemed necessary or appropriate to meet the emergency, safeguard persons and property, and maintain educational activities.
- (3) The duties of the President in these proceedings may be delegated to another campus official.

(b) STUDENT CONDUCT ADMINISTRATOR

- (1) Appointment. The Student Conduct Administrator shall be assigned by the President.
- (2) Decision to Initiate Disciplinary Action. The Student Conduct Administrator shall make the decision as to whether disciplinary action shall be taken on all violations of Section 3.A.(2) of the Standards of Conduct for Students.
- (3) Notification of Victims of Sexual Assault or Physical Abuse. The Student Conduct

- Administrator may notify alleged victims of sexual assault or physical abuse of the results of and disciplinary action taken within three (3) working days following that disciplinary action (Education Code Section 67143).
- (4) Notification of Victims of Crime of Violence. The Student Conduct Administrator may notify alleged victims of a crime of violence of the results of any disciplinary action taken.
- (5) Then Student Conduct Administrator serves at the pleasure of the President.

(c) STUDENT CONDUCT FACILITATOR

- (1) Appointment. The Student Conduct Facilitator shall be appointed by the Director, Marine Program and Leadership Development.
- (2) Decision to Initiate Disciplinary Action. The Student Conduct Facilitator shall make the decision as to whether disciplinary action shall be taken on all other violations.
- (3) Scheduling of Hearings. The Student Conduct Facilitator shall make the physical and scheduling arrangements for hearings held under these procedures.
- (4) Campus Representative. The Student Conduct Facilitator shall represent the campus in all hearings.
- (5) The Student Conduct Facilitator shall meet with the charged students to assure they understand the procedures of the conduct system and their rights within the system.
- (6) The Student Conduct Facilitator shall track the students' conduct records providing regular reports to the Student Conduct Administrator.
- (7) The Student Conduct Facilitator shall assign and supervise extra duty requirements.

(d) HEARING BOARDS

- (1) Discipline Review Hearing Officers (DRH) has jurisdiction over all violations of the Standards of Conduct for Students and can impose disciplinary sanctions. The DRH Officer is selected from the academic departments, Leadership Development, and Student Affairs. To assure the availability of a hearing board officer at all times, the President may designate a pool of qualified faculty and staff to serve throughout the year. The DRH Officer operates only on campus.
- (2) While cadets are on cruise, Captain's Mast has jurisdiction over all serious disciplinary violations, including but not limited to violations of the Standards of Conduct for Students. The Commanding Officer will preside over all these violations and can impose appropriate disciplinary sanctions. This responsibility cannot be delegated. In these situations, the Captain may also make a determination to remove the cadet for the safety and security of the ship and crew or other significant violations of the cadet conduct code that demonstrate conduct unbecoming a cadet including, but not limited to, such conduct onshore that causes embarrassment to the Academy or United States. Additionally, the Captain may make a determination to refer the violation to a DRH hearing on the campus for further action if warranted.
 - Captain's Mast will hear all violations of Class I and Class III on board the Training Ship, which are not heard by the Conduct Review Board. All violations will be evaluated by the Deputy Commandant of Cadets to determine the appropriate Hearing Board on the Training Ship.
 - (a) Attendance at Captain's Mast is mandatory for all infractions aboard the Training Ship. Failure to attend the Mast may result in further charges of absence from duty.
 - (b) The decision of the Captain's Mast shall be made immediately, unless the case warrants further investigation. Sanctions may include a warning, demerits, loss of liberty, removal from cruise, community service, and other sanctions as authorized in Section 3.B.(8).
 - (c) Decisions of the Captain's Mast can be appealed in accordance with Section 3.B.(6).
- (3) Academic Integrity Committee (AIC) has jurisdiction over matters pertaining to

academic dishonesty. Academic dishonesty cases that occur in the classroom shall be handled by faculty members according to applicable campus procedures. After action has been taken in any such case, the faculty member shall prepare an email that identifies the Student who was found responsible, the general nature of the offense, the action taken, and a recommendation as to whether or not disciplinary action should be considered. The faculty member shall promptly send the email to the vice president for Student Affairs and the student conduct administrator so that the circumstances of the misconduct can be considered in their totality. A department's procedure for responding to cases of academic dishonesty is, by its nature, limited to the instance presented in a particular class. The Student Conduct Code process provides the campus with an opportunity to consider the Student's entire circumstances, including whether the reported instance is part of a larger pattern of misconduct. For complete information regarding this committee please refer to The California Maritime Academy Policy Manual, Policy Number 547.

(4) SUSPENSION OF PROCEDURES AND APPOINTMENT OF HEARING OFFICERS AND BOARDS

Each campus president shall appoint one or more persons to serve as hearing officers. They may be University employees (current or retired), managers or directors (current or retired) of a recognized campus auxiliary organization, attorneys licensed to practice in California, or administrative law judges from the Office of Administrative Hearings. Student conduct administrators and their subordinates, persons with a conflict of interest in the matter, and percipient witnesses to the events giving rise to the matter are ineligible to serve as hearing officers. The hearing officer conducts the hearing, determines whether a Student has violated the Student Conduct Code, and prepares a report that includes findings of facts and conclusions about whether the Student violated the Student Conduct Code and any recommended sanctions. All hearing officers shall have relevant experience or shall receive appropriate training regarding such issues as the student discipline process, the laws governing Discrimination, Harassment and Retaliation, Student and witness privacy rights, the Family Educational Rights and Privacy Act of 1974 (FERPA), and the role and duties (including impartiality and confidentiality) of the hearing officer.

The President may suspend these procedures at any time and appoint for a specific case or cases one or more persons to serve as Hearing Officers. Hearing Officers shall follow the Student Handbook. They may be campus officials, attorneys licensed to practice in California, or administrative law judges from the Office of Administrative Hearings. Subordinates of the Student Conduct Administrator, persons with a conflict of interest in the matter, and percipient witnesses to the events giving rise to the case are ineligible to serve as Hearing Officers. The Hearing Officers conduct the hearing, determine whether a student has violated the Standards of Conduct for Students and if so, recommends sanctions.

(5) ADVISORS

Both the Complainant and the Student charged may elect to be accompanied by an advisor to any meeting(s), conferences or interview(s). The advisor's role is limited to observing consulting with and providing support to the Complainant or Student charged; an advisor may not speak on the Student's/Complainant's behalf.

(6) USE OF ATTORNEYS

Student Conduct proceedings are administrative in nature rather than part of any local, state, or federal civil and/or criminal trial procedure. Such disciplinary hearings have an education component and the presence of attorneys often changes the nature of the proceedings to the degree that such instruction is difficult to achieve. Accordingly, consistent with campus practice and policy, the presence of attorneys in such hearings is prohibited (any person licensed to practice law is considered an attorney for this purpose).

The practice and policy of denying the presence of attorneys in these hearings is supported by case law which established that attorneys are not required to ensure fairness or student due

process [ex. Osteen v. Henly, 13 F.3d 221 (7th Circuit 1993) and Goldberg v. Regents of the University of California (1967) 248 Cal. App. 2d 867, 881]. This policy applies to both the student charged and the campus administration. Both the student and the campus may consult attorneys outside of the actual proceedings, but neither may have attorneys participating in the actual hearing process.

(7) INTERPRETATION OF THE CODE OR PROCESS

All issues regarding the hearing, except those specifically noted, are within the purview of the hearing officer for final determination. Questions of interpretation or application of the Standards of Conduct for Students are outside the purview of the Hearing Officer and are determined by the Student Conduct Administrator.

(8) PARALLEL JUDICIAL PROCEEDINGS

Standards of Conduct for Students proceedings are independent from other court proceedings. Student discipline may be instituted against a student also charged in civil or criminal courts based on the same facts that constitute the alleged violation of the Standards of Conduct for Students. The university may proceed before, simultaneously with, or after any other judicial proceedings.

(9) TIME LIMITS FOR INITIATING STUDENT DISCIPLINE

Executive Order No. 1073 (Article IV, Section A (1) specifies that a complaint alleging that a student has violated the Student Code, as that term is defined in Executive Order No. 1073, should be submitted to the Coordination of University Student Discipline (Student Conduct Administrator) as soon as possible. All times set in Executive Order No. 1073 may be extended by the university when necessary. Extensions must be determined by the Student Conduct Administrator.

(10) CONFIDENTIALITY

Records created during the student disciplinary process are "education records" under the Family Educational Rights and Privacy Act of 1974 and protected from production to third parties without the consent of the student charged. FERPA allows a campus to notify an alleged victim of a "non-forcible sex-offense" or a "crime of violence," as it defines that term, of any disciplinary action. However, the California Information Practices Act prohibits the disclosure of all "personal information" without the consent even in a student disciplinary proceeding.

(11) OTHER STUDENT CONDUCT CODE VIOLATIONS RELATED TO INCIDENTS OF SEXUAL VIOLENCE

Victims should not be deterred from reporting incidents of sexual violence out of a concern that they might be disciplined for related violations of drug, alcohol, or other University policies. The University's primary concern is Student safety; therefore, except in extreme circumstances, victims of sexual violence shall not be subject to discipline for related violations of the Student Conduct Code.

(12) IINTERPRETATION OF STUDENT CONDUCT CODE AND THIS EXECUTIVE ORDER

All issues regarding the hearing described in Article IV. D except those specifically noted are within the purview of the hearing officer for final determination. Questions of interpretation or application of the Student Conduct Code or this executive order are outside the purview of the hearing officer and are determined by the campus president or designee.

(13) DELEGATION OF DUTIES

The duties of the president in these proceedings may be delegated to a vice president.

(14) TIMELINES

The campus may (but is not required to) extend timelines set forth in this executive order. Extensions shall be determined by the campus president or a designee. The student conduct administrator shall notify the Student charged, Complainant and any involved campus administrators of any revised timeline.

B. CALIFORNIA STATE UNIVERSITY STUDENT MISCONDUCT PROCEEDINGS

(1) COMPLAINT INTAKE/INVESTIGATION

- (a) Whenever it appears that the Standards of Conduct for Students has been violated, a complaint should be directed to the Student Conduct Administrator or Facilitator as soon as possible after the events take place. The complaint can be oral or in writing.
- (b) The Student Conduct Administrator ensures the investigation of each complaint submitted and determines whether it is appropriate to charge a student with violation of the Standards of Conduct for Students. The Student Conduct Administrator is not prohibited from initiating an investigation if a formal complaint has been filed; he/she may investigate any matter in which he/she believes there may have been a violation of the Student Conduct Standards.
- (c) Timelines. Investigations shall be concluded within 60 calendar days after a complaint has been made.
- (d) Cases Involving Allegations of Discrimination, Harassment or Retaliation.
 - (i) Complaints by Students alleging Discrimination, Harassment or Retaliation against other Students shall be filed and investigated according to the procedures set forth in Executive Order 1074. The DHR Administrator shall notify the student conduct administrator of the status of any such complaint or appeal to the Chancellor's Office, as well as the investigation results (including findings and any interim remedies afforded to the Complainant/victim) where a student has been found in violation of Executive Order 1074.
 - (ii) Complaints against Students by other members of the University community shall be filed and investigated according to the procedures set forth in section 2, above. The student conduct administrator shall ensure that any such Complainant/victim is promptly referred to the campus administrator who has been appointed by the president to coordinate compliance with the laws protecting against Discrimination, Harassment and Retaliation.

(2) PRE-HEARING CONFERENCE

- (a) The Student Conduct Administrator and/or Facilitator holds a conference with the student charged and obtains his or her response to the alleged misconduct, exception in instances where the student charged declines to cooperate, in which case the conference requirement is waived. The student may bring a person with him or her to advise him or her during the conference. The student's advisor is there to provide support and not to speak on behalf of the student. If agreement can be reached as to an appropriate disposition of the matter, it will be closed and terms of the disposition shall be put in writing and signed by the student charged and the Student Conduct Administrator. (The settlement is a permanent part of the student's conduct record.)
- (b) If the student admits a violation of the Standards of Conduct for Students, but no agreement can be reached on an appropriate sanction, the student charged may request a hearing on the sanction only.

(3) CONFERENCE

(a) The student conduct administrator shall schedule a conference with the Student charged within 10 Working Days after the investigation is complete. The Student charged shall respond to the charges of misconduct at the conference. In cases involving allegations of Discrimination, Harassment or Retaliation, within 10 Working Days after receiving the report and findings (of Student Complaints) or within 10 Working Days after completing the report and findings (of Complaints by persons other than Students), the student conduct

- administrator shall: (1) schedule and also hold the conference with the Student, and (2) offer the Complainant the opportunity to meet with the student conduct administrator separately.
- (b) The conference shall not be recorded.
- (c) The student conduct administrator controls the conference and may exclude any advisor who materially disrupts the conference.
- (d) The conference requirement is waived if the Student fails to attend the conference or otherwise declines to cooperate.

(4) NOTICE OF HEARING

- (a) If the alleged violation of the Standards of Conduct for Students is not resolved at the conference with the Student Conduct Administrator or Facilitator, and he or she has determined that formal disciplinary action is appropriate, or if the student charged requests a hearing on the sanction only, the Student Conduct Facilitator issues a notice of hearing. In cases involving allegations of Discrimination, Harassment or Retaliation, notice shall also be provided to the Complainant. The notice of hearing shall be issued within five Working Days after the conference(s).
 - (1) The notice is sent electronically to the charged student at the university assigned e-mail address linked to the account provided by the California State University (i.e. "xxx@csum.edu")
- (b) The notice of hearing shall be issued under the following circumstances:
 - (1) If the Student fails to attend the conference or otherwise declines to cooperate;
 - (2) If the matter is not closed or the disposition is not memorialized in writing promptly after the conference(s); or
 - (3) If the Student admits violating the Student Conduct Code, but no agreement can be reached with respect to the sanction.
- (c) The notice of hearing shall include the following information:
 - (1) The section(s) of the Standards of Conduct for Students that the student is charged with violating.
 - (2) A factual description of the student's conduct that forms the basis of the charge(s).
 - (3) The proposed sanction(s).
 - (4) Notification that neither the hearing officer(s) nor the President is bound by the proposed sanction and either or both may set a more severe sanction.
 - (5) The date, time, and place of the hearing.
 - (6) The location on the campus where the student can view his or her discipline file.
 - (7) Notification that the student may be accompanied at the hearing by an advisor. Notification that if the student intends to bring an advisor, the student must inform the Student Conduct Administrator of the advisor's name and address five working days before the hearing.
 - (8) Notification that the student can waive his or her rights to a hearing by accepting the proposed sanction.
 - (9) Notification of any immediate suspension and/or withdrawal of consent to remain on campus.
 - (10) Notification of where the student may obtain a copy of the Student Handbook.
- (d) The student conduct administrator shall use best efforts to schedule the hearing promptly, but in any event no sooner than 10 Working Days after, and no later than 20 Working Days after, the date of the notice of hearing.
- (e) A notice to appear at hearing shall be sent to any witnesses whose presence is required at the hearing at least 10 Working Days before the hearing at the University-assigned or other primary e-mail addresses linked to these persons' University accounts.
- (f) The notice of hearing is sent to the student at least ten working days before the hearing. If the

student charged with the violation agrees, the ten-day notice period may be waived.

- (g) By special arrangement, the notice of hearing for all annual training cruise conduct boards may be reduced to 24 hours. Conduct hearings will be conducted throughout the academic year and annual training cruises, including the final examinations periods.
- (h) The notice of hearing may be amended at any time, and the student conduct administrator may (but is not required to) postpone the hearing for a reasonable period of time. If the notice is admended after the hearing is underway, the hearing officer may (but is not required to) postpone the hearing for a reasonable period of time.
 - (1) In cases involving allegations of Discrimination, Harassment or Retaliation, the student conduct administrator shall promptly notify the DHR Administrator of the outcome of the conference with the Student charged. If the case does not proceed to hearing, the DHR Administrator shall at that time:
 - a. Notify the Complainant of the outcome of the conference, including any sanction that

relates directly to the Complainant. Victims of crimes of violence, including forcible sex offenses, shall also receive notice pursuant to IV.F.3.

- b. Take any appropriate further steps to address the effects of any hostile environment resulting from the Discrimination, Harassment or Retaliation.
- c. Identify and address any remaining systemic or other patterns of Discrimination,

Harassment or Retaliation at the campus.

(2). Discipline cases involving allegations of Discrimination, Harassment or Retaliation may

be resolved through the informal conference process. It is, however, not appropriate in such cases for a Complainant to be required to "work out the problem" directly with the Student charged, and in no event should any meeting between Complainant and the Student charged occur without appropriate involvement by the University (e.g., counselor or appropriate administrator). The Complainant must be notified of the right to end any such informal process at any time.

(5) HEARING

- (a) Hearings shall be closed to all persons except the Hearing Board officer(s), the student charged, the Student Conduct Administrator or Facilitator, one advisor for the student charged, one advisor for the Student Conduct Administrator, appropriate witnesses during the time that they are testifying (including a support person for alleged victims of sexual or physical assault), and one person to assist the Hearing Board in recording the hearing. A security officer may also be present if deemed appropriate by the Director, Marine Programs and Leadership Development. The university will cooperate in providing employee witnesses wherever possible, provided that they are identified at least two working days before the hearing.
- (b) The student may be accompanied by one advisor of his or her choice to provide support but not to speak on behalf of the student. Hearing dates will not be changed because of the schedule of the advisor for the student charged.
- (c) The Student Conduct Administrator or Facilitator may be accompanied by one advisor.
- (d) Hearings are intended to be educational rather than adversarial. The
- (e) DRH Officer runs the hearing. The student charged and the Student Conduct Administrator or Facilitator each put on the evidence in their case in whatever manner the Hearing Board deems appropriate and may ask questions of the witnesses. The DRH Officer may also ask questions of any witnesses, the student charged and the Student Conduct Administrator or Facilitator.
- (f) Formal rules of evidence applied in courtroom proceedings do not apply in the hearing (e.g.

California Evidence Code). All information that responsible persons are accustomed to rely upon in the conduct of serious affairs including hearsay is considered. Unduly repetitive information may be excluded. The Hearing Board bases their decision only on the information received at the hearing.

- (g) The DRH Officer makes an official audio recording of the hearing. He or she can have someone present to operate any equipment to make the necessary recording. The recording is the property of the university. No other recording of the hearing is permitted.
- (h) If the student charged fails to appear at the hearing, the hearing proceeds without him or her. The decision in that instance, like every other hearing decision, must be reached on the information presented. The student charged may not be charged to have violated the Standards of Conduct for Students solely because he or she failed to appear at the hearing.
- (i) In cases involving allegations of Discrimination, Harassment or Retaliation:
 - a. The Complainant may be present while evidence is being presented concerning the charges that relate to the Complainant, unless the hearing officer grants a request of any Student or other witness that the Complainant be excused during their testimony to protect such Student's or other witness's privacy rights and/or pursuant to the Family Educational Rights and Privacy Act of 1974 (FERPA).
 - b. The DHR Administrator may attend the hearing in its entirety. Questions may not be posed to an alleged victim, including any Complainant, about his or her past sexual behaviors with any persons other than the Student charged. The hearing officer shall ask all questions of the alleged victims on behalf of the Student charged (who shall give the hearing officer a written list of questions), unless the alleged victims expressly waive this requirement and consent to questioning directly by the Student charged. The hearing officer shall ask any questions of the Student charged and other witnesses on behalf of the Complainant (who shall give the hearing officer a written list of any such questions), unless the Complainant expressly waives this requirement. The investigation report and any Chancellor's Office Response (prepared pursuant to section IV. A. 2. b of this executive order and Articles VI. H and VII. D of Executive Order 1074) will be entered into evidence at the hearing. Any report or response may be redacted to protect private (e.g. contact) information concerning the Complainant or other witnesses.
 - c. The DRH Officer is responsible for maintaining order during the hearing and makes whatever rulings are necessary to ensure a fair hearing. Abusive behavior is not tolerated. The DRH Officer may eject or exclude anyone who refuses to be orderly, including the student charged.
- (j) The DRH Officer shall deliberate and inform the student charged of its decision, either immediately and/or in writing within five working days of the hearing.
- (k) Additionally, notice of the decision will be sent electronically to the charged student at the university assigned e-mail address linked to the account provided by the California State University (i.e. xxx@csum.edu).
- (I) All evidence, name of the student charged, names of witnesses, and other matters related to the proceedings are confidential and shall not be made public by the Academy or by any participant in the hearing, including the student charged. This policy of confidentiality shall not preclude the Academy from taking any subsequent disciplinary action, following appropriate procedures, against any person or entity on the basis of evidence developed at the hearing.
- (m) The DRH Officer's decisions regarding procedural issues are final.
- (n) Where there is more than one student charged arising out of a single occurrence, or related multiple occurrences, the Student Conduct Administrator and the students charged may agree to a single hearing for all of the involved students. A charged student may request consolidation of his or her case with others. The Student Conduct Administrator makes consolidation decisions, which are subject to review by the Hearing Officer and thereafter are final. The separation of one or more cases from a case previously set for a consolidated hearing shall not be considered to affect the other cases.
- (o) At any time during the hearing, the student charged may waive the right to a hearing and

accept the proposed sanction. Such a waiver must be in writing.

(6) STANDARD OF PROOF AND RECOMMENDATION(S)

- (a) The DRH Officer makes decisions only on information present at the hearing. After the hearing, the DRH Officer makes findings of fact and conclusions about whether the information presented constitutes a violation of the Standards of Conduct for Students. The standard for the DRH Officer's decision is whether the university's charge is sustained by a preponderance of the evidence. It is the university's burden to show that it is "more likely than not" that the student violated the Standards of Conduct for Students.
- (b) The hearing officer shall submit a written report of findings and conclusions to the president, along with any recommended sanctions, including, in cases involving allegations of Discrimination, Harassment or Retaliation, recommendations regarding restricting the Student's contact with, or physical proximity to, the Complainant or other persons. The report shall be submitted within 10 Working Days after the hearing.

(7) FINAL DECISION/NOTIFICATION

The president shall review the hearing officer's report and issue a final decision.

- (a) The president may impose the recommended sanction(s), adopt a different sanction or sanctions, reject sanctions altogether, or refer the matter back for further findings on specified issues. If the president adopts a different sanction than what is recommended by the hearing officer, the president must set forth the reasons in the final decision letter. The president's final decision letter shall be issued within 10 Working Days after receipt of the hearing officer's report.
- (b) The president shall send his or her decision electronically to the Student charged at the University-assigned or other primary e-mail address linked to the Student's University account.
- (c) In cases involving crimes of violence, including forcible sex offenses, both the Complainant/victim and Student charged shall be informed of the final results of the hearing in writing. (20 U.S.C. §1092.) This information is only given to the Student charged and Complainant/victim and includes the name of the Student charged, any violation found to have been committed, and any sanction(s) imposed on the Student charged. (20 U.S.C. §1232g; 34 C.F.R. §668.46(b)(11)(vi)(B).) The University may also notify any other alleged victim(s) of the final results regardless of whether or not the charges are sustained. (34 C.F.R. §99.31 et seq.)
- (d) In cases involving Discrimination, Harassment or Retaliation without crimes of violence, a similar notice will be issued, but the information given to the Complainant/victim concerning sanctions shall be limited to any violation found to have been committed and any sanctions that relate directly to the Complainant/victim.
- (e) In cases involving Discrimination, Harassment or Retaliation, the president shall also send his or her final decision to the DHR Administrator so that he/she may determine whether any additional remedies or steps shall be afforded or undertaken in order to maintain a safe and nondiscriminatory University environment.

In cases involving Discrimination, Harassment or Retaliation, if the Complainant/victim requests a copy of the transcript of the hearing, the University shall provide the portions of the transcript that concern whether a violation of the Student Conduct Code occurred.

(8) NOTICE TO VICTIMS OF CRIMES OF VIOLENCE AND SEX OFFENSES

In cases involving a "crime of violence" the university may notify the alleged victim(s) of the final results of a hearing whether or not the charges are sustained (34 C.F.R. § 99.31 et seq.). Where the charge relates to a sexual assault the university must notify the alleged victim of the outcome of the proceeding against the student charged (20 U.S.C. § 1092). The information is only given to the victim(s) and includes only the name of the accused student, any violation alleged committed, and any sanction(s) imposed on the student (20 U.S.C. § 1232g).

(9) SANCTIONS

The following sanctions may be imposed for violation of the Standards of Conduct for Students:

- (a) Restitution Compensation for loss, damages, or injury. This may include appropriate service and/or monetary replacement.
- (b) Loss of Financial Aid Consistent with California Education Code Sections 69810 et seq., scholarships, loans, grants, fellowships, and any other types of state financial aid given or guaranteed for the purposes of academic assistance can be conditioned, limited, cancelled, or denied.
- (c) Revocation of Campus Housing License The License Agreement may be revoked in the event of misconduct in violation of the Student Handbook or when the licensee breaches any term or condition of the Agreement.
- (d) Parental Notification The 1998 Higher Education Amendments added a new exception to FERPA and California Information Practices Act, allowing higher education institutions to disclose to the parents of a student under the age of 21 regarding a violation by their child of laws or University policy relating to alcohol or drug use or possession.
- (e) Educational and Remedial Sanctions Assignments, such as work, research, essays, service to the university or the community, training, counseling, or other assignments intended to discourage a repeat of the misconduct or as deemed appropriate based upon the nature of the violation.
- (f) Recommendation for removal from a Campus leadership position The Student Handbook outlines provisions for removal for cause of Corps officers. Additionally, the Associated Student Constitution and By-Laws also outlines a removal policy.
- (g) Denial of Access to Campus A designated period of time during which the student is not permitted on university property or specified areas of campus (California Penal Code § 626.2).
- (h) Disciplinary Probation A designated period of time during which the privileges of continuing in student status are conditioned upon future behavior. Conditions may include, for example, the potential loss of specified privileges to which a current student would otherwise be entitled, or the probability of more severe disciplinary sanctions if the student is found to violate any university rule during the probationary period. Additionally, while on a probationary status, participation in commercial cruise, co-op or internship programs may be restricted.
- (i) Suspension (Campus adjudicated only) Separation of the student from CSU student status for a certain period of time, after which the student is eligible to reapply to the university. Conditions for readmission may be specified.
- (j) Expulsion (Campus adjudicated only) Permanent separation of the student from CSU student status from the university.
- (k) Admission or Readmission (Campus adjudicated only) Admission or readmission to the California State University may be qualified, revoked or denied to any person found to have violated the Student Conduct Code.
- (I) Removal from Cruise (Cruise adjudicated only) Separation of the student from the annual training cruise for serious disciplinary violations.
- (m) Loss of Liberty (Cruise adjudicated only) Restriction to the Training Ship for all or some of the inport hours during the annual training cruise.
- (n) Multiple Sanctions More than one sanction may be imposed for a single violation.
- (o) Violation of CMA's Drug Testing Policy and Procedure may result in the surrendering of merchant mariner documents and forwarding of a positive drug finding to the U.S. Coast Guard for entry into their record.

(10) GOOD STANDING

A student is not considered to be in good standing for purposes of admission to the California State University while under a sanction of suspension, or expulsion, or while his or her admission

re-admission has been qualified (Section 40601(g) of Title 5 of the California Code of Regulations).

(11) ADMINISTRATIVE HOLD AND WITHHOLDING A DEGREE

The university may place an administrative hold on registration transactions and release of records and transcripts of a student who has been sent a notice of discipline and may withhold awarding a degree otherwise earned until the completion of the process set forth in the Standards of Conduct for Students, including completion of all sanctions imposed.

(12) RECORD OF DISCIPLINE

Probation is entered on a student's transcript, with its beginning and end date, for the period of time that the probation is in effect. Suspension is entered on the student's transcript, with its beginning and end date, for the period of time that the suspension is in effect, but remains on the transcript permanently if the suspension is for longer than one academic year. Expulsion is entered on the student's transcript permanently along with the date it takes effect.

(13) INTERIM SUSPENSION OF STUDENTS

- (a) <u>GROUNDS</u>. The President may impose an interim suspension when he or she believes there is reasonable cause to believe that separation is necessary to protect personal safety of persons within the university community, property of the university or to ensure the maintenance of order (Section 41302 of Title 5 of the California Code of Regulations).
- (b) NOTICE AND OPPORTUNITY FOR HEARING. A student placed on interim suspension is given prompt notice of the charges pending against him or her and the opportunity for a hearing within ten (10) days of the imposition of the suspension (Section 41302 of Title 5 of the California Code of Regulations). Where a timely request is made, a hearing will be held to determine whether continued suspension, pending the disciplinary hearing, is required to protect personal safety or property or to ensure the maintenance of order. This hearing may also serve as the disciplinary hearing in accordance with the procedures provided that proper notice has been given. The hearing is conducted pursuant to the provisions of Section 3.B.(4).
- (c) <u>DENIAL OF PRESENCE ON CAMPUS</u>. During the period of the interim suspension, the student charged may not, without prior written permission of the President, enter any campus of the California State University other than to attend the hearing regarding the merits of his or her suspension. Violation of any condition of interim suspension shall be grounds for expulsion (Section 41302 of Title 5 of the California Code of Regulations).

(14) CONDUCT OF APPLICANTS FOR ADMISSION

Admission or re-admission may be qualified, revoked or denied to any person who commits acts that would be the basis of disciplinary proceedings pursuant to these procedures. Qualified admission or denial of admission in such cases shall be determined by a hearing held pursuant to Section 3.B.

It is expected that all students are enrolled for serious educational pursuits and that they will conduct themselves so as to preserve an appropriate atmosphere of learning. It is also expected that all students who enroll at that Academy are willing to assume the responsibilities of citizenship in the campus community. Association in such a community is voluntary, and any student may withdraw from it at any time, except when on cruise and in a foreign port. Matriculated degree track students and open-university students participating in cruise are subject to the Standards of Conduct for Students and the Corps of Cadets.