

Origin of Policy 3100

*Student Rights,
Responsibilities, and
Administrative Due Process*



District Student Services
March 2013

- The District's Student Code of Conduct (BP 3100) and disciplinary procedures (AP 3100.2) have been constructed in accordance with the provisions of the California Education Code, along with other applicable laws (FERPA, ADA, Penal Code, etc.)
- These policies and procedures have been reviewed by legal counsel numerous times through the years



Overview of State Law

Student Behavior and Penalties for Violation

- Overarching requirement
 - Student **must be afforded due process**



California Education Code, Section 66300

- Specifies that the governing board of every community college adopt rules and regulations governing student behavior and penalties for violations of the rules and regulations



California Education Code, Section 66301

- Protects students from being disciplined for exercising free speech rights



California Education Code, Section 66302

- Requires that policies governing behavior include harassment, intimidation and bullying



California Education Code, Section 66017

- Specifies that districts must have procedures and designate persons to take disciplinary action against any student "...who **after a prompt hearing** by a campus body has been found to have willfully disrupted the orderly operation of the campus..."
- Goes on to permit an immediate suspension to protect lives and property "...provided that a reasonable opportunity be **afforded the suspended person for a hearing within 10 days...**"



California Education Code, Section 76030

- Authorizes suspension or expulsion for good cause
- Begins with "...consistent with requirements of due process..."
- Specifies "...the suspension or expulsion of a student **shall be accompanied by a hearing...**"



California Education Code, Section 76031

- Places parameters on suspension:
 - Up to 10 days
 - Remainder of term
 - One or more terms
 - Suspension from all colleges in the district



California Education Code, Section 76032

- Authorizes "...an instructor to remove a student from his or her class for the day of the removal and the next class meeting..."
- Specifies that "...the instructor **shall immediately report the removal** to the chief administrative officer for appropriate action..."



California Education Code, Section 76033

- Defines “good cause”
- Definition is basis for district Student Code of Conduct



California Education Code, Section 76034

- Specifies that removal, suspension, or expulsion must be for conduct "...related to college activity or college attendance..."



California Education Code, Section 76038

- Newest section added in 2012
- Permits districts to deny admission to students who have been expelled, or in the process of being expelled from another California community college within the last five years



Section 76038 - Offenses

- Committed or attempted to commit murder.
- Caused, attempted to cause serious, or threatened to cause physical injury to another person, including assault or battery as defined in Section 240 or 242 of the Penal Code, except in self-defense.
- Committed or attempted to commit a sexual assault as defined in Section 261, 266c, 286, 288, 288a or 289 of the Penal Code or committed sexual battery as defined in Section 243.4 of the Penal Code.
- Committed or attempted to commit kidnapping, or seized, confined, inveigled, enticed, decoyed, abducted, concealed, kidnapped, or carried away another person by any means with the intent to hold or detain that person for ransom or reward.
- Committed or attempted to commit robbery or extortion.
- Committed stalking as defined in Section 646.9 of the Penal Code.
- Unlawfully possessed, sold, or otherwise furnished a firearm, knife, explosive, or other dangerous object.

California Education Code, Section 76038

- The governing board "...shall hold a hearing...to determine whether that individual poses a continuing danger to the physical safety of the students and employees of the district..."



Summary

- Community colleges are open access institutions
- Students can only be excluded from classes, programs and colleges/districts based upon the provisions of the law
- If colleges/districts decide to exclude a student for behavior, the student must be afforded due process

