TO:        State College Presidents

FROM:      Glenn S. Dumke, Chancellor

SUBJECT:   Student Disciplinary Procedures of the California State Colleges, as revised by Executive Order No. 116

I am pleased to attach five copies of Executive Order No. 116, relating to the revision of the Student Disciplinary Procedures of the California State Colleges, along with the following documents:

1. Student Disciplinary Procedures of the California State Colleges, as revised by this Executive Order (Attachment A);

2. Memorandum of the General Counsel (Attachment B). This Memorandum discusses each change made by this Executive Order. The changes are principally technical in nature, and will become effective on November 16, 1970.

In cases where a Hearing Officer from the Office of Administrative Procedure is desired, arrangements should be made with the presiding officer of the appropriate regional office of that agency, as follows:

Regional Office                     State Colleges

Los Angeles                          California State Polytechnic College, Kellogg-Voorhis
                                          California State Polytechnic College, San Luis Obispo
                                          California State College, Dominguez Hills
                                          California State College, Fullerton
Sacramento
California State College, Long Beach
California State College, Los Angeles
California State College, San Bernardino
San Diego State College
San Fernando Valley State College

San Francisco
California State College, Bakersfield
Chico State College
Fresno State College
Sacramento State College
Stanislaus State College
California State College, Hayward
Humboldt State College
San Francisco State College
San Jose State College
Sonoma State College

(This allocation is made pursuant to Government Code Section 11508(a).)

Assistance with procedures for office hearings by administrative officers (Section 6), and the forms of notice (Section 7), is available on request, from the attorney assigned to the College by the Office of General Counsel. Draft model procedures for administrative officer hearings, and notices, in conformity with Executive Order No. 116, are under preparation, and will be forwarded to you shortly for your consideration.

Please arrange appropriate distribution of the Executive Order and Procedures to the various areas concerned.

gsn/ph

Copies to: Chancellor's Staff
This Executive Order is issued pursuant to Section 41304 of Title 5 of the California Administrative Code.

1. Except as provided in this Executive Order, the Student Disciplinary Procedures for the California State Colleges, governing procedures with respect to students of the California State Colleges, is revised to the form attached to this Executive Order as Attachment A.

2. These procedures supersede other procedures previously in force in the California State Colleges, as to all matters commenced on or after November 16, 1970.

3. Hearing Officers will be designated by the Chancellor for each State College, as provided in Executive Order No. 109.

4. These procedures should be read with the memorandum of the General Counsel, which is attached to this Executive Order as Attachment B.


GLENN S. DUMKE
Chancellor

No. 116

L70-1484
1. Purpose and Scope.
   a. It is the purpose of this document to provide procedures which are fair and just, to both the student charged and to the institution, by which it can be determined whether violations of conduct and conduct-related regulations have occurred.
   b. These Procedures are established pursuant to Section 41304, Title 5, California Administrative Code.* They govern determinations under Sections 41301, 41302 and 41303 of that Code, and other state and federal laws which require college hearings.

2. Authority of the President.
   a. The President shall exercise his authority in disciplinary actions pursuant to Sections 41301, 41302 and 41303 of Title 5, California Administrative Code, these Procedures, and other laws and regulations as applicable.
   b. All determinations and findings made at the College level by anyone other than the President, including determinations and findings of the Hearing Officer (see Section 9), are in the nature of recommendations to the President, who shall have final campus authority. Decisions of the President are subject to review by the Chancellor or his designee, and by the Board of Trustees. The designation of Hearing Officers (see Section 9-a) and decisions on challenges of any Hearing Officer for cause (see Section 10-e) shall be made by the Chancellor or his designee.
   c. The functions of the President as described in the following sections of these Procedures, may be delegated by him to individual designees who are members of the staff of the College, and who shall exercise those functions in his name. All references in these Procedures to the President include such designees. The President shall be responsible for any action taken under his authority.

3. Immediate Suspension.
   a. The President may order the immediate suspension of any student for the interim period pending a hearing whenever he determines such action to be required in order to protect lives or property and to insure the maintenance of order. The student so suspended shall be afforded an opportunity for a hearing with respect to the immediate suspension. The hearing on the immediate suspension will normally be afforded within two working days** of the suspension but in any event, not

*Specific code sections referred to in these Procedures are set out in Appendix.
**"Working day" is defined in Section 13-e.
later than ten days of the suspension. The hearing shall be held pursuant to the provisions of Section 6-a of these Procedures. The issues shall be whether his continued suspension pending such disciplinary hearing is required in order to protect lives or property and to insure the maintenance of order, and on any issues presented by a request for hearing pursuant to Penal Code Section 626.4(c).

b. Immediate suspension will be coupled with a withdrawal of consent to remain on campus, pursuant to Penal Code Section 626.4, whenever it is determined, pursuant to that section, that there is reasonable cause to believe that the person has willfully disrupted the orderly operation of the campus or college facility, and that his presence will constitute a substantial and material threat to such orderly operation.

c. The Coordinator shall be responsible for presenting evidence that a temporary suspension, withdrawal of consent to remain on campus, or both, should be continued.

4. When Hearings are to be Held; Waivers.

a. Action under these Procedures shall go forward regardless of possible or pending other administrative, civil or criminal proceedings arising out of the same or other events.

b. The President shall cause campus action to be initiated on the basis of the criminal conviction of a student whenever applicable statutes or regulations require it.

c. Hearings shall be held whenever the President accepts the Coordinator's recommendation to that effect, or does not accept a contrary recommendation from him, and whenever required by statute, action by the Board of Trustees, or the Chancellor. The President shall decide the kind of hearing to be held, as authorized in Section 5.

d. In any case in which a student is entitled to a hearing, the student may instead waive a hearing and accept a sanction with respect to discipline and decision with respect to eligibility for or termination of financial aid, as recommended by the Coordinator. The student may accept the sanction and financial aid decision without admitting that he engaged in the conduct charged. Should the student not accept the sanction and financial aid decision, the matter shall proceed to hearing, and no cognizance shall be taken of the recommendation made pursuant to Section 4-d.

5. Alternative Kinds of Hearings.

a. Based on recommendations of the Coordinator (see Section 8) and such other considerations as may be pertinent, the President shall decide whether a disciplinary matter should be conducted:

(1) By an administrative officer of the College, as provided in Section 6.

(2) By the Hearing Officer, as otherwise provided in these Procedures.
(3) By a residence hall committee, in the case of charges of conduct violations in residence hall facilities where the infraction charged, as determined by the Coordinator, does not involve a possible sanction of suspension or expulsion.

b. In making his determination, the President may consider the expressed wishes of the student charged, the degree of apparent complexity of the facts or issues, and the seriousness of the offense. Ordinarily, the desire of the student charged for a hearing by an administrative officer, the apparent absence of complicated facts or issues, and the relative lack of seriousness of the offense, are factors in favor of a hearing by an administrative officer.

6. Office Hearings by an Administrative Officer; Hearings Under Section 5-a(3).

a. Office hearings by an administrative officer shall be informal, and subject to such procedure as the President may determine; provided that a student whose case is considered in this way shall: receive notice of misconduct charged in terms of a general description of the conduct and the provisions he is charged with having violated; be informed of any evidence to be considered against him and have an opportunity to challenge and rebut it, and to present evidence on his own behalf; be informed of the decision of the President and of the administrative officer's recommendation to the President. Such hearings shall be closed to all persons other than the student charged and the Coordinator, a single adviser for each of them, and witnesses while they are presenting evidence.

b. Hearings under Section 5-a(3) shall be subject to such procedures as the President shall determine, but shall afford the student charged with at least the provisions enumerated in Section 6-a.


a. The Coordinator shall prepare and mail notices as appropriate to the student charged. Notices addressed to him at the last address posted on the records of the Registrar of the College, and deposited in the United States mail, postage prepaid, shall be presumed to have been received and read by the student charged.

b. The Coordinator shall initiate hearing procedures against a student charged, by mailing or personally delivering a notice letter to him, by registered or certified mail, return receipt requested, which notice:

(1) Contains a statement of the charges against him, in terms of Sections 41301 and 41302 of Title 5, California Administrative Code, Section 22505 of the Education Code if that Section is applicable, and applicable financial aid eligibility termination provisions, if any, and a factual description stated with reasonable particularity, of the conduct upon which the charges are based.
(2) Notifies him of the time and place of hearing.

(3) Encloses a copy of these Procedures or notifies the student of the office at the College where he may obtain a copy without charge. If consent to remain on campus has been withdrawn from the student at the time this notice is sent, a copy of these Procedures shall be enclosed with the notice.

(4) Notifies him that he may be accompanied at the hearing by an adviser of his choice, who may act on his behalf, and who may be an attorney, and of the time within which he must inform the Coordinator of the name and address of his advisor if he is an attorney.

(5) Includes such information as an immediate suspension and withdrawal of consent to remain on campus where such action has been decided upon; a request for the student's preference as to the kind of hearing to be conducted (Section 5), and any determination reached pursuant to Section 4-d with respect to possible sanctions and financial aid eligibility termination pursuant to Section 12-c, and such other information as the Coordinator may wish to include.

8. Coordinator.

a. The President shall assign a member of the College staff to be in charge of the administration of these Procedures; the duties described in these Procedures; and such other duties as the President may determine. The person so assigned shall serve in this assignment at the pleasure of the President.

b. The person so assigned may use such local, administrative title as the President may determine. For convenience, he is referred to herein as "Coordinator."

c. All references in these Procedures to the Coordinator shall include any other persons who are authorized by the President to assist the Coordinator and act in his name.

d. The Coordinator shall investigate all alleged violations of Sections 41301 and 41302, Title 5, California Administrative Code, Section 22505 of the Education Code and related matters concerning withdrawal of consent to remain on campus and of eligibility for and termination of financial aid.

e. As a result of his investigation, the Coordinator shall make a recommendation to the President as to whether the matter should proceed, and of the kind of hearing, authorized in Section 5, which should be held.

f. The Coordinator shall send such notices as are appropriate, and institute hearings pursuant to these Procedures.

g. The Coordinator shall make physical and scheduling arrangements for the hearing of cases.

h. Except where other provision is made by the College with respect to hearings by an administrative officer (Section 5-a(1)) and to residence hall matters (Section 5-a(3)), the Coordinator shall
attend the hearings and shall marshal and present the evidence against the student charged.

9. Hearing Officer.

a. The Chancellor shall designate one or more Hearing Officers, who shall serve for terms as determined by the Chancellor.

b. Hearing Officers shall be attorneys, admitted to practice law in California who are qualified by professional experience in presiding at judicial or quasi-judicial adversary proceedings, or who have been members of the California State Bar for at least five years. They will not hold any employment, or other contract (other than as a hearing officer) with any State College during the period of their service.


a. Evidence.

The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the extent that they are otherwise required by statute to be recognized at the hearing, and irrelevant and unduly repetitious evidence shall be excluded. No evidence other than that received at the hearing shall be considered by the Hearing Officer.

b. Both the student charged or his adviser and the Coordinator or his adviser shall be entitled to present relevant evidence and to question witnesses presented by the other. The President shall request students and employees of the State College to present evidence at a hearing when requested on behalf of the student or the Coordinator.

c. The student will not be required to give self-incriminating evidence, and no inference of his guilt shall be drawn by reason of his not giving evidence on this ground.

d. The Hearing Officer shall:

(1) Make all rulings on matters relating to the conduct of the hearing, including matters regarding admission of evidence.

(2) Maintain an orderly hearing and permit no person to be subjected to abusive treatment. He may eject or exclude anyone who refuses to be orderly.
(3) Recognize the student charged or his adviser, and the Coordinator or his adviser, for the purpose of questioning witnesses or presenting argument, evidence or requests to the Hearing Officer. The Hearing Officer may also question witnesses.

e. A student charged may challenge the Hearing Officer for cause by submitting a written statement setting forth facts which establish that:

(1) The Hearing Officer was a participant in the event out of which the action arose except events connected with the conduct of a hearing; or

(2) The Hearing Officer is related to or has had past association with the student charged or his adviser, the Coordinator or his adviser, or another person who has been adversely affected by the events giving rise to the action, which past association is of a kind which would prejudice his judgment to the degree that it appears that a fair hearing could not be had. "Past association" does not include an association acquired in connection with a previous hearing.

Challenges must be presented at the earliest reasonable opportunity, which normally will be in advance of the hearing. Challenges shall be submitted to the Coordinator, who shall immediately forward them to the Chancellor for determination, and to the Hearing Officer; except that challenges presented at a hearing shall be presented to the Hearing Officer, who shall cause it to be referred to the Chancellor. In the event a challenge is not presented in sufficient time before a hearing to permit a decision by the Chancellor, the hearing may proceed, subject to being vacated should the challenge be sustained. The Chancellor or his designee shall determine whether the facts present grounds for disqualification and his decision shall be final. The Hearing Officer may disqualify himself on his own motion. No peremptory challenges may be made.

f. Following presentation of evidence, the Hearing Officer shall privately consider the evidence with all other persons excluded and shall prepare a written report, to the President. The report, which shall ordinarily be submitted to the President within two working days of the termination of the Hearing, shall contain as to each student charged:

(1) A summary of the facts as found by the Hearing Officer, and a determination that the student did or did not commit the acts charged.

(2) A finding that the act did or did not constitute one of the causes for discipline listed in Sections 41301 or 41302 of Title 5 of the California Administrative Code.

(3) Findings on evidence, if any, in mitigation or aggravation with respect to discipline.
(4) Findings as appropriate with respect to eligibility for and termination of financial aid.

(5) A recommendation of discipline, if any.

(6) Such further report as the Hearing Officer may consider appropriate.

g. The student charged shall be regarded as innocent of the charges against him until the contrary is established by a preponderance of the evidence. The Hearing Officer shall find a student to have committed the acts as to which he is charged if the Hearing Officer is persuaded by a preponderance of the evidence that the student committed said acts.

h. The Hearing Officer shall make his report only to the President of the College.

i. Advisers; Attorneys.

(1) The student charged may be accompanied by one adviser of his choice, who may act on his behalf. If he desires that his adviser be an attorney, the student charged must give written notice of the name and office address of the attorney to the Coordinator at least three working days before the time set for commencement of the hearing; if there are less than four working days between that time and the date of the notice of hearing, then the notice that his adviser will be an attorney must be given at the earliest reasonable time. The Hearing Officer may, in his discretion, continue the hearing in cases where the student has failed to give the notice required by this Section or convene the hearing without counsel present either for the student charged or the Coordinator. Even if notice is not given by the student as required by this Section, the hearing shall be conducted with counsel if the Coordinator and counsel from the Office of General Counsel consent.

(2) Should a student charged advise that he will be accompanied by an attorney, the Coordinator shall immediately advise the Office of General Counsel, so that an attorney may be present with the Coordinator to present the case.

j. Times Within Which Hearings are to Proceed.

(1) Matters preliminary to hearings shall be decided, hearings conducted, and cases determined under these Procedures as quickly as possible, consistent with reasonable notice.

(2) Normally, matters preliminary to hearings shall be decided and notices of hearings given, within three working days of the time the Coordinator is informed that a probable conduct violation or other basis for a hearing has occurred, and of the identity of the person or persons apparently responsible.

(3) Hearings will normally be held within ten working days of the date notice is sent to the student charged.
(4) Other than as required for the convenience of the Hearing Officer, extensions of time for hearings shall be authorized only for good and compelling reasons. Physical impossibility for the student charged to attend the college hearing is such a reason, but the possibility or pendency of other administrative, civil or criminal proceedings against the student charged is not, unless the trial or hearing in that matter is scheduled for the same day as the College hearing.

k. Hearings shall be closed to everyone other than the person conducting the hearing, the student charged and the Coordinator, a single adviser for each of them, the person designated to record the hearing pursuant to Section 10-m, and witnesses while they are presenting evidence.

l. It is the policy of the California State Colleges that evidence, proceedings, findings and recommendations (but not the final decision of the President) are confidential and shall not be made public by the College or by any participant in a hearing, including the student charged. In the event these matters should become public, however, the College may authorize such public statements as are appropriate and which do not violate any legal prohibition against such statements.

m. A tape recording but not a transcription, will be kept of the hearing. The student charged, on request, and at his own expense, subsequently may have or, under supervision, make a copy of such recording provided that use of such a copy will be limited to subsequent administrative and judicial proceedings held in connection with the matter. No tape recording by the student charged or by other persons at the hearing will be permitted, but the student charged, at his own expense, may furnish a certified court reporter provided that a copy of the transcript made is promptly furnished to the President at no cost to the College, and that use of such transcript will be limited to subsequent administrative and judicial proceedings held in connection with the matter.

n. Consolidated Hearings.

(1) Where more than one student is charged with conduct arising out of a single occurrence, or out of connected multiple occurrences, a single hearing may be held for all of the students so charged. Such students may request that their case be consolidated with others, or separated from others. The Coordinator shall make determinations regarding consolidation. All such determinations shall be subject to revision by the Hearing Officer. In the event of such revision, all cases affected shall be rescheduled for hearing.

(2) The separation of one or more cases from a group of cases previously set for a consolidated hearing shall not be considered to affect the remaining cases in the group.

o. Absence of the Student Charged.

If the student charged does not appear, (personally or through his adviser) without satisfactory explanation for his absence
having been made at his earliest opportunity, or should he leave the hearing before its conclusion, or adjournment, the hearing shall proceed without him, and the Hearing Officer shall render a decision based on the available evidence and make his report just as though the student charged has been present throughout the hearing. The fact that an administrative hearing or a civil or criminal trial for the student is pending shall not be considered a satisfactory explanation unless the actual hearing or trial date conflicts with the College hearing date, or unless it is physically impossible for the student charged to attend the college hearing.


a. The President may establish a procedure whereby a committee of students, or students together with faculty or with faculty and administrative personnel, will review the recommendations of the Hearing Officer with respect to the discipline to be imposed, if any, and advise the President. Such committees, if established, shall be composed in such manner as the College may determine. It shall not receive new evidence or argument, or conduct hearings, and its members shall be bound by the policy of confidentiality as stated in Section 10-1. If such a committee is established, the President shall forward a copy of the report of the Hearing Officer to the committee as soon as it is received, and the committee shall present its recommendations, if any, to the President within two working days of its receipt of the report.

b. The President shall review the report of the Hearing Officer, and recommendations if any, of any committee established pursuant to Section 11-a. He may take the action recommended by the Hearing Officer; he may adopt a lesser sanction; he may, if necessary, refer the matter back to the Hearing Officer for further findings on specified issues; or, after a review of the record, he may adopt a more severe sanction. In cases where a committee has not been established pursuant to Section 11-a, the President normally shall render his decision within three working days of receipt of the recommendations of the Hearing Officer. In cases where such a committee has been established, the President normally shall render his decision within three working days of receipt of the recommendations of the Committee, and no later than six working days after initial receipt of the report of the Hearing Officer.

c. The President shall cause notification of his action to be sent to the student charged. If the action taken is suspension or expulsion with denial of access to the campus and College facilities, notification shall be by certified or registered mail. The report of the Hearing Officer, and the recommendations of any committee established pursuant to Section 11-a, shall be made available to the student.

d. If the action taken is suspension or expulsion, and the student charged is a minor, his parent or guardian shall be notified of the action by certified or registered mail, return receipt requested, sent to the parent or guardian's last address posted on the records of the Registrar.
12. Discipline Which May be Imposed; Eligibility for and Termination of Financial Aid.

a. Students may be expelled, suspended, placed on probation, or given a lesser sanction, as provided in Section 41301 of Title 5, California Administrative Code.

b. Students who are expelled or suspended on the basis of conduct which disrupted the orderly operation of the campus or any facility of a State College, may be denied access to all or any part of the campus or other facility:

(1) In the case of expulsion, for up to one year.

(2) In the case of suspension, for a period up to the period of the suspension.

c. Determination on Eligibility for and Termination of Financial Aid.

Concurrently with actions under these Procedures, the person conducting the hearing shall also determine whether the particular conduct found to have occurred is a basis for ineligibility for or termination of financial aid under applicable provisions of State or Federal law, and of the Board of Trustees.

Financial aid shall be terminated or eligibility denied by the President whenever required by any of these provisions.

(1) Hearings by a hearing board on questions of financial aid termination shall be held where required by Education Code Section 31292.


a. A student enrolled at a State College who is accused of conduct subject to disciplinary action at another State College, shall be subject to disciplinary action at the campus with respect to which the violation is alleged to have occurred, and all references to the President, the Coordinator, and the Hearing Officer shall refer to those persons at that campus; provided that the President of the College at which the student is enrolled shall make the final decision with respect to discipline.

b. Hearings on qualifications for admission or denial of admission pursuant to Section 41303 of Title 5, California Administrative Code, shall be conducted pursuant to Sections 6 or 10 of these Procedures, as the President shall determine.

c. The President may combine the duties of Coordinator with those of any other officer or employee, but may not combine such duties with those of the administrative officer assigned to conduct an office hearing pursuant to Section 6 of these Procedures, or with those of the Hearing Officer.

d. Arguments by the student charged or his adviser concerning the legal (as distinguished from factual) applicability, or legal
validity of any provision on the basis of which the student is charged, or of these Procedures, shall not be addressed to the person hearing the case, but to the President, as soon as the hearing has concluded. The President shall seek advice on the matter from the Office of General Counsel. Such advice shall be considered by him before a final decision is rendered.

e. As used in these Procedures, "working day" shall mean any day other than a Saturday, Sunday or holiday as defined in Government Code Section 18025. Technical departures from these Procedures and errors in their application shall not be grounds to withhold disciplinary action or a determination of ineligibility for or termination of financial aid unless, in the opinion of the President, the technical departures or errors were such as to have prevented a fair and just determination of the issues.
APPENDIX

Title 5, California Administrative Code Sections:

41301. Expulsion, Suspension and Probation of Students. Following procedures consonant with due process established for the state college of which he is a student, any student of a state college may be expelled, suspended, placed on probation or given a lesser sanction for one or more of the following causes which must be state college related:

(a) Cheating or plagiarism in connection with an academic program at a state college.

(b) Forgery, alteration or misuse of state college documents, records, or identification or knowingly furnishing false information to a state college.

(c) Misrepresentation of oneself or of an organization to be an agent of a state college.

(d) Obstruction or disruption, on or off college property, of the state college educational process, administrative process, or other college function.

(e) Physical abuse on or off college property of the person or property of any member of the college community or of members of his family or the threat of such physical abuse.

(f) Theft of, or non-accidental damage to, state college property, or property in the possession of, or owned by, a member of the college community.

(g) Unauthorized entry into, unauthorized use of, or misuse of state college property.

(h) On state college property, the sale or knowing possession of dangerous drugs, restricted dangerous drugs, or narcotics as those terms are used in California statutes, except when lawfully prescribed pursuant to medical or dental care, or when lawfully permitted for the purpose of research, instruction or analysis.

(i) Knowing possession or use of explosives, dangerous chemicals or deadly weapons on state college property or at a state college function without prior authorization of the state college President.

(j) Engaging in lewd, indecent, or obscene behavior on state college property or at a state college function.

(k) Abusive behavior directed toward a member of the college community.
(l) Violation of any order of a state college 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) For purposes of this Article, the following terms are defined:

(1) The term "member of the college community" is defined as meaning state college Trustees, academic, non-academic and administrative personnel, students, and other persons while such other persons are on state college property or at a state college function.

(2) The term "state college property" includes:

(A) real or personal property in the possession of, or under the control of, the Board of Trustees of the California State Colleges, and

(B) all state college feeding, retail, or residence facilities whether operated by a college or by a state college auxiliary organization.

(3) The term "deadly weapons" includes any instrument or weapon of the kind commonly known as a blackjack, slung shot, billy, sandclub, sandbag, metal knuckles, any dirk, dagger, switchblade knife, pistol, revolver, or any other firearm, any knife having a blade longer than five inches, any razor with an unguarded blade, and any metal pipe or bar used or intended to be used as a club.

(4) The term "behavior" includes conduct and expression.

(o) This Section is not adopted pursuant to Education Code Section 23604.1.

(p) The provisions of this Section as hereinabove set forth shall only apply to acts and omissions occurring subsequent to its effective date. Notwithstanding any amendment or repeal pursuant to the resolution by which any provision of this Article is amended, all acts and omissions occurring prior to that effective date shall be subject to the provisions of this Article as in effect immediately prior to such effective date.

41302. Expulsion, Suspension or Probation of Students; Fees and
Notification. The President of the state college may place on probation, suspend, or expel a student for one or more of the causes enumerated in Section 41301. No fees or tuition paid by or for such student for the semester, quarter, or summer session in which he is suspended or expelled shall be refunded. If the student is readmitted before the close of the semester, quarter, or summer session in which he is suspended, no additional tuition or fees shall be required of the student on account of his suspension. In the event that a student who has not reached his twenty-first birthday is suspended or expelled, the President shall immediately notify his parent or guardian of the action by registered mail to the last known address, return receipt requested.

During periods of campus emergency, as determined by the President of the individual campus, the President may, after consultation with the Chancellor, 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.

The President may immediately impose an interim suspension in all cases in which there is reasonable cause to believe that such an immediate suspension is required in order to protect lives or property and to insure the maintenance of order. A student so placed on interim suspension shall be given prompt notice of charges and the opportunity for a hearing within ten days of the imposition of interim suspension. During the period of interim suspension, the student shall not, without prior written permission of the President or his designated representative, enter any campus of the California State Colleges other than to attend the hearing. Violation of any condition of interim suspension shall be grounds for expulsion.

41303. Conduct by Applicants for Admission. Notwithstanding any provision in this Chapter to the contrary, admission or readmission may be qualified or denied to any person who, while not enrolled as a student, commits acts which, were he enrolled as a student, commits acts which, were he enrolled as a student, would be the basis for disciplinary proceedings pursuant to Section 41301 or 41302. Qualified admission or denial of admission in such cases shall be determined under procedures adopted pursuant to Section 41304.

41304. Student Disciplinary Procedures for the California State Colleges. The Chancellor shall prescribe, and may from time to time revise, a code of student disciplinary procedures for the California State Colleges. Subject to other applicable law, this code shall provide for determinations of fact and sanctions to be applied for conduct which is a ground of discipline under Section 41301 or 41302, and for qualified admission or denial of
admission under Section 41303; the authority of the state college President in such matters; conduct related determinations on financial aid eligibility and termination; alternative kinds of proceedings, including proceedings conducted by a Hearing Officer; time limitations; notices; conduct of hearings, including provisions governing evidence, a record, and review; and such other related matters as may be appropriate. The Chancellor shall report to the Board his actions taken under this Section.

Education Code Section:

22505. Disciplinary Actions; Hearing; Immediate Suspension. The chief administrative officer of a junior college, state college, or state university, after a prompt hearing of the facts, shall take appropriate disciplinary action against any student, member of the faculty, member of the support staff, or member of the administration of the junior college, state college, or state university who has been convicted of a crime arising out of a campus disturbance or, after a hearing by a campus body, has been found to have willfully disrupted the orderly operation of the campus. Nothing in this Section shall be construed to prohibit, where an immediate suspension is required in order to protect lives or property and to insure the maintenance of order, interim suspension pending a hearing; provided that a reasonable opportunity be afforded the suspended person for a hearing within 10 days. The disciplinary action may include, but need not be limited to, suspension, dismissal, or expulsion. The provisions of Sections 24308 to 24310, inclusive, shall be applicable to any state college employee dismissed pursuant to this Section. The chief administrative officer of each such institution shall submit periodic reports as to the nature and disposition of cases acted upon pursuant to this Section to his governing board.

Education Code, Division 22, Chapter 4, Consisting of Sections:

31291. Financial Aid Agreement; Ineligibility for State Financial Aid; Hearing Board. In accepting a scholarship, loan, fellowship, grant-in-aid, or any other financial aid given or guaranteed by the state for assistance, every recipient thereof who is a student at a public or private university, college, or other institution of higher education, shall be deemed to have agreed to observe the rules and regulations promulgated by the governing authority of the university, college, or other institution of higher education, for the government thereof.

Any recipient of such state financial aid who, on the campus
of the university, college, or other institution of higher education, willfully and knowingly commits any act likely to disrupt the peaceful conduct of the activities of such campus, and is arrested and convicted of a public offense arising from such act, may be determined to be ineligible for any such state financial aid for a period not to exceed the ensuing two academic years.

Any recipient of such state financial aid who, after a hearing, is found to have willfully and knowingly disrupted the orderly operation of the campus, but has not been arrested and convicted, may be determined to be ineligible for any state financial aid for such period as the hearing board may determine, not to exceed the ensuing two academic years.

Any such recipient who is suspended from an institution of higher education for such acts shall be ineligible for such state financial aid for a period not less than the time of such suspension.

The governing authority of the university, college, or other institution of higher education shall for purposes of this Section, cause to be reviewed the record of each recipient and shall, as soon as practicable, notify a hearing board established by it of the name of any recipient who committed any such act and was arrested and convicted of any such public offense, or is found to have willfully and knowingly disrupted the orderly operation of the campus, or has been suspended from an institution of higher education for such acts.

31292. Notice of Report to Hearing Board; Hearing; Determination of Suspension of Financial Aid; Notification of Determination. Upon receipt of notice, as provided in Section 31291, that any recipient has committed any act likely to disrupt the peaceful conduct of the activities of the campus and was convicted of a public offense in connection therewith, or is found to have willfully and knowingly disrupted the orderly operation of the campus, or has been suspended from an institution of higher education for such acts, the hearing board shall immediately give the recipient written notice of the report. The notice shall inform the recipient of the pendency of the proceedings for the suspension of assistance. It shall inform the recipient that he may present evidence of mitigating circumstances to the hearing board within 14 calendar days of the date of the mailing of the notice, and shall specify the procedures and means by which such evidence is to be presented, including the date at which any hearing to be afforded him is to be held. The hearing board may prescribe any procedures and means for such purposes which it may deem appropriate, provided that any hearing which may be afforded the recipient shall not be held sooner than seven days after the date of the mailing of the notice.

If no response to the hearing board's notice is made within
the period specified in this Section, the hearing board may suspend further assistance to the recipient and the suspension shall remain in effect not to exceed the ensuing two academic years.

After the conclusion of proceedings provided for in this Section, the hearing board shall, by majority vote, determine whether further assistance to the recipient shall be suspended. If the recipient was arrested and convicted of a public offense arising from campus disruption, the suspension may remain in effect for a period not to exceed the ensuing two academic years. If the recipient is found by the hearing board to have willfully and knowingly disrupted the orderly operation of the campus, but has not been arrested and convicted, the hearing board may suspend further assistance to the recipient for such period as the hearing board may determine not to exceed the ensuing two academic years. If the recipient was suspended from an institution of higher education for such acts, the hearing board shall suspend further assistance to the recipient for a period not less than the time of such suspension. The findings of the hearing board shall be in writing.

The hearing board shall notify the appropriate state agencies of any suspension of state financial aid pursuant to this Section, and no state financial aid shall be extended to the recipient during such period.

Any notice required to be made by this Section shall be sufficient when it is deposited in the United States registered or certified mail, postage paid, addressed to the last known address of the addressee.

31293. Scope of Chapter. Nothing in this chapter shall be construed to prohibit any public or private university, college, or other institution of higher education from suspending or refusing to grant scholarships, loans, fellowships, grants-in-aid, or any other financial aid given or guaranteed by the state for academic assistance to any individual because of any other misconduct which in its judgment bears adversely on his fitness for such assistance.

31294. State Financial Aid Defined. For the purposes of this chapter, "state financial aid" means any assistance given or guaranteed by the state which is predicated on attendance at an institution of higher education.

Penal Code Sections:

626. Definitions.

(a) As used in this chapter:

(1) "State university" means the University of
California, and includes any affiliated institution thereof and any campus or facility owned, operated, or controlled by the Regents of the University of California.

(2) "State college" means any California state college, and includes any campus or facility owned, operated, or controlled by the Trustees of the California State Colleges.

(3) "Junior college" means any school established pursuant to Chapter 3 (commencing with Section 25500) of division 18.5 of the Education Code.

(4) "Chief administrative officer" means the President of a state college, Chancellor of the California State Colleges, or the officer designated by the Regents of the University of California or pursuant to authority granted by the Regents of the University of California to administer and be the officer in charge of a campus or other facility owned, operated, or controlled by the Regents of the University of California, or the superintendent of a junior college district or a school district maintaining a junior college.

(b) For the purpose of determining the penalty to be imposed pursuant to this chapter, the court may consider a written report from the Bureau of Criminal Identification and Investigation containing information from its records showing prior convictions; and the communication is prima facie evidence of such convictions, if the defendant admits them, regardless of whether or not the complaint commencing the proceedings has alleged prior convictions.

626.2 Entry Upon Campus or Facility of State College or University After Written Notice of Suspension or Dismissal Without Permission; Punishment. Every student or employee who, after a hearing, has been suspended or dismissed from a junior college, state college, or state university for disrupting the orderly operation of the campus or facility of such institution, and as a condition of such suspension or dismissal has been denied access to the campus or facility, or both, of the institution for the period of the suspension or in the case of dismissal for a period not to exceed one year; who has been served by registered or certified mail, at the last address given by such person, with a written notice of such suspension or dismissal and condition; and who willfully and knowingly enters upon the campus or facility of the institution to which he has been denied access, without the express written permission of the chief administrative officer of the campus or facility, is guilty of a misdemeanor and shall be punished as follows:

(1) Upon a first conviction, by a fine of not exceeding five hundred dollars ($500), by imprisonment in the county
jail for a period of not more than six months, or by both such fine and imprisonment.

(2) If the defendant has been previously convicted once of a violation of any offense defined in this chapter or Section 415.5 by imprisonment in the county jail for a period of not less than 10 days or more than six months, or by both such imprisonment and a fine of not exceeding five hundred dollars ($500), and he shall not be released on probation, parole, or any other basis until he has served not less than 10 days.

(3) If the defendant has been previously convicted two or more times of a violation of any offense defined in this chapter or Section 415.5, by imprisonment in the county jail for a period of not less than 90 days or more than six months, or by both such imprisonment and a fine of not exceeding five hundred dollars ($500), and he shall not be released on probation, parole, or any other basis until he has served not less than 90 days.

Knowledge shall be presumed if notice has been given as prescribed in this Section. The presumption established by this Section is a presumption affecting the burden of proof.

626.4 Notice of Withdrawal of Consent: Report; Action on Report; Reinstatement of Consent; Hearing; Unlawful Entry Upon Campus or Facility; Punishment.

(a) The chief administrative officer of a campus or other facility of a junior college, state college, or state university, or an officer or employee designated by him to maintain order on such campus or facility, may notify a person that consent to remain on the campus or other facility under the control of the chief administrative officer has been withdrawn whenever there is reasonable cause to believe that such person has willfully disrupted the orderly operation of such campus or facility.

(b) Whenever consent is withdrawn by any authorized officer or employee other than the chief administrative officer, such officer or employee shall as soon as is reasonably possible submit a written report to the chief administrative officer. Such report shall contain all of the following:

(1) The description of the person from whom consent was withdrawn, including, if available, the person's name, address, and phone number.

(2) A statement of the facts giving rise to the withdrawal of consent.

If the chief administrative officer or, in his
absence, a person designated by him for this purpose, upon reviewing the report, finds that there was reasonable cause to believe that such person has willfully disrupted the orderly operation of the campus or facility, he may enter written confirmation upon the report of the action taken by the officer or employee. If the chief administrative officer or, in his absence, the person designated by him, does not confirm the action of the officer or employee within 24 hours after the time that consent was withdrawn, the action of the officer or employee shall be deemed void and of no force or effect, except that any arrest made during such period shall not for this reason be deemed not to have been made for probable cause.

(c) Consent shall be reinstated by the chief administrative officer whenever he has reason to believe that the presence of the person from whom consent was withdrawn will not constitute a substantial and material threat to the orderly operation of the campus or facility. In no case shall consent be withdrawn for longer than 14 days from the date upon which consent was initially withdrawn. The person from whom consent has been withdrawn may submit a written request for a hearing on the withdrawal within the two-week period. Such written request shall state the address to which notice of hearing is to be sent. The chief administrative officer shall grant such a hearing not later than seven days from the date of receipt of such request and shall immediately mail a written notice of the time, place, and date of such hearing to such person.

(d) Any person who has been notified by the chief administrative officer of a campus or other facility of a junior college, state college, or state university, or by an officer or employee designated by the chief administrative officer to maintain order on such campus or facility, that consent to remain on the campus or facility has been withdrawn pursuant to subdivision (a); who has not had such consent reinstated; and who willfully and knowingly enters or remains upon such campus or facility during the period for which consent has been withdrawn is guilty of a misdemeanor. This subdivision does not apply to any person who enters or remains on such campus or facility for the sole purpose of applying to the chief administrative officer for the reinstatement of consent or for the sole purpose of attending a hearing on the withdrawal.

(e) This Section shall not affect the power of the duly constituted authorities of a junior college, state college, or state university to suspend, dismiss, or expel any student or employee at such university or college.

(f) Any person convicted under this Section shall be punished as follows:
(1) Upon a first conviction, by a fine of not exceeding five hundred dollars ($500), by imprisonment in the county jail for a period of not more than six months, or by both such fine and imprisonment.

(2) If the defendant has been previously convicted once of a violation of any offense defined in this chapter or Section 415.5, by imprisonment in the county jail for a period of not less than 10 days or more than six months, or by both such imprisonment and a fine of not exceeding five hundred dollars ($500), and he shall not be released on probation, parole, or any other basis until he has served not less than 10 days.

(3) If the defendant has been previously convicted two or more times of a violation of any offense defined in this chapter or Section 415.5, by imprisonment in the county jail for a period of not less than 90 days or more than six months, or by both such imprisonment and a fine of not exceeding five hundred dollars ($500), and he shall not be released on probation, parole, or any other basis until he has served not less than 90 days.

Government Code Section:

18025. Holidays. All employees shall be entitled to the following holidays: the first day of January, the 12th day of February, the third Monday in February, the last Monday in May, the fourth day of July, the first Monday in September, the ninth day of September, the first Monday in October, the fourth Monday in October, the 25th day of December, every day on which an election is held throughout the state, and every day appointed by the Governor of this state for a public fast, thanksgiving, or holiday.

When a day herein listed falls on a Sunday, the following Monday shall be deemed to be the holiday in lieu of the day observed. Any employee who may be required to work on any of the holidays herein mentioned, and who does work on any of said holidays, shall be entitled to be paid compensation or given compensating time off for such work within the meaning of this Article. For the purpose of computing the number of hours worked, time during which an employee is excused from work because of holidays, sick leave, vacation, or compensating time off, shall be considered as time worked by the employee.
MEMORANDUM OF GENERAL COUNSEL

Student Disciplinary Procedures for the
California State Colleges,
as Revised by Executive Order No. 116

Since the issuance of Executive Order No. 109 on
August 14, 1970, the Board of Trustees has, in effect, confirmed
the administrative regulation authorizing the Chancellor to issue
and revise student disciplinary procedures for the California
State Colleges.

The Executive Order contained a large number of sub-
stantial changes from the informational draft presented at the
July, 1970 meeting of the Board. These changes, suggestions
chiefly from the Colleges and the California State Colleges
Student Presidents' Association (CSCSPA), are more fully dis-
cussed in my memorandum distributed with Executive Order No. 109.

Since then, the CSCSPA has presented a series of further
suggestions, and refinements of earlier proposals. These have
been carefully considered and discussed with the State College
Presidents, the Student Affairs Committee of the Academic Senate,
CSC, and the CSCSPA officers.

A number of these further suggestions are reflected in
Executive Order No. 116, revising the earlier procedures. (See
particularly Sections 3-c, 7-b(3), 10-a, 10-i and 10-j(3).)

The two chief suggestions of the CSCSPA were for a
revision of the evidence section, and an authorization for panels
in cases of a "lower order".

The evidence section (10-a) has been revised, so that
it is now identical to Government Code Section 11513(c) relating
to administrative hearings, except for the addition of the sen-
tence at the end of our section: "No evidence other than that
received at the hearing shall be considered by the Hearing
Officer."

It had been suggested that the phrase, "Formal rules
of evidence shall not apply" be removed because it might be mis-
understood to mean that no standards of evidence are applicable.
While it is difficult to imagine how that construction could be
seriously entertained in light of the restrictive language in
the sentence, the Administrative Procedure Act delineation on
the subject does seem to be preferable, and is now substituted.
The other evidentiary modification suggested was a deletion of the sentence relating to hearsay. The apparent reason to delete it was that some students might misunderstand it to authorize the introduction into evidence of all sorts of unconnected and remote statements. But the effect of deleting it would be to bring about the very result toward which the objection is focused, since hearsay could be introduced in the absence of a restrictive provision and the sentence objected to is restrictive.

The panel alternative was not recommended at this time, partly because of the difficulty in "line drawing" between those matters which are of a "lower level" and those which are not, and because a demarcation of the criteria which would assure that only less serious cases may be tried by panels would contain so many restrictions as to leave only token matters within the scope of trial panel review.

Beyond this, it was felt by the State College Presidents that the Procedures should have a trial period of use substantially as they now are, without major change. With the benefit of that experience, it is possible that many changes will be warranted, including some not yet suggested. This time and experience may also provide practical answers to some of the objections to changes proposed but not now adopted.

For ease of review, each change in the Procedures made in Executive Order No. 116 is identified by section number and discussed in the paragraphs which follow.

3-c. This new section makes explicit that at hearings on temporary suspension, withdrawal of consent to remain on campus, or both, it is the duty of the Coordinator to present evidence for the continuation of such action. This had been implicit in the section; the suggestion to make it explicit was presented by the CSCSPA.

4-d. The last five words of the first sentence ("and approved by the President") are deleted as unnecessary in light of Section 2-b.

6-a. The phrase "student charged" is substituted for "students" in the last sentence. This is to make clear that only a student charged (rather than "students" as a group), along with the others specifically mentioned, may be present at hearings by an administrative officer.
7-b(3). The CSCSPA suggested that a copy of the Procedures always be included with the Notice. This seems a good practice, but a mandatory provision for the enclosure in all cases could give rise to technical problems later on. The change presented in this section of the Executive Order seems a fair solution to all interests concerned. It requires the College to either enclose a copy of the Procedures, or to notify the student where he may obtain one without charge. Of course, in cases where the student is unable to come on campus because of a college withdrawal of consent, the copy should be enclosed.

8-a. For purposes of clarity, the phrase, "to be in charge of" is substituted for "the general charge of" in the first sentence.

10-a. The changes in this section, relating to evidence in hearings by Hearing Officers, are discussed earlier in this Memorandum. The new provision follows the Administrative Procedure Act standard in Government Code Section 11513(c), and retains the final sentence in the Executive Order 109 provision, making explicit that only evidence received at the hearing may be considered by the Hearing Officer. There is no change in legal effect as between Section 10-a in Executive Orders 109 and 116.

10-d(4). This former provision is eliminated as superfluous to Section 10-d(1).

10-e. A new paragraph, following subdivisions (1) and (2), is added governing the time and processing of challenges of the Hearing Officer.

10-f. The phrase "two business days" is changed to "two working days" to conform to the terms in the Procedures. (See Section 13-e.)

10-f(3). This provision authorizes findings on mitigating or aggravating evidence on the issue of the discipline to be imposed. It was suggested by a student at San Diego State College.

10-f(4), (5), (6). These subdivisions are renumbered without other change.

10-g. The word "when" is corrected to "if" in the second sentence.
10-i(1). The final two sentences are added to specify the alternatives available should the student charged fail to provide required notice that he will have an attorney advisor present.

10-j(3). The normal time period between notice and hearing is changed to ten working days, as suggested by Trustees at the September meeting of the Committee on Educational Policy.

10-j(4). For purposes of clarity, the second sentence is rephrased.

11-c. The cross-reference is corrected to Section 11-a.

13-b. "Or" is corrected to "of" in the first line.

13-d. "Will" is corrected to "shall" in the second sentence and third sentence, and unnecessary language in the third sentence is deleted.

APPENDIX

p. iii. The third paragraph of 5 Cal. Adm. Code § 41302 is corrected to its latest amended form.

NLE/ph

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