



# REVIEW TRACK FORM - PROPOSAL TO REVISE ARP

*NOTE: POLICY SPONSORS COMPLETE FORM ONLY THROUGH SUMMARY BOX*

**No.** 5.20-5.26; **Title:** Student Social Code of Conduct

**Proposal Sponsor:** Dean of Students

**Name, Position and Contact Information:** Dean of Students Ann Goodman; [anng@nmsu.edu](mailto:anng@nmsu.edu); 646-1729

**Policy/Rule Administrator:** Dean of Students

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**Summary:** Last semester, the Student Social Code of Conduct was incorporated into the ARP at Rules 5.20 through 5.26, per Regents Policy 5.20. In late May, the rules were amended upon the recommendation of the VP Students Success, UAC and approval by chancellor. To address any outstanding concerns and in anticipation of the arrival of a new Dean of Students, the revised SSCC was posted all summer for review and comment at (<https://eltnmsu.sharepoint.com/sites/gencounsel/default.aspx> ). OIE and DOS provided feedback and the proposed revisions refine and clarify consistent that feedback.

The proposed revisions primarily clarify the roles of OIE and DOS with regard to discrimination claims (all violations of RPM and ARP 3.25, including Title IX), including adding a new Part 7 for a Sanctioning Conference. Additionally, other modifications to clarify, shorten or flow better, were made, keeping with best practices endorsed by the Association of Student Conduct Administrators. The majority of the revisions are in SSCC- Conduct Case Procedures, in large part consistency revisions associated with clarifying the distinction in process applicable in discrimination cases. **A compare version of each rule contained in the Student Social Code of Conduct is attached. To have the SSCC effective for the 19/20 academic year, a waiver of First Reading is sought to seek a recommendation of approval for the proposed revisions.**

**AAG Meeting Date:** August 8, 2019

**UAC First Read Date:**

**Review Period \*Ends:** September 24, 2019 if not expedited (**Waiver of First Reading sought**)  
\*may be shortened

**Assigned Review Track:**  Academic Track  Administrative Track

### Assigned Review Groups:

ACADEMIC DEANS COUNCIL (ADC)	EHSRM (Environmental Health Safety and Risk Management)	FS – FACILITIES AND SERV.
ADI	EMPLOYEE COUNCIL	POLICE
ADMINISTRATION & FINANCE	FACULTY SENATE	PRESIDENT’S ADVISORY COUNCIL (PAC)
ARROWHEAD CENTER	UNIVERSITY ADVANCEMENT	REAL ESTATE
ASSOCIATE DEANS ACADEMIC COUNCIL	HUMAN RESOURCE SERVICES	UNIVERSITY RESEARCH COUNCIL
ASSOCIATED STUDENTS OF NMSU	ICT – INFORMATION AND COMMUNICATION TECHNOLOGY	VP SAEM
COMMUNITY COLLEGE PRESIDENTS’ COUNCIL	NMDA	

**All Academic Track Proposals are Subject to Final Review and Recommendation by the Faculty Senate.**

**ALL PROPOSALS are Subject to Final Review and Recommendation by the University Administrative Council.**



## 5.20 – Overview of Student Social Code of Conduct (SSCC) v080719

[arp.nmsu.edu/5-20](http://arp.nmsu.edu/5-20)

### **PART 1: INTRODUCTION**

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The Student Social Code of Conduct (SSCC) is authorized by the Regents of New Mexico State University (NMSU) as set forth in the Regents Policy Manual (RPM) 5.20. Rules 5.20 through 5.26 of the Administrative Rules and Procedures of NMSU (ARP) collectively constitute the SSCC, which clarifies student rights and responsibilities, and the role of Student Life, overseen by the Dean of Students. Academic misconduct (e.g. cheating on an exam, plagiarism) is outside the purview of the SSCC and is governed by ARP 5.10 and 5.11 (the Student Academic Code of Conduct (SACC)).

The Dean of Students oversees student conduct matters for the NMSU system, including its community colleges, through the NMSU vice-president for student success. Any requirement to be fulfilled by the department of the Dean of Students under the SSCC may be addressed by the dean of students, or dean of student’s designee at any campus.

The SSCC establishes core values which support the standards of social conduct expected of NMSU Students. Violations of the standards, when proven by a preponderance of the evidence, will result in a consequence commensurate with the nature of the violation, and the severity of the resulting harm or level of risk of harm created.

The SSCC also establishes procedures for: 1) reporting suspected or observed misconduct, 2) fact finding, 3) educational conferences, 4) issuance of Charge, and 5) hearings, sanctions and appeals.

The SSCC is organized as follows:

#### **5.20 SSCC - Overview of Student Social Code of Conduct (SSCC)**

PART 1: INTRODUCTION

PART 2: CORE VALUES

PART 3: DEFINITIONS AND ROLES

PART 4: ADMINISTRATION OF SSCC

#### **5.21 SSCC - Student Rights and Responsibilities**

**5.22 SSCC - Conduct Standards**

**5.23 SSCC - Interim Measures**

**5.24 SSCC - Amnesty for Emergency Reporting**

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PART 2: REPORTING RESPONSIBILITIES

PART 3: SITUATIONS JUSTIFYING GRANT OF AMNESTY

PART 4: AMNESTY CONDITIONED UPON COMPLIANCE

PART 5: LIMITATIONS ON GRANT OF AMNESTY

**5.25 SSCC - Consequences for Violation**

PART 1: STUDENT CONDUCT RECORD

PART 2: TYPES OF SANCTIONS

PART 3: GUIDELINES FOR IMPOSING SANCTIONS

PART 4: PETITION FOR RELIEF FROM INDEFINITE SANCTION

**5.26 SSCC - Conduct Case Procedures**

PART 1: GENERAL GUIDANCE

PART 2: CASE INITIATION

PART 3: EDUCATIONAL CONFERENCE

PART 4: ASSESSMENT OF FACTS; ISSUANCE OF FORMAL CHARGE

PART 5: PRE-HEARING PROCEDURES

PART 6: HEARING PROCEDURES

PART 7: SANCTIONING CONFERENCE IN 3.25 CASES (DISCRIMINATION AND TITLE IX)

PART 8: APPEAL PROCEDURES

## **PART 2: CORE VALUES**

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The core values that underpin the social conduct standards set forth in ARP 5.22 are as follows:

- A. **Community:** NMSU Students welcome all individuals into their academic and social activities to enhance the learning and social environments.
- B. **Integrity:** NMSU Students exemplify honesty, honor and a respect for the truth in all of their actions.
- C. **Social Justice:** NMSU Students recognize the dignity of every person, anticipating and appreciating how their decisions and actions may have an impact on others. NMSU Students are just and equitable in their treatment of all members of the community, and take action to discourage and challenge others who may seek to harm or diminish the worth of others.
- D. **Respect:** NMSU Students show consideration and positive regard for each other and for members of the community, through their words and actions.
- E. **Responsibility:** NMSU Students accept responsibility for their own conduct and its impact upon self, others and the community, seeking guidance and assistance as necessary and appropriate.

## PART 3: DEFINITIONS AND ROLES

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Terms defined for purposes of the SSCC are capitalized throughout the SSCC, to denote such defined status.

- A. **Appeal Officer:** The individual who decides whether to accept a Respondent's or Complainant's appeal from a Hearing Officer's decision and imposition of Sanctions, and if accepted, reviews the hearing record, the appeal petition and any response to the petition, and issues a decision regarding the appeal. The Appeal Officer cannot have been directly involved in the investigation, the decision to initiate a charge or the original determination by the Hearing Officer. For NMSU's Las Cruces campus, Student Life's vice president for student success or designee serves as Appeal Officer. For the community colleges, each campus president or designee serves as Appeal Officer. In the event these officials are not available to serve (e.g. scheduling conflict, conflict of interest, lack of objectivity due to prior involvement), the executive vice president and provost or designee will serve as Appeal Officer.
- B. **Case Administrator:** The individual designated to facilitate the SSCC process, and who is not eligible to serve as either Hearing Officer or Appeal Officer. The Case Administrators from the community colleges work in coordination with the Dean of Students. The dean of students designates the Case Administrators, and may also elect to serve in this role.
- C. **Charge:** A formal written notification to a Respondent 1) informing them that they are the subject of an SSCC conduct investigation, 2) describing the misconduct they are alleged to have committed or participated in, and 3) describing the provisions of the SSCC the alleged conduct violates and the likely sanction, should such allegation be proven or admitted to by Respondent.
- D. **Complainant (aka Reporter):** A person who submits a complaint or report to the Dean of Students, or other appropriate NMSU employee, indicating that a student may have violated the SSCC Conduct Standards and/or who asserts injury, damage or loss (to person, property, or reputation) as a result of a student's alleged behavior.

- E. **Day:** A business day, defined as Monday through Friday 8:00 a.m. to 5:00 p.m., except for those days designated as official NMSU holidays or subject to an official university closure.
- F. **Dean of Students:** In upper case, “Dean of Students” denotes the NMSU department headed by the dean of students (located on the 2<sup>nd</sup> floor of the Corbett Center Student Union Building), which is a component of the Student Life Division.  
In lower case, “dean of students” is a position title referring to the individual holding the position of dean of students, who serves as NMSU’s chief conduct administrator for the NMSU System, and also serves as the director of the Student Life Division.
- G. **Educational Conference:** An informal, interactive meeting between the Case Administrator and a Student alleged to have violated the SSCC. See [ARP 5.26](#) Part 4.
- H. **Hearing Officer:** An NMSU employee or agent, other than the Case Administrator, who conducts the fact-finding hearing in non-3.25 cases conduct cases, and renders a determination based on a preponderance of the evidence. Upon a finding of responsibility for a violation of the SSCC by OIE in a 3.25 case, or a determination by the Hearing Officer in a non-3.25 case, the Hearing Officer imposes an appropriate Sanction. The dean of students appoints the Hearing Officer or may serve as the Hearing Officer.
- I. **Interim Measures:** Individualized services or resources offered to or required for parties involved in a conduct case, including both supportive and temporary protective measures. (**See ARP 5.23 – Interim Measures**)
- J. **Investigate/tion:** The follow through on an alleged SSCC violation to ascertain the facts related to the alleged details and circumstances. Investigations may be a part of an Educational Conference, may result in additional charges, or may result in dismissal of the SSCC case. This determination is made at the sole discretion of the Dean of Students and/or designee.
- K. **Notice:** A written communication which may be delivered in person, by U.S. mail, or through secure electronic transmission to or from the addressee’s official NMSU email account. Text messages and social media postings, albeit in written form, are not sufficiently formal to serve as “Notice” for purposes of the SSCC, but may be used for reminders and less formal correspondence.
- L. **NMSU Community:** Includes NMSU Students, faculty and staff and visitors to campus (e.g. volunteers, vendors, members of the public attending NMSU functions).
- M. **NMSU Property:** All land, facilities and other property owned, operated or controlled by the Regents of NMSU.
- N. **NMSU Sponsored Activities:** Events or activities involving Students, Student Organizations, or NMSU departments, faculty members, or employees that are:
1. expressly authorized, aided, conducted or supervised by NMSU;
  2. funded in whole or in part by NMSU; or
  3. initiated by an officially chartered Student Organization and conducted or promoted in the name of that Student Organization or NMSU.
- O. **Preponderance of the Evidence:** The amount of evidence required to prove a violation of the SSCC. A Preponderance of the Evidence means “more likely than not”, or stated another way, Preponderance of the Evidence means the “greater weight of the evidence”.

- P. **Reporter:** A person or entity who submits a complaint or report to the Dean of Students or other appropriate NMSU employee alleging that a Student or Student Organization violated the SSCC.
- Q. **Respondent:** A Student or Student Organization charged with violating one or more provisions of the SSCC.
- R. **Sanction:** A Sanction is a disciplinary measure intended to educate the Respondent, remedy the harm, and/or to deter future misconduct.
- S. **Student:** An individual admitted or enrolled, for any type of credit or not for-credit course, offered by NMSU or any of its community colleges, as well as an individual not yet officially enrolled for a particular term, but who has a continuing relationship with NMSU, as determined by the Dean of Students. Examples of a continuing relationship include: 1) when a student leaves NMSU with a disciplinary matter pending, 2) when a student is suspended or dismissed, or 3) when a student is away from NMSU during summer break, a period of clinical or other experiential learning or study abroad experience.
- T. **Student Organization:** Any group of Students officially recognized by NMSU as a chartered Student Organization.
- U. **Support Advisor:** An individual chosen by a Student to serve as an advisor in a supporting role during a Student disciplinary proceeding. Both the Complainant and the Respondent may elect to utilize a Support Advisor during any meeting, Educational Conference or hearing. The Support Advisor may consult with and advise the Student at any time during the course of the relevant meeting or outside the meeting. The Support Advisor may raise legitimate objections to questions during an investigatory interview or hearing, but may not answer questions on behalf of the Student or unreasonably delay or interfere with the proceeding.
- V. **Title IX:** Title IX refers to *Title IX of the Education Amendments of 1972, and its implementing regulation at 34 C.F.R. Part 106*. This federal law prohibits the exclusion of any person from participating in or from receiving benefits of, or any discrimination in, educational programs or activities, based on their sex. See [RPM 3.25 – Equal Opportunity and Prohibition of Unlawful Discrimination](#), [ARP 3.25-Discrimination, Harassment and Sexual Misconduct on Campus](#).

## PART 4: ADMINISTRATION OF SSCC

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- A. **Authority of Dean of Students:** Before initiating a conduct case, the Dean of Students will determine whether the allegations of misconduct fall within the Dean of Students' authority. The Dean of Students (or community college designee), has authority to open and pursue conduct cases, including conducting or directing investigations, educational conferences, assessment of facts and sanctions, pre-hearing tasks and hearings including the imposition of sanctions, under these circumstances:
  - 1. Alleged Student misconduct occurs on NMSU Property; or
  - 2. Alleged Student misconduct has a substantial nexus with NMSU Property or a substantial impact on a member of the University Community. Such an impact is recognized when the misconduct:

- a. substantially interferes with or causes substantial harm to the NMSU mission, its finances, or reputation;
  - b. occurs at or in connection with an NMSU sponsored event;
  - c. involves an NMSU official or volunteer acting in their official capacity; or
  - d. creates a threat to the safety and security of NMSU property or any member of the NMSU Community.
3. The alleged misconduct first came to the attention of NMSU within the prior one year period; however, in the case of serious misconduct, the vice president of student success and the OIE Director may grant permission for a conduct case to be initiated after the one year time period has expired.
- B. **Concurrent NMSU Disciplinary Proceedings:** Based on a Student's role within the NMSU Community, the Student may be subject to more than one set of conduct standards and consequences for the same misconduct. Examples of dual or multiple roles students may have include that of a campus resident, student athlete, member of ROTC or other student organizations, enrollment in dual credit courses or Early College High School. The various rules and processes related to each of these roles apply independently from the SSCC, and may occur concurrently; the outcome of one may or may not affect the outcome of the other process.
- C. **Concurrent SSCC Cases and Court Proceedings:** Misconduct under this SSCC may result in proceedings under both the SSCC and civil or criminal law. Generally, an SSCC conduct case proceeds without regard to the pendency or status of any criminal investigation or other legal proceedings. Determinations made or *sanctions* imposed as a part of an SSCC process *shall* not be subject to change because criminal *charges* were dismissed, reduced, or resolved in favor of or against the criminal law defendant.

If a Respondent desires to obtain a stay of the SSCC case due to potential or pending criminal investigation or prosecution, the following will apply:

1. The request must be in writing, directed to the Dean of Students, and provide the basis for the request, with a reasonable length of time.
2. The Dean of Students will consider the request and render a decision (in coordination with the appropriate community college designee where appropriate).
3. The stay, if granted, will be for a designated period of time, subject to subsequent review for extensions or a termination of the stay.
4. Interim Measures may be imposed or continued while a stay is in effect.

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The SSCC establishes core values which support the standards of social conduct expected of NMSU Students. Violations of the standards, when proven by a preponderance of the evidence, will result in a consequence commensurate with the nature of the violation, and the severity of the resulting harm or level of risk of harm created.

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#### **5.21 SSCC - Student Rights and Responsibilities**

5.22 ~~SSCC Social\_~~ Conduct Standards (~~Prohibited Conduct~~)

5.23 ~~SSCC \_~~ Interim Measures

5.24 ~~SSCC \_~~ Amnesty for Emergency Reporting

PART 1: PURPOSE

PART 2: REPORTING RESPONSIBILITIES

PART 3: SITUATIONS JUSTIFYING GRANT OF AMNESTY

PART 4: AMNESTY CONDITIONED UPON COMPLIANCE

PART 5: LIMITATIONS ON GRANT OF AMNESTY

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PART 2: TYPES OF SANCTIONS

PART 3: GUIDELINES FOR IMPOSING SANCTIONS

PART 4: PETITION FOR RELIEF FROM INDEFINITE SANCTION

5.26 ~~SSCC \_~~ Conduct Case Procedures

PART I: ~~REPORTING STUDENT MISCONDUCT~~

~~PART 2: GENERAL~~ GUIDANCE ~~APPLICABLE AT ALL STAGES OF CONDUCT CASE~~

PART ~~3~~2: CASE INITIATION

PART ~~4~~3: EDUCATIONAL CONFERENCE

PART ~~5~~4: ASSESSMENT OF FACTS ~~AND SANCTION; NOTICE; ISSUANCE OF FORMAL CHARGE~~

PART ~~6~~5: PRE-HEARING PROCEDURES

PART ~~7~~6: HEARING PROCEDURES

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  - ~~B.~~ **Case Administrator:** The individual designated to facilitate the SSCC process, and who is not eligible to serve as either Hearing Officer or Appeal Officer, ~~in the event the case is contested.~~ The Case Administrators from the community colleges work in coordination with the Dean of Students.
- B. The dean of students designates the Case Administrators, and may also elect to serve in this role.
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D. **Complainant: (aka Reporter):** A person who submits a complaint or report to the Dean of Students, or other appropriate NMSU employee, indicating that a student may have violated the SSCC Conduct Standards and/or who asserts injury, damage or loss (to person, property, or reputation) as a result of a Student's alleged ~~prohibited conduct under the SSCC~~ behavior.

~~E.~~ **Day:** A business day, defined as Monday through Friday 8:00 a.m. to 5:00

~~E.~~ p.m., except for those days designated as official NMSU holidays or subject to an official university closure.

F. **Dean of Students:** In upper case, "Dean of Students" denotes the NMSU department headed by the dean of students (located ~~in~~ on the 2<sup>nd</sup> floor of the Corbett Center Student Union Building) ~~as), which is~~ a component of the Student Life Division ~~at NMSU.~~

~~F.~~ In lower case, "dean of students" is a position title ~~which refers~~ referring to the individual holding the ~~dean of students'~~ position, of dean of students, who serves as NMSU's chief conduct administrator for the NMSU System, and also serves as the director of the Student Life Division. ~~The Dean of Students coordinates disciplinary matters at the community colleges, typically through their vice-president for student services. Any action to be taken or requirement to be fulfilled by the Dean of Students under this rule may be addressed by the dean of students, or dean's designee within or outside the Dean of Students.~~

G. **Educational Conference:** An informal, interactive meeting between the Case Administrator and a Student alleged to have violated the SSCC. See ARP 5.26 Part 4.

H. **Hearing Officer:** An NMSU employee or agent, other than the Case Administrator, who conducts the fact-finding hearing in contested non-3.25 cases conduct cases, and issues renders a determination based on a preponderance of the evidence, ~~and, upon.~~ Upon a finding against of responsibility for a Respondent, ~~imposes sanctions as violation of the SSCC by OIE in a 3.25 case, or a determination by~~ the Hearing Officer ~~deems in a non-3.25 case, the Hearing Officer imposes an~~ appropriate Sanction. The dean of students appoints the Hearing Officer or may serve as the Hearing Officer.

I. **Interim Measures:** Individualized services or resources offered to or required for parties involved in a conduct case, including both supportive and temporary protective measures ~~(see below). Interim Measures may include counseling, extensions of time or other course-related adjustments, modification to work or class schedules, campus escort services, restrictions on contact between the individuals, No Trespass Directive (See ARP 16.21), or other directives restricting activities on campus, changes in dining or housing arrangements, authorized leaves of absence, increased security and monitoring of certain areas of campus and similar accommodations. (See ARP 5.23 – Interim Measures)~~

~~0.~~ Supportive measures are offered through the Office of Institutional Equity in coordination with the NMSU Title IX Coordinator, or designee, in response to allegations of sexual harassment, sexual assault, sexual misconduct, or any other form of protected class discrimination.

~~0.~~ Temporary protective measures are instituted through the Dean of Students, or other authorized NMSU officials, in response to direct threats to the health,



**S.T. Student Organization:** Any group of Students officially recognized by NMSU as a chartered Student Organization.

**T.U. Support Advisor:** An individual chosen by a Student to serve as an advisor in a supporting role during a Student disciplinary proceeding. Both the Complainant and the Respondent may elect to utilize a Support Advisor during any meeting, Educational Conference or hearing. The Support Advisor may consult with and advise the Student at any time during the course of the relevant meeting or outside the meeting. The Support Advisor may raise legitimate objections to questions during an investigatory interview or hearing, but may not answer questions on behalf of the Student or unreasonably delay or interfere with the proceeding.

**U.V. Title IX:** Title IX refers to *Title IX of the Education Amendments of 1972, and its implementing regulation at 34 C.F.R. Part 106*. This federal law prohibits the exclusion of any person from participating in or from receiving benefits of, or any discrimination in, educational programs or activities, based on their sex. See RPM 3.25 – Equal Opportunity and Prohibition of Unlawful Discrimination, ARP 3.25-Discrimination, Harassment and Sexual Misconduct on Campus.

## PART 4: ADMINISTRATION OF SSCC

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A. **Authority of Dean of Students:** Before initiating a conduct case, the Dean of Students will determine whether the allegations of misconduct fall within the Dean of Students' authority. The Dean of Students (or community college designee), has authority to open and pursue conduct cases, including conducting or directing investigations, educational conferences, assessment of facts and sanctions, pre-hearing tasks and hearings including the imposition of sanctions, under these circumstances:

~~including the imposition of sanctions, under these circumstances:~~

~~2.1.~~ Alleged Student misconduct occurs on NMSU Property; or

~~1.~~ Alleged Student misconduct has a substantial nexus with NMSU

~~2.~~ Property or a substantial impact on a member of the University Community. Such an impact is recognized when the misconduct ~~(1):~~

~~a.~~ substantially interferes with or causes substantial harm to the NMSU mission, its finances, or reputation; ~~(2) occurs at or in connection with an NMSU sponsored event;~~  
~~(3) involves an NMSU official or volunteer acting in their official capacity; or (4) creates a threat to the safety and security of NMSU property or any member of the NMSU Community; and~~

~~b.~~ occurs at or in connection with an NMSU sponsored event;

~~c.~~ involves an NMSU official or volunteer acting in their official capacity; or Alleged Student

~~d.~~ creates a threat to the safety and security of NMSU property or any member of the NMSU Community.

3. The alleged misconduct first came to the attention of NMSU within the prior one year period; however, in the case of serious misconduct, the vice president of student success and the OIE Director may grant permission for a conduct case to be initiated after the one year time period has expired.
- B. **Concurrent NMSU Disciplinary Proceedings:** Based on a Student's role within the NMSU Community, the Student may be subject to more than one set of conduct standards and consequences for the same misconduct. Examples of dual or multiple roles students may have include that of a campus resident, student athlete, member of ROTC or other student organizations, enrollment in dual credit courses or Early College High School. The various rules and processes related to each of these roles ~~are applied~~apply independently from the SSCC, and may occur concurrently; the outcome of one may or may not affect the outcome of the other process.
- C. **Concurrent SSCC Cases and Court Proceedings:** Misconduct under this SSCC may result in proceedings under both the SSCC and civil or criminal law. Generally, an SSCC conduct case proceeds without regard to the pendency or status of any criminal investigation or other legal proceedings. Determinations made or sanctions imposed as a part of an SSCC process shall not be subject to change because criminal charges were dismissed, reduced, or resolved in favor of or against the criminal law defendant.

~~C.~~

If a Respondent desires to obtain a stay of the SSCC case due to potential or pending criminal investigation or prosecution, the following will apply:

1. The request must be ~~submitted~~ in writing, directed to the Dean of Students, and ~~will propose~~provide the basis for the request, with a reasonable length of time ~~and basis for the stay.~~
2. The Dean of Students will consider the request and render a decision (in coordination with the appropriate community college designee where appropriate).
3. The stay, if granted, will be for a designated period of time, subject to subsequent review for extensions or a termination of the stay.
4. Interim Measures may be imposed or continued while a stay is in effect, ~~unless determined to no longer be necessary.~~