

**Student Conduct,  
Rights, and  
Responsibilities  
Fact sheet for Advisors**

An advisor may accompany a student to a disciplinary conference. Advisors fall into two categories: non-attorney advisor and attorney advisor.

- An Attorney is defined as anyone who has an active or inactive license to practice law.
  - Attorneys may attend hearings as Advisors in Conduct cases (a) where there are pending Felony criminal charges arising out of the same facts that are the subject of the disciplinary proceeding; or (b) where the recommended sanction is expulsion.
- A non-attorney is defined as anyone in the student's community. This includes friends, faculty, staff, and parents.

**Administrative Process vs. Legal System**

It is not the role of Student Conduct, Rights, and Responsibilities to determine whether a student has violated the law, but whether a student has violated University policy. The outcome of court proceedings have no bearing on the outcome of the conduct process. Furthermore, the concept of "double jeopardy" is not applicable, as criminal proceedings do not offer an exemption from civil or administrative proceedings.

- A student may be charged under the criminal justice system as well as under Title 5. Alternatively, charges may occur for alleged Title 5 violations which may not be violations of the law.
- Students are entitled to have an advisor support them through the discipline process. Advisors may be a friend, parent, attorney\*, or any other person of their choosing with the exclusion of witnesses. The advisor however, may not represent the student as the student is required to speak for his/herself at all times during the process. Any advisors disregarding this rule will be asked to leave.
- The campus conduct process is not comparable to a criminal or civil trial. Rather, a student conduct proceeding (conference or hearing) is designed to be educational in nature. Students and their advisor should expect a supportive and non-adversarial environment throughout the disciplinary process.
- Student Conduct, Rights, and Responsibilities uses a "preponderance of evidence" (more likely than not), as opposed to "beyond a reasonable doubt" used by a court of law. Legal rules of evidence do not apply in campus conduct cases. Conduct officers have the right to gather and utilize any and all information that is relevant, including hearsay and third party testimony.
- In compliance with the Family Educational Rights and Privacy Act (FERPA), campus conduct cases are confidential.

\*See rules for attorneys as advisors in the first section of this document.

## **Title IX/DHR**

In cases involving Discrimination, Harassment and Retaliation based on Gender, including Sex Discrimination, Sexual Harassment, Sexual Misconduct, Domestic Violence, Dating Violence, and Stalking:

- Both the Complainant and the Respondent charged may elect to be accompanied by an Advisor of their choice, subject to the limitations below, to any meetings, conferences, interviews or hearings.
- The Complainant may elect to have a Sexual Assault Victim's Advocate or an Attorney as an Advisor. Likewise, in such matters, the Respondent charged may elect to have an attorney as an Advisor.
- Any witnesses who are alleged to be victims of the Discrimination, Harassment, Retaliation, Sexual Misconduct, Domestic or Dating Violence, or Stalking may likewise elect to be accompanied by an Advisor of their choice.

## **Parallel Judicial Proceedings – Executive Order 1098, Article II, Section H.**

Student Conduct Code proceedings are independent from court or other administrative proceedings. Discipline may be instituted against a Student also charged in civil or criminal courts based on the same facts that constitute the alleged violation of the Student Conduct Code. **The Campus may proceed before, simultaneously with, or after any judicial or other administrative proceedings**, except in cases involving Discrimination, Harassment, Retaliation, Sexual Misconduct, Dating or Domestic Violence, or Stalking. In such cases, the campus shall proceed without delay.

## **Due Process**

A significant body of case law has been established that outline constitutional requirements as related to the student disciplinary process. At Chico State, students may accept all charges and sanctions issued at a disciplinary conference (referred to as a Settlement Agreement). Alternatively, if a student does not accept the terms of the Settlement Agreement, the case automatically moves forward to a hearing. A Notice of Hearing will be sent to the student via their Wildcat email.

## **Advisors**

If a student elects to bring an attorney as their advisor, Student Conduct, Rights, and Responsibilities must be given five (5) working days advance notice.

The role of an Advisor will be limited to:

- Asking procedural or process based questions only when permitted by the Conduct Administrator.
- Conferring with the student before and after the proceeding.

- Conferring quietly with student during the proceeding, when permitted by the Conduct Administrator.

The Advisor shall *not*:

- Address the Conduct Administrator or assigned Designee in an effort to respond on behalf of the student.
- Ask questions about the investigation or its findings.
- Question witnesses.
- Participate in activities that disrupt the educational conversation that occurs between the Conduct Administrator or an assigned Designee and the student.

In general, the Student Conduct Administrator, Hearing Officer, or assigned Designee will not delay a disciplinary proceeding due to the unavailability of an advisor.

**NOTE:** Pursuant to Executive Order 1098, Article IV., Section H., Subsection 13, an advisor may be asked to leave the proceeding if they cause any material disruption in an effort to ensure that the process remains informal, educational, and fair.

### **Student Grievances**

#### **What is the policy on representation during the grievance process?**

Both parties may have a representative or an advisor throughout the process or during a formal student grievance hearing but he or she may not be an attorney. The name of the representative must be given to the facilitator no less than two instructional days prior to the grievance hearing. Both parties are responsible for notifying their representatives of the hearing date and ensuring their presence at the hearing.