

CLAREMONT McKENNA COLLEGE
BASIC RULE OF CONDUCT
AND JUDICIAL PROCEDURES

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THE BASIC RULE OF CONDUCT

To maintain an environment which promotes its educational mission, the College expects its students to respect the persons and property of others, including members of the College community, the educational and administrative process of the College, and the activities of members of the College community conducted in accordance with this rule.

The term "Members of the College Community" means members of the Board of Trustees, academic and non-academic personnel, administrative personnel, and students of the College, including any such persons when on the campus of or at a college function (including off-campus functions and programs) of any of the Claremont Colleges or the Claremont University Center, or other persons on the College campus or at a College function.

The following sections outline kinds of behavior which violate the "Basic Rule of Conduct."

1. Actions which cause the personal injury or death of another, or which threaten or endanger the personal safety or well-being of others. Such actions include, but are not limited to:
 - a. Participating in a riot or major disturbance.
 - b. Engaging in disorderly conduct.
 - c. Unlawfully using or threatening to use weapons or objects which can be used as weapons.
 - d. Unlawfully possessing or using explosives (including fireworks) or dangerous chemicals (unless authorized for an academic purpose).
 - e. Possessing or storing on campus firearms or ammunition.
 - f. Physically abusing, threatening to abuse, or intimidating another person.
 - g. Engaging in lewd, indecent or obscene conduct.
 - h. Engaging in physical or verbal actions which injure, degrade or disgrace another person, or tend to cause such effects.
 - i. Violating the Claremont McKenna College policy on sexual offenses.
2. Actions which damage or misuse property. Such actions include, but are not limited to:
 - a. Stealing, borrowing without authorization or knowingly possessing stolen property.
 - b. Abusing, mishandling or misappropriating property, equipment, materials, or accounts.
 - c. Damaging or destroying property without legal justification.
 - d. Entering, using or occupying College property without authorization.
 - e. Unauthorized access to computers, computer systems, and computer data.
 - f. Unauthorized altering of computer data.
3. Actions which violate or misrepresent agreements, contracts, documents, or relationships relating to the College and/or its activities. Such actions include, but are not limited to:
 - a. Providing false information on College forms and documents, or to College personnel.
 - b. Forging, altering or misusing College documents.
 - c. Falsely representing any person or organization as an agent or employee of the College.

- d. Using the College name (including the shortened variants "Claremont McKenna," "McKenna" and/or "CMC") or the College's trademarks/service marks: "STAGS"; "ATHENAS"; or "Leaders in the Making" or seal except when authorized by the Board of Trustees, the President, the Dean of Students or the General Secretary of the College. Also included are any combination of the foregoing names, trademarks/service marks and/or seal, including mergers into one word, usage with or without capitalization(s) as one or more words, inclusion as one or more words with/or as part of an Internet website address (irrespective of the highest ("top") level domain designation used, viz., ".com," ".org," etc.) or any other variance of the use of said names, trademarks/service marks and/or seal.
4. Actions which hinder the College Judiciary Board or the Administrative Hearing Officer in the performance of their duties. Such actions include, but are not limited to:
 - a. Engaging in conduct which violates the instructions or procedural rules of the Board, or the Administrative Hearing Officer, or its effective adherence to the CMC Judicial Procedures.
 - b. Interrupting, or obstructing the Hearing or preventing deliberations of the Board or the Administrative Hearing Officer.
5. Actions which violate the Policy on Demonstrations at the Claremont Colleges.
6. Actions which violate the Claremont McKenna College Policy on Alcoholic Beverages.
7. Actions which constitute alcohol or substance abuse. Such actions include, but are not limited to:

Violations of federal or state laws governing the possession, sale and consumption of regulated substances.
8. Actions which violate an order of the President, notice of which has been given prior to such violation. Such an order, issued in unusual or emergency situations, will be given reasonable wide publicity and will have specified starting and expiration times. An order of the President which would subject a person violating it to possible suspension will so plainly state in the text of the order.
9. Actions which violate College administrative regulations (such as quiet hours, key policies, traffic and parking rules, residence hall rules and anti-litter rules).
10. Actions which assist, urge, encourage or solicit another person to violate College rules.
11. Behavior in violation of the Contempt Rule.
12. Actions which violate any other provisions of the CMC Guide to Nonacademic Policies not above designated, if any.

SUMMARY SUSPENSION

Each College President or his or her designated representative after due warning to the person(s) involved, and subject to later review by the duly designated judicial body of the College concerned, has the power on his or her own campus to suspend students of any of the Claremont Colleges who are engaged in actions which endanger the safety and/or property of Members of the Claremont Colleges, which cause damage to the property of the Colleges or which result in disruption or obstruction of the operation of the Colleges. In the absence of the President or his or her designated representative, this power shall be exercised by the chairperson of the Council of the Claremont Colleges, in his or her absence, by the chairperson designate.

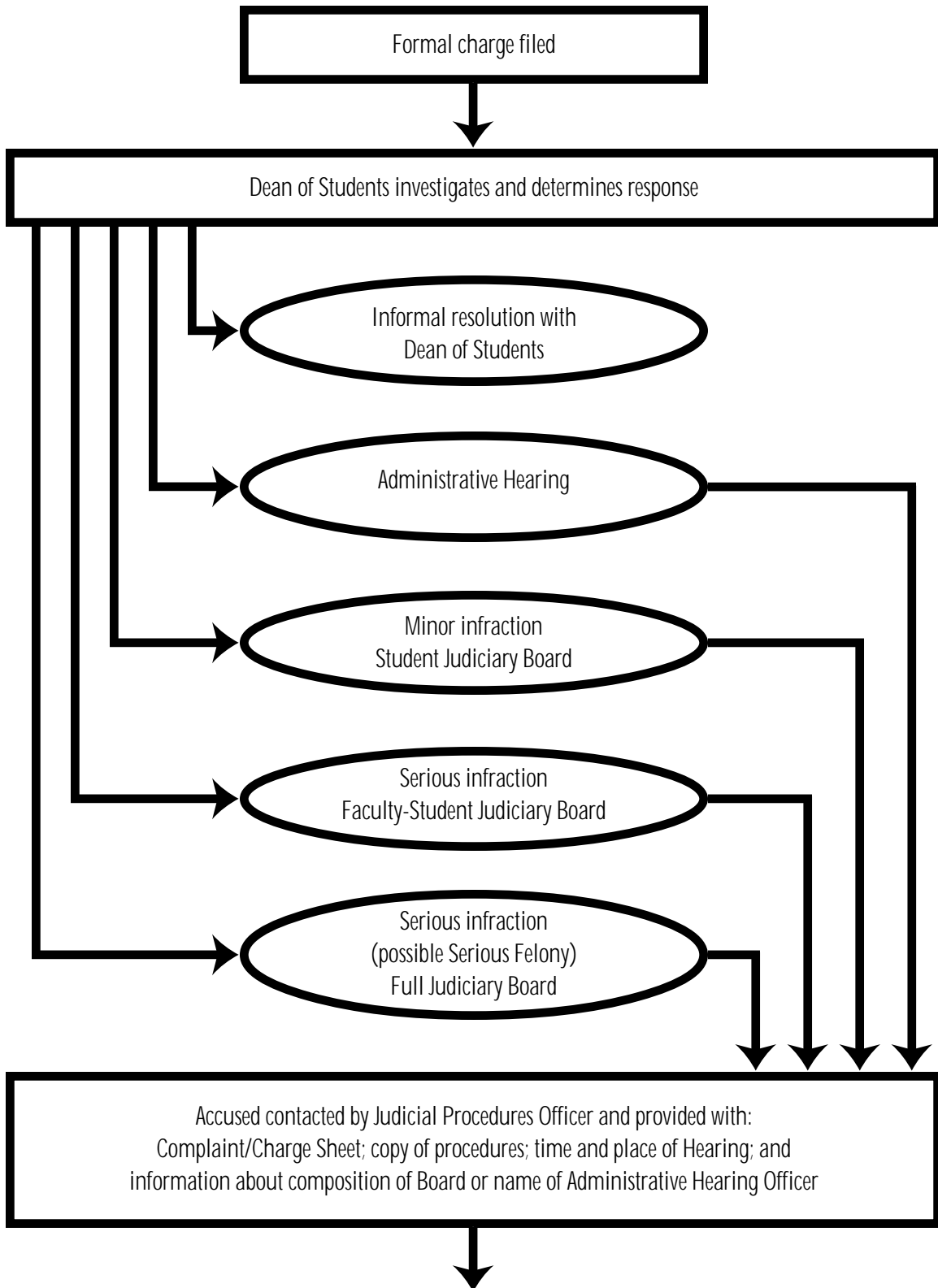
Any student who is so suspended shall be given prompt notice of charges and a Hearing [before the duly designated judicial body of the concerned college] within ten (10) days of the imposition of the suspension. Such suspension shall be deemed a "Summary Suspension" and subject to the provisions of **APPENDIX C., XVII.**

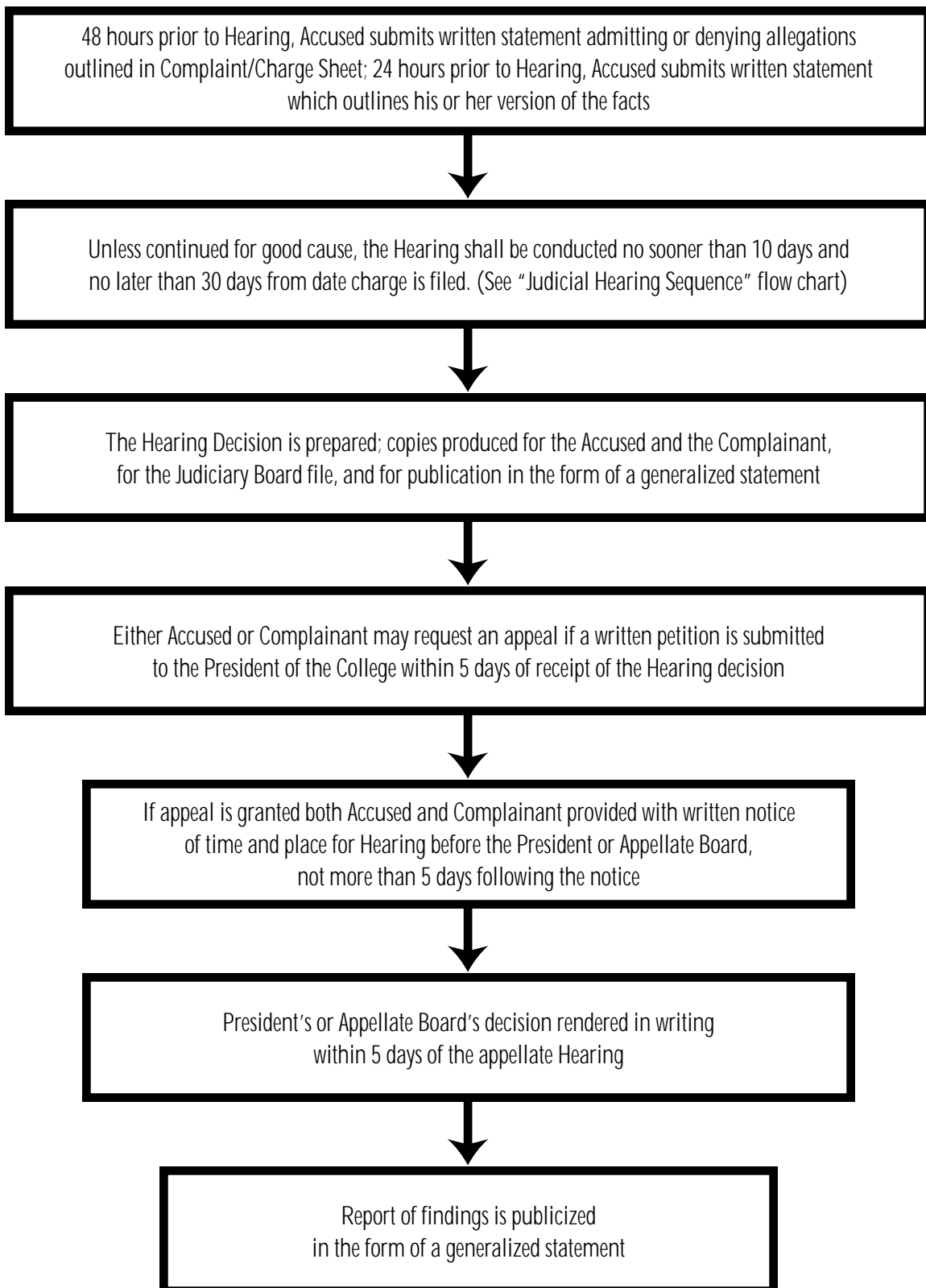
PENALTIES

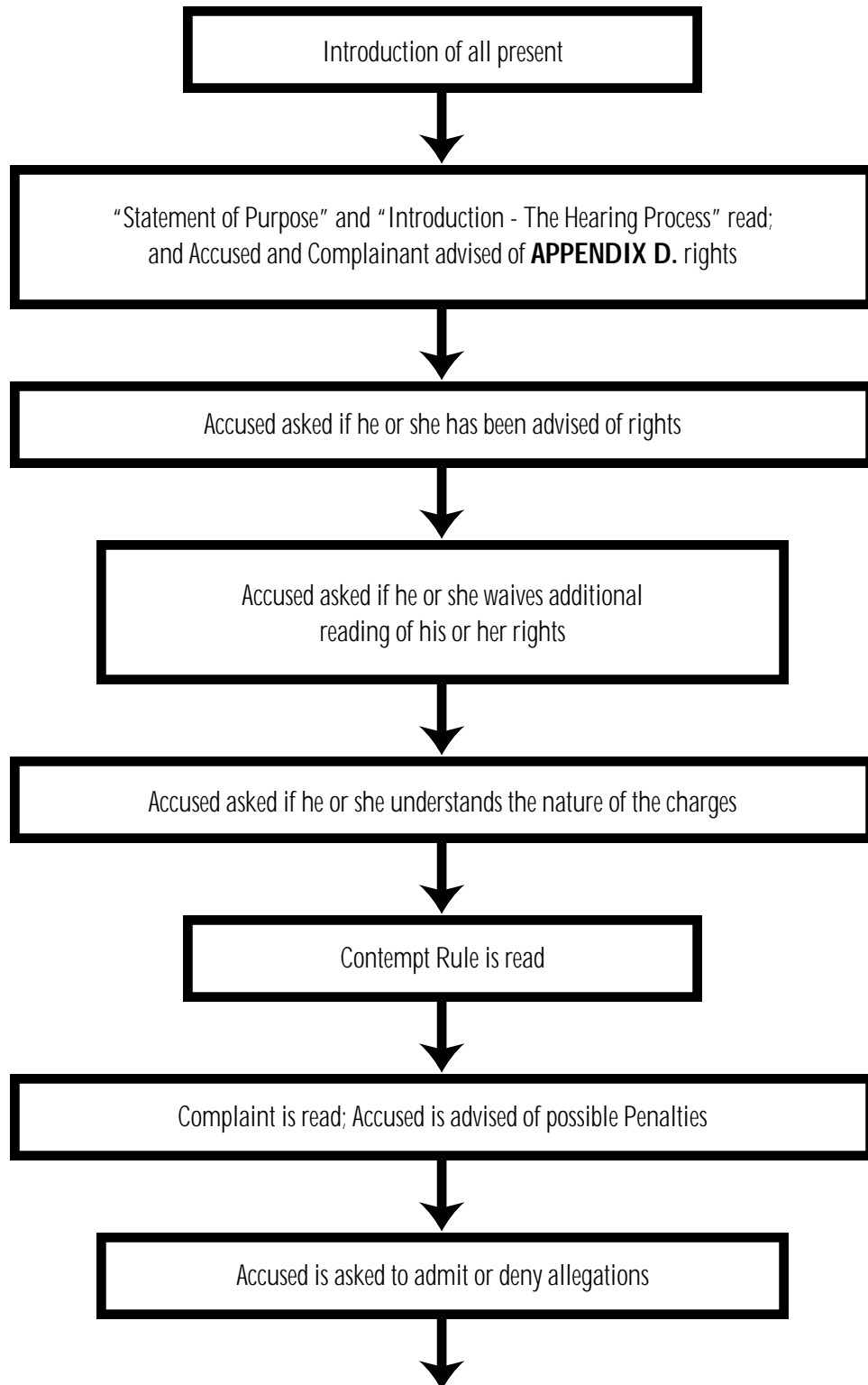
The maximum penalty for conduct which violates the "Basic Rule of Conduct" is Expulsion. Penalties for less serious violations may include Warnings, Fines, Restitution, Work Hours, Counseling, Removal of Activities or Privileges for a Specific Period, Involuntary Removal of Offending Cause, Involuntary Relocation, Suspension of On-Campus Privileges, Conduct Probation, Disciplinary Probation, and Suspension. Unless the President directs otherwise, supervision of penalties shall be by the Dean of Students.

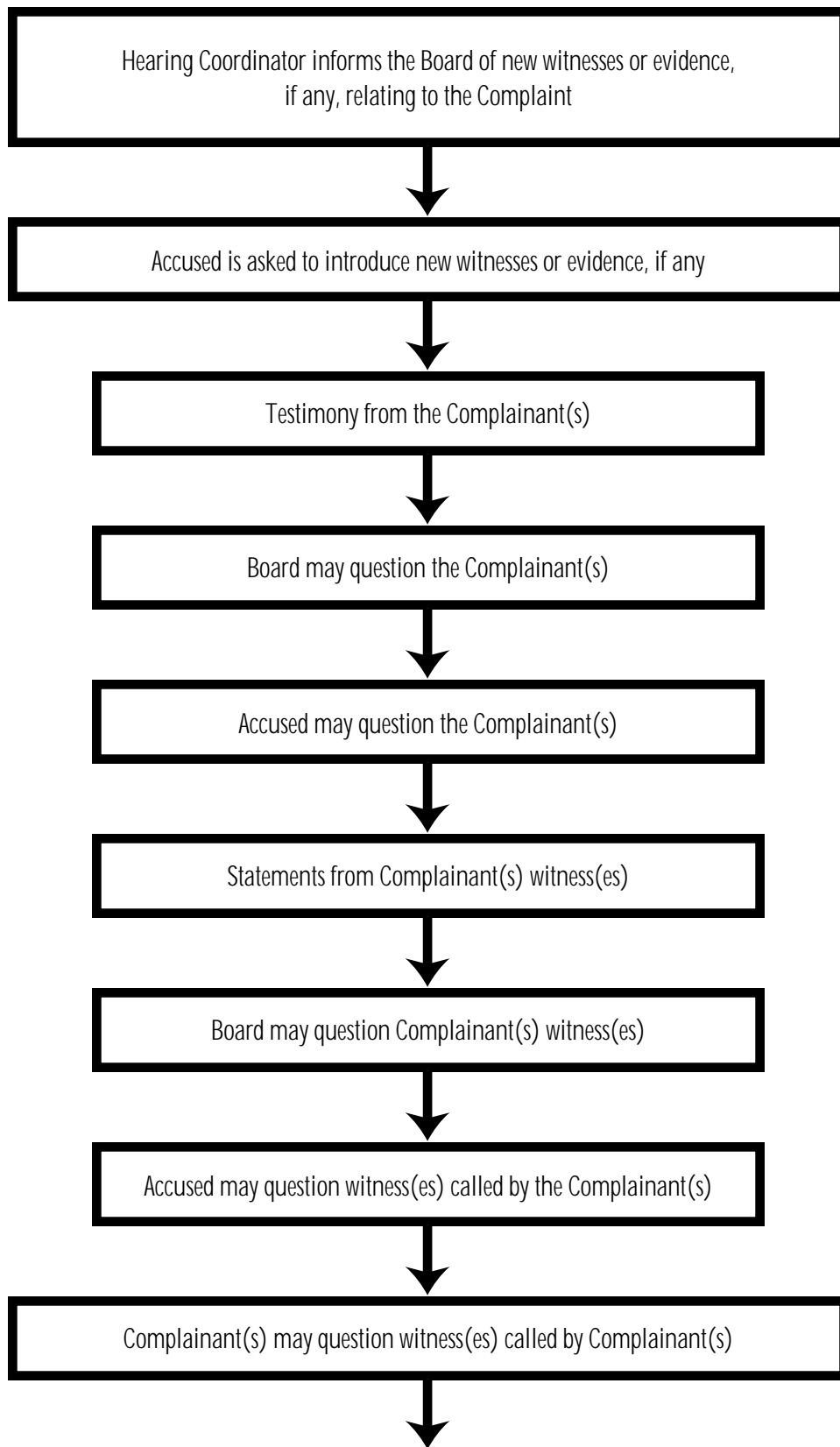
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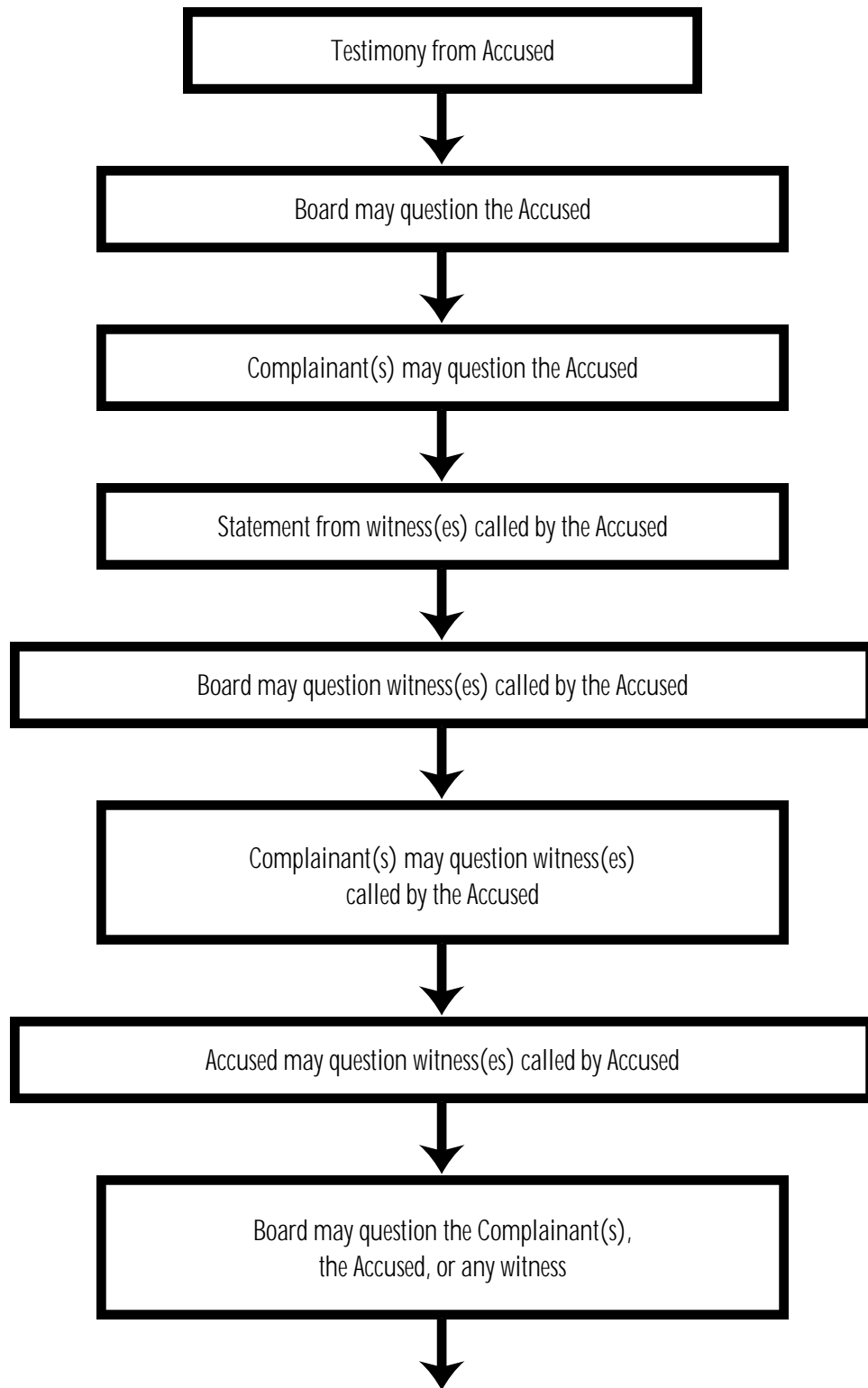
JUDICIAL PROCESS

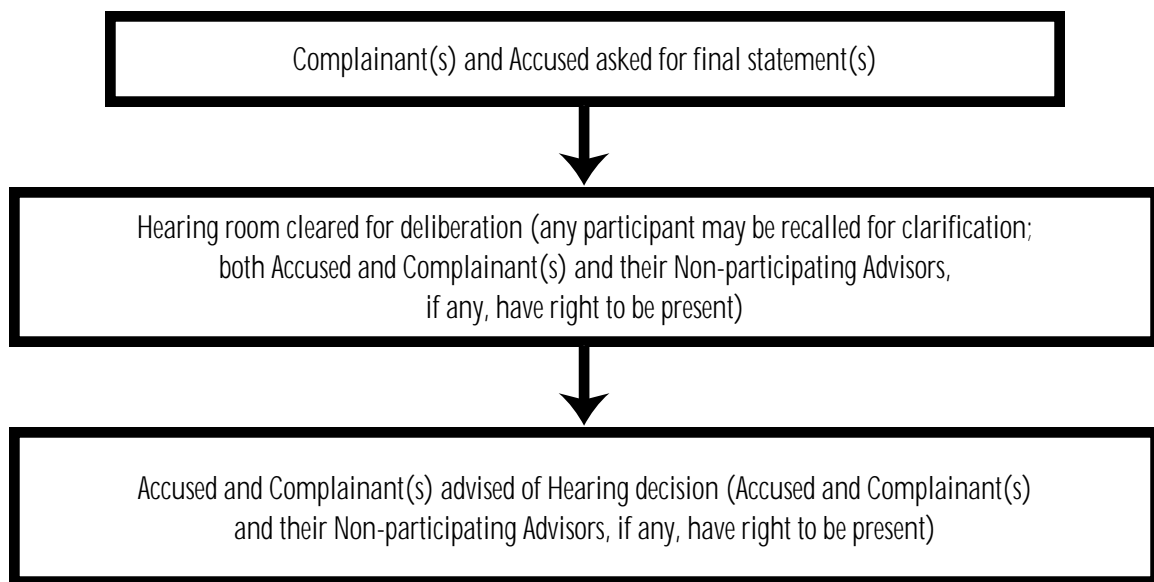




JUDICIAL HEARING SEQUENCE







CLAREMONT McKENNA COLLEGE
JUDICIAL PROCEDURES

(Revised, December 2001)

(OCR approved December 1995)

I. Statement of Purpose

The College adopted "The Basic Rule of Conduct" in order to underscore the fundamental relationship between the academic and the co-curricular environment and the requirements of nonacademic conduct in that environment. The educational mission of the College can only be attained when the intellectual growth of students is coupled with personal responsibility and maturity, and a sense of ethical and moral values.

The College regularly promulgates regulations designed to promote the health and safety of individuals, to further the development of responsible and mature social interaction in a residential setting, and to facilitate the educational purposes of the institution. The goal of these procedures is to maintain an environment which promotes the broad educational mission of the College through a duly constituted disciplinary process.

Judicial proceedings at the College are administrative in nature and should be distinguished from public law enforcement both in terms of procedures and sanctions. If alleged acts are violations of both College regulations and public law, the College is not precluded from taking disciplinary action on its own, regardless of action or inaction by public authorities.

The disciplinary authority of Claremont McKenna College originates in its Board of Trustees. This authority, as herein provided, has been delegated to the President, the Dean of Students and the College Judiciary Board. Changes in these procedures may be recommended by the College Judiciary Board, the Dean of Students, or the President of the College to the CMC Board of Trustees. The ultimate authority for and determination of the College disciplinary process, and any College disciplinary proceeding thereunder is the CMC Board of Trustees.

II. Jurisdiction

The conduct of students which violates the "Statement of Academic Policy and Statement of Academic Integrity" is subject to the jurisdiction of the Academic Standards Committee. The judicial offices and organizations outlined in these procedures have jurisdiction over all Other Conduct of students and includes:

- A. The conduct of students which violates provisions of "The Basic Rule of Conduct;"
 - B. The conduct of students which violates provisions of College regulations and policies, including the Policy on Demonstrations at the Claremont Colleges. **See APPENDIX A.;**
 - C. The conduct of students which violates residence hall regulations;
 - D. The conduct of students which violates rules which govern conduct on the campuses and off-campus programs/functions of any of the other Claremont Colleges and the Claremont University Center which are substantially equivalent to "The Basic Rule of Conduct;"
 - E. The conduct of students which is campus related;
 - F. The conduct of students which is off-campus related.
 - G. The conduct of students which is in violation of the Contempt Rule.
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III. Conflicts with other Claremont Colleges Intercampus Policies

In the event of a conflict with any Claremont Colleges Intercampus Policy, irrespective if published or not, the within Judicial Procedures Provisions shall prevail and be controlling.

IV. Terms, Definitions, and Composition of the Disciplinary System

See APPENDIX B.

V. Reporting Complaints

- A. Any Member of the College Community, the Claremont College Community and any other person who has a complaint against a Claremont McKenna College student which might lead to disciplinary action should report the complaint to the Dean of Students Office. Complaints involving allegations of sexual offenses, harassment or assault should be filed as promptly as possible, but no later than one hundred eighty (180) days following the incident. All other Complaints must be filed no later than ninety (90) days following the incident. The Dean of Students, for good cause shown, may extend such deadlines, and shall have the sole and exclusive discretion to grant or deny the request. Requests for an extension to file a Complaint must be made in writing and delivered to the Dean of Students no later than ten (10) days before the otherwise last day to file such Complaint. Such decision shall be rendered within forty-eight (48) hours of receipt of the request and written notice of the decision shall be given the applicant within twenty-four (24) hours thereafter. The Dean of Students shall have the sole and exclusive discretion to extend, waive or excuse any failure to timely comply with the aforeprovided filing dates if the Complainant is physically or mentally incapacitated, incompetent, and/or absent from the State of California. The applicant shall have the right to appeal any adverse decision to the President within five (5) days before the otherwise last day to file the Complaint, or within ninety (90) days after the Complainant ceases to be physically or mentally incapacitated, incompetent, and/or absent from the State of California, whichever be last in time. The President shall render and deliver a written determination to the applicant within thirty-six (36) hours.
- B. If after twenty (20) days no action has been taken on a Complaint to the Dean of Students Office, a Complainant or any interested party may consult the Ombudsperson. The Ombudsperson has charging authority comparable to that of the Dean of Students and can file a Complaint.

VI. The Office of the Dean of Students

- A. The Office of the Dean of Students shall decide whether a Complaint warrants further investigation and shall conduct such investigations with the assistance and support of Members of the Claremont McKenna College Community and Members of the College Community.
- B. If it is determined that the alleged facts obtained during an investigation warrant further action, the case may be referred to: an Administrative Hearing; or a Judicial Hearing before the Student Judiciary Board, the Faculty-Student Judiciary Board or the Full Judiciary Board. See **APPENDIX B.** for an expanded explanation of the role of the Dean of Students.

VII. General Operating Procedures

See APPENDIX C.

VIII. Rights of the Accused and the Complainant

See APPENDIX D.

IX. The Judicial Board Hearing Sequence

Introduction - The Hearing Process

The procedures used in a Judiciary Board or Administrative Hearing shall conform to basic standards of fairness, but they are not those used in court cases and formal rules of jurisprudence do not apply. The ability of either the Accused to present a defense or the Complainant to support the Complaint if reasonable evidence is excluded shall be a consideration under such basic standards of fairness. Admissible evidence shall be that on which reasonable people rely in the conduct of their normal activities. The Hearing process is not an adversarial process, and as such does not require or rely on prosecutors and defense advocates in order to distinguish true statements from false statements, relevant information and facts from irrelevant information and facts, and hearsay from evidence. Rather, parties to a Hearing have a duty to bring all pertinent information concerning a case to the attention of the Board so that it may make an informed and fair judgment.

Pre-Hearing Procedures

- A. No later than five (5) days after a Charge Sheet has been filed Judicial Procedures Officers (JPOs) shall contact the Complainant and the Accused and shall provide them with: copies of the Charge Sheet; copies of these procedures; the time and place of the Hearing; and the potential membership of the Judiciary Board or the name of the Administrative Hearing Officer. JPOs shall make themselves reasonably available for questions concerning Hearings, procedures, and penalties for all parties concerned. JPOs shall also act as Advisors for the Complainant(s) and the Accused during Hearings, if any Complainant and the Accused so request. See **APPENDIX B., XXI.** for the process of the selection of JPOs and the Head Judicial Procedures Officer.
- B. For each Hearing the Head Judicial Procedures Officer normally will serve as the Hearing Coordinator. A Hearing Coordinator selected from the pool of more senior JPOs will be designated by the Dean of Students if the Head JPO cannot be present for the Hearing. The Hearing Coordinator's function is to gather information concerning the case and present it to the Board at the Hearing, and otherwise assist the Board as it requests.
- C.
 1. Under normal circumstances the Hearing shall be scheduled for a date not less than ten (10), nor more than thirty (30) class days from the date the Accused is formally notified by a JPO that a charge has been filed. At that time, the JPO shall provide the Accused with a copy of the Charge Sheet and these procedures. The Accused may waive this provision in writing to the Hearing Coordinator.
 2. The Presiding Officer, for good cause, may continue any Hearing prior to or after its commencement. Requests for continuation of a Hearing must be: (a) in writing and delivered to the Presiding Officer within two (2) days after the filing of the Complaint if made prior to the commencement of a Hearing; and (b) orally or in writing at any time after the commencement of the Hearing. The Presiding Officer shall have the sole and exclusive discretion to grant or deny any such request. The Presiding Officer shall render his/her decision within forty-eight (48) hours of receipt of the request and written notice of the decision shall be given the applicant within twenty-four (24) hours thereafter. The applicant shall have the right to appeal any adverse decision to the President within: (a) twenty-four (24) hours regarding a continuance of the commencement of the Hearing; or (b) two (2) hours regarding a continuance of a commenced Hearing. The President, or his/her designee, shall render and deliver a written determination to the applicant within: (a) twenty-four (24) hours regarding a Hearing not yet commenced; or (b) four (4) hours regarding a

Hearing which has commenced. Pending the determination of the President regarding a Hearing which has commenced, the Presiding Officer shall have the sole and exclusive discretion to continue or suspend the Hearing, and any decision of the Board rendered therein as to the allegations against the Accused shall not become effective.

Subject to the provisions of these Judicial Procedures, including the above regarding motions for continuance, the Hearing shall commence no later than three (3) months after the filing of the Complaint.

- D. JPOs shall inform all Accused that: 1) forty-eight (48) hours prior to a Hearing he, she or they must submit in writing a statement to the Hearing Coordinator indicating whether or not he, she or they intend to admit or deny allegations made in Complaints against him, her or them; and 2) a written statement giving his, her or their version of the facts of the alleged violations, insofar as they differ from the facts alleged in the Charge Sheet, must be submitted to the Hearing Coordinator at least twenty-four (24) hours prior to the Hearing. A group of Accused may file joint or individually written statements.

Hearing Procedures

- A. The Presiding Officer shall explain to all participants the procedures under which the Hearing is to be conducted and that the Hearing is not based on a courtroom adversarial approach. The Presiding Officer shall read to all participants the Statement of Purpose contained in Section I. of these "Judicial Procedures" and the "Introduction - The Hearing Process" paragraph of Section VIII. of these "Judicial Procedures" and shall advise the Accused and the Complainant(s) of their rights provided in **APPENDIX D**. The Presiding Officer shall exercise continuing discretion over the degree of formality required as the Hearing progresses.
- B. The Presiding Officer shall read the Accused the rights of the Accused provided in **APPENDIX D**. if any Accused indicates a lack of understanding of same. A formal reading of such rights of the Accused may be waived by the Accused upon indication from the Accused that he, she or they understand(s) the nature of the charges.
- C. The Presiding Officer shall read the Contempt Rule. The rule states:
- Any act or conduct which violates the instructions or procedural rules of or shows disrespect for the dignity or authority of the College Judiciary Board or Administrative Hearing Officer while in session, or which obstructs, interrupts, prevents, or embarrasses or tends to obstruct, interrupt, prevent or embarrass, the investigation, the Hearing, or the administration of justice shall constitute contempt of the Board.
- Any member of the College Judiciary Board or the Administrative Hearing Officer may instigate a contempt charge, and it shall be decided by a majority vote of the Board or the Administrative Hearing Officer. Contempt charges brought during a Hearing shall be decided at that Hearing. CMC students found in contempt may be subject to any of the Penalties outlined in **APPENDIX B., XXVI**. Non-CMC students found in contempt may be subject to such sanctions or other relief as is provided by the rules and regulations governing the Claremont Colleges, or under applicable law.
- D. The Presiding Officer shall read the Complaint, and ask the Accused to admit or deny the allegations, if neither an admission nor denial has been previously entered by the Accused. Prior to requesting an admission or denial, the Presiding Officer shall advise the Accused of the potential consequences of rendering an admission under these Claremont McKenna College Judicial Procedures as regards, and exclusively limited to, the Accused's relationship with Claremont McKenna College. If the Accused admits the truth of the allegation(s), the Hearing shall be held solely to determine the appropriate disciplinary action.
- E. The Presiding Officer shall admit into evidence any previously filed written statements of the Accused and Complainant(s), for the Board's review and consideration.

- F. The Presiding Officer shall ask the Hearing Coordinator to present new witnesses or evidence, if any, relating to the Complaint, that may have come to his or her attention subsequent to the filing of the Complaint or after receipt of the Accused's written response. The Presiding Officer shall ask the Accused to present any new witnesses or evidence on his or her behalf.
- G. The Presiding Officer shall ask for testimony by the Complainant(s) and/or shall read the Charge Sheet and Complainant(s) written statement(s). The Board may question the Complainant(s). The Accused may question the Complainant(s).
- H. The Presiding Officer shall ask the Complainant(s) to call witnesses. The Board may question the witnesses. The Accused may question the witnesses. The Complainant(s) may question the witnesses.
- I. The Presiding Officer shall ask for testimony by the Accused and/or shall read the Accused's written statement of the facts. The Board may question the Accused. The Complainant(s) may question the Accused.
- J. The Presiding Officer shall ask the Accused to call witnesses. The Board may question the witnesses. The Complainant(s) may question the witnesses. The Accused may question the witnesses.
- K. The Presiding Officer shall ask the Accused and the Complainant(s) for any final statements.
- L. The Presiding Officer shall ask that the Hearing room be cleared for deliberation by the Board. Everyone except the members of the Judiciary Board or the Administrative Hearing Officer and the Hearing Coordinator shall withdraw. The Hearing may be continued or adjourned for the convenience of the Board.
- M. The Presiding Officer may recall any participant for clarification, and the Accused, the Accused's Non-participating Advisor(s), the Complainant(s), and the Non-participating Advisor(s) of the Complainant(s) shall have the right to be present.
- N. In closed session, the members of the Board by a majority vote shall render a decision as to the truth of the allegations. If the allegations are found to be true, the members of the Board or the Administrative Hearing Officer shall then consider appropriate Penalties. As part of such consideration, the Board at its discretion may call upon the Dean of Students, or a member of his/her staff, to disclose and establish to the satisfaction of the Board, the existence or nonexistence of prior disciplinary actions taken against the accused ("prior disciplinary action(s) consideration"). The Accused, the Accused's nonparticipating Advisor(s), the Complainant(s) and the Non-participating Advisor(s) of the Complainant(s) shall have the right to be present during such prior disciplinary action(s) consideration phase of the Board's consideration.
- O. The Presiding Officer shall ask the Accused, the Accused's Non-participating Advisor(s), the Complainant(s) Non-participating Advisor(s) and the Complainant(s) to re-enter the Hearing room. The decision shall be read by the Presiding Officer. The Presiding Officer shall counsel the Accused and Complainant(s) concerning future conduct and shall respond to any questions. The Presiding Officer shall declare the Hearing adjourned. If any Accused or Complainant cannot be present when the decision is read by the Presiding Officer a written copy of the decision shall be delivered to such party within seventy-two (72) hours; within seventy-two (72) hours after the decision is read such written copies shall be delivered to each Accused and Complainant who was so present.
- P. Persons permitted to be present at the Hearing shall be as provided in **APPENDIX C., XXII.** and **XXIII.**
- Q. At the sole and exclusive discretion of the Presiding Officer, a Hearing may, in whole or in part, be through use of conference telephone, electronic video screen communication, or by other communications equipment or process, as long as all persons participating in the Hearing can concurrently communicate with each other and fully participate therein as herein provided.

Post Hearing Procedures

- A. The Presiding Officer shall timely prepare, as the written decision of the Board, a findings form which shall be transmitted to the Office of the Dean of Students for placement in the Judiciary Board files where it will become a part of the Accused's disciplinary record, and sufficient copies for delivery to the Accused and Complainant(s) as provided in O. above.

X. The Judicial Administrative Hearing Sequence

All provisions of IX. above shall equally be applicable to an Administrative Hearing unless same are therein specifically identified as being limited to Board Hearings; all references in such equally applicable provisions to the Presiding Officer shall be deemed to be references to the Administrative Hearing Officer.

XI. The Interim Board Sequence

All provisions of IX. above shall equally be applicable to an Interim Board Hearing unless otherwise provided herein. The Interim Board shall have jurisdiction as provided in **APPENDIX C., XXVI.**

XII. Appeals Procedures - Judiciary Board/Interim Board

- A. Decisions reached by the Judiciary Board or Interim Board may be appealed to the President of the College. Any Accused found in violation of Other Conduct, Complainant, or both may file an appeal. Appeals may be filed on the following grounds:
1. **Substantial Evidence:** An appellant may claim that the findings were not supported by substantial evidence. If the President accepts this claim he or she may disapprove the original Board's findings and dismiss the case and determination, or when appropriate send the case back to the original Board, or a new Board, for a new Hearing;
 2. **New Evidence:** An appellant may claim that new evidence is available. The President must determine whether the new evidence is germane to the case, whether it was reasonably available to appellant at the time of the Hearing, and whether the evidence would have lead to a different decision. If the President accepts this claim, he or she may send the case back to the original Board for a new Hearing;
 3. **Bias:** An appellant may claim that the Board was biased, suffered from conflicts of interest, or showed malice. If the President accepts this claim, he or she may send the case to another Board for a new Hearing;
 4. **Improper Procedures:** An appellant may claim that irregular procedures were used in the Hearing and that such irregular procedures adversely affected the fundamental fairness of the Hearing. The term "irregular procedures" is restricted to the interpretation of these "Judicial Procedures." If the President accepts this claim, he or she may send the case back to the original or new Hearing Board, as may be appropriate, for a new Hearing;
 5. **Penalty:** The appellant Accused may claim that the penalty imposed is too severe to fit the circumstances of the case, and is, therefore, arbitrary. The appellant Complainant may claim that the findings or the adequacy of the remedy is insufficient given the circumstances of the case. If the President accepts either claim he or she may send the case back to the original Hearing Board or alter the penalty.

- B. In all cases involving appeals, the President shall have the authority to approve the original Board's findings and its determination of the penalty. In special circumstances, at his or her own discretion, the President may decide to disapprove the original Board's findings and dismiss or reinstate the case. The President shall have the exclusive right to refer any appeal to the Appellate Board for its determination.
- C. In order to request a review of a case by the President, an appellant (either an Accused or Complainant) must submit a written petition within five (5) days after delivery of the written copy to appellant of the Hearing decision (per IX., O. above), specifying the reasons for the appeal which shall be limited to paragraphs A.1. through A.5. above; provided, the President shall have the right to grant an appeal based on equity grounds or violations of the applicant's due process and other Constitutional rights. The President shall, within five (5) days after receiving a petition for an appeal, notify the appellant and the appellee in writing of his or her decision to grant or deny the petition. If the appeal be granted by the President such written notification shall include the written notice provided in D. 1. below.
- D. 1. If the President grants an appeal from either an Accused or Complainant and: i) refers it to the Appellate Board, the President shall give a written notice informing both the appellant(s) and the appellee(s) of the time and place for the Hearing before the Appellate Board, such time to be not more than five (5) days after the notice; or ii) does not so refer it to the Appellate Board, the President shall give a written notice informing both the appellant(s) and appellee(s) of the time and place for the Hearing, if any, before the President, which shall not be more than five (5) days after the notice. The appellant(s) and appellee(s) shall have the right to have Non-participating Advisors present at such Hearing.
2. A copy of the notice shall be sent to the Dean of Students. The Dean shall timely deliver to the President or the Appellate Board as may be applicable all documents used in the Hearing including the Charge Sheet, findings, and determination of penalty, as well as the taped transcript if one is available.
3. The Hearing before the President or Appellate Board shall not be public and shall be restricted to the appellant(s), the appellee(s), and any other Members of the College Community or such other persons who the President or the Appellate Board, as may be applicable, deems appropriate. Any appellant and appellee shall have the right to have Non-participating Advisors present at such Hearing. The appellant shall have the right to present an oral argument in support of his or her appeal, and the appellee(s) shall have the same rights to oppose the appeal. The original Hearing Board shall have the right to designate one of its members to present an oral argument in support of the original finding and penalty. The President's or Appellate Board's decision shall be based upon the record and other matters of which he, she, or it may, under applicable law, properly take notice.
4. If the Hearing is before it the Appellate Board shall have the right to:
- a. approve the findings of the original Hearing Board and its determination of the penalty;
 - b. approve such findings and direct the original Hearing Board to reconsider and re-determine the penalty;
 - c. approve such findings and alter the penalty;
 - d. disapprove such findings and return the case to the original Hearing Board or a new Board, as may be appropriate, for a rehearing;
 - e. in appropriate circumstances, disapprove the findings and dismiss or reinstate the case.

5. The President or the Appellate Board shall render its decision, in writing, within five (5) days of the Hearing. The Dean of Students shall also be notified, and all documents and the transcript of the Hearing shall be returned to the Dean of Students.
6. Decisions of the Appellate Board shall be subject to the right of appeal by either party to the President in the same manner as above provided relating to decisions of the Judiciary Board.

XIII. Appeals Procedures - Administrative Hearing Officer

All the provisions of XII. above shall equally apply to and be the procedures of any appeal from a decision of the Administrative Hearing Officer; all references therein to the Judicial Board, Hearing Board or Board shall be deemed to be references to the Administrative Hearing Officer.

XIV. Records

- A. All records pertaining to student disciplinary cases shall be kept in the Office of the Dean of Students. Non-judicial Members of the College Community (persons other than those holding offices and functions provided in these Judicial Procedures) who request information concerning Hearings may be given information concerning the types of cases and penalties assessed, but names shall be withheld and such persons shall not have access to the files of the Judiciary Board regarding any specific case or cases without the prior written approval of the Accused and in cases involving sexual offenses, assault or harassment with the prior written approval of the Complainant(s), except as shall be required: 1) to be produced under applicable legal process; or 2) by other college personnel for lawful college purposes (including submissions to the Academic Standards Committee).
- B. Each case heard, and each case appealed, shall be published in the form of a generalized statement. The statement shall contain at least: the charges; the decision of the Board; and the penalty assessed. All names involved in the case will be omitted from the statement.

XV. Changes In Procedure

The adoption of changes in the existing procedures or the adoption of new procedures shall require the approval of the CMC Board of Trustees.

APPENDIX A

Policy on Demonstrations at the Claremont Colleges

The undergraduate Claremont Colleges, Pomona College, Scripps College, Claremont McKenna College, Harvey Mudd College, Pitzer College together with the Claremont Graduate University, Keck Graduate Institute and the Claremont University Consortium (CUC) are all member institutions of the "Claremont Colleges." Each of these member institutions respects the rights of free speech and peaceable assembly and supports their exercise. However, when the exercise of speech and assembly becomes disruptive or non-peaceable, and infringes upon the rights of others, threatens property or public safety, or impedes the business of the member Colleges or CUC, the individual Colleges and CUC will act according to this policy.

Every institution in the consortium has instituted procedures for presenting and peaceably resolving disagreements about policies. Officials at the individual Claremont Colleges and CUC are willing to examine, discuss, and explain institutional policies to any member of the Claremont Colleges community. However, participation in a demonstration that is materially disruptive and non-peaceful or involves the substantial disorder or invasion of the rights of others on the property of any of the Claremont Colleges or of Claremont University Consortium or their affiliated institutions is prohibited.

Determination of when a demonstration or action is non-peaceful or disruptive may be difficult, but the Claremont Colleges individually and collectively subscribe to the general guidelines listed below.

- Non-peaceful actions or demonstrations are those that endanger or injure, or threaten to endanger or injure, any person, or that damage or threaten to damage property.
- Disruptive actions or demonstrations are those that restrict free movement on any of the campuses, or interfere with, or impede access to, regular activities or facilities of any of the Colleges or CUC.

If an officer or designee of an affected College or CUC informs individuals in a given area that their collective actions are judged non-peaceful or disruptive and that they should disperse, individuals remaining may be charged, on their home campus, with a violation of this policy.

Any individual acting in a non-peaceful or disruptive manner, whether he or she is acting individually or within a group, may be charged on the basis of the individual's or group's behavior with a violation of this policy. Ignorance of this policy or lack of intent to violate this policy is not an acceptable justification for violating it. Lack of intent or lack of awareness of the existence of College or Consortium policy will not excuse violations. Charges will be brought at the home college of the accused.

Any President on his or her home campus, or designee, or the Chief Executive Officer of CUC, or designee, on the property of CUC, is authorized to take action against any individual violating this policy. Actions may include arrest, or other legal action, or notice of disciplinary charges and handled through the home College's disciplinary procedures. The Presidents and the Chief Executive Officer of CUC may delegate their authority to act.

ENFORCEMENT POLICY

In the event of a non-peaceful or disruptive action on the property of any of the Claremont Colleges, CUC, or any of their affiliated offices or programs, the affected College or Colleges or Claremont University Consortium will act according to the following procedures:

1. The President(s) of the College(s) where activities are disrupted or the Chief Executive Officer of CUC, in the case of the property of CUC, will determine whether or not negotiation will take place with those involved in the demonstration or disruption. S/he will also determine the actions to be taken including, but not limited to, provisional or summary suspension or arrest. The president of the college may summarily suspend a student of his/her college violating this policy. However, the president of the college or the CEO of CUC will only have the authority to provisionally suspend a student representing one of the other Claremont Colleges—pending referral to the home campus disciplinary body.
2. The Colleges and CUC agree that cases of student disruption or non-peaceful action normally will be treated as a violation of the student's home campus conduct code and will be adjudicated by the normal disciplinary process at the student's home college. Appropriate Officials at the affected institution(s) may put disruptive or non-peaceful individuals on notice that they are in violation of this policy and file charges against them. Officials at the home campus agree to acknowledge requests for disciplinary action—including requests for suspension—and take action that is consistent with and/or allowed by disciplinary procedures at the home campus.
3. Officials at the other campuses will promptly provide assistance in identifying disruptive or non-peaceful individuals to the campus where the disruption occurs or to CUC.
4. All individuals who are engaged in disruptive or non-peaceful action will be notified that they are trespassing. Persons who continue to trespass after notification are subject to arrest (by a Peace Officer or by Private Person. California Penal Code Section 834).
5. Individual Claremont Colleges and CUC may bill students or file civil suits to recover damages and costs.
6. While officials at affected colleges or CUC may temporarily revoke any or all student privileges or take steps to end disruptive or non-peaceful protests, the college at which the student is enrolled, and only that college, may adjudicate complaints and make final decisions about alleged violations of conduct, apart from those decisions made by a court of law.

Approved by the Council of the Claremont Colleges, November 7, 2001.

This policy is not to be amended or changed without approval of the Council.

APPENDIX B

Terms, Definitions, and Composition of the Disciplinary System

I. Accused

The student(s) who is/are the subject of a Complaint.

II. Administrative Hearing Officer

The Dean of Students or a Designee.

III. Administrative Hearing

Disciplinary cases handled internally by the Office of the Dean of Students. Unless otherwise provided herein, procedures followed in Administrative Hearings are identical to those followed in Student Judiciary Board, Faculty-Student Judiciary Board, Full Judiciary Board, or Interim Board Hearings. Such cases are heard by an Administrative Hearing Officer who shall be, or be selected by, the Dean of Students.

IV. Advisor

- A. The Accused and the Complainant(s) shall have the right, subject to the provisions of **APPENDIX C., XVIII.**, to have a Non-participating Advisor(s) present at the Hearing. The respective Advisor(s) may be consulted by the Accused and Complainant(s) at any time during the proceedings. The Advisor must be a member of the Claremont McKenna College student body, faculty or administration. The Advisor may not be a member of the Judiciary Board, but may be a Judicial Procedures Officer. In Hearings which involve conduct that could constitute a misdemeanor, felony or conduct of alleged sexual offense, assault or harassment (irrespective if criminal) any Accused and/or Complainant, at his or her sole cost and expense, shall have the right to have an attorney as a Non-participating Advisor.
- B. In cases of alleged sexual offense, assault or harassment any Complainant if a Member of the Claremont Colleges Community may have as a Non-participating Advisor at the Hearing the Ombudsperson and/or a college representative of the college which the Complainant is such member and/or an attorney as above provided; and any Complainant who is not a Member of the Claremont Colleges Community may have as a Non-participating Advisor an attorney at his or her sole cost and expense.
- C. Subject to the limitations provided in A. above, the Accused shall have the right to an equal number of Non-participating Advisors as that of the Complainant(s).

V. Appellate Board

The Appellate Board shall be composed of the President of the College or a Presiding Officer selected by the President from the pool of Retired Jurists, one (1) faculty member from the pool of seven (7) faculty members selected by the President; and one (1) student justice selected by the President from the pool of six (6) student justices. Neither the Retired Jurist, the faculty member nor the student shall have served on the original Hearing Board.

VI. Campus

“Campus” and “campus” shall include those areas of any facility which is utilized by CMC in its conducting of programs and functions off its Claremont campus.

VII. Charge Sheet

A detail of evidence that can be a basis for a Complaint.

VIII. CMC

“CMC” is Claremont McKenna College.

IX. College

CMC is sometimes designated “College.”

X. Claremont Colleges

The Claremont Colleges consist of the following institutions of higher education (post-secondary education) located within Claremont, California: Claremont University Center; Claremont Graduate University; Claremont McKenna College; Harvey Mudd College; The Keck Graduate Institute; Pitzer College; Pomona College; and Scripps College.

XI. College Judiciary Board

The College Judiciary Board shall consist of the Student Judiciary Board, Faculty-Student Judiciary Board, and Full Judiciary Board, and is herein also designated as the “Judiciary Board,” or “Board.”

XII. Complainant

The person(s) who sign(s) the filed Complaint.

XIII. Complaint

A Complaint may be solely evidenced by a Charge Sheet or by a separate document designated as a “Complaint.”

XIV. Contempt Rule

That rule relating to contemptuous behavior as is so provided in Part C. of the “Hearing Procedures” in Section IX. of these “Judicial Procedures.”

XV. Dean of Students, Office of the

The Office of the Dean of Students shall consist of the Dean of Students, and all Associate and Assistant Deans of Students. The Dean of Students has the power to summarily suspend students subject to the provisions outlined in **APPENDIX A.** and **APPENDIX B., XXXV.** The Dean of Students may conduct an Administrative Hearing as its Administrative Hearing Officer or appoint another person as the Administrative Hearing Officer.

XVI. Faculty-Student Judiciary Board

The Faculty Student Judiciary Board shall be composed of three (3) students, selected by the President of the College from the pool of six (6) student justices; three (3) faculty members, selected by the President of the College from the pool of seven (7) faculty members; and the Presiding Officer, selected from a pool of Retired Jurists by the President of the College.

XVII. Full Judiciary Board

The Full Judiciary Board shall be composed of one (1) Student Justice selected by the President from the pool of six (6) student justices; one (1) faculty member selected by the President of the College from the pool of seven (7) faculty members; the Presiding Officer; and two (2) other Retired Jurists selected by the President of the College.

XVIII. Hearing

An Administrative Hearing, a proceeding of the College Judiciary Board, Interim Board, or an Appeals Hearing before the President or the Appellate Board.

XIX. Hearing Coordinator

The Hearing Coordinator shall be appointed for each Hearing and will normally be the Head JPO, and if not available will be selected from the pool of more senior JPOs by the Dean of Students.

XX. Interim Board

The Interim Board shall be composed of: one (1) student justice selected by the President from the pool of six (6) student justices; one (1) faculty member selected by the President of the College from the pool of seven (7) faculty members, and the Presiding Officer selected by the President of the College from the pool of Retired Jurists. The jurisdiction of the Interim Board shall be as provided in **APPENDIX C., XXVI**. In cases where the alleged conduct might constitute a Serious Felony the Interim Board shall be comprised of three (3) Retired Jurists, including the Presiding Officer, selected by the President. In all other cases the Accused or a Complainant shall have the right to request that the Interim Board be so comprised of three (3) Retired Jurists, including the Presiding Officer, selected by the President, if such request is made at least forty-eight (48) hours prior to the scheduled Interim Board Hearing.

XXI. Judicial Procedures Officer(s)

Judicial Procedures Officers (also herein designated JPOs) shall be responsible for delivering Summonses, Subpoenas and other paperwork to students and others who are involved in Hearings, explaining the judicial procedures to those who are summoned, and accompanying and advising students and other persons who are called or appear before the Board. One or more Judicial Procedures Officer(s) for each case shall be selected by the Dean of Students from a pool of eight (8) students who shall be appointed by the Dean of Students to staggered two year terms. A Head Judicial Procedures Officer for each case shall be selected by the Dean of Students from the more senior JPOs.

XXII. Member of the College Community

Members of the Board of Trustees, academic and non-academic personnel, administrative personnel, and students of CMC, or other persons on the CMC campus or at a CMC function.

XXIII. Member of the Claremont College Community

Members of the Board of Trustees, academic and non-academic personnel, administrative personnel and students of, or other persons on the campus or at a college function of any of the Claremont Colleges (including CMC) or the Claremont University Center.

XXIV. Ombudsperson(s)

The Ombudsperson(s) shall be selected by the President of the College in consultation with the Dean of Students.

XXV. Other Conduct

That conduct as is so defined in these “Judicial Procedures, Section II. “Jurisdiction.”

XXVI. Penalties

The following Penalties are those which may be considered. A Board or the Administrative Hearing Officer may choose to impose or affirm when applicable more than one of these penalties on a student at its discretion:

- A. Warning: A formal reprimand that a student’s behavior is not appropriate.
- B. Restitution: Reimbursement by the student to CMC, another Claremont College, Claremont University Center, the Complainant, or a Member of the Claremont Colleges community to cover the cost of damage to property.
- C. Monetary Fine: A financial penalty.
- D. Work Hours: A penalty involving work tasks generally to be performed on campus as shall be determined by the Dean of Students.
- E. Counseling: appropriate counseling as may be determined by the Board or the Administrative Hearing Officer.
- F. Removal of Activities or Privileges for a Specific Period: A student will be denied permission to participate in extra-curricular activities and events including social events, intercollegiate and intramural athletics, and student body government.
- G. Involuntary Removal of Offending Cause: A student will be required to remove pets, stereos, or other property which was the subject of the Complaint.
- H. Involuntary Relocation: A student will be required to move to another residence hall, or off-campus, by a specific date.
- I. Suspension of On-Campus Privileges Including Room and Board: A student will be suspended from participation in the various aspects of campus residential life and shall be unable to reside on campus or participate in a meal plan for a specific period.
- J. Conduct Probation: A formal notice which compels the student to exhibit good behavior during a probationary period. Any violation during the probationary period may result in Suspension from the College if the Board or the Administrative Hearing Officer determines that the nature of the violation or mitigating circumstances warrants such action.
- K. Disciplinary Probation: A formal and final notice compelling a student to exhibit good behavior during the probationary period. Any violation during the probationary period will generally result in Suspension or Expulsion from the College unless the Board or the Administrative Hearing Officer determines that the nature of the violations or mitigating circumstances do not warrant such action.
- L. Suspension: Temporary separation from the College with the right to apply for readmission. The terms of the suspension may include the designation of special conditions affecting eligibility for readmission, or special conditions to be in effect upon readmission. The length of the suspension shall be specified.
- M. Expulsion: Permanent separation from the College.

XXVII. President of the College

The President of the College is the President of CMC (herein also designated the “President”) and who shall have the discretion to grant an appellate review of a Judiciary Board or Administrative Hearing Officer decision and such other powers, privileges and duties as are described in these Judicial Procedures.

XXVIII. Presiding Officer

For Hearings of either the Faculty-Student Board or the Full Judiciary Board the Presiding Officer shall be selected by the President of the College from a pool of Retired Jurists. When the Student Judiciary Board hears a case it shall select a senior student justice from its members to serve as the Presiding Officer.

XXIX. Retired Jurists

Retired Jurists shall be selected by the President from a pool of Retired Jurists.

XXX. Selection and Terms of Faculty and Student Members of the College Judicial Process

- A. Faculty members of the College Judiciary Board shall be appointed by the President and approved by a vote of the faculty at which a quorum is present. Each faculty member shall serve a term of two years and shall be eligible for reappointment. Faculty vacancies shall be filled by the President to complete unexpired terms.
- B. Student members of the College Judiciary Board shall be appointed by the President of the College upon the nomination of the Student Senate of the Associated Students of Claremont McKenna College ("ASCMC"). The three senior student members of the Board with a member of the Student Senate shall interview prospective nominees and make recommendations to the Student Senate. Student members shall be appointed for a two year term in the spring semester of their sophomore year, commencing at the start of their junior year. A senior student shall be chosen by the student members as Presiding Officer over Student Judiciary Board Hearings. After consultation with the ASCMC President, vacancies shall be filled by the President of the College.
- C. All Faculty and Student College Judiciary Board members shall have security of tenure and shall be removed only for substantial cause by the President on the recommendation of, or, after consultation, with advice of the Dean of the Faculty for faculty members or the ASCMC Senate for student members.
- D. The Dean of Students shall appoint a pool of eight (8) Judicial Procedures Officers, who shall serve alternating terms so that there will be continuity in the office.

XXXI. Serious Felony

Crimes listed as "serious felonies" in California State Statutes include:

(1) Murder or voluntary manslaughter; (2) mayhem; (3) rape; (4) sodomy by force, violence, duress, menace, threat of great bodily injury, or fear of immediate and unlawful bodily injury on the victim or another person; (5) oral copulation by force, violence, duress, menace, threat of great bodily injury, or fear of immediate and unlawful bodily injury on the victim or another person; (6) lewd or lascivious act on a child under the age of 14 years; (7) any felony punishable by death or imprisonment in the state prison for life; (8) any other felony in which the defendant personally inflicts great bodily injury on any person, other than an accomplice, or any felony in which the defendant personally uses a firearm; (9) attempted murder; (10) assault with intent to commit rape or robbery; (11) assault with a deadly weapon or instrument on a peace officer; (12) assault by a life prisoner on a non-inmate; (13) assault with a deadly weapon by an inmate; (14) arson; (15) exploding a destructive device or any explosive with intent to injure; (16) exploding a destructive device or any explosive causing great bodily injury or mayhem; (17) exploding a destructive device or any explosive with intent to murder; (18) burglary of an inhabited dwelling house, or trailer coach as defined by the Vehicle Code, or inhabited portion of any other building; (19) robbery or bank robbery; (20) kidnapping; (21) holding of a hostage by a person confined in a state prison; (22) attempt to commit a felony punishable by death or imprisonment in the

state prison for life; (23) any felony in which the defendant personally used a dangerous or deadly weapon; (24) selling, furnishing administering, giving, or offering to sell, furnish, administer, or give to a minor any heroin, cocaine, phencyclidine (PCP), or any methamphetamine-related drug, as described in paragraph (2) of subdivision (d) of Section 11055 of the Health and Safety Code, or any of the precursors of methamphetamines, as described in subparagraph (A) of paragraph (1) of subdivision (f) of Section 11055 or subdivision (a) of Section 11100 of the Health and Safety Code; (25) any violation of subdivision (a) of Section 289 where the act is accomplished against the victim's will by force, violence, duress, menace, or fear of immediate bodily injury on the victim or another person; (26) grand theft involving a firearm; (27) carjacking; (28) any attempt to commit a crime listed in this subdivision other than an assault; and (29) any conspiracy to commit an offense described in paragraph (24) as it applies to Section 11370.4 of the Health and Safety Code where the defendant conspirator was substantially involved in the planning, direction, or financing of the underlying offense.

[Source: Section 1192.7 of the Penal Code of the State of California]

XXXII. Student

As used herein, "student" and "students" of CMC shall include those persons participating in off-campus functions and programs of the College while enrolled as students at CMC.

XXXIII. Student Judiciary Board

The Student Judiciary Board shall be composed of three (3) students, selected by the President from pool of six (6) student justices. The pool of six students (three juniors and three seniors) shall be appointed by the President of the College upon the nomination of the ASCMC Senate. A senior student justice shall be selected by the Student Judiciary Board to serve as its Presiding Officer.

XXXIV. Subpoena

An order to appear at the Hearing to any party other than the Accused and the Complainant(s). The Dean of Students shall have the right to issue Subpoenas prior to and after the commencement of the Hearing. After the commencement of the Hearing Subpoenas may also be issued by the Presiding Officer. CMC students who are located at CMC off-campus programs or functions shall be subject to applicable issued subpoenas. Failure to comply with any subpoena shall be subject to the Contempt Rule.

XXXV. Summary Suspension

The immediate suspension of a student by the President, the Dean of Students as the designated representative of the President, or such other designated representative(s) of the President, where there exists an imminent danger to the life or well-being of a person or the property of a person or the property of the College or a violation of the "POLICY ON DEMONSTRATIONS AT THE CLAREMONT COLLEGES." (See **APPENDIX A.**) "A person" shall include the suspended student. Any student so suspended shall be given prompt notice of charges and an opportunity for a Hearing before the College Judiciary Board within ten (10) days of the imposition of the suspension.

XXXVI. Summons

An order to any Accused or Complainant to appear at the Hearing. The Dean of Students shall have the right to issue Summonses, and after the commencement of the Hearing the Presiding Officer shall also have the concurrent such right. CMC students who are located at CMC off-campus programs or functions shall be subject to applicable issued summonses. Failure to comply with any summons shall be subject to the Contempt Rule.

APPENDIX C

General Operating Procedures

I. A common Hearing shall be held for all Accused who are alleged to have participated in a common violation. Any Accused may petition the Presiding Officer for a separate Hearing on questions of facts which are particular to his or her case.

II. Prior to and after the commencement of a Hearing the Dean of Students shall have the power to issue Summonses to the Accused and the Complainant(s), and after the commencement of the Hearing the Presiding Officer shall also have such power.

Prior to and after the commencement of a Hearing the Dean of Students shall have the power to issue Subpoenas, and after such commencement the Presiding Officer shall also have the concurrent power to Subpoena. The Dean of Students or the Presiding Officer may request the presence of other persons.

After the commencement of a Hearing upon reasonable notice to the Dean of Students, any Accused, any Complainant, or the Dean of Students or the Hearing Coordinator may call upon the Subpoena power of the Presiding Officer to call witnesses, order the presentation of witnesses, and order the presentation of evidence.

If a CMC student does not appear when given a Summons or Subpoena to do so, the Board or the Administrative Hearing Officer may impose contempt sanctions.

III. If the Accused is duly notified and makes no prior agreement with the Dean of Students or the Head Judicial Procedures Officer, and fails to appear at the time and place set for the Hearing, the Judiciary Board or the Administrative Hearing Officer may decide to deny the allegations on the Accused's behalf and conduct the initial Hearing.

If the Judiciary Board or the Administrative Hearing Officer prefers, it may arrange a new Hearing. The Accused and/or any Complainant may be subject to contempt charge(s) for failing to appear at the initial Hearing.

IV. In assigning Penalties, the judiciary process shall consider the kind of violation, the attitudes of the Accused, the previous conduct record of the Accused, and the circumstances under which the violation(s) occurred.

V. If Expulsion is determined to be the penalty such decision must be based upon clear and convincing evidence. As to all other Penalties the decision must be based upon the preponderance of the evidence as the standard of proof. Evidence not provided under oath or subject to cross examination may be challenged.

The direct statement of a witness, including a Complainant or an Accused, is sufficient proof of any act. Statements made by any witness must be evaluated for bias, plausibility, credibility, and consistency along with other available evidence.

VI. Special conditions shall be in effect for students who are suspended or expelled from the College:

Suspended or expelled students must remove their personal possessions and leave the CMC campus within 48 hours after such a decision is rendered. The Dean of Students may grant an extension for an appeal or for other reasons deemed appropriate by the Dean of Students.

Suspended or expelled students may not visit the CMC campus unless prior written permission has been granted by the Dean of Students.

A student on suspension will not during the period of suspension be given transfer credit for academic course work taken.

- VII. A student accused of a violation who chooses to withdraw from the College after the time of the alleged violation will not be exempt from judiciary action. Such action may affect the student's readmission to the College.
- VIII. Oversight of penalties shall be the responsibility of the Dean of Students. When a penalty has been completed the Dean of Students shall so certify in written form and a copy of such written form shall be sent to the student completing the penalty indicating that the case has been closed.
- IX. Evidence must conform to basic standards of fairness. Such basic standards shall consider the Accused's ability to present a defense and the ability of a Complainant to support the Complaint if reasonable evidence is excluded. Admissible evidence is that which reasonable people rely on in the conduct of their normal activities. The Presiding Officer, after objection or on his or her own, may rule to exclude evidence which does not meet basic standards of fairness. (A majority vote of the Judiciary Board in Board Hearings may override the Presiding Officer's decision regarding admissibility of evidence.) The Presiding Officer may recess the Hearing at any time to gather additional evidence.
- X. In cases of alleged sexual assault no evidence of the alleged victim's sexual conduct with individuals other than the alleged perpetrator shall be allowed unless it is to be offered to attack the credibility of the alleged victim. Such evidence shall be admissible only under the following additional conditions: evidence of specific instances of the alleged victim's sexual conduct with individuals other than the alleged perpetrator is presumed inadmissible absent a showing establishing its relevance and reliability and that its probative value is not substantially outweighed by the probability that its admission will create substantial danger of undue prejudice or confuse the issue. Reputation or opinion evidence regarding the sexual behavior of the alleged victim is not admissible for any purpose. *[Source: Cal. Government Code section 11440.40]*
- XI. The results of a polygraph examination, the opinion of a polygraph examiner, or any reference to an offer to take, failure to take, or taking of a polygraph examination, shall not be admitted into evidence in any CMC Judiciary Board or Administrative Hearing Officer proceeding, including appeals, unless all parties stipulate to the admission of such results. *[Source: California Evidence Code 351.1.]*
- XII. In all cases referred to the College Judiciary Board or Administrative Hearing Officer, the Office of the Dean of Students shall ensure that a Charge Sheet has been properly completed. The Charge Sheet must normally specify the Other Conduct which is subject to the charge, and the violation. Complete Charge Sheets shall be delivered to the appropriate Judicial Procedures Officers who shall contact the Complainant(s) and the Accused concerning the Hearing. JPOs shall provide the individuals listed above with copies of these procedures and the Charge Sheet, and respond to any questions they may have regarding the Hearing process.
- XIII. In cases where Conduct Probation *is* a possible penalty but Suspension or Expulsion from the College *is not* a possible penalty, the Office of the Dean of Students normally shall refer the case to the Student Judiciary Board or an Administrative Hearing Officer, but such cases, at the discretion of the Dean of Students, may be heard by the Faculty-Student Judiciary Board or the Full Judiciary Board. Such cases may include violations of regulations concerning alcohol use, quiet hours, elevator use, fire extinguisher and fire alarm use, gambling, anti-littering, key policy, residential hall rules, traffic and parking, and advertising and posting. Subsequent violations may result in a Hearing before the Faculty-Student Judiciary Board or the Full Judiciary Board. If the Student Judiciary Board or an Administrative Hearing Officer decides that a case warrants such action, they may suspend a Hearing and refer it to a Faculty-Student Judiciary Board Hearing.

- XIV. In cases where Suspension or Expulsion *is* a possible penalty, unless the Accused is on Conduct Probation, the Faculty-Student Judiciary Board shall hear the case. In all cases where the Accused is on Conduct Probation, at the discretion of the Dean of Students, an Administrative Hearing Officer or the Faculty-Student Judiciary Board shall hear the case. In all cases where the Accused is on Disciplinary Probation, the Faculty-Student Judiciary Board shall hear the case. All cases involving alleged sexual offenses that would not constitute a Serious Felony under California Penal Code Section 1192.7 (as presently provided and as may be hereafter amended) shall be heard by the Faculty-Student Judiciary Board, and in such cases the composition of the Judiciary Board shall reflect representation of both genders. If the members of the Faculty-Student Judiciary Board decide that a case warrants such action, they may suspend a Hearing and refer it to a Full Judiciary Board Hearing.
- XV. When a case has been assigned to the Student Judiciary Board, either an Accused or a Complainant has the right to request that the case be heard by the Faculty-Student Judiciary Board, if the request is made at least forty-eight (48) hours prior to the scheduled Student Judiciary Board Hearing.
- When a case has been assigned to the Faculty-Student Judiciary Board, either the Accused or the Complainant has the right to request that the case be heard by the Full Judiciary Board if the request is made at least forty-eight (48) hours prior to the scheduled Faculty-Student Judiciary Board Hearing.
- XVI. In cases where alleged conduct might constitute a Serious Felony (“Serious Felony” under California Penal Code Section 1192.7 as presently provided and as hereafter may be amended) the Full Judiciary Board shall hear the case. In all cases involving alleged sexual offenses that might constitute a Serious Felony the Full Judiciary Board composition shall reflect representation of both genders.
- XVII. Except where alleged conduct might constitute a Serious Felony, the Faculty-Student Judiciary Board shall act as the Hearing Board in all cases of Summary Suspension where the Accused has not been previously afforded a Hearing. The Faculty-Student Judiciary Board shall convene within ten (10) days of the Summary Suspension without any request of the Accused. The Accused shall submit in writing to the Chair of the Judiciary Board within forty-eight (48) hours of the suspension a description of the sequence of events that led to the Summary Suspension. The Chair of the Judiciary Board may extend the date of the Hearing if reasonably necessary for the Accused to prepare for the Hearing. The Board shall present its final decision in the form of a recommendation to the President of the College. If the members of the Faculty-Student Judiciary Board decide that a case warrants such action, they may suspend a Summary Suspension Hearing and refer it to a Full Judiciary Board Hearing. When the Summary Suspension is based upon alleged conduct which might constitute a Serious Felony the Full Judiciary Board shall act as the Hearing Board subject to the same conditions as above provided for the Faculty-Student Judiciary Board.
- XVIII. Each Accused and any Complainant shall have the right to have a Non-participating Advisor at the Hearing, as defined and provided in **APPENDIX B., IV**. To exercise this right, written notice must first be given not less than seven (7) days prior to the Hearing, to the Dean of Students who shall within twenty-four (24) hours deliver copies of same to all other Accused and Complainant(s). Any other Accused or Complainant who wishes to likewise exercise this right, must give the Dean of Students similar written notice within forty-eight (48) hours thereafter; within twenty-four (24) hours of receipt, the Dean of Students shall deliver such written notice of the other Accused and Complainant(s) to each initiating party. All such written notices shall provide the names of the selected Non-participating Advisors.
- XIX. A quorum at any Hearing shall consist of one-half of the members designated as comprising a Board at the beginning of the Hearing.
- XX. The Presiding Officer shall conduct the Hearing.

- XXI. When a member of the Judiciary Board feels that his or her judgment may not be objective in a case, he or she may withdraw from the Hearing. If a member of the Judiciary Board is an Accused or a Complainant, he or she shall not serve on the Board hearing the case. If the Accused or the Complainant feels the Board may be biased or prejudiced, either may challenge the composition of the Board. This provision shall be equally applicable to the Administrative Hearing Officer.
- XXII. Except as is expressly otherwise herein provided all Hearings are normally closed to persons other than: College Judiciary Board Members; Administrative Hearing Officers; the Hearing Coordinator; Judicial Procedures Officers; the Accused; the Complainant, and Non-participating Advisors, if any. The Presiding Officer shall decide whether witnesses may be present at times other than when testifying.
- XXIII. The Judiciary Board by majority vote, or the Administrative Hearing Officer, may open the Hearing if any Accused requests in writing, at least forty-eight (48) hours prior to the scheduled time for the Hearing, that he or she be given the privilege of an open Hearing. If the Hearing is open, only students, faculty, administration, staff, and trustees of the Claremont Colleges may be present. In cases involving sexual offenses, assault or harassment, Hearings may be open only with the consent of the Complainant(s).
- The Presiding Officer may order the Hearing room cleared or order any person(s) to leave in order to conduct the Hearing free of interruptions or disturbances. The Presiding Officer may charge the person(s) in contempt under the Contempt Rule for such interruptions, disturbing conduct and/or failure to leave when so ordered.
- XXIV. If an Accused is charged with a violation which is subsequently found to be true, the Accused shall not receive any College transcript until the final decision is rendered by the Judiciary Board, and the penalty, if any, has been satisfied.
- XXV. An Accused charged with a violation who is a graduating senior will be ineligible to graduate until judicial action on the case has been completed. Permission to participate in graduation functions pending completion of punishment conditions other than Expulsion shall be at the discretion of the President of the College. If the judicial action results in Suspension, the Accused will be ineligible to graduate until the conditions of the Suspension, if any, have been satisfied, and the term of the Suspension has been served. Expelled students shall be ineligible to graduate from Claremont McKenna College.
- XXVI. The Interim Board shall have jurisdiction over any violation reported (1) during the last week of classes of the regular academic year, (2) which is reported or charges filed after the regular academic year or (3) on a date which precludes such violation(s) being otherwise heard during the regular academic year in a College Judicial board or Administrative Hearing as herein provided, unless the case can be handled promptly by regular judicial procedures, or can be fairly postponed until the following semester, or unless otherwise required under applicable law.

The provisions of **XIII., XIV., XV., XVI. and XVII.** of this **APPENDIX C.** shall be subject and subordinate to the provisions of this **XXVI.**

APPENDIX D

Rights of the Accused and the Complainant

- I. At the beginning of each Hearing, the Presiding Officer must advise the Accused and the Complainant(s) of the rights contained herein, in addition to those rights provided in **APPENDIX C., XIV. and XV.**
- II. Any Accused or Complainant shall have the right to petition the Dean of Students to exercise his or her discretion for a Faculty-Student Judiciary Board Hearing rather than a Student Judiciary Board Hearing or an Administrative Hearing.
- III. Any Accused or Complainant shall have the right to have a Non-participating Advisor as defined in **APPENDIX B., IV.,** and subject to the notice provisions of **APPENDIX C., XVIII.** present at the Hearing.
- IV. Prior to the Hearing the Accused and the Complainant shall be given the opportunity to inspect any affidavits or other evidence which is to be submitted against the Accused. The Accused must be provided with a written list of witnesses and copies of any statements, Complaints, affidavits or other evidence submitted by the Complainant(s), at least forty-eight (48) hours prior to the Hearing. At least forty-eight (48) hours prior to the Hearing the Complainant(s) shall be provided with a written list of witnesses and copies of any statements, affidavits or other evidence which has been submitted by the Accused.
- V. The Accused and the Complainant(s) shall have the right to call a reasonable number of relevant witnesses.
- VI. Subject to the provisions of **APPENDIX C., XXIII.** any Accused shall have the right to an open Hearing, if he or she so desires, and if the Judiciary Board or the Administrative Hearing Officer concurs.
- VII. The Board and the Administrative Hearing Officer each have the right to tape all Hearings. If any Accused or Complainant wishes to ensure that a tape will be made, he or she must inform the Dean of Students or the Head Judicial Procedures Officer at least forty-eight (48) hours prior to the Hearing. The tape recording will be kept in the Office of the Dean of Students. In cases of appeal, the Appellate Board, the appellant and/or the appellee and their respective Non-participating Advisors, if any, may, at the Office of the Dean of Students during its regular business hours, listen to the tape. The tape will not be kept for more than twelve months following the end of an appeal, at which time it shall be destroyed or erased for reuse, at the option of the College, unless retention is required by legal process or if the Hearing be the subject of a threatened or pending litigation in which the College, College Judiciary personnel, College employees or agents are named or potential parties.
- VIII. The Accused and any Complainant shall have the right to obtain a copy of the official tape.
- IX. The Accused has the right to hear all testimony against him or her and to confront and question all witnesses present at the Hearing. No decision of the Board or Administrative Hearing Officer shall be based upon witness statements without the Accused and Complainant having been given the opportunity to cross-examine the witnesses.
- X. Any Accused has the right to remain silent. If he or she chooses to remain silent, the Board or Administrative Hearing Officer will make a determination as to the truth of the allegations based on the evidence presented. Neither the Board nor the Administrative Hearing Officer shall draw any inferences from the decision of any Accused to remain silent.

- XI. At the time of the Hearing the Accused may request that the Presiding Officer waive specific Hearing Procedures, as well as any of the rights of the Accused under these Claremont McKenna College Judicial Procedures unless such waiver is prohibited under any applicable law. Such waiver shall only be accepted after the Accused indicates his, her or their understanding of the specific procedure to be waived and the consequences such waiver might have upon the presentation of an effective defense. Requests for the waiver of any rights prior to a Hearing must be made in writing.
- XII. Any Accused has the right to admit the allegations based upon a full understanding of the potential consequences under these Claremont McKenna College Judicial Procedures.
- XIII. The rights of any Complainant may be waived by that Complainant, if permitted under applicable law. Such waiver shall only be accepted after the involved Complainant(s) indicates his, her or their understanding of the specific procedure to be waived and the consequences such waiver might have upon the effective prosecution of the case, and/or upon the rights of the involved Complainant under these Claremont McKenna College Judicial Procedures. Requests for the waiver of any rights prior to a Hearing must be made in writing.
- XIV. Subject to any provision of these Judicial Procedures providing for the delay of commencement of the Hearing, a Hearing shall commence no later than three (3) months after the filing of the Complaint.

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