

NOTICE TO APPEAL SUSPENSION

----- MY EMAIL TO JUDITH PENCHANSKY -----

May 25, 2006

Dear Ms. Penchansky:

Contained herein and incorporated by reference is the NOTICE OF INTENTION TO APPEAL SUSPENSION (see bottom of email) that was caused to be personally delivered to your office of Judicial Affairs at Santa Monica College earlier today by Stephen E. Drury, Sr. This document was stamped received with today's date by your assistant, Marilyn Goodrich.

At this time, Mr. Drury requested that your office provide him with copies of the files and records contained within your disciplinary file in addition to the formal written letter of suspension that was allegedly sent by Mr. Robert Adams, but to date I have yet to receive. Mr. Drury further requested a copy of the SMC Administrative Regulation (hereinafter, "AR") 4410 document that was suppose to be accompanied with the suspension letter. Although Ms. Goodrich initially offered to copy these documents for Mr. Drury, you came out from your office and informed Mr. Drury that you would not provide these documents to him.

At this time, you did not provide a valid explanation for your refusal to turn over documents long overdue. You allegedly indicated to him that you would contact me via email regarding this matter, but you have failed to do so. Mr. Drury's request was accompanied by my said Notice, which included my written request and valid authorization to him to act as my representative on my behalf since you are not allowing me to step foot on the SMC campus.

My written request for my student records complied with SMC AR 4135 (2). Not only did you blatantly violate this Administrative Regulation, but your refusal to turn over my records and suspension letter violated California Education Code section 76242, which states in relevant part the following:

A community college district may permit access to student records to any person for whom the student has executed written consent specifying the records to be released and identifying the party or class of parties to whom the records may be released.

Additionally, you have repeatedly violated SMC AR 4134 governing Access to Student Records. Section 2 specifically states:

Pursuant to the Family Educational Rights and Privacy Act (FERPA) students, either presently or previously enrolled, have the right to inspect and review their education records. Such students who follow the established procedure of the records office shall be granted access to their records within forty-five days of the request.

You have additionally violated AR 4134 (3)(b) in that you have failed to provide me with a "description of what records the college has kept and what is available for the students to review."

As a result of your failure to provide me with my students records and any other records and files maintained by your office in your alleged disciplinary file, I have been unable to "make changes to a student's records at his/her request" as set forth in AR 4134 (3)(c). Furthermore, pursuant to AR 4134 (4), I have not been unable to make challenges of any information contained in my education records including those records maintained by you in your office.

As set forth in my email to Vice-President of Planning and Development, Robert Sammis, dated March 16, 2005, I requested my student records, including those maintained by you, in writing. I indicated in this email to him that I had requested student records in writing from you as far back as August 2005. Despite this recent email, and subsequent ones to you, I still have not received these records despite the fact that you have wrongfully suspended me based on allegations that I have not had a chance to review, let alone refute.

In further violation of my student rights and civil rights, I have not had a chance to present any defense in this matter, to interview witnesses, to confront my accusers, or to have any responses to my valid written questions answered by you despite numerous requests in writing. Furthermore, despite your insistence to meet with me, you have repeatedly failed, if not refused, to allow me to have legal counsel of my choice present. In fact, you stated in writing to me, via email, that you refused to have any written dialogue with me on these matters.

Furthermore, on threat of impending suspension by you, I was forced to attend a meeting with Attorney Sammis and Attorney Joshua Morrison on or about April 21, 2006 without my legal counsel Lee & Fields present, despite the fact that SMC knew, or should have known, that I was represented by counsel. By forcing me to attend this meeting on threat of suspension, without the advice or support or legal knowledge of my attorneys, SMC's legal counsel was respectively in violation of the California State Bar's Rules of Professional Conduct, Rule 2-100 (A), which states:

While representing a client, a member shall not communicate directly or indirectly about the subject of the representation with a party the member knows to be represented by another lawyer in the matter, unless the member has the consent of the other lawyer.

At no time prior to or during this meeting with SMC's legal representatives did either Mr. Sammis or Mr. Morrison advise me about the risks and benefits of communications with a lawyer-party, or not to accept or engage in communications with the lawyer-party. During this April 21, 2006 meeting, Mr. Sammis indicated that SMC was upset with both the lawsuit my attorneys filed under the California Public Records Act as well as my off campus online SAVE SMC blog that discussed relevant and vital matters pertaining to this case as well as to SMC.

At this time, Mr. Sammis indicated that he, acting on behalf of the college, had no interest in moving forward with the suspension if I conformed to the conduct he insisted I follow, which was to drop my lawsuit with prejudice, sign a broad waiver of release for the school including waiving all rights to my possible claims for copyright infringement, as well as removal of the names of SMC individuals from my blog. Failure to do so would mean that I would be suspended as a result. He specifically mentioned removal of information pertaining to Katharine Muller as well as yourself.

Shortly thereafter, you emailed me, on or about May 5, 2006, stating the following: "Due to the fact that your meetings with the District representatives have been unsuccessful, I am proceeding with the disciplinary process." At the time you wrote this, you knew or should have known that Attorney Joshua Morrison was preparing a draft settlement proposal for me to review and that you took it upon yourself to abruptly circumvent any potential settlement of these matters. At the time you did this, you were acting as a named defendant in the California Public Records Act lawsuit, which encapsulated your failure to provide me with my student records, and thus wrongfully proceeded with your suspension.

In addition to violating each and every one of my rights under SMC's Administrative Regulations, the California Education Code, the provisions of FERPA, you have blatantly violated my rights under both the California and United States Constitution. Without providing me any opportunity to meet with you with legal counsel of my choice present despite your insistence of having your legal counsel present, to offer any defense on my behalf, or to provide me with supporting evidence or information to your extremely vague, overbroad and ambiguous allegations, and without providing me with any investigation into this matter or any of my written grievances to SMC, without any hearing, you have taken it upon yourself to suspend me for two years and to prevent me from going to my ET 14 Web Design class at SMC's Academy of Entertainment and Technology despite the fact that I am legitimately enrolled in that course and the semester is not finished. You have failed to provide me with any alternative solutions to successfully completing my course.

By copy of this email, I am seeking answers to the following questions so that I may properly respond to your mandated appeal of my wrongful suspension and ongoing enrollment hold on my student records:

1. By what provisions in SMC's Administrative Regulations are you basing your suspension period to be two entire years?
2. Why were my disciplinary records, SMC's AR documents, and the written suspension letter not provided to my authorized representative, Stephen E. Drury, Sr. despite my valid written request to release these items?
3. When do I expect to receive from you in full copies of my student records maintained by your office, including any and all disciplinary records and alleged SMCPD incident reports? As previously indicated, the SMCPD has expressly indicated that these reports are to be obtained by you, not them as they are unable to locate them without a specific incident report number, which you have at your ready disposal in my files and upon which you are in part basing your wrongful suspension.
4. Why was I not afforded a chance to meet with you with my legal counsel present, despite my willingness to do so and my generous provision of numerous alternative dates to accommodate your schedule?
5. Why am I not allowed to attend my ET 14 web design class for the remainder of this semester?
6. When will I receive a copy of the petition you allegedly forced to be circulated against me and signed by students?

7. Please set forth the exact date that my written appeal response is due and to whom it is to be addressed.

Thank you for your anticipated prompt cooperation in this matter.

Very Truly Yours,

Des Manttari /s/

----- ELECTRONIC COPY OF MY NOTICE TO APPEAL SUSPENSION -----

May 25, 2006

From: Des Manttari
P.O. Box 64563
Los Angeles, CA 90064

VIA PERSONAL DELIVERY AND EMAIL

To: Office of Judicial Affairs
Attention: Judith Penchansky
Santa Monica Community College District
1900 Pico Blvd.
Santa Monica, CA 90405

Re: Notice of Intention to Appeal Suspension

Dear Ms. Penchansky:

Pursuant to an email dated May 23, 2006, signed by Robert Adams, let this document serve as my official written notice of intention to appeal my suspension to the Student Conduct Appeals Committee. This notice complies within your mandated 48-hour period following your notice of disciplinary action.

Please note that to date I have not received a formal written letter of suspension. I also have not received all the documents in my disciplinary file pertaining to the allegations contained in your suspension email. I hereby authorize release of these files and records to Stephen E. Drury, Sr. on my behalf.

Very Truly Yours,

Des Manttari /s/

cc: U.S. Department of Education, Office For Civil Rights

U.S. Department of Education, Office of Vocational and Adult Education (OVAE)

California Department of Education
Jack O'Connell, State Superintendent

California Student Aid Commission
Diana Fuentes Michel, Executive Director

Department of Rehabilitation (California)
Dr. Catherine Campisi

SMC Board of Trustee, Nancy Greenstein

SMC Board of Trustee, Susan Aminoff

SMC President, Chui Tsang