

DISCIPLINE AND PENALTIES  
DISCIPLINE PROCEDURE

FMA  
(LOCAL)

PURPOSE	<p>The purpose of this policy is to set forth the College District's student disciplinary procedures relating to allegations of a violation of the Student Code of Conduct or Board policy.</p>
INFORMAL RESOLUTION	<p>A student accused of a student conduct violation may request the option of having his or her case decided informally or formally through the student conduct system. The dean of student services has the discretion to allow an alleged violation to be resolved through an informal process. The dean of student services may consider the nature and severity of the alleged offense, the impact on the College District community, and whether it is in the best interest of the community to adjudicate the matter via a formal hearing. In all cases of an alleged violation of the Student Code of Conduct or Board policy, including FFD(LOCAL), the dean of student services or his or her designee shall make an initial determination as to whether there is sufficient basis to determine that a violation has occurred. The dean shall interview the complainant and may interview other witnesses as necessary or appropriate. The dean shall meet with the accused student, describe the allegations against the student, and provide the student an opportunity to respond. If the dean or designee determines that reasonable grounds support the complaint, the dean or designee shall inform the accused student of this determination, the proposed penalty, and the student's procedural rights. If the dean determines that there are insufficient grounds to establish that a violation of the code occurred, the complaint shall be dismissed. The dean or designee shall inform the complainant and the accused student in writing if the complaint is dismissed.</p> <p>In any case where the accused student does not dispute the facts upon which the charges are based, including a case involving allegations of sexual harassment or sexual misconduct, the student may admit responsibility and sign an acknowledgment and a written waiver of the hearing procedures. The dean or designee shall impose an appropriate sanction or sanctions given the nature of the charge, the evidence, and the student's disciplinary history, if any. If the accused student does not accept the sanctions, the matter shall proceed to the formal hearing process. If the charge involves sexual harassment or sexual misconduct and the complaining party is dissatisfied with the sanction, the complaining party may appeal the sanction in accordance with this policy.</p>
FORMAL HEARING PROCESS	<p>When the dean has determined, or when the Title IX coordinator in a case of sexual misconduct has determined, that there are sufficient grounds to support an allegation that a student has engaged in misconduct and the student disputes the charge or the proposed sanction, such charges shall be heard through a formal conduct hearing process and either an administrative hearing or a College</p>

DISCIPLINE AND PENALTIES  
DISCIPLINE PROCEDURE

FMA  
(LOCAL)

Community Appeals and Adjudication Board (CAAB) hearing shall be scheduled to resolve the case. The accused may not ask for an administrative hearing. The dean of student services may decide that an administrative hearing be held depending on the nature and severity of the alleged infraction, the impact on the College District community, whether there is a need to expedite the student conduct process, and whether it is in the best interest of the community to adjudicate the matter via a formal hearing. The hearing officer for such administrative hearings shall be the dean of student services or designee.

The deadlines provided in this policy may be extended by mutual agreement or for good cause by the dean or the CAAB.

NOTICE

The dean shall notify the accused student by letter of the charges and date, time, and place for the CAAB hearing, which shall take place not fewer than ten class days after the date of the letter. The ten-day notice requirement may be altered by the dean or by mutual agreement of the CAAB chair and the student. In cases of alleged sexual misconduct, the complainant and/or alleged victim shall receive a copy of the letter setting forth the charges and the scheduled hearing.

CONTENTS OF  
NOTICE

The notice shall contain a statement of the specific charges and a general description of the evidence in support of the charges; the rules, regulations, or policies that the student allegedly violated; the proposed penalty; a copy of this policy; and the contact information of the dean or designee and the chair of the CAAB. The notice shall identify the members of the hearing panel. The notice may be sent to the student by electronic mail, U.S. mail, or hand-delivery.

HEARING  
PROCEDURE FOR  
EXPULSIONS AND  
SUSPENSIONS

When a student has been proposed for expulsion, suspension in excess of ten school days, revocation of a degree, or removal from campus pursuant to Sections 51.231–.243 of the Texas Education Code, the following procedures shall apply:

1. The student shall be entitled to a private hearing and to appear in person and, if desired, with an adviser, support person, or legal counsel at the hearing. The adviser, support person, or legal counsel may not be a witness in the matter.
2. The student's adviser or legal counsel, if any, may attend the hearing and confer with the student but may not participate in making arguments or presenting evidence. In cases of alleged sexual misconduct, an adviser or legal counsel for the complainant/alleged victim may also attend the hearing and confer with the person being represented but may not participate in making arguments or presenting evidence.

3. At least three business days prior to the hearing, the administration and the student shall exchange witness lists that identify the names of the witnesses who will testify along with a brief description of each witness's knowledge. In cases of alleged sexual misconduct, the College District shall provide a copy of the College District's witness list to the complainant/alleged victim at the same time as it is delivered to the accused and shall provide a copy of the accused student's witness list when it is received.
4. At least three business days prior to the hearing, the administration and the student shall exchange their proposed exhibits. In cases of alleged sexual misconduct, the College District shall simultaneously provide a copy of the College District's proposed exhibits to the complainant/alleged victim at the same time as they are delivered to the accused and shall provide a copy of the accused student's exhibits when they are received.
5. The hearing shall be recorded via an audio recording device.
6. All witnesses shall be sworn in by a notary or another person authorized by law to administer oaths. The accused student may question witnesses presented by the administration, and the administration may question the witnesses presented by the accused student. However, in cases involving alleged sexual harassment or sexual misconduct, should the complaining party testify, he or she may testify in a manner, as determined by the CAAB, that does not require the complainant to directly confront or be directly questioned by the accused student. The CAAB may require the parties to submit proposed written questions to the CAAB. The CAAB shall determine which questions to ask. Additionally, when appropriate, the CAAB may create a physical barrier or use video technology or other technology to separate the parties.
7. In cases involving sexual harassment or sexual misconduct, irrelevant questions, comments, and evidence about the complainant's or the accused's past alleged sexual history with anyone other than the accused shall not be permitted.
8. After the parties have questioned a witness, members of the hearing panel may question the witness. An accused student may not be compelled to testify.
9. The hearing shall be conducted as an administrative hearing. Courtroom rules of evidence and judicial rules of civil procedure shall not apply. Evidence, however, must be relevant and of the type that would be accepted by reasonable per-

sons in the conduct of important affairs. The CAAB may limit cumulative, repetitious, or irrelevant testimony and may impose reasonable time limits on the presentation of evidence. The CAAB may impose reasonable restrictions to prevent the harassment or badgering of witnesses. Finally, although the legal rules of evidence shall not apply, the CAAB shall give effect to legally recognized privileges, such as the attorney-client privilege. The CAAB may seek legal advice before making a decision on the assertion of privilege by any party or witness, even if such would require a recess in the hearing.

10. In cases of alleged sexual misconduct, both the accused and the complainant may choose to attend the entire hearing excluding the deliberations.
11. The administration bears the burden of proving the charges by a preponderance of the evidence, i.e., more likely than not.
12. The order of the hearing shall be as follows:
  - a. The dean or designee may present an opening statement not to exceed five minutes. The student may present an opening statement not to exceed five minutes.
  - b. The dean or designee shall present the College District's case first. The student shall present his or her case. The dean or designee may present rebuttal evidence.
  - c. After the close of the evidence, the hearing panel shall deliberate privately. The hearing panel shall render a decision within two business days of the close of the evidence. The panel shall determine whether the evidence supports the charge(s) by a preponderance of the evidence, and, when warranted, determine a penalty. The panel's decision shall be decided by majority vote. The decision shall be in writing and contain findings of fact, the rationale for the decision, and the notice of appeal. The hearing committee shall transmit a copy of the decision to the student and the dean. If the case involves any charges of sexual discrimination, including sexual misconduct as defined by policy FFD, the written decision shall also be provided to the College District's Title IX coordinator and to the complainant/victim.
  - d. In cases involving charges of sexual harassment or sexual misconduct as defined by policy FFD, the following additional procedures shall apply during an administrative proceeding to allow rights to the complaining party that are already held by the accused party:

DISCIPLINE AND PENALTIES  
DISCIPLINE PROCEDURE

FMA  
(LOCAL)

- (1) The complaining party shall be given an opportunity to make an opening statement, if desired, and may proceed either before or after the dean or designee has presented the administration's case;
- (2) The complaining party has a right to question any witnesses;
- (3) The complaining party has a right to present witnesses and evidence;
- (4) The complaining party has a right to present rebuttal evidence and argument and to present a rebuttal to the dean's or designee's proposed sanction or sanctions;
- (5) The complaining party has the right to present a closing statement prior to the accused student's closing statement; and
- (6) The complaining party shall receive a copy of the Board's written findings, subject to the Family Educational Rights and Privacy Act (FERPA).

HEARING  
PROCEDURE NOT  
INVOLVING  
EXPULSION OR  
SUSPENSION

When a student has been proposed for discipline but the penalty does not involve expulsion, suspension in excess of ten days, revocation of a degree, or removal from campus pursuant to Sections 51.231–.243 of the Texas Education Code, the procedures applicable to expulsion hearings shall generally apply, except as follows:

1. Witness lists and exhibit lists shall be exchanged one business day in advance of the hearing date.
2. Cross examination of witnesses by the parties shall not be permitted; however, members of the hearing panel may question witnesses.

FAILURE TO  
APPEAR

If the student fails without good cause, as determined by the CAAB, to appear at the scheduled hearing after receiving proper notice, the dean or designee may proceed with the hearing in the student's absence, and the student shall forfeit any right to appeal. At the conclusion of the hearing, the dean or designee shall provide written notice to the student of any action taken in the student's absence.

RIGHT OF APPEAL

The student or the dean may appeal an adverse decision. In cases of alleged sexual misconduct, the complainant/victim also has the right to appeal an adverse decision. Appeals must be submitted in writing within ten calendar days of the date of the decision to

DISCIPLINE AND PENALTIES  
DISCIPLINE PROCEDURE

FMA  
(LOCAL)

the vice president, academic and student affairs, or his or her designee. The appeal must set forth the specific grounds that would warrant setting aside the panel's decision. The vice president or designee shall render a written decision based upon the record developed at the hearing at the CAAB. The vice president or his or her designee may uphold, reject, or modify the panel decision or proposed sanction; remand the case for a new hearing or additional fact-finding; or uphold the original decision. Appellants shall typically be notified of the decision within five days. The decision of the vice president shall be final.

HEARING RECORDS      The disciplinary records and proceedings shall be kept separate from the student's academic record and shall be treated as confidential to the extent required by the FERPA.

TYPES OF PENALTIES      The CAAB may impose one or more of the following penalties for offenses listed above or for violation of College District rules or regulations:

1. Admonition.
2. Disciplinary probation.
3. Barring readmission or dropping current enrollment and barring readmission.
4. Restitution.
5. Suspension of rights and privileges.
6. Assignment of a reduced or failing grade.
7. Denial of degree.
8. Suspension from the College District for less than one calendar year.
9. Suspension from the College District for more than one calendar year.

NATURE OF DISCIPLINARY PENALTIES      The penalties above shall be defined as follows:

1. An admonition shall be a written reprimand from the dean to the student on whom it is imposed.
2. Disciplinary probation shall indicate that further violations may result in suspension. Disciplinary probation may not be imposed for more than one calendar year.
3. Barring readmission shall be imposed on a student who fails to pay a debt owed to the College District; being dropped from current enrollment and barring readmission shall be imposed

on a student who fails to pay registration fees. The penalty shall terminate upon payment of the debt.

A bar may also be placed against a student who fails to respond to a summons by the dean to discuss an alleged violation of College District rule(s) and regulation(s). The penalty shall be lifted when the student responds to the summons as requested.

4. Restitution shall be reimbursement for damage to or misappropriation of property. Reimbursement may take the form of appropriate service to repair or otherwise compensate for damage.
5. Suspension of rights and privileges is an elastic penalty. The dean may impose limitations on rights and privileges to fit the particular case.
6. A zero grade on the assignment, a failing grade in the course, a grade of "W" (Withdrawal), or similar sanctions may be assigned to a student for a course in which the student was found guilty of scholastic dishonesty.
7. A student found guilty of scholastic dishonesty may be denied the student's degree or certificate.

Suspension from the College District prohibits, during the period of suspension, the suspended student from entering a College District campus or facility under control or jurisdiction of the College District without prior written approval of the College President; from being initiated into an honorary or service organization; and from receiving credit for scholastic work done in residence or by correspondence or extension. Except when suspension is imposed for scholastic dishonesty, the dean may permit the receipt of credit for scholastic work done during the period of suspension.

STUDENT RIGHTS IN  
CASES INVOLVING  
SEXUAL HARASSMENT  
AND SEXUAL  
MISCONDUCT

In discipline cases involving allegations of sexual harassment or sexual misconduct [see FFD], both the accuser and the accused shall be entitled to an equal opportunity to receive the same notifications and to participate in the hearing process. In addition to the other procedural rights afforded by this policy, both parties in a sexual harassment or sexual misconduct case shall have the right to:

1. Have an adviser, support person, or legal adviser of choice present during the process;
2. Receive notice of all proceedings and have the opportunity to attend;

DISCIPLINE AND PENALTIES  
DISCIPLINE PROCEDURE

FMA  
(LOCAL)

3. Present witnesses or have witnesses speak on their behalf at the hearing;
4. Obtain a ruling based on a preponderance of evidence; and
5. Receive the final hearing decision in writing at the same time as the other party without being required to sign a nondisclosure agreement.

AMENDED: 11/16/2015