

DISCIPLINE AND PENALTIES
DISCIPLINE PROCEDURE

FMA
(LOCAL)

HEARING COMMITTEE When a student refuses administrative disposition of a violation, the student is entitled to a hearing before the student discipline committee. The hearing request must be made to the designated administrator (DA) (or officer directly responsible for student affairs or discipline) in writing, on or before the sixth working day after the date of refusal of administrative disposition. The committee shall be composed of equal numbers of students, administrators, and faculty of the college. The committee and its chair shall be appointed by the President for each hearing on a rotating basis or on the basis of availability. The committee chair will be selected from the administration or faculty.

The chairman of the committee shall rule on the admissibility of evidence, motions, and objections to procedure, but a majority of the committee members may override the chairman's ruling. All members of the committee are expected to attend all meetings and are eligible to vote in the hearing.

The chairman shall set the date, time, and place for the hearing and may summon witnesses and require the production of documentary and other evidence.

The DA shall represent the college before the student discipline committee and present evidence to support any allegations of violations.

NOTICE The committee chairman shall notify the student of the date, time, and place for the hearing by sending the student a letter by certified mail, return receipt requested, addressed to the student at his or her address appearing in the Registrar's Office records. The letter shall specify a hearing date not less than five nor more than ten working days after the date of the letter. If a student is under 18 years of age, a copy of the letter shall be sent to the parents or guardian of the student.

The chairman may, for good cause, postpone the hearing so long as all interested parties are notified of the new hearing date, time, and place.

CONTENT OF NOTICE The notice shall advise the student of the following rights:

1. To a private hearing or a public hearing (as he or she chooses).
2. To appear alone or with legal counsel if the alleged violation subjects the student to expulsion or suspension. The role of legal counsel is limited as provided in the code.
3. To have a parent or legal guardian present at the hearing.
4. To know the identity of each witness who will testify.

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5. To cause the committee to summon witnesses, and to require the production of documentary and other evidence possessed by the college.
6. To cross-examine each witness who testifies.

FAILURE TO COMPLY
WITH NOTICE

A student who fails to appear after proper notice and without good cause will be deemed to have pleaded guilty to the violation pending against the student. The committee shall impose an appropriate penalty and notify the student in the same manner as the notice of hearing.

ROLE OF LEGAL
COUNSEL

Legal counsel who represents a student in a hearing where the alleged violation subjects the student to expulsion or suspension is limited to advising and assisting the student. This limitation means that legal counsel shall not cross-examine witnesses, make objections, testify, or perform other similar functions generally associated with legal representation. The same preceding limitation applies to counsel who represents the college. Student representation by legal counsel is not permitted in a hearing where the alleged violation does not subject the student to expulsion or suspension.

PRELIMINARY
MATTERS

Charges arising out of a single transaction or occurrence, against one or more students, may be heard together, or, upon request by one of the students in interest, separate hearings may be held.

There will be disclosure of all evidence to both sides prior to the hearing.

At least by noon, five full working days before the hearing date, the student concerned shall furnish the committee chairman with:

1. The name of each witness he or she wants summoned and a description of all documentary and other evidence possessed by the college that he or she wants produced.
2. An objection that, if sustained by the chairman of the student disciplinary committee, would prevent the hearing.
3. The name of the legal counsel, if any, who will appear with the student.
4. A request for a separate hearing, if any, and the grounds for such a request.

HEARING
PROCEDURE

The hearing shall be conducted by the chairman who shall provide opportunities for witnesses to be heard. The college will be represented by legal counsel if the student is represented by legal counsel in a hearing where the student is subject to expulsion or suspension.

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If a hearing may result in expulsion or suspension of a student, the college will have a court reporter present to transcribe the proceedings. If a hearing will not result in expulsion or suspension of a student, legal representation is not permitted, and recording of the hearing by any means is not permitted unless authorized by law.

If the hearing is a private hearing, the committee shall proceed generally as follows:

1. Persons present shall be the complainant, the DA, and the student with a parent or guardian if desired.
2. Before the hearing begins, the DA or the student may request that witnesses remain outside the hearing room.
3. The DA shall read the complaint.
4. The DA shall inform the student of his or her rights, as stated in the notice of hearing.
5. The DA shall present the college's case.
6. The student may present his or her defense.
7. The DA and the student may present rebuttal evidence and argument.
8. The committee, by majority vote, shall determine the guilt or innocence of the student regarding the alleged violation.
9. The committee shall state in writing each finding of a violation of a published college regulation or policy. Each committee member concurring in the finding shall sign the statement. The committee may include in the statement its reasons for the finding. The committee shall notify the student in the same manner as the notice of hearing.
10. A determination of guilt shall be followed by a supplemental proceeding in which either party may submit evidence or make statements to the committee concerning the appropriate penalty to be imposed. The past disciplinary record of a student shall not be submitted to the committee prior to the supplemental proceeding. The committee shall determine a penalty by majority vote and shall inform the student, in writing, of its decision as in item 9, above.

If the hearing is a public hearing, the committee shall proceed generally as follows:

1. Persons present shall be the complainant, the DA, and the student with a parent or guardian if desired. Designated col-

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lege representatives for the following groups may have space reserved if they choose to attend:

- a. Faculty association.
- b. College newspaper.
- c. College President.

Other persons may attend based on the seating available. The chairman may limit seating accommodations based on the size of the facilities.

2. Before the hearing begins, the DA or the student may request that witnesses remain outside the hearing room.
3. The DA shall read the complaint.
4. The DA shall inform the student of his or her rights, as stated in the notice of hearing.
5. The DA shall present the college's case.
6. The student may present his or her defense.
7. The DA and the student may present rebuttal evidence and argument.
8. The committee, by majority vote, shall determine the guilt or innocence of the student regarding the alleged violation.
9. The committee shall state in writing each finding of a violation of a published college regulation or policy. Each committee member concurring in the finding shall sign the statement. The committee may include in the statement its reasons for the finding. The committee shall notify the student in the same manner as the notice of hearing.
10. A determination of guilt shall be followed by a supplemental proceeding in which either party may submit evidence or make statements to the committee concerning the appropriate penalty to be imposed. The past disciplinary record of a student shall not be submitted to the committee prior to the supplemental proceeding. The committee shall determine a penalty by majority vote and shall inform the student, in writing, of its decision as in item 9, above.

EVIDENCE

Legal rules of evidence shall not apply to hearings under this code. Evidence that is commonly accepted by reasonable persons in the conduct of their affairs is admissible. Irrelevant, immaterial, and unduly repetitious evidence may be excluded.

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The committee shall recognize as privileged communications between a student and a member of the professional staff of the Health Center, Counseling, or Guidance Center where such communications were made in the course of performance of official duties and when the matters discussed were understood by the staff member and the student to be confidential. Committee members may freely question witnesses.

The committee shall presume a student innocent of the alleged violation until there is a preponderance of evidence, presented by the DA, that the student violated a published college regulation or policy.

All evidence shall be offered to the committee during the hearing.

A student defendant may choose not to testify against himself or herself. The committee will make a determination based on the evidence presented.

RECORD

The hearing record shall include: a copy of the notice of hearing; all documentary and other evidence offered or admitted in evidence; written motions, pleas, and other materials considered by the committee; and the committee's decisions.

PETITION FOR
ADMINISTRATIVE
REVIEW

A student is entitled to appeal in writing to the College President who may alter, modify, or rescind the finding of the committee and/or the penalty imposed by the committee. A student is ineligible to appeal if the penalty imposed by the appeals committee is less than suspension or expulsion. The President shall automatically review every penalty of expulsion. Sanctions will not be imposed while the appeal is pending.

A student is entitled to appeal in writing to the Board through the President, the Chancellor, and the Chairman of the Board. An appeal from the student discipline committee is by review of the record (not de novo).

A petition for review is informal but shall contain, in addition to the information required, the date of the student discipline committee's action and the student's reasons for disagreeing with the committee's action. A student shall file his or her petition with the President on or before the third working day after the day the discipline committee determines the penalty. If the President rejects the petition, and the student wishes to petition the Chancellor, he or she shall file the petition with the Chancellor on or before the third working day after the President rejects the petition in writing. If the Chancellor rejects the petition, and the student wishes to petition the Board, he or she shall file the petition with the Chairman of the Board on or before the third working day after the day the Chancellor rejects the petition in writing.

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The President, the Chancellor, and the Board in their review may take any action that the student discipline committee is authorized to take; however, none may increase the penalty. They may receive written briefs and hear oral arguments during their review.

The President, Chancellor, and Board shall modify or set aside the finding of violation, penalty, or both, if the substance rights of a student were prejudiced because of the student discipline committee's finding of facts, conclusions, or decisions that were:

1. In violation of federal or state law or published college regulation or policy;
2. Clearly erroneous in view of the reliable evidence and the preponderance of the evidence; or
3. Capricious, or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

AUTHORIZED
DISCIPLINARY
PENALTIES

The DA or the student discipline committee may impose one or more of the following penalties for violation of a Board policy, college regulation, or administrative rule:

1. An "admonition" means a written reprimand to the student on whom it is imposed.
2. "Warning probation" means further violations may result in disciplinary probation. Warning probation may be imposed for any length of time up to one calendar year, and the student shall be automatically removed from probation when the imposed period expires.
3. "Disciplinary probation" means further violations may result in suspension. Disciplinary probation may be imposed for any length of time up to one calendar year, and the student shall be automatically removed from probation when the imposed period expires. Students may be placed on disciplinary probation for engaging in activities as illustrated by, but not limited to, the following: being intoxicated, misuse of I.D. card, creating a disturbance in or on college premises, and gambling.
4. "Withholding of transcript or degree" may be imposed upon a student who fails to pay a debt owed to the college or who has a disciplinary case pending final disposition or who violates the oath of residency. The penalty terminates on payment of the debt or the final disposition of the case or payment of proper tuition.
5. "Bar against readmission" may be imposed on a student who has left the college on enforced withdrawal for disciplinary reasons.

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6. "Restitution" means reimbursement for damage to or misappropriation of property. Reimbursement may take the form of appropriate service to repair or otherwise compensate for damages.
7. "Suspension of rights and privileges" is an elastic penalty, which may impose limitations or restrictions to fit the particular case.
8. "Suspension of eligibility for official athletic and nonathletic extracurricular activities" prohibits, during the period of suspension, the student on whom it is imposed from joining a registered student organization; taking part in a registered student organization's activities or attending its meetings or functions; and from participating in an official athletic or nonathletic extracurricular activity. Such suspension may be imposed for any length of time up to one calendar year. Students may be placed on disciplinary suspension for engaging in activities as illustrated by, but not limited to, the following: having intoxicating beverages in any college facility, with the exception of specific beverage-related courses within the El Centro food service program; giving false information in response to requests from the College District; instigating a disturbance or riot; stealing, any attempt at bodily harm, which includes taking an overdose of pills or any other act where emergency medical attention is required; and conviction of any act that is classified as a misdemeanor or felony under state or federal law.
9. "Denial of degree" may be imposed on a student found guilty of scholastic dishonesty and may be imposed for any length of time up to and including permanent denial.
10. "Suspension" from the college prohibits, during the period of suspension, the student on whom it is imposed from being initiated into an honorary or service organization; from entering the college campus except in response to an official summons; and from registering, either for credit or for noncredit, for scholastic work at or through the college.
11. "Expulsion" is permanent severance from the college.
12. "Failing grade" means a grade of F may be assigned for the course as a result of scholastic dishonesty along with suspension, or other sanction, as appropriate.

A sanction imposed at one college shall apply to all colleges of the College District.