

Authority

A college district has inherent authority to maintain order and discipline students. It may discipline students who disrupt the educational environment or who otherwise fail to abide by its standards of conduct. *Lansdale v. Tyler Junior Coll.*, 318 F.Supp. 529 (E.D. Tex. 1970); *Speake v. Grantham*, 317 F.Supp. 1253 (S.D. Miss. 1970)

A college district should adopt a student code of conduct that clearly sets out what conduct will result in discipline as well as the associated penalties. *Esteban v. Cent. Mo. State Coll.*, 415 F.2d 1077 (8th Cir. 1969); *Calbillo v. San Jacinto Junior Coll.*, 305 F.Supp. 857 (S.D. Tex. 1969)

Disciplinary Procedure

No governmental entity, including a college district, shall deprive any person of life, liberty, or property, without due process of law. *U.S. Const. Amend. XIV*

Students subject to discipline by the college district must be afforded the level of due process, including notice and an opportunity to respond, under the U.S. Constitution Fourteenth Amendment that corresponds with the level of the discipline. *Goss v. Lopez*, 419 U.S. 565 (1975); *Dixon v. Ala. State Bd. of Educ.*, 294 F.2d 150 (5th Cir. 1961)

Expulsion of Certain Foreign Students

The governing board of a public institution of higher education, including a college district, may expel from that institution any student who is a citizen of a country other than the United States attending the institution under a nonimmigrant visa issued by Immigration and Naturalization Service and who is finally convicted of an offense listed in Education Code 51.909, including Penal Code 28.03 (criminal mischief), 28.04 (reckless damage and destruction), 42.02 (riot), 42.03 (obstructing highway or other passageway), or 42.05 (disrupting meeting or procession). A person is finally convicted if the conviction has not been reversed on appeal and all appeals, if any, have been exhausted. *Education Code 51.909*

Prohibition on Discipline of Students Reporting Certain Conduct

A postsecondary educational institution, including a college district, may not take any disciplinary action against a student enrolled at the institution who in good faith reports to the institution being the victim of, or a witness to, an incident of sexual harassment, sexual assault, dating violence, or stalking for a violation by the student of the institution's code of conduct occurring at or near the time of the incident, regardless of the location at which the incident occurred or the outcome of the institution's disciplinary process regarding the incident, if any. This prohibition does not apply to a student who reports the student's own commission or assistance in the commission of sexual harassment, sexual assault, dating violence, or stalking.

A postsecondary educational institution may investigate to determine whether a report of an incident of sexual harassment, sexual assault, dating violence, or stalking was made in good faith. For the purposes of this section, the institution has discretion to determine good faith, but in no event will good faith exist if the student is found responsible for sexual harassment, sexual assault, dating violence, or stalking at or near the time of the incident. A determination that a student is entitled to amnesty is final and may not be revoked.

This section may not be construed to limit a postsecondary educational institution's ability to provide amnesty from application of the institution's policies in circumstances not described above.

Education Code 51.9366(b)-(f); 19 TAC 3.15

Definitions

"Dating Violence"

"Dating violence" means abuse or violence, or a threat of abuse or violence, against a person with whom the actor has or has had a social relationship of a romantic or intimate nature. *Education Code 51.9366(a)(2); 19 TAC 3.13(a)*

"Sexual Assault"

"Sexual assault" means sexual contact or intercourse with a person without the person's consent, including sexual contact or intercourse against the person's will or in a circumstance in which the person is incapable of consenting to the contact or intercourse. *Education Code 51.9366(a)(4); 19 TAC 3.13(c)*

"Sexual Harassment"

"Sexual harassment" means unwelcome, sex-based verbal or physical conduct that:

1. In the employment context, unreasonably interferes with an employee's work performance or creates an intimidating, hostile, or offensive work environment; or
2. In the education context, is sufficiently severe, persistent, or pervasive that the conduct interferes with a student's ability to participate in or benefit from educational programs or activities at a postsecondary educational institution.

Education Code 51.9366(a)(5); 19 TAC 3.13(d)

"Stalking"

"Stalking" means a course of conduct directed at a person that would cause a reasonable person to fear for the person's safety or to suffer substantial emotional distress. *Education Code 51.9366(a)(6); 19 TAC 3.13(e)*