

DISCIPLINE AND PENALTIES
DISCIPLINE PROCEDURE

FMA
(LOCAL)

REPORTS OF
ALLEGED
MISCONDUCT

College District faculty and staff shall submit an alleged violation or violations of College District policies and procedures, including the rules for student conduct [see FLB], committed by a student to the chair of the student affairs committee within a reasonable time following an alleged incident, not to exceed ten College District business days. The allegations must be submitted in writing, through traditional or electronic means, and must describe the violation and any surrounding facts.

The chair of the student affairs committee or designee shall investigate the matter as necessary. If an allegation is deemed to be unfounded, the chair of the student affairs committee or designee shall dismiss the allegation and shall provide the student written notice that the allegation of misconduct was made against the student and that the allegation was dismissed.

CONFERENCE

If, however, the chair of the student affairs committee or designee determines that the allegation warrants further consideration, the chair of the student affairs committee or designee shall summon the student for a conference to be held within a reasonable time, not to exceed ten College District business days, following the receipt of the allegation of misconduct.

At the conference, the chair of the student affairs committee or designee shall notify the student of the allegation or allegations and provide the student an opportunity to respond.

UNFOUNDED
ALLEGATIONS

After conferring with the student, if the chair of the student affairs committee or designee determines that the student did not commit a violation, the allegation or allegations shall be dismissed as unfounded. The student shall be provided written notice of the dismissal.

MISCONDUCT
WARRANTING A
PENALTY

If the chair of the student affairs committee or designee determines that the student committed misconduct that warrants a penalty other than suspension or expulsion, the chair of the student affairs committee or designee shall provide the student written notice of the penalty and the student's right to appeal to the disciplinary appeals committee.

SUSPENSION

If the chair of the student affairs committee or designee determines that the student committed misconduct that warrants a suspension, the chair of the student affairs committee or designee shall inform the student in writing of the determination, and a hearing shall be scheduled for consideration by the disciplinary appeals committee as described below.

EXPULSION

If the chair of the student affairs committee or designee determines that the student committed misconduct that warrants expulsion, the

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official shall inform the student in writing of the determination. The chair of the student affairs committee or designee shall forward the determination and all evidence collected during the investigation and conference to the College President in order to schedule an expulsion hearing before the Board [see EXPULSION HEARING, below].

INTERIM
DISCIPLINARY
ACTION

The chair of the student affairs committee or designee may take immediate disciplinary action, including suspension pending a hearing, against a student for policy violations if the continuing presence of the student poses a danger to persons or property or an ongoing threat of disrupting the educational environment.

DISCIPLINARY
APPEALS COMMITTEE

The disciplinary appeals committee shall be convened:

1. On request of a student appealing a penalty other than suspension or expulsion. The request must be filed in writing, on a form provided by the College District, within ten College District business days of the date of the administration's written notice.
2. Automatically, if the chair of the student affairs committee or designee determines that a student committed misconduct warranting suspension.

COMPOSITION

The disciplinary appeals committee shall be comprised of at least three College District employees and a minimum of one current College District student. The members of the disciplinary appeals committee and the committee chairperson shall be designated according to procedures developed by the College President. All members of the disciplinary appeals committee shall be eligible to vote during the hearing.

HEARING NOTICE

The chair of the student affairs committee or designee shall notify the student by letter of the date, time, and place for the hearing. Unless the student and the chair of the student affairs committee or designee otherwise agree, the hearing shall take place within a reasonable time period, not to exceed 14 calendar days after the date of the student's request for the hearing or the chair of the student affairs committee or designee's determination that the student should be suspended.

CONTENTS OF
NOTICE

The notice shall:

1. Direct the student to appear on the date and at the time and place specified.
2. Advise the student of his or her rights:
 - a. To have a private hearing.

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- b. To be assisted by an advisor or legal counsel at the hearing.
 - c. To call witnesses, request copies of evidence in the College District's possession, and offer evidence and agreement on his or her own behalf.
 - d. To make an audio recording of the proceedings, after first notifying the chair of the student affairs committee or designee in advance of the hearing, or, at the student's own expense, to have a stenographer present at the hearing to make a stenographic transcript of the hearing.
 - e. To ask questions of each witness who testifies against the student.
3. Contain the names of witnesses who will testify against the student and a description of documentary and other evidence that will be offered against the student.
 4. Contain a description of the allegations of misconduct in sufficient detail to enable the student to prepare his or her defense against the charges.
 5. State the proposed punishment or range of punishments that may be imposed.

FAILURE TO APPEAR
FOR HEARING

The disciplinary appeals committee may impose appropriate punishment upon a student who fails without good cause to appear for the hearing; for purposes of assessing punishment, the committee may proceed with the hearing in the student's absence.

HEARING
PROCEDURE

The hearing shall proceed as follows:

1. The chairperson shall read the description of the misconduct.
2. The chairperson shall inform the student of his or her rights.
3. The designated official or representative shall present the College District's case.
4. The student or representative shall present the student's defense.
5. The designated College District official or representative shall present rebuttal evidence.
6. The committee members may ask questions of witnesses testifying on behalf of the student or the College District.
7. The designated official or representative shall summarize and argue the College District's case.

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8. The student or representative shall summarize and argue his or her case.
9. The designated official or representative shall have an opportunity for rebuttal argument.
10. The committee members shall deliberate in closed session. The committee members shall vote on the issue of whether or not the student violated College District policies and procedures, including the rules for student conduct.
11. If the committee finds the student did commit misconduct, the committee shall determine whether the penalty assessed, or proposed in the case of suspension, by the chair of the student affairs committee or designee is appropriate and, if necessary, shall assess a different or additional penalty.
12. The committee chairperson shall communicate the decision and any findings of facts in support of the committee's decision to the student in writing within seven calendar days of the hearing. The notice shall include procedures for appealing the committee's decision to the College President.

All hearings shall be recorded by the College District. A stenographic digest of the recording shall be made if needed for an appeal, and, on request, the student shall be given a copy of the digest. The student or the student's representative may listen to the tape recording and compare it with the digest.

EVIDENCE

Evidence shall be handled in accordance with the following:

1. Legal rules of evidence do not apply; the committee chairperson may admit evidence or exclude evidence considered to be irrelevant, immaterial, and unduly repetitious.
2. At the hearing, the College District shall be required to prove by a preponderance of the evidence that the charges are true.
3. A student may not be compelled to testify.
4. The committee shall determine if a violation has occurred and assess an appropriate penalty based solely on the evidence presented at the hearing.

APPEAL TO
COLLEGE DISTRICT
ADMINISTRATION

A student may, within 14 calendar days of receiving notice of the disciplinary appeal committee's decision, petition in writing the College President to review the decision. The student's petition shall state with particularity why the decision is believed to be incorrect. After receiving notice of the appeal, the disciplinary appeals committee chairperson shall forward all evidence considered during the

hearing, the audio recording of the hearing, and the digest of the hearing, if applicable, to the College President.

The College President shall hold a conference within ten College District business days after the appeal notice is filed. At the conference, the student may provide information concerning any documents or information relied on by the committee. The College President may set reasonable time limits for the conference. The conference shall be audio recorded.

The College President shall provide the student a written response, stating the basis of the decision, within ten College District business days following the conference. In reaching a decision, the College President may consider the evidence included in the student's petition, provided during the conference, and forwarded by the committee chairperson. The College President may act to affirm, modify, remand, or reverse the decision of the disciplinary appeals committee.

APPEAL TO BOARD

If the College President affirmed or modified the decision of the disciplinary appeals committee or if the time for a response has expired, the student may appeal the decision to the Board. The appeal notice must be filed in writing, on a form provided by the College District, within 14 calendar days after receipt of the written response from the College President, or, if no response was received, within ten College District business days of the response deadline.

The College President or designee shall inform the student of the date, time, and place of the Board meeting at which the appeal will be on the agenda for presentation to the Board.

The College President or designee shall provide the Board the evidence presented to the College President, as well as the audio recording of the College President's conference with the student and the written response provided by the College President to the student.

The College District shall determine whether the appeal will be presented in open or closed meeting in accordance with the Texas Open Meetings Act and other applicable law. [See BD]

The presiding officer may set reasonable time limits and guidelines for the presentation, including an opportunity for the student and the administration to each make a presentation and provide rebuttal and an opportunity for questioning by the Board. The Board shall hear the appeal and may request that the administration provide an explanation for the decisions at the preceding levels.

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In addition to any other record of the Board meeting required by law, the Board shall prepare a separate record of the hearing. The hearing, including the presentation by the student or the student's representative, any presentation from the administration, and questions from the Board with responses, shall be recorded by audio recording, video/audio recording, or court reporter.

The Board shall then consider the evidence. It may give notice of its decision orally or in writing at any time up to and including the next regularly scheduled Board meeting. If for any reason the Board fails to reach a decision regarding the evidence by the end of the next regularly scheduled meeting, the lack of a response by the Board upholds the chair of the student affairs committee's decision.

EXPULSION HEARING

If the chair of the student affairs committee or designee determines that the student's misconduct warrants expulsion [see CONFERENCE, above], the Board shall convene to conduct an expulsion hearing. The College President or designee shall inform the student of the date, time, and place of the Board meeting at which the appeal will be on the agenda for presentation to the Board. The notice shall contain the contents described at DISCIPLINARY APPEALS COMMITTEE—CONTENTS OF NOTICE, above.

The College President or designee shall provide the Board the documentation presented by the chair of the student affairs committee.

The Board shall proceed according to the procedures set out at DISCIPLINARY APPEALS COMMITTEE—FAILURE TO APPEAR FOR HEARING, HEARING PROCEDURE, and EVIDENCE, above, with the Board substituted for references to the committee and the presiding officer of the Board substituted for the committee chairperson.