

Hearing Committee

The student disciplinary process may include a hearing to determine whether a violation occurred; however, a hearing is not a prerequisite for disciplinary action. In the event of an allegation of sexual misconduct, the designated administrator (DA) shall coordinate with the College Title IX coordinator and the appropriate College District departments to apply the investigative, disciplinary, and disposition procedures governing sexual misconduct as set forth in College District rules and regulations. [See DIA series and FFD series]

A hearing request must be made to the DA (or officer directly responsible for student affairs or discipline) in writing, on or before the sixth business day after the date of refusal of administrative disposition. Where the alleged violation could result in suspension or expulsion, a request for hearing shall be granted. In all other cases, whether a request for hearing is granted shall be at the sole discretion of the DA.

If it is determined that the hearing process shall be used to determine responsibility for the violation, the matter shall be heard before a committee composed of equal numbers of students, administrators, and faculty of the college. The committee and its chair shall be appointed by the college president on a rotating basis or on the basis of availability. The committee chair will be selected from the administration or faculty.

The chair 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 chair's ruling. All members of the committee are expected to attend all meetings and are eligible to vote in the hearing.

The chair 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 chair shall notify the parties of the date, time, and place for the hearing by letter, e-mail, or personal delivery. If notice is provided by letter, the letter shall be sent by certified mail, return receipt requested, and addressed to the parties' last known address. If notice is provided by e-mail, the notice shall be e-mailed to the designated e-mail address for each party. The notice shall specify a hearing date not less than five nor more than ten business days after the date of the letter. If a student is under 18 years

DISCIPLINE AND PENALTIES
DISCIPLINE PROCEDURE

FMA
(LOCAL)

of age, a copy of the letter shall be sent to the parents or guardian of the student.

The chair 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 include the alleged violation, the basis for the allegation, and advise the parties of their right:

1. To a private hearing, unless a party requests and each party affirmatively consents to a public hearing.
2. To appear alone or with legal counsel if the alleged violation could subject the charged student to expulsion or suspension. The role of legal counsel is limited as provided at Role of Legal Counsel.
3. To have a parent or legal guardian present at the hearing.
4. To know the identity of each witness who will testify.
5. To cause the committee to summon witnesses and to require the production of documentary and other evidence possessed by the college or to be introduced at the hearing.
6. To cross-examine each witness who testifies.

Failure to Comply with Notice

A student who is alleged to have violated College District policy (the respondent) and who fails to appear after proper notice and without good cause shall be deemed to have admitted responsibility to the violation pending against the student. The committee shall impose an appropriate penalty and notify the respondent in the same manner as the notice of hearing.

Role of Legal Counsel

Legal counsel may represent a student in a hearing where the alleged violation could result in expulsion or suspension. The role of legal counsel is limited to advising and assisting the student during the hearing. 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 limitations apply to legal counsel for the College District. Student representation by legal counsel is not permitted in a hearing where the alleged violation does not subject a 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.

Not later than 12:00 p.m., five full business days before the hearing date, each party to the hearing shall provide to the committee chair for disclosure to the other:

1. Any documentary evidence and summaries of testimony intended to be introduced at the hearing. At the request of a party, the committee chair shall exclude any evidence at a hearing that was not disclosed at least five business days before the hearing, unless the chair determines that the evidence could not have been disclosed within that time.
2. The name of each witness he or she wants summoned.
3. Any objection that, if sustained by the chair of the student disciplinary committee, would prevent the hearing.
4. The name of the legal counsel, if any, and the name of any parent or guardian, who may accompany a student.
5. A request for a separate hearing, if applicable, and the grounds for such a request.

Hearing Procedure

The hearing shall be conducted by the chair who shall provide opportunities for witnesses to be heard. If a student is represented by legal counsel in a hearing where the alleged violation could result in suspension or expulsion, the College District shall also be represented by legal counsel. The limitations on the role of legal counsel as set forth at Role of Legal Counsel shall be enforced.

No party to the hearing, nor his or her legal counsel, as permitted by this policy, may record a hearing proceeding. If a hearing may result in expulsion or suspension of a student, the College District shall arrange for transcription or recording of the proceedings. If a hearing will not result in expulsion or suspension of a student, recording of the hearing by any means is not permitted unless authorized by law.

Unless a party has requested and each party has affirmatively consented to a public hearing, the committee shall proceed generally as follows:

1. Persons present shall be the complainant, if any, the respondent, the DA, a parent or guardian if desired, and legal counsel as may be permitted by this policy.
2. Before the hearing begins, either party to the hearing may request that witnesses remain outside the hearing room.
3. The chair of the committee shall read the complaint.

DISCIPLINE AND PENALTIES
DISCIPLINE PROCEDURE

FMA
(LOCAL)

4. The chair of the committee shall inform the parties of their rights, as stated in the notice of hearing.
5. The DA shall present the college's case.
6. The respondent may present his or her defense.
7. Each party may present rebuttal evidence and argument.
8. The committee, by majority vote, shall determine, using a preponderance of the evidence standard, the responsibility of the student regarding the alleged violation.
9. The committee shall state in writing each finding of a violation of a published College District regulation or policy. Each committee member concurring in the finding shall sign the statement. The committee shall include in the statement its reasons for the finding. The committee shall notify each party to the hearing of the decision in the same manner as the notice of hearing.
10. A determination of responsibility 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 introduced to the committee prior to the supplemental proceeding. The committee shall determine a penalty by majority vote and shall inform each party, in writing, of its decision as in item 9, above.

If a party has requested and each party affirmatively consents to a public hearing, the committee shall proceed generally as follows:

1. Persons present shall be the complainant, if any, the respondent, the DA, a parent or guardian if desired, and legal counsel as may be permitted by this policy. Designated college representatives for the following groups may have space reserved if they choose to attend:
 - a. Faculty association;
 - b. College newspaper; or
 - c. College President.

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

2. Before the hearing begins, either party to the hearing may request that witnesses remain outside the hearing room.

DISCIPLINE AND PENALTIES
DISCIPLINE PROCEDURE

FMA
(LOCAL)

3. The chair of the committee shall read the complaint.
4. The chair of the committee shall inform the parties of their rights, as stated in the notice of hearing.
5. The DA shall present the college's case.
6. The respondent may present his or her defense.
7. Each party may present rebuttal evidence and argument.
8. The committee, by majority vote, shall determine, using a preponderance of the evidence standard, the responsibility of the student regarding the alleged violation.
9. The committee shall state in writing each finding of a violation of a published College District regulation or policy. Each committee member concurring in the finding shall sign the statement. The committee shall include in the statement its reasons for the finding. The committee shall notify each party to the hearing of the decision in the same manner as the notice of hearing.
10. A determination of responsibility 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 introduced to the committee prior to the supplemental proceeding. The committee shall determine a penalty by majority vote and shall inform each party, 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.

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, i.e., it is more likely than not, that the student violated a published College District regulation or policy. A student who is alleged to have violated College District policy may choose not to testify against himself or herself.

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

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. In cases where the alleged violation could result in suspension or expulsion, the hearing record shall also include a copy of the hearing transcript or recording.

**Petition for
Administrative
Review**

A student is entitled to submit in writing a petition for administrative review to the College President or a designee who may alter, modify, or rescind the finding of the student discipline committee and/or the penalty imposed by the committee. A student is ineligible to petition for administrative review if the penalty imposed by the committee is less than suspension or expulsion. The College President or designee shall automatically review every penalty of suspension or expulsion. All other requests for review shall be granted at the discretion of the College President or designee. Sanctions shall not be imposed while the review is pending.

A petition for administrative review of the decision of the student discipline committee is a review of the record; it is not a new hearing.

A petition for administrative review shall contain the date of the student discipline committee's action and the basis for the petition, i.e., why the student believes such review is necessary. A student shall file his or her petition with the College President or his or her designee on or before the third business day after the date the student discipline committee issued the penalty. If the College President or designee rejects the petition, the decision is final, and the action of the student discipline committee stands.

The College President or designee, in his or her review, may take any action that the student discipline committee is authorized to take; however, neither the College President nor his or her designee may increase the penalty. The College President or designee may receive written briefs and hear oral arguments during the review.

The College President or designee shall modify or set aside the finding of violation, penalty, or both, of the student discipline committee if the substantive rights of a student were prejudiced because the student discipline committee's finding of facts, conclusions, or decisions were:

DISCIPLINE AND PENALTIES
DISCIPLINE PROCEDURE

FMA
(LOCAL)

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.

The College President or designee shall provide written notification of the result of the administrative review to each party to the hearing in the same manner as the notice of the hearing.

**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 including, but not limited to, the following: being intoxicated, misuse of I.D. card, creating a disturbance in or on College District property or 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 been expelled for disciplinary reasons.
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.

DISCIPLINE AND PENALTIES
DISCIPLINE PROCEDURE

FMA
(LOCAL)

7. "Suspension of rights and privileges" is intended to be a flexible penalty, which may include limitations or restrictions to fit the particular case.
8. A "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 including, but not limited to, the use or possession of alcoholic beverages in any college facility, with the exception of specific beverage-related courses within the College District, or any College District-sponsored program or event when service of alcoholic beverages is permitted by College District policy; 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 for 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 District prohibits, during the period of suspension, the student on whom suspension is imposed from being initiated into an honorary or service organization; from entering upon any College District 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 District.
11. "Expulsion" is permanent severance from the College District and any college which is a part thereof.
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.