

DISCIPLINE AND PENALTIES
DISCIPLINE PROCEDURE

FMA
(LOCAL)

CHARGES AND
HEARINGS

Disciplinary action may originate with the vice president of instruction and student services or designee or in other units of the College District, which may initially deal with the alleged misconduct. A faculty member, staff member, or student shall report any student violation that is not resolvable through an informal process if he or she believes that disciplinary action may be warranted. Any such referral(s) to the vice president of instruction and student services shall be in writing and shall be signed by the College District official making the referral.

The vice president of instruction and student services or designee may conduct an investigation to determine if the charges have merit and/or if they can be disposed of administratively by mutual consent of the student(s) and the College District official who referred the matter. After the initial investigation, the vice president of instruction and student services or designee may issue one or more of the following:

1. Take no action.
2. Take administrative action to counsel, advise, or admonish the student.
3. Forward the grievance to an appropriate administrator/committee.
4. Take disciplinary action against the offending student. [See FM]

APPEALS COMMITTEE

In cases in which the accused student disputes the facts and/or penalties upon which the charges are based as outlined in the Discipline and Penalties policy [see FM(LEGAL)], such charges shall be heard by an appeals committee. The appeals committee shall be impartial and shall be designated by the vice president of instruction and student services.

The appeals committee shall preside over a fair hearing for the student and the College District's administration. The student and the College District may be represented by counsel during the appeals.

NOTICE

The appeals committee shall notify the accused student by letter of the date, time, and place for the appeal. Unless the student and the appeals committee otherwise agree, the appeal shall take place within seven class days after the date of the letter. If the student has been suspended, the appeal shall take place as soon as possible.

CONTENTS OF
NOTICE

The notice shall:

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1. Direct the student to appear at a specified time, date, and location.
2. Advise the student of his or her rights:
 - a. To be represented by counsel during the appeal.
 - b. To call witnesses, request copies of evidence in the College District's possession, and offer evidence and agreement on his or her own behalf.
 - c. To have the appeal recorded verbatim and/or have a stenographic digest made of the recording (at the expense of the student).
 - d. 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 documentation and other evidence that will be offered against the student.
4. Contain a copy or description of the complaint 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

No student may be found to have violated the College District's Code solely because the student failed to appear before a discipline body. In all cases, the information supporting the charges shall be presented and considered.

APPEALS
PROCEDURE

The appeal shall proceed as follows:

1. The appeal chairperson shall read the complaint.
2. The appeal 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 his or her defense.
5. The designated official or representative shall present rebuttal evidence.
6. The designated official or representative shall summarize and argue the College District's case.

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7. The student or representative shall summarize and argue his or her case.
8. The designated official or representative shall have an opportunity for rebuttal argument.
9. The hearing committee may take the matter under advisement for 24 hours before rendering a decision, unless more time is needed to conduct further investigation as determined by the committee chair. The decision shall be made by majority vote.
10. The decision shall be communicated to the student in writing within 15 days of the hearing.
11. The chairperson of the appeals committee may approve deviation to an appeal proceeding as long as it does not alter the fundamental fairness of the hearing.

EVIDENCE

Evidence shall be handled according to the following:

1. Legal rules of evidence shall not apply; the appeals committee chairperson may admit evidence that is commonly accepted by reasonable persons in the conduct of their affairs. The appeals chairperson may exclude irrelevant, immaterial, and unduly repetitious evidence.
2. At the appeal, the College District shall be required to provide evidence that the charges are true.
3. A student may not be compelled to testify.
4. The appeals committee shall decide the issue of guilt or innocence and an appropriate penalty solely on the basis of evidence presented at the hearing.
5. A tape recording shall be made of the appeal. Committee deliberations shall not be recorded. A stenographic digest of the recording shall be made if needed for an appeal at the expense of the student, and, on request, a student defendant shall be given a copy of the digest. A student defendant or his or her representative may listen to the tape recording and compare it with the digest. A student defendant may, at his or her own expense, have a stenographer present at the hearing to make a stenographic transcript of the hearing.

DECISION

The appeals committee shall render a written decision as to the accused student's guilt or innocence of the charges. The committee may either uphold the prior decision or alter it, in total or part, at its discretion. If the committee finds the student guilty, it shall include facts in support of its decision. The vice president of instruc-

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tion and student services or designee shall administer the penalty, if any.

APPEAL TO
COLLEGE DISTRICT
ADMINISTRATION

A student may, within ten College District business 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 ten College District business 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.

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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.

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 vice president of instruction and student services decision.

EXPULSION HEARING

If the vice president of instruction and student services or designee determines that the student's misconduct warrants expulsion [see CHARGES AND HEARINGS, 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 APPEALS COMMITTEE—CONTENTS OF NOTICE, above.

The College President or designee shall provide the Board the documentation presented by the College President.

The Board shall proceed according to the procedures set out at APPEALS COMMITTEE—FAILURE TO APPEAR FOR HEARING, APPEALS 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.

HEARING RECORDS

The disciplinary records and proceedings shall be kept confidential and separate from the student's academic record. [See FJ]