

DISCIPLINE AND PENALTIES
DISCIPLINE PROCEDURE

FMA
(REGULATION)

REPORTS OF
ALLEGED
MISCONDUCT

Upon receipt of a report of alleged violations under Policy FMA (Local), the Dean of Students (DOS) or designee shall investigate the matter as described in this policy. If an allegation is deemed to be unfounded upon an initial review, the DOS 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 the DOS or designee determines that the allegation warrants further investigation, the DOS or designee shall schedule a conference with the student to be held within a reasonable time, not to exceed ten (10) College District business days, following the receipt of the allegation of misconduct.

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

If the student fails to respond to a request for a meeting from the DOS or designee within ten (10) business days, the investigation will proceed.

UNFOUNDED
ALLEGATIONS

After conferring with the student, if the DOS 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 DOS or designee determines that the student committed misconduct that warrants a penalty [See FM (LOCAL)], the DOS or designee shall provide the student written notice of the penalty and the student's right to appeal the determination. The notice shall contain a description of the allegations of misconduct and the proposed penalty in sufficient detail to enable the student to respond.

INTERIM
DISCIPLINARY
ACTION

The DOS or designee may take immediate disciplinary action, including suspension pending an appeal and/or 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.

APPEAL OF
DISCIPLINARY
ACTION

A student may appeal the recommendation of the DOS to the Vice President for Student Services (VPSS) in writing within ten (10) College District business days of the date of the DOS decision on the matter [see FLD (Exhibit)]. The notice of appeal must state with particularity why the decision of the DOS or designee is believed to be incorrect.

In accordance with FLD (Local), a student may initiate the formal appeal process in writing ten (10) College District business days of the date of the DOS decision on the matter. The notice of appeal must state with particularity why the decision of the DOS or designee is believed to be incorrect and what action to be taken.

Upon receipt of the written notice of appeal, the VPSS shall schedule a conference with the student to take place within ten (10) College District business days of the date of receipt of the written notice of appeal. The VPSS may set reasonable time limits for the conference. The conference shall be audio recorded.

The VPSS shall provide the student with a written response, stating the basis of his or her decision, within ten (10) College District business days of the conference. The VPSS may act to affirm, modify, remand, or reverse the decision of the DOS.

Except in those situations involving suspension for a period of ten (10) business days or more, expulsion, or dismissal from a College District program, the decision of the VPSS is final and cannot be appealed.

DISCIPLINARY
APPEALS
COMMITTEE

Where the proposed penalty is suspension for a period of ten (10) business days or more, expulsion, or dismissal from a College District Program, the student may appeal the determination of the VPSS to the Disciplinary Appeals Committee. If the student wishes to request a hearing before the Disciplinary Appeals Committee, he or she must submit a written request to the VPSS within ten (10) business days of receipt of the written determination from the VPSS. If the student requests a hearing, the VPSS or designee shall provide the student with written notice of date, time, and place for the hearing.

The notice shall also advise the student of his or her rights:

1. To have a private hearing.
2. To be assisted by an advisor or legal counsel at the hearing, subject to notification requirements below.
3. To call witnesses, request copies of evidence in the College District's possession, and offer evidence on his or her own behalf.
4. To make an audio recording of the proceedings, after first notifying the DOS or designee in advance of the hearing, or may request a copy of the audio recording.
5. To ask questions of each witness who testifies against the student.
6. Contain a description of the allegations of misconduct in sufficient detail to enable the student to prepare his or her defense against the charges.
7. Contain the names of witnesses who will testify and a description of documentary and other evidence that will be offered in support of the alleged misconduct.

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Unless the student and the VPSS or designee otherwise agree, the hearing shall take place within a reasonable time period, not to exceed (10) College District business days after the date of the student's request for the hearing.

The Disciplinary Appeals Committee shall be comprised of:

1. Two faculty members selected from four nominations by the faculty senate; and
2. An administrative officer who will serve as the chairperson to be named by the VPSS or designee.

The student will have an opportunity to challenge any member of the hearing committee. The first challenge may be made without justification. Any additional challenges will require justification. The VPSS or designee will determine whether the justification provided warrants replacement of the challenged committee member(s). The members of the committee will be selected in a manner to assure that there is no conflict of interest that would potentially jeopardize objectivity.

All members of the Disciplinary Appeals Committee shall be eligible to vote during the hearing. The VPSS or designee shall attend the hearing to ensure that the procedures are followed. The VPSS or designee shall not be eligible to vote during the hearing.

The student may have representation, including legal counsel, present at the hearing. If the student intends to have legal counsel present at the hearing, he or she must notify the VPSS or designee in writing at least five (5) business days prior to the hearing, so that the College District can have legal counsel present as well.

FAILURE TO APPEAR
FOR DISCIPLINARY
APPEALS COMMITTEE
HEARING

The Disciplinary Appeals Committee may impose appropriate penalty upon a student who fails without good cause to appear for the hearing. In such cases, the committee may proceed with the hearing and render a decision in the student's absence.

DISCIPLINARY
APPEALS COMMITTEE
HEARING
PROCEDURE

The Disciplinary Appeals Committee shall receive information from the VPSS regarding the committee process, protection of the rights of all parties involved, and the confidentiality of all materials and information relating to the matter. Each member of the disciplinary

appeals committee shall receive copies of relevant College District policies and procedures, documentation of the complaint, and a copy of the written determination notices from the DOS and VPSS. Copies of the College District documentation shall be made available to the student upon request.

The hearing shall proceed as follows:

1. The committee chairperson shall read the description of the misconduct.
2. The committee chairperson shall inform the student of his or her rights.
3. The DOS or designee shall present the College District's case.
4. The student shall present the student's defense.
5. The DOS or designee shall present rebuttal evidence.
6. The student shall present rebuttal evidence.
7. The committee members may ask questions of witnesses, the student, or the DOS or designee.
8. 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.
9. If the committee finds the student did commit misconduct, the committee shall determine whether the penalty proposed by the DOS or designee is appropriate and may make a recommendation to the DOS that a different penalty be imposed.
10. The committee chairperson shall communicate the decision and any findings of facts in support of the committee's decision to the DOS and to the student in writing within ten (10) College District business days of the hearing.

The open portion of all hearings shall be recorded by the College District.

The decision of the Disciplinary Appeals Committee is final and cannot be appealed. However, the student may address the Board in the public comment section of the next regular Board meeting.

EVIDENCE

Evidence in the Disciplinary Appeals Committee will be handled in accordance with the following:

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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 will be required to prove by a preponderance of the evidence that the allegations are true.
3. A student may not be compelled to testify.
4. Records will be maintained on file ~~for seven years.~~ in accordance with the College District's Records Retention procedures [see CIA (Local) and CIA (Legal)].