

## STUDENT COMPLAINTS

### Exclusions

Student complaints regarding discipline and sexual harassment are covered by separate procedures.

### Purpose

The purpose of this policy is to secure at the first possible level prompt and equitable resolution of student complaints, including those alleging discrimination on the basis of race, religion, color, sex, national origin, age, or disability.

### Representation

The student may be represented at any level of the complaint.

If the complaint involves a problem with an instructor, the student shall discuss the matter with the instructor before requesting a conference with the department chairman at Level One.

### Level One

A student who has a complaint shall request a conference with the department chairman or counselor as appropriate, who shall schedule and hold a conference with the student.

### Level Two

If the outcome of the conference with the department chairman or counselor is not to the student's satisfaction, the student has ten workdays to request a conference with the Vice-President for Academic Affairs or Vice-President of Student Services, as appropriate, or designee(s), who shall schedule and hold a conference. Prior to or at the conference, the student shall submit a written complaint that includes a statement of the complaint and any evidence in its support, the solution sought, the student's signature, and the date of the conference with the department chairman or counselor.

### Level Three

If the outcome of the conference with the Vice-President is not to the student's satisfaction, the student has ten workdays to request a conference with the college President or designee, who shall schedule and hold a conference. Prior to or at the conference, the student shall submit the written statement required at Level Two and the date of the conference with the Vice-President.

### Level Four

If the outcome of the conference with the college President or designee is not to the student's satisfaction, the student may submit to the college President a written request to place the matter on the agenda.

The college President or designee shall inform the student of the date, time, and place of the meeting. The Board President shall establish a reasonable time limit for complaint presentations. The Board shall listen to the student's complaint and take whatever action is deemed appropriate.

The Board's consideration shall be used on the complaint records developed at the administrative reviews and no new evidence shall be received by the Board. Each side shall be entitled to make oral arguments based on the complaint record within the time restrictions established by the Board.

### Closed Meeting

If the complaint involves complaints or charges about an employee, it shall be heard by the Board in closed meeting unless the employee complained about requests it to be public.

## **DISCIPLINE AND PENALTIES**

### Authority

The District has inherent authority to maintain order and discipline students. It may discipline students for failing to abide by its standards of conduct. *Speake v. Grantham*, 317 F.Supp. 1253 (S.D. Miss. 1970)

Students who cause disorders and disrupt the school's educational environment may be disciplined. *Lansdale v. Tyler Junior College*, 318 F.Supp. 529 (E.D. Tex. 1970)

Students attending the District are subject to reasonable rules and regulations of the Board. *Foley v. Benedict*, 55 S.W.2d 805 (Tex. Comm. App. 1932); *Calbillo v. San Jacinto Junior College*, 305 F.Supp. 857 (S.D. Tex 1969)

**Information presented under this Main Heading is supplemented by material in the Southwest Texas Junior College Student Handbook.**

### Suspension

The District may define offenses for which suspension (for the rest of the semester or for a longer period of time) may be imposed and determine whether the offense has been committed. Students are entitled to a fair notice or warning of what constitutes prohibited behavior. Students shall be given a fair opportunity to demonstrate innocence in a hearing before school officials. Students are entitled to due process in disciplinary hearings, including being given adequate notice of the hearing and definite charges in advance and the right to a fair hearing before an impartial tribunal. *Foley v. Benedict*, 55 S.W.2d 805 (Tex. Comm. App. 1932); *Cornette v. Aldridge*, 408 S.W.2d 935 (Tex. Civ. App. 1966); *Jenkins v. Louisiana State Board of Education*, 506 F.2d 992 (5<sup>th</sup> Cir. 1975); *Shamloo v. Mississippi State Board of Trustees, etc.*, 620 F.2d 515 (5<sup>th</sup> Cir. 1980)

### Expulsion of Certain Foreign Students

The Board may expel from the District any student who is a citizen of a country other than the United States attending the District under a nonimmigrant visa issued by Immigration and Naturalization Service and who is finally convicted of certain offenses defined by state law. *Education Code 51.909(a)*

### Hearing Committee

In cases in which the accused student disputes the facts upon which the charges are based, such charges shall be heard and determined by the Student Discipline Committee.

The Committee shall be impartial and shall be convened by the Vice President of Student Services or the college President

The hearing 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 at the hearing.

## **Notice**

The Disciplinary Committee shall notify the accused student by letter of the date, time, and place for the hearing. Unless the student and the Committee otherwise agree, the hearing shall take place within ten workdays after the date of the letter. If the student has been suspended, the hearing shall take place as soon as possible.

## **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 be represented by counsel at the hearing;
  - b. To call witnesses, request copies of evidence in the college District's possession, and offer evidence and agreement in his or her own behalf;
  - c. To have the hearing recorded verbatim and have a stenographic digest made of the recording;
  - d. To ask questions of each witness who testifies against the student.
3. Contain the names of witnesses who shall testify against the student and a description of documentary 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**

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

## **Hearing Procedure**

The hearing shall proceed as follows:

1. The hearing chairperson shall read the complaint.
2. The hearing 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.
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. The decision shall be made by a majority vote.
10. The decision shall be communicated to the student in writing within 15 workdays of the hearing.

## **Evidence**

Evidence shall be handled according to the following:

1. Legal rules of evidence do not apply; the hearing committee chairperson may admit evidence that is commonly accepted by reasonable persons in the conduct of their affairs. The hearing chairperson may exclude irrelevant, immaterial, and unduly repetitious evidence.
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 hearing 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 hearing. A stenographic digest of the recording shall be made if needed for an appeal, 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 hearing committee shall render a written decision as to the accused student's guilt or innocence of the charges; if it finds the student guilty, it shall set forth finding of facts in support of its decision. The penalty shall also be stated in the decision. The Vice-President shall administer the penalty, if any.

### **Hearing Records**

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

### **Types of Penalties**

The hearing committee may impose one or more of the following penalties:

1. Reprimand – A verbal or written warning to the student following a rule violation. Repetition of such misconduct may result in more severe disciplinary action.
2. Conditional Probation – The placing of a student on notice that continued infraction of regulations may result in suspension or expulsion from the college. Conditional probation may include social and behavioral restrictions, restitution for harm caused by misconduct of student, or specified community service. This probation may be for a specified length of time or for an indefinite period according to the relative severity of the infraction or misconduct. Failure to fulfill the terms of the probation may lead to suspension or expulsion.
3. Suspension – Forced withdrawal from the college for either a definite period of time or until stated conditions have been met. Normally, suspension shall extend through a minimum of one regular long semester (with summer sessions not counting in the one semester minimum time lapse). However, suspension may exceed the one semester minimum.
4. Expulsion – Permanent forced withdrawal from the college. A student receiving disciplinary expulsion shall have the action noted in his/her permanent record.
5. When cheating, collusion, or plagiarism has occurred beyond any reasonable doubt, the instructor may give the student or students involved an "F" on a particular assignment or exam. The instructor shall make a written report of the incident and of the planned action to his or her respective dean. Depending upon the seriousness of the academic misconduct, the college District may impose any of the earlier-listed punishments.

### **Appeal**

Any student disciplined pursuant to this policy may, within 15 days of receiving notice of the hearing committee's decision, petition in writing the college President and Board to review the decision. The student's petition shall state with particularity why the decision is believed to be incorrect or unfair. The college President or Board may, in its sole discretion, choose to allow oral argument on the petition.

Within 30 days of receiving the petition, the college President or Board may act to affirm, modify, remand, or reverse the decision. If no action is taken within 60 days, the hearing committee's decision shall thereby be affirmed.