

### **F.4.2.1 (Procedure) Non-Academic Misconduct Disciplinary and Appeal Process**

Responsible Department: Vice Chancellor for Student Success

Based on Board Policy: [F.4.2](#) - Student Code of Conduct

Approved: 4-30-10

Last Board Action: 9-26-17

This document replaces the former F.4.2.1 (Procedure) Student Code of Conduct and F.4.2.2 (Procedure) Non-Academic Misconduct Disciplinary Process

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The following is the disciplinary and appeal process for non-academic misconduct violations of the Student Code of Conduct (see Policy [F.4.2](#)).

#### **General Definitions**

The following General Definitions shall apply in the Student Code of Conduct:

1. *Student* - For the purpose of the Student Code of Conduct, the definition of student is a person who:
  - a. is accepted for admission or readmission to one of the Alamo Colleges;
  - b. is currently enrolled at one of the Alamo Colleges;
  - c. has been enrolled at one of the Alamo Colleges in a prior term;
  - d. is attending an additional program sponsored by one of the Alamo Colleges; or
  - e. has engaged in prohibited conduct at a time when he or she met the criteria of (a), (b), (c) or (d).
2. *Board* – the Board of Trustees of the Alamo Community College District (“Alamo Colleges” or “College District.”)
3. *Administration or Administrator* – any President, Vice-President, or Dean at an individual college of the Alamo Colleges.
4. *Campus* - (a) any building or property owned or controlled by the College District within the same reasonably contiguous geographic area of the and used by the College District in direct support of, or in a manner related to, the College District’s educational purposes; and (b) property within the same reasonably contiguous geographic area of the institution that is owned by the institution but controlled by another person, is used by students, and supports institutional purposes (such as food or other retail vendor).
5. *Chief Student Affairs Officer* – the Vice President for Student Success at an individual college.
6. *College District* - the Alamo Community College District including all of its colleges, other units and locations where the College District conducts programs and operations. *Alamo Colleges* is synonymous with the Alamo Community College District.
7. *College District Community* – College District students, guests, employees, Trustees, and contractors.

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8. *College District Property* - all property owned, controlled, or leased by the College District, including vehicles operated by the College District and information technology resources such as internet access (WiFi, ACES, Learning Management System), telecommunications devices (including telephones), and the electronic mail system.
9. *College District Sponsored Activity* - any activity on or off College District Property initiated, approved, or supervised by the College District.
10. *Disciplinary Hearing Committee or Hearing Committee* – The committee appointed to hear Student Code of Conduct disciplinary decisions and issues appealed by the student.
11. *Student Conduct Officer* – an employee at a College who is authorized to investigate alleged violations of the Student Code of Conduct and impose sanctions upon any student(s) found in violation of the Student Code of Conduct. Not every College employee who investigates violations and administers student discipline has the job title of “Student Conduct Officer.” Not every College has a Student Conduct Officer. A Student Conduct Officer is often the designee of the Dean of Student Success or Vice President of Student Success.
12. *Preponderance of the evidence* means the greater weight of credible evidence (more likely than not).

#### **Non-Academic Misconduct**

In addition to any and all activities prohibited by law and College District policies, procedures, and college rules, the following is a nonexclusive list of behavior, conduct, or activity that is expressly prohibited on campus, on college district property, including a college operated vehicle, or at college district sponsored activities:

1. *Engaging in Inappropriate Behavior or Communications.* This contemplates behavior or communications that would be considered offensive, discriminatory, harassing, threatening, or in violation of other policies, rules, or laws, such as sexual or racially derogatory language as well as statements that are not directed at anyone in particular but are potentially threatening to the campus community. This definition includes engaging in a pattern of disrespectful, defiant, or uncivil behavior as determined in the discretion of the college or College District. This definition includes communication in any form, including but not limited to, oral, written, body language, or electronic. This definition does not include behavior or communications

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that are protected by law.

2. *Engaging in Disruptive or Threatening Behavior in the Classroom.* A pattern of behavior that disrupts the flow of instruction, classroom or educational environment, interferes with the educational opportunities of other students, threatens the safety of students or the instructor, or otherwise violates the rules of behavior described in the class syllabus if the instructor believes his/her advisement or classroom management has not been effective.
3. *Engaging in Disruptive or Threatening Behavior Other than in the Classroom.* Behavior that disrupts the use or enjoyment of campus facilities, grounds, and activities by other students, or members of the College District community or threatens or potentially threatens the safety of students or other members of the College District community.
4. *Bullying.* Bullying means engaging in written or verbal expression, expression through electronic means, or physical conduct that (a) that has the effect or will have the effect of emotionally or physically harming a student, damaging a student's property, or placing a student in reasonable fear of harm to the student's person or of damage to the student's property, or (2) is sufficiently severe, persistent, or pervasive so that the action or threat creates an intimidating, threatening, or abusive educational environment for a student. The foregoing conduct is considered bullying if the conduct exploits an imbalance of power between the student perpetrator and the student victim through written or verbal expression or physical conduct, and interferes with a student's education or substantially disrupts the operation of a college.
5. *Gambling.* Participating in or promoting gambling activities. Making a bet on the partial or final result of a game or contest or on the performance of a participant in a game or contest; making a bet on the result of any political nomination, appointment, or election or on the degree of success of any nominee, appointee, or candidate; or playing and betting for money or other thing of value at any game played with cards, dice, balls or any other gambling device.
6. *Criminal Conduct.* Engaging in criminal behavior as defined by Texas or federal law, including but not limited to criminal trespass, firearms violations, disorderly conduct, public indecency, defacing public property, and damaging, destroying, and/or tampering with the tangible property of another (including the College District), or causing pecuniary loss or substantial inconvenience to another (including the College District).

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7. *Obscenity.* Displaying or distributing obscene material which (in any form) when taken as a whole, lacks serious literary, artistic, political and scientific value, using profanity or obscenities in the classroom.
8. *Pornography-Child or Other.* Possessing or Promoting Child or other Pornography including but not limited to material that depicts a child younger than 18 years of age at the time the material was made engaging in actual or simulated sexual intercourse or lewd depiction of genital area(s). The use of the college district information technology resources to access pornography is prohibited.
9. *Weapons.* Unlawful carrying or display of weapons, or use or possession of (i) prohibited weapons, including firearms, knuckles, explosive weapons and clubs, and/or (ii) any object used as a weapon or instrument to threaten, attempt to harm, or harm or injure oneself or another, while on College District Property. Location-restricted knives as defined by Chapter 46 of the Texas Penal Code are prohibited on College District Property even if not prohibited by the Penal Code.
10. *Campus Disruption.* Inciting, causing or participating in a campus disruption including but not limited to:
  - a. Tampering with fire extinguishers, fire alarm boxes, smoke or heat detectors or other emergency or safety equipment anywhere on College District Property or at a College District Sponsored Activity.
  - b. Ejecting objects from buildings or vehicles on College District Property or at a College District Sponsored Activity.
  - c. Failing to leave a classroom, office or building when requested to do so by a faculty member, employee, police officer or Administrator.
  - d. Any behavior that substantially disrupts the campus or educational environment creates an immediate danger of damage to property or injury to persons; substantially obstructs law enforcement or other governmental functions or services; or by force, threat of force or physical action deprives any person of a legal right or disturbs a person in the enjoyment of a legal right.
  - e. Starting any fire unless doing so is appropriate as part of a College District Sponsored Activity (such as a lab or classroom activity) under appropriate faculty supervision.
  - f. A report of a crime or wrongdoing or present, past, or future bombing, fire,

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offense, or other emergency that is false or baseless and that would ordinarily cause action by Administration or the Police Department/law enforcement; place a person in fear of imminent serious bodily injury; or prevent or interrupt the occupation of a building, room, place of assembly, or place to which the public has access.

11. *Stalking*. Repetitive and/or menacing pursuit following, harassment and/or interference with the peace and/or safety of a member of the community or the safety of any of the immediate family members of the community on the basis of actual or perceived membership in a protected class. Stalking involves an intentional course of repeated conduct or behavior over a period of time, directed at a specific person, or member of the specific person's family or household or an individual with whom the specific person has a dating relationship which causes the person to be placed in fear of bodily injury or death or in fear that an offense will be committed against the other person's property to feel harassed, annoyed, alarmed, abused, tormented, embarrassed or offended. See Policy on Civil Rights Discrimination, Harassment and Retaliation Policy at [H.1.2](#).
12. *Sexual Misconduct*. Any sexual misconduct in violation of the Civil Rights Discrimination, Harassment and Retaliation Policy at [H.1.2](#), including but not limited to sexual harassment, non-consensual sexual intercourse, non-consensual sexual contact, and/or sexual exploitation. Sexual Misconduct includes, but is not limited to, behaviors often described as sexual harassment, sex/gender discrimination, sexual assault, rape, stalking, and relationship violence (including domestic and dating violence).
13. *Sexual violence*. Sexual violence refers to physical acts perpetrated against a person's will or where a person is incapable of giving consent (e.g., due to the student's age or use of drugs or alcohol, or because of an intellectual or other disability prevents the student from having the capacity to give consent). See Policy on Civil Rights Discrimination, Harassment and Retaliation Policy at [H.1.2](#).
14. *Dating Violence*. An act, other than a defensive measure to protect oneself, by an actor that is committed against a victim: (a) with whom the actor has or has had a dating relationship; or (b) because of the victim's marriage to or dating relationship with an individual with whom the actor is or has been in a dating relationship or marriage; and is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that reasonably places the victim in fear of imminent physical harm, bodily injury, assault, or sexual assault.
15. *Domestic Violence/Family Violence*. (1) an act by a member of a family or household against another member of the family or household that is intended to result in physical harm, bodily injury, assault, or sexual assault or that is a threat that

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reasonably places the member in fear of imminent physical harm, bodily injury, assault, or sexual assault, but does not include defensive measures to protect oneself; (2) abuse, as that term is defined by sections 261(1), (C), (E), and (G), by a member of a family or household toward a child or the family or household; or(3) dating violence, as that term is defined by Section 71.0021 of the Texas Family Code.

16. *Hate Crimes.* Crimes that are motivated by prejudice, hatred, or advocacy of violence and defined by the Federal Hate Crime Act as crimes that manifest evidence of bias or prejudice against a group identified by race, color, disability, religion, national origin, ancestry, age, gender, or sexual orientation. Hate crimes include offenses such as murder, assault, kidnapping, arson, criminal mischief, and graffiti. Hate crimes are prohibited by Texas and federal law and this policy.
17. *Assault.* Causing physical injury to another person; Making threatening remarks or engaging in behavior that could reasonably be perceived as threatening by another person; or Aggressive or hostile behavior that creates a reasonable fear of injury to another person;
18. *Theft.* Appropriating an owner's property without the owner's effective consent.
19. *Fraud.* Fraudulent activity of any kind, including but not limited to:
  - a. negotiating a stolen check or payment issued to another without the other person's authorization;
  - b. issuance of check with insufficient funds;
  - c. forgery;
  - d. presenting or using someone else's credit or debit card, identification document, or Alamo cash card; or
  - e. obtaining, possessing, transferring, or using the identity or identifying information of another person without the other person's consent, to harm or defraud another.
20. *Hazing.* Hazing, soliciting, encouraging, directing, aiding, permitting or attempting to aid another in any intentional, knowing, or reckless act occurring on or off the College District Property directed against a student, by one person alone or acting with others, that endangers the mental or physical health or the safety of a student for the purpose of pledging, being initiated into, affiliating with, holding office in, or maintaining membership in any organization whose members are or include other students.
21. *Alcohol and Drug Use* (see [F.4.5](#) and [F.4.5.Ex](#)) State or Federal law shall be strictly enforced at all times on all property controlled by the College District in regard to

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the possession and consumption of alcoholic beverages, and no student shall possess, use, or be under the influence of (legal intoxication not required) any controlled substance as defined by law unless legally prescribed. Use of alcoholic beverages is permitted at College District sponsored events only as specifically authorized in writing by the Chancellor.

22. *Civil Rights Harassment.* Harassment, including Sexual Harassment, motivated by race, color, religion, gender, national origin, age, disability, veteran status, genetic information, sexual orientation, or any other reason and directed toward any member of the College District Community that is sufficiently severe, persistent or pervasive to limit or deny an individual's opportunities for education or benefits of the College District.
23. *Non-Compliance.* Failing to comply with lawful directions of College District officials or administration acting in performance of their duties, failing to comply with College District policies, procedures, regulations, and administrative rules.
24. *Inappropriate Use of Information Technology.* Violation of College District policies and procedures regarding use of information technology resources (see [C.1.9](#) and [C.1.9.1](#)).
25. *Unauthorized entry.* Unauthorized entry into or use of College District Property, or allowing such entry or use by others.
26. *Obstruction of Disciplinary Process.* Obstruction or attempted obstruction of the disciplinary process (investigations, hearings, meetings, or proceeding), including failure to comply with the instructions of the Student Conduct Officer or Administrator or the guidelines of the sanction(s). Violations include but are not limited to:
  - a. Failure to obey the summons or notice by the Student Conduct Officer or Administrator, a disciplinary body, or other College District official.
  - b. Falsification, distortion or misrepresentation of information before a hearing officer or committee.
  - c. Disruption or interference of the orderly conduct of a disciplinary proceeding.
  - d. Attempting to discourage participation in or use of the disciplinary process.
  - e. Attempting to influence the impartiality of a person or witness who participates in the Student Code of Conduct disciplinary or appeal process prior to, during, or after the course of a disciplinary or appeal proceeding or the testimony or appearance of a witness.
  - f. Harassment (verbal, non-verbal or physical) or intimidation of a person or witness

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- who participates in the Student Code of Conduct disciplinary or appeal process, a an individual who files a complaint, testifies, assists, cooperates with, or participates in any manner in the disciplinary or process.
- g. Failure to comply with the sanction(s) imposed.
  - h. Influencing, or attempting to influence, another person to commit an abuse of the disciplinary or appeal process.
27. *Retaliation.* Retaliating in any way against a student, faculty member, or other employee who reported a Student Code of Conduct violation; a student who was accused of violating the Student Code of Conduct; any witness or participant in a Student Code of Conduct investigation or proceeding, whether involving non-academic misconduct or academic integrity violations; or any person who has reported a violation of law.

#### **Initiation of Non-Academic Misconduct Case**

When confronted with any non-academic misconduct violation of the Student Code of Conduct in or out of the classroom, college personnel are responsible for reporting the violation through the appropriate channels. A student may also report an alleged violation of the Student Code of Conduct or a complaint about another student's alleged non-academic misconduct. In all instances, the report or complaint should be documented in writing. The report or complaint should be submitted immediately and may be submitted to the Chief Student Affairs Officer, Dean of Student Success, Student Conduct Officer, if any, or through any recognized electronic reporting system. In some cases, when the Alamo Colleges Police Department (Campus Police) is called a Campus Police report may also be generated.

Attempts to resolve the conflict with the student at the lowest level is strongly encouraged. All written communications and correspondence to a student in a non-academic misconduct case shall be through the Alamo Colleges assigned student email address and/or the physical address of record for the student. The college should request and monitor electronic receipt of the communications from the student.

#### **Exigent Circumstances Involving Maintaining Safety**

In circumstances involving disruption, violence, threat or safety of the student or others, the student may be asked to leave the classroom or campus by the instructor. If necessary, aid in the removal of the student may be sought from the Department Chair, Administrative Leader or Campus Police. If the student is removed from the classroom, the Department Chair must be notified along with, if necessary, the Campus Police, Chief Student Affairs Officer, Dean of Student Success, or a designee. Letters requiring



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no contact between the students involved in the complaint (no-contact orders) or criminal trespass warnings may be issued. The President of the College will request in writing from the Alamo Colleges Police Department the issuance of a criminal trespass warning.

The Chief Student Affairs Officer, Dean of Student Success, or a designee may take interim action, up to and including suspension of a student immediately and without prior notice for an interim period, when there is reasonable indication that the student poses a substantial threat to himself/herself, to others, or to the stability and continuance of normal College District operations, including the learning environment. Interim action shall not delay or otherwise affect the initiation of other disciplinary proceedings related to the underlying alleged violation of the Student Code of Conduct, or the complaint or report of alleged non-academic misconduct.

Written notice of the interim action taken shall be provided to the student by the Chief Student Affairs Officer, Dean of Student Success, or designee. A student who is suspended on an interim basis shall be given an opportunity to appear before the Chief Student Affairs Officer, Dean of Student Success, or a designee within five (5) business days from the effective date of the interim suspension, to explain his/her conduct and respond to the allegations. The meeting between the student and the Chief Student Affairs Officer, Dean of Student Success, or designee may take place at any location within the College District and may be attended by Campus Police or anyone else deemed necessary by and within the sole discretion of the Chief Student Affairs Officer, Dean of Student Success, or designee.

Failure by the student to avail him/herself of the opportunity to meet with the Chief Student Affairs Officer, Dean of Student Success, or designee shall not affect the decision to impose interim suspension. The decision to impose interim suspension may be appealed in the same manner as other disciplinary actions. An interim suspension remains in place until overturned by the appropriate appeals officer(s), if at all.

#### **Complaint and Investigation**

A report or complaint of an alleged violation of the Student Code of Conduct should be documented in writing or through the electronic reporting system. When the Chief Student Affairs Officer, Dean of Student Success, or designee receives information or a report that a student has allegedly violated the Student Code of Conduct, the Chief Student Affairs Officer, Dean of Student Success, or designee, such as the Student Conduct Officer, if any, shall investigate the alleged violation. An investigation may be hampered or may not take place if the complaint or report is anonymous. The person who conducts the investigation is deemed to be the "Investigator." Some violations of the Student Code of Conduct also may constitute violations of the Civil Rights

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Discrimination, Harassment and Retaliation Policy at [H.1.2](#). If such violations have also been reported to Campus Police and the Title IX/Title VII/ADA/504 Coordinator, separate investigations may occur.

During the investigation, the Investigator should summon the student in writing for a conference for further evaluation of the allegation(s), inform the student of the conduct and violation alleged, and provide the student an opportunity to respond to or dispute the allegation(s).

The summons shall direct the student to appear at a specified time and place not more than five (5) business days after the date of notification, unless otherwise agreed, to discuss the allegation(s) and give the student an opportunity to respond. The notification shall include a brief description of the conduct and violation alleged. If extenuating circumstances prevent the student from appearing at a face-to-face meeting, other arrangements may be made at the discretion of the Investigator. If the student refuses to meet with the Investigator, the record shall so reflect.

All written communications to the student concerning the Student Code of Conduct processes, discipline and appeals shall be sent only by e-mail to the student's Alamo Colleges' student e-mail address and/or certified letter, addressed to the student at the student's home address as it appears in the student's record.

At a conference, the Investigator should create a positive dialogue with the student whenever possible with the goal of guiding the student to meet expectations, by:

1. Explaining the role of the Investigator;
2. Explaining the importance of the Student Code of Conduct;
3. Discussing the allegation and the behavior that led to the allegation; and
4. Allowing the student the opportunity to explain his/ or her behavior.

The Investigator may also interview any witnesses to the allegations in the complaint or report.

#### **Administrative Disposition of Complaint and Violations**

After the investigation is completed, one of the following will be decided:

1. To dismiss the complaint/reported allegations as unfounded based on the preponderance of the evidence; or
2. To proceed with disciplinary action because the allegations in the complaint or report are determined to be true based on the preponderance of the evidence.

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If it is found that the allegations in the complaint or reported are unfounded, the reporter of the complaint will be notified in writing that his/her complaint or allegations of non-academic misconduct were investigated and determined to be unfounded based on a preponderance of the evidence, and the complaint/case is dismissed and closed. The reporter also will be notified that retaliation against the student who was accused of non-academic misconduct and any witness is strictly prohibited.

If it is decided to proceed with disciplinary action, (a) the Investigator will make findings of fact based on the preponderance of the evidence and report them in writing, (b) findings of responsibility will be made, and (c) the sanctions will be determined. Depending on the College, the nature of the allegations, and who conducts the investigation, the findings of responsibility and determination of sanctions may be made by the Investigator, Chief Student Affairs Officer, Dean of Student Success, or designee; or the findings of responsibility and/or determination of sanctions may be recommended or deferred by the Investigator to the Chief Student Affairs Officer, Dean of Student Success, or designee for determination.

Within five (5) business days after it is determined that the student will be found to be responsible and sanctions will be imposed, the Chief Student Affairs Officer, Dean of Student Success, or designee will send a letter to the student against whom the complaint was made to give written notice that the student was found responsible for certain violations and notice of the sanctions being imposed. The letter must state the following:

1. A description of the complaint or report made against the student;
2. Each finding of Responsibility;
3. That the findings were based on a preponderance of the evidence;
4. The provisions of the Student Code of Conduct and any Board policies violated;
5. A description of how the cited provisions were violated;
6. The disciplinary sanction(s) being imposed and their duration;
7. Notification of the student's right to appeal, including deadlines; and
8. Retaliation against the person who reported the complaint and any witnesses is strictly prohibited.

After disciplinary action is communicated to the student against whom a complaint was made, the reporter of the complaint will be notified in writing that his/her complaint or allegations of non-academic misconduct have been investigated, and of the disciplinary sanctions imposed on the student who was found responsible.

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#### **Disciplinary Action (Sanctions)**

The following are possible sanctions that may be imposed upon students or organizations singly or in combination:

1. *Warning*: A formal statement that the behavior was unacceptable and a warning that further infractions of any Alamo Colleges policy, procedure or directive may result in more severe sanctions/responsive actions.
2. *Administrative Hold*: Registration, transcript or degree may be withheld for a student who fails to pay a debt owed to the college or who has a disciplinary case pending final disposition. The penalty terminates upon payment of the debt or final disposition of the case.
3. *Educational Enrichment*: A disciplinary action designed to advance student learning which may include self-help workshops, seminars, counseling, etc.
4. *Probation*: A written reprimand for violation of the Code of Student Conduct, providing for more severe disciplinary sanctions in the event that the student or organization is found in violation of any Alamo Colleges' policy, procedure or directive within a specified period of time. Terms of the probation will be specified and may include denial of specified social privileges, exclusion from co-curricular activities, non-contact orders, and/or other measures deemed appropriate. If a student is found responsible for a second violation of the Student Code of Conduct while on probation, additional and more severe sanctions may be imposed up to and including expulsion.
5. *Suspension*: Termination of student status for a definite period of time not to exceed two years, and until specific criteria are met. Criteria may include an administrative conference, petition to return to the Alamo Colleges, or other documentation required by the Chief Student Affairs Officer or designee. Students who return from suspension are subject to all application processes and automatically placed on probation for one calendar year. This sanction may be noted as a Conduct Suspension on the student's official transcript.
6. *Expulsion*: Permanent termination of student status and permanent revocation of the right to enroll at any Alamo College. Expulsion may include any right to access the College campus or college events. See definition of campus in General Definitions above. Before a sanction of expulsion is imposed, the President of the College shall automatically review and approve or reverse every expulsion upon concurrence by the Chancellor. This sanction may be noted as a Conduct Expulsion on the student's

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official transcript.

7. *Withholding Diploma.* The Alamo Colleges may withhold a student's diploma for a specified period of time and/or deny a student participation in commencement activities if the student has a complaint pending, or as a sanction if the student is found responsible for an alleged violation.
8. *Revocation of Degree.* The Alamo Colleges reserves the right to revoke a degree awarded from the Alamo Colleges for fraud, misrepresentation, or other violation of Alamo Colleges policies, procedures or directives in obtaining the degree, or for other serious violations committed by a student prior to graduation.
9. *Organizational Sanctions.* Deactivation, de-recognition, loss of all privileges (including University registration) for a specified period of time.
10. *Other Actions.* In addition to or in place of the above sanctions, the Alamo Colleges may assign any other sanctions as deemed appropriate, including removal from course(s), no-contact orders, and criminal trespass warning(s) (CTW). Removal from course(s) are subject to all admissions, records, and payment deadlines and rules. A criminal trespass warning (CTW) is notice by the college or College District that entering or remaining on campus or campus property is forbidden until the administrator who issues the CTW suspends or terminates the CTW. The Alamo Colleges Police Department may detain a student or other person for violating a criminal trespass warning and may arrest the violator to the Bexar County Jail for possible prosecution by the County District Attorney for violating the criminal trespass statute at Texas Penal Code §30.05.

All sanctions imposed initially remain in place throughout the appeal hearing process and thereafter, if upheld.

#### **Appeal of Findings and Sanctions Not Involving Suspension or Expulsion**

A student may appeal the Findings of Responsible, the sanctions imposed, or both. A student may submit a written appeal of Findings and sanctions not involving suspension or expulsion to the Chief Student Affairs Officer within five (5) business days of the date of the letter that notifies the student of the findings of Responsibility and sanctions (disciplinary action). The written request for appeal should state whether the student is appealing the findings, the sanctions imposed, or both, and the grounds for the appeal. Mere dissatisfaction with the findings and/or sanctions is not sufficient to invoke the appeal process. The Chief Student Affairs Officer or designee shall acknowledge receipt of the appeal in writing to the student.

### **F.4.2.1 (Procedure) Non-Academic Misconduct Disciplinary and Appeal Process**

Responsible Department: Vice Chancellor for Student Success

Based on Board Policy: [F.4.2](#) - Student Code of Conduct

Approved: 4-30-10

Last Board Action: 9-26-17

This document replaces the former F.4.2.1 (Procedure) Student Code of Conduct and F.4.2.2 (Procedure) Non-Academic Misconduct Disciplinary Process

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### **Notice of Appeal Meeting Not Involving Suspension or Expulsion**

The Chief Student Affairs Officer or designee will hear the appeal and shall notify the student who has submitted the appeal by letter of the date, time, and place for the meeting to hear the appeal, which should, if practicable, take place within 10 business days after the date of the letter but in no event more than 30 days after the date of the letter. If the student is a minor (under the age of 18 years), the written notice of meeting shall also be sent to the parent(s) listed among the college records. If deemed necessary, the hearing date may be rescheduled by the Chief Student Affairs Officer or designee or otherwise by mutual agreement of the Chief Student Affairs Officer or designee and the student.

The written notice of appeal meeting from the Chief Student Affairs Officer or designee will contain the following and address any other matters that need to be addressed:

1. Direct the student to appear on the date, time, and place specified.
2. State the allegations of the complaint made against the student. Sufficient detail to apprise the student of the allegation(s) and the potential consequences of the sanctions imposed to enable the student to prepare a response should be provided.
3. State the Findings for which the student was found responsible based on the preponderance of the evidence, cite the Student Code of Conduct provisions and any Board policies violated, and state the sanctions imposed.
4. Advise the student of the following:
  - a. The appeal hearing is an informal and internal administrative meeting.
  - b. The student may appear in person at the hearing with a parent or legal guardian if the student is a minor, or legal counsel in an advisory capacity and not an advocate. If the student will be accompanied by legal counsel, the student must inform the person who issued the notice of hearing letter at least 72 hours prior to the commencement of the hearing. The student is required to present the student's case and conduct any examination of witnesses and presentation of argument. An attorney may only serve as advisor to the student.
  - c. The identity of each witness who may testify for the College District (unless the witness is called to rebut testimony of the student or the student's witness(es)).
  - d. The student may call witnesses and may examine and cross examine any witness. The student must disclose the identity of his/her witnesses to the Chief Student Affairs Officer or designee at least 48 hours prior to the commencement of the appeal hearing. The student is responsible for getting his/her witnesses to the hearing.

#### **F.4.2.1 (Procedure) Non-Academic Misconduct Disciplinary and Appeal Process**

Responsible Department: Vice Chancellor for Student Success

Based on Board Policy: [F.4.2](#) - Student Code of Conduct

Approved: 4-30-10

Last Board Action: 9-26-17

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e. A list of the documents and other tangible evidence that may be offered as evidence by the College at the appeal hearing. The student may request from the Chief Student Affairs Officer or designee copies of the documents at least 72 hours prior to the commencement of the hearing. The student must provide a list of the documents and other tangible evidence the student intends to offer at the hearing, at least 48 hours prior to the commencement of the hearing. The list should be submitted to the Chief Student Affairs Officer or designee.

f. Hearings are not typically recorded by the College, but the College reserves the discretion to record any hearing. The student will be provided with a copy of any recording. If the student records the hearing, the student will provide a copy to the Chair of the Disciplinary Hearing Committee.

g. The consequences of a failure to appear at the hearing.

h. The decision of the Chief Student Affairs Officer or designee who conducts the appeal meeting is final.

#### **Failure to Comply with Notice of Appeal Meeting**

The Chief Student Affairs Officer or designee who is hearing the appeal of findings and sanctions for less than suspension or expulsion has the discretion to proceed with the Appeal Meeting in the student's absence and decide the appeal based on the evidence presented by the College or the written record before the officer.

#### **Appeal Meeting Process**

The Appeal Meeting will be conducted informally and proceed generally as follows:

1. The Dean of Student Success or designee will present the College's case by discussing:
  - a. the complaint and allegations;
  - b. the fact findings of the Investigator;
  - c. the decision made on Responsibility and provisions of the Student Code of Conduct made;
  - d. the sanctions imposed; and
  - e. presenting any witnesses.
2. The student will be allowed the opportunity to examine any witnesses presented by the College.

#### **F.4.2.1 (Procedure) Non-Academic Misconduct Disciplinary and Appeal Process**

Responsible Department: Vice Chancellor for Student Success

Based on Board Policy: [F.4.2](#) - Student Code of Conduct

Approved: 4-30-10

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3. The student will be allowed the opportunity to present his/her case, explain why the findings should be reversed, explain why the sanctions should be reversed or reduced, and present any witnesses.
4. The college will be given an opportunity to examine the student's witnesses.
5. The officer hearing the appeal will conclude the Meeting and render a decision within five (5) business days. The decision will be final.

#### **Appeal Hearing Record – Appeals of Less Than Suspension or Expulsion**

The record shall include:

1. Copies of the report or complaint that gave rise to the investigation of alleged violations of the Student Code of Conduct, the letter notifying the student of the findings of the investigation and sanctions imposed, and the letter notice of hearing;
2. All documentation and evidence considered or reviewed by the Committee, such as the student's request for an appeal, the acknowledgment of the appeal, the investigative report, if any, relevant Board Policies, and exhibits offered at the hearing; and
3. The letter notifying the student of the Chief Student Affairs Officer's or designee's decision and disposition of the appeal.

The Chief Student Affairs Officer or designee informs the student and President of the decision and disposition. The hearing record shall be kept separate from the student's academic record however; the decision and sanctions imposed may be incorporated as appropriate into the student's academic record.

#### **Appeals of Findings and Sanctions Involving Suspension or Expulsion**

When a student wishes to appeal Findings of Responsibility and a suspension or expulsion of a violation, he/she is entitled to a hearing before a Disciplinary Hearing Committee. The student must make the request to appeal to the Chief Student Affairs Officer in writing on or before the fifth (5th) business day from the date of the letter notifying the student of the findings and sanctions.

#### **Disciplinary Hearing Committee – Appeals Involving Suspension or Expulsion**

The Chief Student Affairs Officer shall report the request for an appeal to the College President. The Disciplinary Hearing Committee shall be selected by the Chief Student Affairs Officer or designee and membership may consist of five individuals as follows:

1. Two students;



#### **F.4.2.1 (Procedure) Non-Academic Misconduct Disciplinary and Appeal Process**

Responsible Department: Vice Chancellor for Student Success

Based on Board Policy: [F.4.2](#) - Student Code of Conduct

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2. One full-time faculty member;
3. One staff member;
4. One administrative officer.

The student members of the committee shall be selected from a pool of students who are in good academic standing and do not have any previous student code of conduct violations. The Chief Student Affairs Officer or designee shall appoint one of the Disciplinary Hearing Committee members to chair the committee.

The Chief Student Affairs Officer or a designee shall represent the College before the Disciplinary Hearing Committee and present evidence to support the allegations of violations of the Student Code of Conduct. The Chief Student Affairs Officer or a designee may consult with legal counsel.

#### **Notice of Hearing - Appeals involving Suspension or Expulsion**

The Chair of the Disciplinary Hearing Committee shall notify the student who has submitted the appeal by letter of the date, time, and place for the hearing, which should, if practicable, take place within 10 business days after the date of the letter but in no event more than 30 days after the date of the letter. If the student is a minor (under the age of 18 years), the written notice of hearing shall also be sent to the parent(s) listed among the college records. If deemed necessary, the hearing date may be rescheduled by the Chief Student Affairs Officer or designee or otherwise by mutual agreement of the Chief Student Affairs Officer or designee and the student.

The written notice of hearing from the Chair of the Disciplinary Hearing Committee will contain the following and address any other matters that need to be addressed:

1. Direct the student to appear on the date, time, and place specified.
2. State the allegations of the complaint made against the student. Sufficient detail to apprise the student of the allegation(s) and the potential consequences of the sanctions imposed to enable the student to prepare a response should be provided.
3. State the Findings for which the student was found responsible based on the preponderance of the evidence, cite the Student Code of Conduct provisions and any Board policies violated, and state the sanctions imposed.
4. Advise the student of the following:
  - a. The appeal hearing is a non-public, internal administrative hearing.
  - b. The student may appear in person at the hearing with a parent or legal guardian if the student is a minor, or legal counsel in an advisory capacity and not an

#### **F.4.2.1 (Procedure) Non-Academic Misconduct Disciplinary and Appeal Process**

Responsible Department: Vice Chancellor for Student Success

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- advocate. The student, and not any other person, is required to present his/her case and may question the witnesses. The student shall notify the Chief Student Affairs Officer at least 72 hours prior to the commencement of the hearing that an attorney will be present at the hearing. An attorney on behalf of the College and College district may be present at any hearing as an advisor.
- c. The identity of each witness who may testify for the College District (unless the witness is called to rebut testimony of the student or the student's witness(es)).
  - d. The student may call witnesses and may examine and cross examine any witness. The student must disclose the identity of his/her witnesses to the Chair of the Disciplinary Hearing Committee at least 48 hours prior to the commencement of the appeal hearing. The student is responsible for getting his/her witnesses to the hearing.
  - e. A list of the documents and other tangible evidence that may be offered as evidence by the College at the appeal hearing. The student may request from the Chair of the Disciplinary Hearing Committee copies of the documents at least 72 hours prior to the commencement of the hearing. The student must provide a list of the documents and other tangible evidence the student intends to offer at the hearing, at least 48 hours prior to the commencement of the hearing. The list should be submitted to the Committee Chair.
  - f. Hearings are not typically recorded by the College, but the College reserves the discretion to record any hearing. The student will be provided with a copy of any recording. If the student records the hearing, the student will provide a copy to the Chair of the Disciplinary Hearing Committee.
  - g. The consequences of a failure to appear at the hearing.
  - h. The decision of the Disciplinary Hearing Committee is final.

#### **Failure to Comply with Notice**

The Chair of the Disciplinary Hearing Committee and/or the Chief Student Affairs Officer or designee who is presenting the College's case may, on behalf of the College District and at their discretion, proceed with the hearing and decision in the student's absence.

#### **Appeal Hearing Procedure – Appeals of Suspension or Expulsion**

The Disciplinary Hearing Committee shall proceed generally as follows during the hearing:

#### **F.4.2.1 (Procedure) Non-Academic Misconduct Disciplinary and Appeal Process**

Responsible Department: Vice Chancellor for Student Success

Based on Board Policy: [F.4.2](#) - Student Code of Conduct

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1. The student is greeted and the name is stated for the record. The members of the Disciplinary Hearing Committee and other persons present in the room will be announced. .
2. The Committee Chair will briefly state the purpose for the hearing (whether findings, sanctions or both are being appealed).
3. The Chief Student Affairs Officer or designee presenting the College's case will distribute as an exhibit the letter sent to the student to give notice of the findings and sanctions imposed. The officer will present the College's case, call witnesses, and question the student and student's witnesses.
4. The student will present his or her response, offer oral or documentary evidence, offer any rebuttals or arguments, and question witnesses.
5. The Chief Student Affairs Officer or designee and the student may present rebuttal evidence and argument.
6. Committee members may question witnesses, including the student.
7. All evidence shall be offered to the Disciplinary Hearing Committee and made part of the record.
8. The Disciplinary Hearing Committee shall make its decision strictly upon the evidence (oral and documentary) presented at the hearing.
9. After the Disciplinary Hearing Committee renders a decision, the Chair, on behalf of the Committee, shall:
  - a. Notify the student in writing of the committee's decision as to the findings and sanctions and that the standard used was a preponderance of the evidence.
  - b. Include in the statement its reasons for the finding(s).
  - c. State the decision is final.
  - d. Sign the letter.
10. The Disciplinary Hearing Committee Chair informs the Chief Student Affairs Officer or designee, and President of the decision and disposition.

#### **Decision on Appeal of Findings and Sanctions of Suspension and Expulsion**

In rendering a decision, the Disciplinary Hearing Committee may affirm the decision of the Chief Student Affairs Officer or designee as to findings and/or sanctions; amend or modify the decision; reverse the decision and dismiss the charge(s); hold the decision in abeyance and send the matter back for further investigation by the Chief Student Affairs Officer or designee; or recommend new sanction(s) based on significant new evidence presented at the appeal hearing or new violations disclosed at the hearing. The decision should be rendered as soon as practicable, within five (5) business days of the hearing

### **F.4.2.1 (Procedure) Non-Academic Misconduct Disciplinary and Appeal Process**

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(unless further investigation is warranted and in that case, within 10 business days of completion of further investigation to the satisfaction of the Disciplinary Hearing Committee). The decision of the Disciplinary Hearing Committee is final.

#### **Appeal Hearing Record – Appeals of Suspension or Expulsion**

The Disciplinary Hearing Committee's record shall include:

1. Copies of the report or complaint that gave rise to the investigation of alleged violations of the Student Code of Conduct, the letter notifying the student of the findings of the investigation and sanctions imposed, and the letter notice of hearing;
2. All documentation and evidence considered or reviewed by the Committee, such as the student's request for an appeal, the acknowledgment of the appeal, the investigative report, if any, relevant Board Policies, and exhibits offered at the hearing;
3. The letter notifying the student of the Committee's decision and disposition; and
4. A transcript or electronic record of the hearing, if any.

The Disciplinary Hearing Committee Chair informs the student, Chief Student Affairs Officer or designee, and President of the decision and disposition. The hearing record shall be kept separate from the student's academic record however; the decision and sanctions imposed may be incorporated as appropriate into the student's academic record.

#### **Timelines – All Appeals**

"Days" means business days unless specified otherwise. The timelines set forth in this procedure are maximums and, whenever possible, the specified action should be taken within a shorter period of time. Time limits may be extended at the discretion of the Chief Student Affairs Officer or designee for circumstances such as unavailability of key personnel due to leave, absence or emergency closures, holidays, or semester breaks. The College shall send a written confirmation of the extension to the student.

The College shall make every practicable attempt to administer the complaint/disciplinary/appeal process timely. Should it fail to do so, however, its untimeliness shall not constitute a violation of the student's rights, and the College's failure to administer the process timely cannot be used against the College to resolve any ultimate matter of fact.

#### **Evidence – All Appeals**

Legal rules of evidence do not apply to hearings or meetings involving the disciplinary and appeal process. Evidence tending to prove or disprove the allegations will be

#### **F.4.2.1 (Procedure) Non-Academic Misconduct Disciplinary and Appeal Process**

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considered. Irrelevant, immaterial and unduly repetitious evidence and evidence deemed not reasonably reliable or authentic shall be excluded. If the student chooses not to testify or present his/her case, the student may nonetheless be questioned, but the student may refuse to answer. If the student refuses to testify or answer or present his/her case, only the evidence presented by the College will be considered in rendering a decision. If the student does testify or present evidence, he/she may be questioned by the Officer presenting the College's case or committee members.

Privileged communications between a student and a member of the professional counseling staff will be recognized. However, if the information disclosed presents an actual or threatened harm to the health, safety or wellbeing of any person (including the student), the information may be used for any appropriate purpose, including referral to the Strategies of Behavioral Intervention (SOBI) process.

Legal Reference – TACC Policy Reference Manual

FLB(LEGAL) – Student Rights and Responsibilities: Student Conduct

FLBA(LEGAL) – Student Conduct: Student Dress

FLBC(LEGAL) – Student Conduct: Prohibited Organizations and Hazing

FLBE(LEGAL) – Student Conduct: Alcohol and Drug Use