DISCIPLINE AND PENALTIES
DISCIPLINE PROCEDURE

FMA-R
Administrative regulation

Purpose

The purpose of this policy is to set forth the College District's student disciplinary procedures relating to allegations of a violation of FLB (LOCAL): Student Rights and Responsibilities – Student Conduct board policy, excluding allegations of sexual harassment, sexual assault, dating violence, domestic violence, and stalking, which are addressed in policy FFDA (LOCAL): Freedom from Discrimination, Harassment, and Retaliation: Sex and Sexual Violence. Scholastic dishonesty policy violations are addressed in FMA-R-2 and are also excluded from this policy.

Referrals

A discipline referral may be filed by any College District faculty, staff, and/or student (by proxy of a College District official). All referrals must be filed through the College District online incident reporting form and referred to the Student Conduct Administrator ("the SCA") for consideration. The referral must establish the allegations of student misconduct with sufficient detail to support the referral. The information should include, but not be limited to, a description of the incident, the alleged violations of College District policies or procedures, the involved parties-including potential witnesses, and any additional relevant evidence. Submission of a referral must occur within the semester of occurrence. The SCA may limit their response to any incidents that occur outside of the academic year, as complaints may only be filed against active students at Lee College.

Students Needing Accommodations

Students with disabilities involved in the conduct process may request reasonable accommodation for any stage of the process. Students requesting reasonable accommodation will be referred to the Access Center to obtain an Accommodation Letter. The student must include this letter when they submit an accommodation request to the SCA.

Initial Assessment

In all cases of an alleged violation of the FLB (LOCAL) board policy, not involving sexual misconduct as defined in FFDA (LOCAL), the SCA or designee shall make an initial determination whether the allegations, if proven true, would constitute a violation of College District policies or procedures. The SCA or designee may interview the complainant and other witnesses as appropriate to the circumstances. The SCA or designee shall meet with the accused student, describe the allegations against the student, and provide the accused student with an opportunity to respond.

If the SCA or designee determines that the allegations, if proven true, would not constitute a violation of policy, the referral is dismissed. The SCA or designee shall inform the complainant and the accused student in writing of the dismissal, including the reason(s) for dismissal.

If the SCA or designee determines that the allegations, if proven true, would constitute a violation of policy, a case is created. The SCA or designee shall inform the complainant and schedule a procedural interview as described below.

Temporary Action/Sanction

The SCA or designee may take action to immediately remove a student from designated College District spaces when the SCA or designee reasonably believes that the continued presence of the student would constitute a danger to safety of the campus community or College District property. Any restrictions imposed under this section are temporary pending the resolution of the student's conduct referral.

Procedural Interview

If the SCA or designee determines that the allegations, if proven true, constitute a violation of College District policies or procedures, the SCA shall inform the accused student in writing, describing the allegations and the charge, the proposed sanction, and the student's procedural rights and shall schedule a procedural interview.

During the procedural interview, the SCA or designee will provide the accused student with the following information:

1. Review the Student Conduct Referral, including the initial incident report and the alleged policy violations.
2. Be informed of the student conduct process and have an opportunity to ask questions.
3. Respond to the alleged violations and provide relevant evidence or witnesses.

If the accused student chooses not to meet with the SCA or designee, the SCA or designee will inform the accused student via email of the conduct process and resolution options. The email will be sent to the accused student's College District email address or the email address on record with the College District.

After the accused student has been advised of the conduct process, the accused student may take up to three business days to

review the referral and decide whether to accept or dispute responsibility for the alleged policy violations. The accused student shall inform the SCA or designee in writing of their decision.

Advisor/Legal Counsel

During all steps of the student conduct process, the student may have one advisor of their choice present. This advisor may be a faculty member, staff member, or someone not affiliated with the College District, including but not limited to legal counsel. The student must notify the SCA of the identity and contact information of the advisor at least three business days prior to the meeting/hearing.

The student and advisor may speak privately during the initial meeting, but the advisor may not represent or speak on behalf of the student or participate directly in the conduct process.

Informal Resolution

When the accused student does not dispute the referral, the student may choose not to contest the charge. If the accused student chooses not to contest the charge, they must sign an acknowledgment and a written waiver of the hearing procedures. The SCA or designee will impose an appropriate sanction based on the nature of the charge, the evidence, and any student disciplinary history.

When the student disputes the referral, and the potential sanction for the violation will not result in a suspension, expulsion, or removal from student housing, the student may waive their right to a formal hearing and instead decide to participate in an administrative hearing with the SCA or designee as the decision-maker for the matter. If the student decides to proceed with an administrative hearing, they still retain the right to request an appeal of the decision or recommended sanction.

If the accused student fails to appear at the procedural interview, the SCA or designee may impose a sanction if a preponderance of the evidence provided supports the alleged violation. The SCA or designee may only impose a sanction in this manner if the resulting sanction(s) will not result in a suspension, expulsion, or removal from student housing. In circumstances involving these sanctions, the referral will continue to the formal hearing process below, unless a student waives their right to a hearing in writing.

Formal Hearing Process

If the SCA determines that the conduct alleged, if proven true, would support a charge of misconduct resulting in a suspension (more than ten days), expulsion, revocation of a degree, or removal from campus, including student housing, or if the accused student

disputes the charge, the matter will proceed to a formal hearing process before the Lee College Appeals and Resolution Board (LCARB). The deadlines provided in this policy may be extended by mutual written agreement of the accused student and the SCA or designee, or for good cause as determined by the SCA or designee or LCARB.

Lee College Appeals and Resolution board

The Lee College Appeals and Resolution Board (LCARB) is a formal body of volunteer faculty and staff, that reviews referred cases of alleged violations of the College District's student conduct policies. When a matter proceeds to a formal hearing, the SCA or their designee will appoint three members of the LCARB to serve as a committee of decision-makers for the hearing. One of the three appointed members will serve as the committee chair. The hearing committee is responsible for determining responsibility for any violation of the College District's policy and recommending sanctions, if applicable.

The SCA or their designee will not serve as a decision-maker and will act solely as a facilitator and/or investigator for the hearing. All selected LCARB members will be screened for potential conflicts of interest involving the student. The identities of the LCARB members appointed to the hearing committee will be shared with the student at least three business days prior to the hearing.

Notice of Hearing

The SCA shall provide the student with a notice of hearing as described below. A student's failure to update his or her postal and email addresses with the College District, refusal to accept delivery of a letter, failure to open an email, or refusal to attend the hearing after notification will not excuse the failure to comply with a notice.

The notice of hearing will be sent to the student by electronic mail, U.S. mail, or hand-delivery.

Content of Notice

The notice of hearing shall contain a statement of the specific charges and a general description of the evidence in support of the charges; the rules, regulations, or policies that the student allegedly violated; the proposed penalty; a copy of this policy; the names of the members of the LCARB (including the identity of the LCARB Chair); and the contact information of the SCA or designee.

The notice shall also include a date, time and place for the hearing that is at least ten business days after the date of the notice. The ten-day notice requirement may be altered by the SCA or designee, or by mutual agreement of the LCARB Chair and the accused student.

The accused student may challenge the impartiality or objectivity of members of the LCARB but must do so within five business days of receipt of the notice of hearing. A challenge must be submitted in writing to the LCARB Chair and must state the factual reasons for the challenge. The LCARB Chair is the sole judge of whether they or other members can serve with impartiality and objectivity. If an LCARB member is recused, an alternate member will be assigned.

Hearing Procedures

When a student disputes the allegations, is recommended for expulsion, suspension for more than ten school days, revocation of a degree, or removal from campus, including student housing, the following procedures shall apply (See Tex. Educ. Code Sec. 51.231–51.243):

1. The student is entitled to a private hearing and to appear in person and with an advisor, if requested. This advisor may be a faculty member, staff member, or someone not affiliated with the College District, including but not limited to legal counsel. The student and advisor may speak privately during the initial meeting, but the advisor may not speak on behalf of the student or participate directly in the hearing process. The student must notify the SCA or designee of the identity and contact information of the advisor at least 3 business days prior to the hearing.
2. If a student is a qualified person with a disability under federal law and is unable to represent themself at the hearing due to their disability, the College District will permit representation by an advisor during the hearing. If a student is to be represented by an advisor, the College District may be represented by legal counsel.
3. Three business days prior to the date of the hearing, the accused student and College District administration shall exchange the following:
    a. Witness lists, including the names of each witness and a brief description of each witness's testimony.
    b. Exhibits to be presented during the hearing.
4. The hearing shall be recorded using an audio recording device. The accused student and College District administration will have the opportunity to cross-examine the other party's witnesses. After the parties have questioned a witness, the LCARB may question the witness. The accused student cannot be compelled to testify.
5. Legal rules of evidence and judicial rules of civil procedure do not apply to the hearing process. Evidence must be relevant and of the type that is accepted by reasonable

people in the conduct of important affairs. The LCARB may limit cumulative, repetitious, or irrelevant evidence and may impose reasonable time limits on the presentation of evidence. In addition, the LCARB may impose reasonable restrictions to prevent the harassment or badgering of witnesses. Finally, although the legal rules of evidence do not apply, the LCARB will recognize legally recognized privileges, such as the attorney-client privilege. The LCARB may seek legal advice from an attorney before deciding on the assertion of privilege by any party or witness, even if seeking such advice would require a recess in the hearing.

6. The administration has the burden to prove the charges by a preponderance of the evidence (i.e., more likely than not).
7. The order of the hearing is as follows:
   a. The SCA or designee will present an opening statement not to exceed five minutes. Immediately following, the student may also present an opening statement not to exceed five minutes.
   b. The SCA or designee will present the College District's case first. The student will present his or her case. The SCA or designee may present rebuttal evidence.
   c. The LCARB shall determine the number of minutes that the parties are given for closing arguments, considering the case's complexity. Given the same amount of time for a closing argument, neither party will present new evidence.
   d. After closing arguments, the LCARB will privately deliberate. The LCARB will issue a decision within five business days. The LCARB's decision is decided by majority vote, and shall be communicated in writing, to include findings of facts, the rationale for the decision, sanctions to be imposed and a statement regarding any applicable appeal procedure. The LCARB will email a copy of the decision to the accused student and the SCA or designee.

Failure to Appear

If the student fails without good cause, as determined by the LCARB, to appear at the scheduled hearing after receiving proper notice, the LCARB may proceed with the hearing in the student's absence, and the student forfeits any right to participate in the hearing process. At the conclusion of the hearing, the SCA or designee will provide written notice to the student of any action taken in the student's absence.

Right of Appeal in the Absence of a Hearing

When a student does not dispute the allegations or is not recommended for expulsion, a suspension for more than ten business days, revocation of a degree, or removal from campus, including student housing, the student is not eligible for the resolution of a case by hearing. In these cases, the student still holds the right to request an appeal of the recommended sanction.

Right of Appeal / Appeals Board

The student or the Vice President, Student Affairs, or their designee may appeal the decision of the LCARB or SCA. Appeals must be submitted in writing within ten business days of the date of the decision, excluding campus closures, to the SCA or their designee. The appeal must include a summary of the decision appealed and any relevant information, evidence, or other sources of information that warrant setting aside the SCA or LCARB decision. The Vice President, Student Affairs, or their designee, can accept or deny appeals.

The Vice President, Student Affairs, or their designee, will issue a written decision on the appeal within five business days of receipt of the appeal, promptly transmitting a copy of the written determination to the parties. The Vice President, Student Affairs or designee may affirm, reject, or modify the decision of the SCA or LCARB, or may remand the issue for further review and proceedings. The decision of the Vice President, Student Affairs or their designee is final.

An appeal may be based on the following grounds:

- New evidence not available at the time of the original appeal that may affect the original decision issued.
- Procedural error that resulted in material harm or prejudice to the student. Procedural error does not include any possible deviations from previous conduct procedures unless the error resulted in a conflict of interest, prejudice, or material harm to the student.
- The sanction issued was excessive in relation to the violation that the student was alleged to have committed. Appeals submitted on this basis may request a revision of the recommended sanction, but not a reversal of the finding of violating College District Policy.

Disciplinary Records

The College District will maintain, for every student alleged or determined to have committed misconduct at the College District, a

disciplinary record that will reflect the charge, the disposition of the charge, the sanction assessed, if any, and any other pertinent information. The disciplinary record is separate from the student's academic record and is treated as confidential; the contents are not available except on request of the student or in accordance with applicable state or federal laws.

The disciplinary record is maintained permanently if a student is expelled or subject to an extended suspension. In all other cases, the disciplinary record is maintained for three or more years.

Types of Sanctions

The SCA or LCARB may impose one or more of the following sanctions for violations of College District policies and procedures, including the rules outlining expectations for student conduct [see FLB]:

1. Reprimand
2. Restitution
3. Scholastic Penalties
4. Conditional Probation
5. Suspension
6. Expulsion
7. No Trespass Notices
8. Loss of Privilege
9. Removal from Campus / Housing

Nature of Disciplinary Sanctions

The sanctions above are defined as follows:

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. Restitution — Reimbursement for damage to or misappropriation of property. Reimbursement may take the form of appropriate service to repair or otherwise compensate for damage.
3. Scholastic Penalties — Range from a zero on an assignment to suspension. Academic dishonesty and corresponding penalties are defined and outlined in the online College District Catalog.
4. Conditional Probation — Placing a student on notice that continued infraction of regulations may result in suspension or expulsion from the College District. Conditional probation may include restrictions on a student's rights and privileges or specified community service. 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.

5. Suspension — Forced withdrawal from the College District for either a definite period or until stated conditions are met. Suspensions may extend from the remainder of the term through one year, at which time, upon request of the student, their status is reevaluated by the SCA or designee in conjunction with other College District administrators, as appropriate.
6. Expulsion — Permanent forced withdrawal from the College District. A student receiving disciplinary expulsion shall have the action noted in the student's permanent record.
7. No Trespass Notice — Issued in cooperation with campus security and local law enforcement. If a no trespass notice is violated, a student may receive a criminal trespass order.
8. Loss of Privilege - May include restrictions on a student's rights and privileges or specified community service, including temporary arrangements made with the College District. In addition, loss of privilege is for a specified length of time or for an indefinite period according to the relative severity of the infraction or misconduct.
9. Removal from Campus / Campus Housing - A student is restricted from entering any or all the buildings or grounds on campus if it is believed that the student poses a risk or threat to the health or safety of the campus. Students who have violated College District policy and/or the student housing agreement must vacate the premises immediately. Violation of this sanction may result in a trespassing violation, as detailed above.