



# EL PASO COMMUNITY COLLEGE PROCEDURE

For information, contact Institutional  
Effectiveness: (915) 831-6740

## **FMA-1 Student Disciplinary Procedure**

**APPROVED:** July 20, 1981      **REVISED:** March 3, 2017  
**Year of last review:** 2021

**AUTHORIZING BOARD POLICY:** FMA

Classification: Administrative

Vice President or Associate Vice President: Vice President of Instruction and Workforce Education, Vice President of Student and Enrollment Services

Designated Contact: Vice President of Instruction and Workforce Education, Vice President of Student and Enrollment Services

**OBJECTIVE:** To provide a process for student disciplinary actions. Activities that may result in disciplinary action are listed in the *Student Code of Conduct*.

### **PROCEDURE:**

#### **I. Authority of the Vice President**

- A. All Non-Academic Student related issues should be forwarded to the Vice President of Student and Enrollment Services.
- B. All Academic Student related issues should be forwarded to the Vice President of Instruction and Workforce Education.

#### **II. Discipline Process**

When the appropriate Vice President receives information that a student has allegedly violated a District policy, or the *Student Code of Conduct*, the appropriate Vice President shall investigate the alleged violation of student misconduct. Alleged violations of student misconduct may be submitted by any member of the campus community, including faculty\*, staff or students, or from a third-party, such as the Police Department. The information should be submitted in writing with supporting documentation that supports the allegation.

Students shall be given a fair opportunity to demonstrate innocence before College officials, as outlined in Section III of this procedure. Students are entitled to a disciplinary hearing, including being given adequate notice of the hearing and allegations in advance. Students with disabilities may request special accommodations, such as sign language interpreting services and visual aids, during the student discipline process.

After completing a preliminary investigation, the appropriate Vice President may:

- A. Dismiss the allegation;
- B. Summon the student for a conference. After conferring with the student, the appropriate Vice President may:
  - 1. Dismiss the allegation.
  - 2. Proceed with the disposition of the violation described herein;
  - 3. Impose the appropriate sanction(s). In any case, where the accused student does not dispute the allegations and that student executes a written waiver of the hearing procedure, the appropriate Vice President shall assess a sanction, and shall inform the student of such action in writing. The disciplinary records and proceedings shall be kept separate from the student's academic record and shall be treated as confidential. The decision of the appropriate Vice President shall be final; OR
  - 4. Prepare a complaint and proceed with a discipline hearing when the facts of the allegation(s) are disputed.

**\*Note: The word "faculty" denotes instructors, counselors and librarians.**

C. Interim Suspension

Interim Suspension - The appropriate Vice President may take immediate disciplinary action and suspend a student, pending a hearing for policy violations. If the continuing presence of the student poses a danger to persons or property, or an on-going threat of disrupting the academic process, a student who has been suspended from the District for disciplinary reasons shall not be permitted on any of the College properties, or other facilities of the District during the period of suspension without the prior written approval of the appropriate Vice President.

D. Definition of Disciplinary Action -- Penalties shall be Defined as Follows:

1. A written reprimand from the appropriate Vice President or President shall be sent to the student.
2. Warning probation shall indicate that further violations of regulations will result in more severe disciplinary action. The appropriate Vice President shall impose warning probation for a period of not more than one (1) calendar year, and the student shall be removed automatically from probation when the imposed period expires.
3. Disciplinary probation shall indicate that further violations may result in suspension. Disciplinary probation may not be imposed for more than one calendar year.
4. A hold on a student's records occurs when a student has failed to make an appointment by his/her allotted time, has failed to keep his/her appointment or has failed to pay restitution. The hold will be lifted once the student has complied with the directives from the office of the appropriate Vice President.
5. Restitution shall be reimbursement for damages to, or misappropriation of, property. Reimbursement may take the form of appropriate service to repair or otherwise compensate for damage.
6. Suspension of rights and privileges is an elastic penalty. The appropriate Vice President or President may impose limitations on rights and privileges to fit the particular case.

E. Actions may be imposed upon the student as follows:

1. Failing grade or a grade of W (Withdrawal) may be assigned to a student for a course in which the student was found guilty of scholastic dishonesty.
2. A student found guilty of scholastic dishonesty may be denied a degree, certificate, or course credit.
3. Suspension from the District prohibits, during the period of suspension, the suspended student from entering a District campus or facility under the control or jurisdiction of the District without prior written approval of the appropriate Vice President (charges of criminal trespass may be filed).
4. A student may be denied initiation into an honorary or service organization.
5. A student may be denied from receiving credit at a component of the District system for scholastic work done in residence or by correspondence or extension.
6. Except when suspension is imposed for scholastic dishonesty, the appropriate Vice President may permit the receipt of credit for scholastic work done during the period of suspension.
7. The decision of the appropriate Vice President is final.

F. Procedural Appeal:

1. The decision of the appropriate Vice President may be appealed to the President, but only on the basis that Procedures described herein were not properly observed.
2. The decision of the President is final.

### III. Discipline Hearings Procedure

Hearings will be conducted for offenses related to behavior misconduct identified in College Procedure FLB-1 *Student Code of Conduct*.

#### A. Hearing Committee

In cases where the accused student disputes the facts upon which the charge(s) are based, such charge(s) shall be heard and determined by a Hearing Committee appointed by the appropriate Vice President. The Hearing Committee shall be composed of six members who are not directly or indirectly involved with the charge(s) against the student.

1. Three students chosen by the Student Government Association (when the SGA member is the “accused” student, the appropriate Vice President shall recommend the students).
2. A counselor (recommended by a Dean who supervises counselors).
3. A faculty member (recommended by the appropriate Vice President).
4. An administrative officer, non-voting hearing officer (recommended by the appropriate Vice President).

#### B. Notice

1. The appropriate Vice President shall notify the student concerned by certified letter and regular mail or personal delivery, of the date, time, and place for the hearing, which shall take place no fewer than ten (10) working days after the date of notification.
2. If, however, the student has been suspended, the hearing shall take place as soon as possible. If after a reasonable amount of time has passed and a hearing has not taken place, the student has the right to return to class.
3. An extension of time may be granted by the hearing officer “upon request for reasonable cause” by either the student or by the representative of the College.

#### C. Contents of Notice -- The notice shall:

1. Direct the student, by certified letter and regular mail or personal delivery sent to the student's address of record, to appear on the date, time, and place specified.
2. Advise the student of his/her rights as outlined below:
  - a. To a private hearing.
  - b. To appear in person and to have a representative at the hearing. The student shall present his or her defense. The student may elect to have a representative present who is not an Attorney or legal representative. The representative may not actively participate in the process by posing questions or responding to information presented. The Hearing Officer may request that the representative leave if the representative does not abide by the rules of the process.
  - c. An exchange of evidence and a list of witnesses expected to testify will be made available by both parties, five (5) working days prior to the hearing.
  - d. To call witnesses, to receive copies of evidence in the District's possession, and to argue in his or her own behalf.
  - e. To have the hearing electronically recorded and receive a copy of the tape.
  - f. To cross-examine each witness who testifies against the student.
  - g. To appeal.
3. Contain the names of witnesses who will testify against the student and a description of documentary and other evidence that will be offered against the student.
4. Include a copy of the complaint.

5. Notify the student that the District may be represented by counsel, who may cross-examine any witness testifying on the student defendant's behalf or the student defendant if the student testifies in his/her own behalf.

D. Failure to Comply with Notice

The appropriate Vice President may suspend or impose other appropriate penalties upon a student who fails, without good cause, to comply with a letter of notice, or, at the discretion of the appropriate Vice President, may proceed with the hearing in the student's absence.

E. Hearing Procedure

The hearing shall be held according to the following:

1. The non-voting administrator shall serve as the Chairperson of the Hearing Committee.
2. The hearing shall be informal, and the Hearing Committee shall provide reasonable opportunities for witnesses to be heard. The hearing shall be closed unless the student requests an open hearing.
3. The hearing shall proceed as follows:
  - a. The appropriate Vice President shall read the complaint.
  - b. The Administrator shall inform the student of his/her rights.
  - c. The appropriate Vice President shall present the District's case.
  - d. The student shall present his or her defense.
  - e. The appropriate Vice President shall present rebuttal evidence.
  - f. The appropriate Vice President shall summarize and argue the District's case.
  - g. The student shall summarize and argue his or her case.
  - h. The appropriate Vice President shall have an opportunity for rebuttal argument.
  - i. On the question of guilt and punishment, the Hearing Committee shall decide by majority vote.
  - j. If the Hearing Committee finds the student guilty, the appropriate Vice President and the student defendant may present evidence and argument for an appropriate penalty.
  - k. The Chairperson of the Hearing Committee shall inform the appropriate Vice President and the student in writing of the decision and penalty, if any.
  - l. If less than a majority finds the student guilty, the complaint shall be dismissed with no further action taken against the student.

F. Evidence

Evidence shall be handled according to the following:

1. Legal rules of evidence do not apply in a hearing under this policy. The hearing officer may admit evidence that is commonly accepted by reasonable persons in the conduct of their affairs. The hearing officer shall exclude irrelevant, immaterial, and unduly repetitious evidence. The hearing officer shall give effect to the rules of privilege recognized by law and custom.
2. At the hearing, the District shall prove that the evidence supports the charges.
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 admitted evidence.
5. A student defendant may have a stenographer present at the hearing to make a stenographic transcript of the hearing at the student's expense.

G. Decision

The Hearing Committee shall render a written decision as to the accused student's guilt or innocence of the charge(s) and shall set forth findings of facts in support of the charge(s). The penalty shall also be stated in the decision. The appropriate Vice President shall administer the penalty, if any.

#### H. Appeal

The decision of the Hearing Committee may be appealed to the President, but only on the basis that procedures described herein were not properly observed.

#### I. Hearing Records

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

#### J. Types of Penalties

The appropriate Vice President and/or Hearing Committee may impose one or more of the penalties for offenses listed in the *Student Code of Conduct*, for violation of District rules and regulations:

1. Reprimand
2. Warning Probation
3. Disciplinary Probation
4. Placing an administrative hold and/or dropping current enrollment
5. Restitution
6. Suspension of rights and privileges
7. Assignment of failing grade(s)
8. Denial of degree
9. Suspension from the District for less than one (1) calendar year
10. Permanent Expulsion

Permanent Expulsion from the District prohibits the student from entering a District campus or facilities under the control or jurisdiction of the District without prior written approval of the appropriate Vice President (charges of criminal trespass may be filed).

#### IV. Disposition of Academic Dishonesty.

When there is sufficient evidence of academic misconduct, the instructor should meet with the student to present the evidence and get an explanation/response to the allegation from the student. After presenting the evidence to the student, then the faculty member may take corrective action.

A. If the student does not deny the allegation, the instructor should get the admission of the violation in writing from the student and can then take any or all of the following actions:

1. Provide a warning to the student and explain the consequence of another infraction.
2. Take any corrective action as deemed appropriate. For example, in the case of plagiarism, the student could be given an opportunity to redo the paper in question, but receive a lower grade.
3. Give the student a zero/failing grade for the test/quiz/paper in question.
4. In addition to the above, the instructor can give the student an "I" (Incomplete) for the course and refer the issue through the responsible Instructional Dean/Director to the appropriate Vice President for administrative disposition. The instructor should include his/her recommendation of the administrative disposition to be taken. A list of sanctions that can be imposed can be found in the *Student Code of Conduct*. However, it is advised that instructors not give an "F" for the course to the alleged student, since this places any challenges to the allegations directly on the instructor and bypasses the student's right to due process. If, upon notification by the instructor of the allegation of academic misconduct, the student drops the class, the instructor's final course failing grade does not override the drop. Nevertheless, if the issue is referred to the appropriate Vice President, the student will go through the administrative process and, if found responsible, can be administratively reinstated and receive the failing grade for the course, if that is the administrative disposition of the case.

#### B. Examples of Administrative Disposition

Following is the administrative disposition (penalty) normally applied in cases of academic misconduct. The following examples represent the "normal" administrative disposition of cases; however, each case is

reviewed on an individual basis. Mitigating circumstances are taken into account, and the outcome may vary case by case.

1. First Offense: Receive a failing grade for the course and be placed on Disciplinary Probation. Record of disciplinary action becomes a permanent record of the student.
2. Second Offense: Receive a failing grade for the course, and administrative withdrawal from all current semester courses (without refund), and suspension.
3. Third Offense: Receive a failing grade for the course, administrative withdrawal from all current semester courses (without refund), and suspension for one (1) year or expulsion.

#### V. Non-Academic Misconduct in the Classroom

- A. The faculty member must use his/her own judgment as to what constitutes disruptive behavior, which is any activity that interrupts or causes the faculty member or a student to stop a class activity to respond to another student who is behaving in an unacceptable manner.
- B. These disciplinary actions do not diminish or replace the penalties available under generally applicable civil or criminal laws. Students are reminded that many violations of the *Student Code of Conduct*, including harassment and other discriminatory behavior, also may violate local, state, and federal laws and may subject the student to additional penalties.

#### VI. Disciplinary Sanctions

Sanctions serve to promote safety or to deter students from behavior which harms or threatens people or property. Some behavior is so harmful to the El Paso Community College community or so detrimental to the educational process that it may require more serious sanctions such as removal from specific courses or activities, suspension from El Paso Community College, or expulsion.

- A. Disciplinary sanctions will be based upon the seriousness of the offense, the student's attitude, the impact of the misconduct on the College environment, the student's overall record at the College (including prior discipline, if any) and the statutory or other legal requirements, if any.
  1. Written warning: A formal notice that the *Code* has been violated and that future violations will be dealt with more severely.
  2. Disciplinary probation: A sanction that indicates that the individual's standing with the College is in jeopardy and that further violations may result in suspension or expulsion.
  3. Restitution: A sanction that requires the student to compensate an injured party for loss, damage or injury in the form of money, service, or material replacement.
  4. Community service: Performance of a specified number of hours or tasks designed to benefit the College community and/or to help the student understand why his or her behavior was inappropriate.
  5. Class or workshop attendance: Enrollment and completion of a class or workshop designed to help the student understand why his or her behavior was inappropriate.
  6. Educational project: Completion of a project specifically designed to help the student understand why his or her behavior was inappropriate.
  7. Suspension of privileges: Loss of privileges, such as loss of library privileges, or the privilege to attend athletic or other extracurricular events.
  8. Removal from courses or activities: Removal from specific courses or activities, including revocation of eligibility to represent the College in athletic or other extracurricular activities.
  9. Counseling
  10. Failing grade for a test, assignment, or course.

11. Restrictions on access: Restriction from entering specific College areas and/or all forms of contact with certain persons.
12. Suspension: Separation from the College for a specified period of time or until certain conditions are met.
13. Expulsion: Permanent separation from the College whereby the student is not eligible for re-admission.
14. Revocation of Degree and withdrawal of diploma.

B. These sanctions do not diminish or replace the penalties available under generally applicable civil or criminal laws. Students are reminded that many violations of the *Code*, including harassment and other discriminatory behavior, also may violate local, state and federal laws and may subject the student to additional penalties.

## VII. Records

### A. Records of Disciplinary Actions:

Records of present or former El Paso Community College students are confidential and are not public information. Therefore, the following regulations regarding student disciplinary records shall apply.

1. Disciplinary records are considered educational records under the Family Educational Rights and Privacy Act (FERPA). As a result, these records are kept confidential in accordance with this law.
2. Disciplinary records will be filed in the student's or student organization's disciplinary file maintained through Banner. The file will consist of the following: a statement of charges, a summary of the information presented at the disciplinary hearing as outlined in College Procedure FMA-1, and findings and sanctions of the hearing body, records of appeals and rationale for the decisions.
3. Student disciplinary records are normally maintained in the office of the appropriate Vice President for a period of seven years, after which the file records may be purged. Records may be maintained for a longer time at the discretion of El Paso Community College except that the tape recording of any discipline hearings as per College Procedure FMA-1, may be destroyed one semester following exhaustion of all appeals. Records of students who were suspended or expelled from El Paso Community College are retained permanently.
4. If a student is suspended or expelled, a notation will be made on the student's academic record. The notation of suspension will be removed at the time the student is readmitted to El Paso Community College.
5. Individual student disciplinary records are confidential; nothing from them appears on a student's academic transcript.

### B. Request to Review a Disciplinary Record:

Because the Family Educational Rights and Privacy Act (FERPA) defines the records of a student engaged in a disciplinary process as confidential, information about the disciplinary process may only be shared with the student found responsible, his/her parents if a dependent, his/her academic College dean or adviser and school officials with a legitimate educational interest.

Other persons desiring access to disciplinary records may do so by securing a written waiver from the student whose record is requested unless otherwise permitted by federal or state law.

### C. Other College Records:

A disciplinary file is only one form of information maintained by El Paso Community College related to student records. The College *Catalog* contains more information related to student records and other confidential information.

D. Obtaining a copy of your Student Records:

The office of the Vice President of Student and Enrollment Services does not give copies of student files. Students can view their file by scheduling an appointment to do so, under the supervision of the Vice President of Student and Enrollment Services or his/her designee.