

PROCEDURE LIT.8.02.01
ADMINISTRATION OF STUDENT JUSTICE

SCOPE: Students

1. Authorization to Adjudicate Conduct Violations

- 1.1. Under the direction of the Provost/Vice President for Instruction and Student Services, the Associate Vice President of Student Services (AVPSS) or designee, shall be primarily responsible for the administration of the Student Justice system.

2. Disciplinary Procedures

- 2.1. Investigation – The AVPSS or designee will investigate information that a student may have violated a college policy.

2.1.1. During the investigation, the AVPSS or designee will give the student an opportunity to explain the incident, unless the student is unavailable.

2.1.2. The AVPSS or designee may investigate and make an administrative determination in the absence of a student if the student does not respond within the time period specified in any notice to the student.

2.1.3. The AVPSS or designee may place a registration hold, preventing a student from registering for additional courses, until the student responds to a summons or a decision is finalized.

- 2.2. Administrative Review - If the AVPSS or designee concludes, based on the preponderance of evidence, that the student has violated the Student Code of Conduct, the AVPSS or designee will determine an appropriate disciplinary penalty.

2.2.1. The AVPSS or designee will discuss the findings and determination of an appropriate penalty with the student, if the student is available. In cases where the AVPSS or designee determines that the allegations against the accused student are true but the only sanction assessed is a warning, the student may not request a hearing. For sanctions other than warnings, the AVPSS or designee will give the student an opportunity to either accept or reject the AVPSS or designee's decision.

2.2.2. If the student accepts the AVPSS or designee's decision, the student shall so indicate in writing and waive his or her rights to a hearing. The AVPSS or designee may then assess the disciplinary penalty.

2.2.3. If the student does not accept the AVPSS or designee's decision, the AVPSS or designee will initiate the hearing procedure.

2.3. Investigation of Alleged Title IX (Sexual Misconduct Policy) Violations

2.3.1. Allegations of a Title IX violation will be sent to the Title IX Coordinator who will oversee an investigation according to the Texas State University System (TSUS) Sexual Misconduct Policy.

2.3.2. When an investigator is assigned a Title IX case for investigation, the investigation will be done in compliance with the TSUS Sexual Misconduct Policy.

3. Disciplinary Penalties:

3.1. Penalties - Mitigating or aggravating factors in assessing the proper level of discipline may include, but not be limited to, the student's motive for engaging in the behavior; disciplinary history; effect of the behavior on safety and security of the college community; and the likelihood that the behavior will recur. The following penalties comprise the range of official college actions that may be taken when, based on the preponderance of the evidence, a student is determined to have engaged in prohibited conduct. These penalties are not exclusive and may be imposed with other sanctions.

3.1.1. Warning - A written notice to the student that a violation of a published college policy has occurred and that the continuation of such conduct or actions could result in further disciplinary action.

3.1.2. Restricted privileges - Denial or restriction of one or more college privileges granted to students. These may be, but are not limited to: parking privileges; dining facility privileges; visitation privileges; use of college computers, computer facilities or systems; and participation in extracurricular activities. Loss or restriction of privileges does not entitle a student to a refund of fees, paid or due.

3.1.3. Special project - The requirement that the student complete a special project, for example, writing an essay or attending a special class or lecture.

3.1.4. Restitution - Paying for physical or property damage, losses or misappropriation, either monetarily or by the performance of specific duties.

3.1.5. Disciplinary probation - An indication that the student is not in good standing, and that his/her continued enrollment is conditioned upon adherence to published college policies. Probation automatically restricts the following privileges:

3.1.5.1. A student on disciplinary probation is ineligible to be elected or hold any executive office of any student organization recognized by LIT; and

3.1.5.2. A student on disciplinary probation may not represent the college in any special or honorary role.

3.1.6. Withholding an official transcript or degree.

3.1.7. Cancellation of pre-registered courses, prohibition against readmission or restriction from pre-registration.

3.1.8. Denial or non-recognition of a degree.

3.1.9. Loss of or ineligibility for a student grant or loan.

3.1.10. Deferred Suspension - Like disciplinary probation, an indication that the student is not in good standing and that their continued enrollment is conditioned upon adherence to published college policies. In addition to the restrictions of disciplinary probation, it is understood that a subsequent violation shall result in suspension.

3.1.11. Suspension - Separation from the college for a definite term during which the student shall not be permitted to earn college credit at LIT, be on college-owned property nor participate in any college activity. A student who has been suspended from any Texas State University System component shall be ineligible to enroll at any other system component during the period of suspension.

3.1.12. Deferred Expulsion - Like disciplinary probation, an indication that the student is not in good standing and that their continued enrollment is conditioned upon adherence to published college policies. In addition to the restrictions of disciplinary probation, it is understood that a subsequent violation shall result in expulsion.

3.1.13. Expulsion - Permanent separation from the college. A student who has been expelled from any Texas State University System component shall be ineligible to enroll at any other system component during the period of expulsion.

3.2. Recording of Penalties - The registrar of each component is authorized to make an appropriate notation on the student's transcript to accomplish a sanction's objective and to remove the notation when the student's disciplinary record has been cleared. In addition to LIT, the Texas State University System includes Lamar University, Lamar State Colleges, Sam Houston State University, Texas State University and Sul Ross State University campuses. The penalties provided in subsections 3.1.8, 3.1.9, 3.1.12, and 3.1.13 may be noted on the student's permanent transcript. Any record of penalty, except for expulsion, not noted on the transcript shall be expunged no later than seven years after the penalty is assessed.

3.3. Finality of Penalties - No penalty shall take effect until disciplinary action becomes final. Disciplinary action becomes final when:

3.3.1. During administrative disposition

3.3.1.1. upon acceptance by the student of the AVPSS or designee's decision;

3.3.1.2. if the only sanction is a warning; or

3.3.1.3. upon notification to the student of the decision of the AVPSS or designee and the expiration of the time in which to file a notice of appeal to the hearing board.

- 3.3.2. In the event of a hearing:
 - 3.3.2.1. the sanction assessed is a warning or probation; or
 - 3.3.2.2. upon notification to the student of the decision of the hearing panel and the expiration of the time in which to file a notice of appeal to the Provost/Vice President for Instruction and Student Services.
- 3.3.3. In the event of review by the Provost/Vice President for Instruction and Student Services, upon notification to the student of the decision of the Provost/Vice President for Instruction and Student Services.
- 3.3.4. An exception to the imposition of penalties is in place for Sexual Misconduct Policy violation cases. See the Texas State University System Sexual Misconduct Policy for additional procedures.

4. Interim Disciplinary Action

- 4.1. The President or Provost/Vice President of Instruction and Student Services or their designee may take immediate interim disciplinary action, including suspension, pending a hearing, against a student for allegedly violating a college policy when the student's continuing presence is reasonably believed to pose:
 - 4.1.1. A danger to persons or property; or
 - 4.1.2. An ongoing threat of disrupting the academic process.
- 4.2. The college official involved shall notify the student of the interim disciplinary action by the most expeditious means available. Thereafter, the AVPSS or designee may offer the student an opportunity to have an administrative review or to immediately initiate the hearing procedures provided in this code. If the latter option is chosen, a hearing shall be held no later than 12 class days after the temporary disciplinary action was taken.

5. Hearings

- 5.1. Hearing Board - At the beginning of each fall semester, the AVPSS will appoint an at-large hearing board composed of student members and hearing officers. The hearing officers will be full-time faculty or staff members. Student members must be in good academic and disciplinary standing. One hearing officer and two student members, hereafter collectively referred to as the hearing panel, shall be scheduled to hear each hearing based on availability and scheduling constraints. When available, alternate board members may sit in the panel to ensure that hearings may proceed in cases where an appointed member is unable to serve through the end of the hearing and deliberations. If one hearing officer and two student members are not able or willing to hear a case, the AVPSS may appoint new members to the board so that every case may be heard within a reasonable time period. During hearings, new appointments, whether appointed for one hearing or the remainder of the current academic year, shall have all the qualifications, authority and responsibilities of a board member appointed at

the beginning of the fall semester. The hearing officer shall preside over the disciplinary hearing.

5.2. Students' Rights - Each student who requests a hearing or who is given an interim disciplinary sanction shall be afforded:

5.2.1. Notice - Written notification at least five class days before the hearing specifying:

- 5.2.1.1. the college policy alleged to have been violated
- 5.2.1.2. a summary of the facts alleged to constitute the violation
- 5.2.1.3. the date, time and location of the hearing
- 5.2.1.4. the names of expected witnesses and a summary of their expected testimony
- 5.2.1.5. a description of other evidence that the AVPSS or designee will present at the hearing
- 5.2.1.6. notification if the AVPSS or designee intends to use legal counsel for other than advisory purposes
- 5.2.1.7. a statement that the student must provide a list of witnesses and a summary of their expected testimony to the AVPSS or designee at least 48 hours before the hearing
- 5.2.1.8. the names of the hearing officer and student members of the hearing panel

5.2.2. Hearing - This is an opportunity for the student to attend the hearing and present relevant evidence. If the student fails to attend, the hearing may proceed. The student may present his or her own defense against the charges and may produce either oral testimony or written affidavits of witnesses on his or her behalf.

5.2.3. Representative - This is an opportunity for the student to have an advisor or counsel present at meetings with the AVPSS or designee and during hearings. In addition, the student may also have parents or a legal guardian present.

- 5.2.3.1. The college is not obligated to arrange for or provide a representative. The student will provide the representative at his or her expense.
- 5.2.3.2. To the extent that the AVPSS or designee uses legal counsel for other than advisory purposes during the hearing, the student shall be afforded the same opportunity. The AVPSS or designee will notify the student of the AVPSS or designee's intent to use legal counsel when providing the hearing notification.
- 5.2.3.3. The student's representative may not address the panel, question witnesses or the AVPSS or designee, or participate in the hearing except to offer advice and counsel to the student.

5.2.4. Challenge to Impartiality - This is an opportunity for the student to challenge the impartiality of the hearing officer or a student member of the hearing panel.

- 5.2.4.1. This challenge must be made at any time before the introduction of testimony or other evidence.
- 5.2.4.2. The person challenged will be the sole judge as to whether he or she can serve with fairness and objectivity. If the person challenged chooses not to

serve and an alternate is not readily available, the AVPSS may appoint a special replacement for that case.

- 5.2.5. Notification of Evidence - At least 48 hours before the hearing, both the AVPSS or designee and the student will provide the other party with the names of witnesses, summaries of testimony, documents and other evidence to be presented at the hearing.
- 5.2.6. Burden of Proof - The AVPSS or designee has the burden of going forward with the evidence and the burden of substantiating the violation by the preponderance of the evidence.
- 5.2.7. Questioning Witnesses - The AVPSS or designee, the student, and members of the hearing panel may question witnesses regarding relevant matters.
- 5.2.8. Recording - The hearing, with the exception of the panel's deliberation, will be recorded. If the student or the AVPSS or designee desires to appeal the panel's findings, a copy of the hearing recording and records presented at the hearing will be forwarded to the Provost/Vice President for Instruction and Student Services. Students may request an electronic copy of the hearing at no cost. Requests for additional records that incur an expense will be paid by the requesting party.
- 5.2.9. Postponement - The AVPSS may postpone a hearing for good cause. A request for postponement must be filed with the AVPSS' Office at least 24 hours before the hearing.
- 5.2.10. Hearing Officer - The hearing officer will determine the procedure to be followed, rule on the admissibility of evidence, and control decorum in the hearing.
- 5.2.11. Attendance - Upon the request of the student or the AVPSS or designee, or upon his or her own initiative, the hearing officer may issue a written request for a witness to appear and testify or to produce documents at a hearing. Requests shall be personally delivered, sent by certified mail or sent from a college e-mail address to the witness' designated college e-mail account. Students who are requested to appear at hearings are expected to comply.
- 5.2.12. Confidentiality - During the hearing, only the members of the hearing committee, AVPSS or designee and his/her counsel, the student and his or her advisor, the student's parents or legal guardians, the witness currently testifying, and the transcriber will be allowed in the hearing room. After testifying, a witness may not remain in the hearing room unless both the student and the AVPSS or designee consent. All persons present at the hearing shall treat matters discussed with confidence

5.2.13. Relevant Evidence - Legal rules of evidence shall not apply to hearings. Any relevant evidence shall be admitted, if it is credible and is the sort that reasonable people would rely upon in the conduct of their affairs.

5.2.14. Not Compelled to Testify - The student may not be compelled to testify against himself or herself.

5.2.15. Procedural Rules

5.2.15.1. The hearing officer will invite all parties entitled to be present into the hearing room.

5.2.15.2. The hearing officer will read a statement of confidentiality.

5.2.15.3. The hearing officer will state the college policy alleged to have been violated.

5.2.15.4. The AVPSS or designee will present evidence of the student's violation of the policy.

5.2.15.5. Each party may present their own defense against the charges.

5.2.15.6. The parties may question the witness(es).

5.2.15.7. The parties may present rebuttal evidence.

5.2.15.8. The parties may present brief summations.

5.2.15.9. The hearing officer will dismiss the parties and the hearing committee will deliberate and determine by a majority vote whether the student has violated a college policy.

5.2.15.9.1. If the committee finds that the student did violate a college policy, it will assess the penalty.

5.2.15.9.2. The hearing officer shall report in writing the committee's findings and the penalty, if any, to be assessed.

5.2.15.10. The hearing officer will send the committee's decision to the Provost/Vice President of Instruction and Student Services, with copies to the student(s) and to the AVPSS or designee. If the student is found to have violated a college policy, and if a disciplinary penalty has been assessed, the hearing officer will inform the student of his or her right to appeal to the VP-SAS.

Related Policies: Policy LIT.8.02 Student Code of Conduct and Discipline

Relevant Forms/Documents:

Relevant TSUS Policies/Forms/Documents:

Relevant Statutes:

Relevant SACSOC Standards:

Document History:

Adopted:

Reviewed:

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