

### **G.1.4.3 (Procedure) Ejection and Exclusion of Persons (other than students and employees) from Campus**

Responsible Department: Alamo Colleges Police Department

Based on Board Policy: [G.1.4](#) - Use of and Access to College District Facilities

Approved: 12-14-10

Last Amended: 11-17-16

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Following is the process for ejecting and excluding persons other than students and employees from campus.

#### **Applicability**

This Procedure is to be followed where a person who is not a student or current employee reasonably appears to present a threat of destruction to College District property; injury to human life on the campus or facility; of willful disruption of the orderly operation of the campus or facility, warranting ejection and exclusion of that person from the campus. For circumstances involving currently-registered students, consult [F.4.2.2](#) (Procedure) Non-Academic Misconduct Disciplinary Process. For circumstances involving current employees, consult Human Resources and [D.9.1.1](#) (Procedure) Progressive Discipline.

#### **Ejection Under Exigent Circumstances Involving Maintaining Safety**

In circumstances involving what reasonably appears to be imminent threat of destruction to College District property; injury to human life on the campus or facility; or willful disruption of the orderly operation of the campus or facility, College District Police should be contacted immediately, to escort the person off the campus. If the person is to be excluded from the campus for any period of time, the provisions below addressing exclusion are to be followed.

#### **College District Police and Criminal Trespass Warnings**

Under some circumstances, within the professional discretion of the College District Police, a citation for a criminal offense such as disorderly conduct may be issued. The citation may or may not be accompanied by a "criminal trespass warning." Basically, a criminal trespass warning is a tool used by any commissioned peace officer of any police agencies to force disruptive persons to leave and not return or be faced with trespass charges. However, as a public institution with our own police department, we must be mindful that a hearing for persons excluded must still be afforded. Therefore, it is important to note that if the College District officially sanctions exclusion, this procedure must be followed regardless of whether or not the College District Police issue a criminal trespass warning.

#### **Exclusion From Campus**

For College facilities, the administrator designated by each College President with authority to maintain order on each College campus; or for District facilities, the Vice Chancellor for Finance and Administration or designee (referred to herein as "Chief Order Officer" for either College or District facilities, as applicable) , may notify a person that consent to remain on the campus or facility under the control of the Chief Order Officer has been withdrawn whenever there is reasonable cause to believe that the person

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excluded has willfully disrupted the orderly operation of the campus or facility and that her/his presence on the campus or facility will constitute a substantial and material threat to the orderly operation of the campus or facility. In no case shall consent be withdrawn for longer than 14 days from the date on which consent was initially withdrawn without affording the hearing process described below.

#### **Notification of Exclusion**

When the Chief Order Officer decides to withdraw consent for any person to remain on the campus or facility, she/he shall notify that person in writing that consent to remain is withdrawn. The written notice must contain all of the following:

1. that consent to remain on the campus has been withdrawn and the number of days for which consent has been withdrawn, not to exceed 14;
2. the name and job title of the person withdrawing consent, along with an address where the person withdrawing consent can be contacted during regular working hours;
3. a brief statement of the activity or activities resulting in the withdrawal of consent; and
4. notification that the person from whom consent has been withdrawn is entitled to a hearing on the withdrawal not later than three days from the date of receipt by the Chief Order Officer of a request for a hearing.

#### **Report to Chief Order Officer**

Whenever consent is withdrawn by any authorized officer or employee other than the Chief Order Officer, the officer or employee shall submit a written report to the Chief Order Officer within 24 hours, unless the authorized officer or employee has reinstated consent for the person to remain on the campus. The report must contain all of the following:

1. the description of the person from whom consent was withdrawn, including, if available, the person's name, address, and phone number; and
2. a statement of the facts giving rise to the withdrawal of consent.

#### **Confirmation of Exclusion**

If the Chief Order Officer or, in her/his absence, a person designated by her/him for this purpose, upon reviewing the written report described above, finds that there was reasonable cause to believe that the person excluded has willfully disrupted the orderly operation of the campus or facility, and that his presence on the campus or facility will constitute a substantial and material threat to the orderly operation of the campus or facility, she/he may enter written confirmation upon the report of the action taken by the

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officer or employee. If, however, the Chief Order Officer, or in her/his absence, the person designated by her/him, does not confirm the action of the officer or employee within 24 hours after the time that consent was withdrawn, the action of the officer or employee shall be deemed void and of no force or effect, except that any arrest made during the period shall not for this reason be deemed not to have been made for probable cause.

#### **Reinstatement**

The Chief Order Officer shall reinstate consent and allow the person excluded to be on campus whenever he has reason to believe that the presence of the person from whom consent was withdrawn will not constitute a substantial and material threat to the orderly operation of the campus or facility.

#### **Request for Hearing**

A person from whom consent has been withdrawn may submit a written request for a hearing on the withdrawal to the Chief Order Officer within the 14-day period. The written request must state the address to which notice of hearing is to be sent. The Chief Order Officer shall grant a hearing not later than three days from the date of receipt of the request and shall immediately mail a written notice of the time, place, and date of the hearing to the person excluded.

#### **Place for Hearing**

The hearing shall be held before a duly designated discipline committee in accordance with the hearing procedure described below. In no instance shall the person issuing the withdrawal notice or causing it to be issued serve on any committee where the validity of his order of withdrawal is in question.

#### **Hearing Procedures**

A person from whom consent to remain on the campus has been withdrawn in accordance with this Procedure is entitled to the following:

1. to be represented by counsel at her/his cost and of her/his choosing;
2. to the right to call and examine witnesses and to cross-examine adverse witnesses;
3. to have all matters upon which the decision may be based introduced into evidence at the hearing in her/his presence;
4. to have the decision based solely on the evidence presented at the hearing;

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5. to prohibit the introduction of statements made against her/him unless she/he has been advised of their content and the names of the persons who made them, and has been given the opportunity to rebut unfavorable inferences that might otherwise be drawn; and
6. to have all findings made at the hearing be final, subject only to her/his right to appeal to the President or Chancellor (as appropriate) and the Board of Trustees.

The hearing shall take place regardless of whether the person excluded appears for the hearing and shall proceed generally as follows:

1. The person excluded is greeted (if she/he is present) and identified based on the Campus Police incident report and/or the Report to the Chief Order Officer (as applicable).
2. The Committee Chair will briefly state the purpose for the hearing.
3. The Chief Order Officer will summarize the incident and present the evidence to substantiate reasons for exclusion.
4. The person excluded will present his or her response.
5. The Chief Order Officer and the person excluded may call and question witnesses and may present rebuttal evidence and argument.
6. The Committee may also question witnesses in their discretion.
7. All evidence shall be offered to the Committee and made part of the record.
8. The Committee shall make its decision strictly upon the evidence presented at the hearing.
9. A person cannot be compelled to testify against him or herself.
10. If the Committee finds the person excluded presented and continues to present a threat of destruction to College District property; injury to human life on the campus or facility; of willful disruption of the orderly operation of the campus or facility, the Committee will uphold exclusion.
11. Upon completion of the hearing the Committee shall summarize the findings and shall send a copy of the findings and determination to the person excluded within three business days of the hearing.

#### **Evidence**

Legal rules of evidence do not apply to these hearings. The Committee will consider evidence tending to prove or disprove the allegations. The Committee shall exclude irrelevant, immaterial and unduly repetitious evidence and evidence deemed not

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reasonably reliable or authentic. If the person excluded chooses not to testify, no inference may be drawn from the failure to testify. If the person excluded does testify, he or she may be questioned by the Chief Order Officer, and/or the Committee.

#### **Hearing Record**

The record shall include:

1. A copy of the notice;
2. All documentation and evidence considered by the Committee;
3. The Committee's decision and disposition; and
4. A transcript or electronic record of the hearing (at the excluded person's expense) if any.

#### **Petition for Administrative Review**

A person excluded is entitled to petition the President of the College (for exclusions from a College campus) or the Chancellor (for exclusions from a District campus) for administrative review. The person excluded shall file the petition with the Office of the President of the College or with the Chancellor (as applicable) within (5) five business days from the date of the decision. The President or Chancellor shall hear the arguments of the person excluded and the Chief Order Officer, consider the record and may request additional evidence or call witnesses if needed, in the presence of the person excluded and subject to examination by the person excluded. The written decision of the President or Chancellor to uphold or reverse the withdrawal of consent/exclusion should be issued within (10) ten business days of the date of decision.

The person excluded is further entitled to petition the Board of Trustees for administrative review. The person excluded shall file the petition with the Board of Trustees Liaison within (5) five business days from the date of the decision of the President or Chancellor. The Board of Trustees (with the Board Chair presiding) shall at the next regularly scheduled meeting (subject to the 72 hour posting requirement under the Texas Open Meetings Act) hear the arguments of the person excluded and the Chief Order Officer, consider the record and may request additional evidence or call witnesses if needed, in the presence of the person excluded and subject to examination by the person excluded. The Board of Trustees shall publicly announce their decision (by majority vote of those present) to uphold or reverse the withdrawal of consent/exclusion during that meeting or may defer rendering a decision until the next scheduled meeting.

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#### **Entering or Remaining on Campus After Exclusion**

Any person who has been notified by the Chief Order Officer of a campus or facility or employee designated by the Chief Order Officer to maintain order on the campus or facility, that consent to remain on the campus or facility has been withdrawn, who has not had consent reinstated, and who willfully and knowingly enters or remains upon the campus or facility during the period for which consent has been withdrawn, may be guilty of a misdemeanor, and is subject to being charged with a misdemeanor and upon conviction may be subject to a fine of not more than \$500 or imprisonment in the county jail for not more than six months, or both. This section does not apply to any person who enters or remains on the campus or facility for the sole purpose of applying to the Chief Order Officer for the reinstatement of consent or for the sole purpose of attending a hearing on the withdrawal.

Legal Reference - TACC Policy Reference Manual

GF(LEGAL) - Community Use of College District Facilities

GFA(LEGAL) - Community Use of College District Facilities: Conduct on College District Premises