

Student Rights, Complaints and Grievances Procedures

(AP 5530)

The purpose of this procedure is to provide a prompt and equitable means of resolving general student complaints and grievances. This procedure is available to any student who reasonably believes a college decision or action has adversely affected their rights as a student.

This procedure shall include, but not be limited to, grievances regarding:

- The exercise of rights of free expression protected by state and federal constitutions and Education Code Section 76120
- Academic complaints including but not limited to:
 - Coursework: or
 - Course grades, to the extent permitted by Education Code Section 76224(a), which provides: "When grades are given for any course of instruction taught in a community college District, the grade given to each student shall be the grade determined by the instructor of the course and the determination of the student's grade by the instructor, in the absence of mistake, fraud, bad faith, or incompetency, shall be final." "Mistake" may include, but is not limited to errors made by an instructor in calculating a student's grade and clerical errors. Refer to AP 4231 regarding course grades.
- Non-academic complaints including, but not limited to concerns related to departments or services.

This procedure does not apply to:

- Student disciplinary actions, which are covered under Board Policy 5500 and Administrative Procedures 5500, 5520.
- Parking citations (i.e., "tickets"); complaints about citations must be directed to the Director of Facilities.
- Sex discrimination as prohibited by Title IX of the Higher Education Amendments of 1972. Harassment and discrimination complaints are covered under Board Policies and Administrative Procedures 3433, 3540, and Administrative Procedure 3434.

Definitions:

Grievant – A Student who has filed a grievance.

Grievance Officer – an employee appointed by the Superintendent/President who shall assist students in seeing a resolution by informal or formal means.

Party – The student or any persons claimed to have been responsible for the student's alleged grievance, together with their representatives. "Party" shall not include the Grievance Hearing Committee or the College Grievance Officer.

Superintendent/President – The Superintendent/President or a designated representative of the Superintendent/President.

Student – A currently enrolled student, a person who has filed an application for admission to the college, or a former student. A grievance by an applicant shall be limited to a complaint regarding denial of admission. Former student shall be limited to grievances in relation to course grades to the extent permitted by Education Code Section 76224(a). See AP 4231

Respondent – Any person claimed by a grievant to be responsible for the alleged grievance.

Day – Unless otherwise provided, day shall mean a day during which the college is in session and regular classes are held, excluding Saturdays and Sundays.

Grievance Procedures

Step 1 – Informal Resolution

Informal Resolution – The goal of an informal resolution is to provide an opportunity for the parties to discuss the issue and agree on a solution instead of filing a formal complaint/grievance. Each student who has a complaint (grievance) shall make a reasonable effort to resolve the matter on an informal basis, and shall attempt to solve the problem with the person with whom the student has the grievance, that person's immediate supervisor, or the college administration.

Students may request an ally, such as a staff member or an ASFRC Officer to accompany them to any meeting during the informal resolution process.

Any student who has a complaint (grievance) shall first attempt to resolve the complaint through an informal resolution. The following steps shall be taken in the sequence presented within 60 days of the incident:

- A. Meet with the person(s) involved/accused to seek a solution.
- B. Meet with the Vice President of Instruction/CIO (if the accused is a faculty member) or the direct supervisor of the accused staff member, or other administrator as appropriate.
- C. Meet with the Vice-President of Student of Services/CSSO or designee. The Vice-President Student Services/CSSO or designee may organize an informal meeting with all parties directly involved with the complaint.

In order to maintain accurate records, Administrators who receive a written complaint/grievance must provide a copy of the complaint to the Vice-President Student Services/CSSO within 5 working days of receipt in order to assure that all timelines are met, and the resolution is logged in the student complaint log.

Informal meetings and discussion between persons directly involved in a grievance are essential at the outset of a dispute and should be encouraged at all stages. An equitable solution should be sought before persons directly involved in the case have stated official or public positions that might tend to polarize the dispute and render a solution more difficult. At no time shall any of the persons directly or indirectly involved in the case use the fact that a grievance has been filed, or the character of the informal discussion for the purpose of strengthening the case for or against persons directly involved in the dispute or for any purpose other than the settlement of the grievance.

Step 2 – Filing a Grievance

Student Complaint/Grievance Form – An electronic form located on the college website to be completed by a student who wishes to file an official, formal complaint/grievance.

If the student still believes the issue has not been resolved satisfactorily after completing step 1, the student can complete a Student Complaints/Grievance Form within 10 days of the incident on which the

grievance is based, or 10 days after the student learns of the basis for the grievance, whichever is later. If the student wishes the grievance to become official, the Student Complaints/Grievance Form must be filed. Within 10 days following receipt of the Grievance Form, the Grievance Officer shall advise the student of their rights, responsibilities and solution options, under these procedures, and assist the student, if necessary, with the completion of the Student Complaint/Grievance Form.

If at the end of 20 days following the student's first meeting with the Grievance Officer, there is no resolution of the complaint, which is satisfactory to the student, the student shall have the right to request a grievance hearing. The student shall submit a request in writing to the Grievance Officer.

Step 3 – Formal Hearing

Hearing Committee and Chair - The Hearing Committee and Hearing Panel Chair shall be composed of one administrator, one faculty member, one classified member and one student as described in AP 5520.

Within 10 days following receipt of the request for grievance hearing, the Vice President of Student Services/CSSO or designee shall appoint a Grievance Hearing Committee as described in AP 5520. The Grievance Hearing Committee shall meet in private and without the parties present to select a Chair and to review the Student Complaint/Grievance and determine whether it presents sufficient grounds for a hearing.

The determination of whether the Complaint/Grievance presents sufficient grounds for a hearing shall be based on the following:

- The statement contains facts which, if true, would constitute a grievance under these procedures;
- The grievant is a student as defined in these procedures, which include applicants and former students;
- The grievant is personally and directly affected by the alleged grievance;
- The grievance was filed in a timely manner;
- The grievance is not clearly frivolous, clearly without foundation, or clearly filed for purposes of harassment.

If the grievance does not meet each of the requirements, the Hearing Committee Chair shall notify the student in writing of the rejection of the Request for a Grievance Hearing, together with the specific reasons for the rejection and the procedures for appeal. This notice will be provided within 10 days of the date the decision is made by the Grievance Hearing Committee.

Appeal to the Superintendent/President:

Any appeal relating to a Grievance Hearing Committee decision that the Statement of Grievance does not present a grievance as defined in these procedures shall be made in writing to the Superintendent/President within 10 days of the decision. The Superintendent/President shall review the Grievance and Request for Grievance Hearing in accordance with the requirements for a grievance provided in these procedures, but shall not consider any other matters. The Superintendent/President's decision whether or not to grant a grievance hearing shall be final and not subject to further appeal.

If the Request for Grievance Hearing satisfies each of the requirements, the College Grievance Officer shall schedule a grievance hearing. The hearing will begin within 10 days following the decision to grant a Grievance Hearing. All parties to the grievance shall be given no less than a five day notice of the date, time, and place of the hearing.

Hearing Procedures:

The decision of the Grievance Hearing Committee Chair shall be final on all matters relating to the conduct of the hearing unless there is a vote of a majority of the other members of the panel to the contrary.

The members of the Grievance Hearing Committee shall be provided with a copy of the grievance and any written response provided by the respondent before the hearing begins.

Each party to the grievance may call witnesses and introduce oral and written testimony relevant to the issues of the matter.

Formal rules of evidence shall not apply. Any relevant evidence shall be admitted.

Unless the Grievance Hearing Committee determines to proceed otherwise, each party to the grievance shall be permitted to make an opening statement. Thereafter, the grievant or grievants shall make the first presentation, followed by the respondent or respondents. The grievant(s) may present rebuttal evidence after the respondent(s)' evidence. The burden shall be on the grievant or grievants to prove by substantial evidence that the facts alleged are true and that a grievance has been established as specified above.

Each party to the grievance may represent himself/herself, and may also have the right to be represented by a person of his/her choice; except that a party shall not be represented by an attorney unless, in the judgment of the Grievance Hearing Committee, complex legal issues are involved. If a party wishes to be represented by an attorney, a request must be presented to the Vice President of Student Services with the name and contact information of the attorney not less than 5 days prior to the date of the hearing. If the student is accompanied by an attorney, the attorney may be present at the Grievance Hearing. The attorney may not address the Grievance Hearing Committee and shall not be permitted to participate in any way during the hearing.

If one party is permitted to be accompanied by an attorney, any other party shall have the right to be accompanied by an attorney with the same limitations above. The hearing committee may also request legal assistance through the Superintendent/President. Any legal advisor provided to the hearing committee may sit with it in an advisory capacity to provide legal counsel but shall not be a member of the panel nor vote with it.

Hearings shall be closed and confidential unless all parties request that it be open to the public. Any such request must be made no less than five days prior to the date of the hearing.

In a closed hearing, witnesses shall not be present at the hearing when not testifying, unless all parties and the committee agree to the contrary.

The Grievance Officer will record the hearing by tape recording or stenographic recording and this will be the only recording made. No witness who refuses to be recorded may be permitted to give testimony. In the event the recording is by tape recording, the Grievance Hearing Committee Chair shall, at the beginning of the hearing, ask each person present to identify themselves by name, and thereafter shall ask witnesses to identify themselves by name. The tape recording shall remain in the custody of the District, either at the college or the District office, at all times, unless released to a professional transcribing service. Any party may request a copy of the tape recording.

All testimony shall be taken under oath; the oath shall be administered by the Grievance Hearing Committee Chair. Written statements of witnesses under penalty of perjury shall not be used unless the

witness is unavailable to testify. A witness who refuses to be tape recorded shall be considered to be unavailable.

Within 10 days following the close of the hearing, the Grievance Hearing Committee shall prepare and send to the Superintendent/President a written decision. The decision shall include specific factual findings regarding the grievance, and shall include specific conclusions regarding whether a grievance has been established as defined above. The decision shall also include a specific recommendation regarding the relief to be afforded the grievant, if any. The decision shall be based only on the record of the hearing, and not on matter outside of that record. The record consists of the original grievance, any written response, and the oral and written evidence produced at the hearing.

Superintendent/President's Decision:

Within 10 days following receipt of the Grievance Hearing Committee's decision and recommendation(s), the Superintendent/President shall send to all parties his/her written decision, together with the Hearing Committee's decision and recommendations. The Superintendent/President may accept or reject the findings, decisions and recommendations of the Hearing Committee. The factual findings of the Hearing Committee shall be accorded great weight; and if the Superintendent/President does not accept the decision or a finding or recommendation of the Hearing Committee, the Superintendent/President shall review the record of the hearing, and shall prepare a new written decision which contains specific factual findings and conclusions. The decision of the Superintendent/President shall be final.

Time Limits:

Any times specified in these procedures may be shortened or lengthened if there is mutual concurrence by all parties.

All Grievance Hearing Committee proceedings, including audio recordings and copies of all decisions made, shall be maintained by the Grievance Officer for seven (7) calendar years. Access to the recordings and copies of the decisions made shall be limited to the parties involved, unless otherwise required by law.

Reference: Education Code 76224 subdivision a; ACCJC Accreditation Eligibility Requirement 20, ACCJC Accreditation Standard IV.D

Last Date of Approval: Cabinet: October 9, 2023