



Policy: AP 5530

Section: Chapter 5: Student Services

Student Rights and Grievances

The purpose of this procedure is to provide a prompt and equitable means of resolving student grievances. A grievable action is defined under Definitions. These procedures shall be available to any student who reasonably believes a College decision or action has adversely affected his or her status, rights or privileges as a student. The procedures shall include, but not be limited to, grievances regarding:

- Sex discrimination as prohibited by Title IX of the Higher Education Amendments of 1972
- Financial Aid
- 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 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 error.
- The exercise of rights of free expression protected by state and federal constitutions and Education Code Section 76120.

This procedure does not apply to:

- Student disciplinary actions, which are covered under Administrative Procedure 5520.
- Harassment and areas of discrimination covered under Administrative Procedure 3430.
- Police citations (i.e. tickets): complaints about citations must be directed to the County Courthouse in the same way as any traffic violation.

Definitions

Vice President: Any reference to Vice Presidential responsibility refers to the appropriate Vice President or Associate Vice President designated in BP 5500.

Grievable Action: A violation of written campus policies or procedures, or an action that constitutes arbitrary, capricious or unequal application of written campus policies or procedures.

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 Student Rights Board or the College Grievance Officer.

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 complaint regarding denial of admission. Former students shall be limited to grievances relating to course grades to the extent permitted by Education Code Section 76224a.

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.

Informal Resolution

Each student who has a grievance shall make a reasonable effort to resolve the matter on an informal basis prior to requesting a grievance hearing and shall attempt to solve the problem with the person with whom the student has the grievance, that person's immediate supervisor, or College administrator.

A student has 120 calendar days from the date of the incident giving rise to the grievance to initiate consultation process, except in the case of a grade change. The time limit to initiate a grievance regarding a change of grade is (1) year from the end of the term in which the grade in question was recorded.

Per Board Policy 5500, the appropriate Vice President/Associate Vice President, or designee, shall appoint an employee who shall assist students in seeking resolution by informal means. This person shall be called the Grievance Officer. The Grievance Officer and the student may also seek the assistance of the Associated Student Government in attempting to resolve a grievance informally.

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 of such informal discussion, 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.

Any student who believes he or she has a grievance shall file a Statement of Grievance with the Grievance Officer within ten (10) days of the incident on which the grievance is based, or ten (10) days after the student learns of the basis for the grievance, whichever is later. The Statement of Grievance must be filed whether or not the student has already initiated efforts at informal resolution, if the student wishes the grievance to become official. Within two days following receipt of the Statement of Grievance, the Grievance Officer shall advise the student of his or her rights and responsibilities under these procedures, and assist the student, if necessary, in the final preparation of the Statement of Grievance form.

If at the end of ten (10) days following the student's first meeting with the Grievance Officer, there is no informal resolution of the complaint which is satisfactory to the student, the student shall have the right to request a grievance hearing.

Grievance Hearing Committee:

The Vice President shall at the beginning of each semester, including any summer session, establish a standing panel of nine (9) members of the college community, including three (3) students, three (3) faculty members and three (3) administrators, from which one or more Student Rights Boards may be appointed. The Grievance Hearing Committee will be established with the advice and assistance of the Associated Student Government and the Academic Senate, who shall each submit three (3) names to the Vice President for inclusion on the panel. A Committee shall be constituted in accordance with the following:

- It shall include one student, one instructor and one college administrator selected from the panel above.
- No person shall serve as a member of a Committee if that person has been personally involved in any matter giving rise to the grievance, has made any statement on the matters at issue or could otherwise not act in a neutral manner. Any party to the grievance may challenge for cause any member of the hearing committee prior to the beginning of the hearing by addressing a challenge to the Vice President who shall determine whether cause for disqualification has been shown. If the Vice President feels that sufficient grounds for removal of a member of the

committee has been presented, he/she shall remove the challenged member or members and substitute a member or members from the panel described above. This determination is subject to appeal as defined below.

- The Grievance Officer shall sit with the Committee but shall not serve as a member nor vote. The Grievance Officer shall coordinate all scheduling of hearings, shall serve to assist all parties and the Committee to facilitate a full, fair and efficient resolution of the grievance, and shall avoid an adversarial role.

Request for Grievance Hearing

Any request for a grievance hearing shall be filed on a Request for a Grievance Hearing within fifteen (15) days after the first meeting with the Grievance Officer as described above. The Request for a Grievance Hearing must be accompanied by the Statement of Grievance.

Within ten (10) days following receipt of the Request for Grievance Hearing, the Vice President shall appoint a Grievance Hearing Committee as described above, and the Committee shall meet in private and without the parties present to select a chair and to determine on the basis of the Statement of Grievance whether it presents sufficient grounds for a hearing.

The determination of whether the Statement of 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 indirectly 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 Grievance 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 5 days of the date the decision is made by the Committee.

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 ten (10) days following the decision to grant a Grievance Hearing. All parties to the grievance shall be given not less than five (5) days of 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 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 Committee determines to proceed otherwise, each party of the grievance shall be permitted to make an opening statement. Thereafter, the grievant(s) 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(s) 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 him or herself, and may also have the right to be represented by a person of his or her choice; except that a party shall not be represented by an attorney unless, in the judgment of the Committee, complex legal issues are involved. If a party wishes to be represented by an attorney, a request must be presented not less than ten (10) days prior to the date of the hearing. If one party is permitted to be represented by an attorney, any other party shall have the right to be represented by an attorney. The 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 three (3) 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 hearing shall be recorded by the Grievance Officer either by tape recording or stenographic recording, and shall 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 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 at all times, unless released to a professional transcribing service. Any party may request a copy of the tape recording. Grievance hearing records shall be maintained for three years.

All testimony shall be taken under oath; the oath shall be administered by the 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 unavailable.

Within ten (10) days following the close of the hearing, the Committee shall prepare and send to the Vice 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 matters outside of that record. The record consists of the original grievance, any written response, and the oral and written evidence produced at the hearing.

Vice President's Decision

Within five (5) days following receipt of the Committee's decision and recommendation(s), the Vice President shall send to all parties his or her written decision, together with the Committee's decision and recommendations. The Vice President may accept or reject the findings, decisions and recommendations of the Committee. The factual findings of the Committee shall be accorded great weight; and if the Vice President does not accept the decision or a finding or recommendation of the Committee, he/she 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 Vice President shall be final, subject only to appeal as provided below.

Appeal

If either party is dissatisfied with the Vice President's decision, an appeal of the decision may be made to the Superintendent/President within five (5) days. The Superintendent/President may accept the decision of the Grievance Hearing Committee, modify the decision of the Committee or veto the decision and make a different decision. The Superintendent/President's decision will be final.

In the event of disciplinary action against an employee of the District or a student, the statutes of the state, the negotiated contract, policy and regulations of the District shall apply with equal consideration to each employee or student.

Any appeal relating to the 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 Vice President within five (5) days of that decision. The Vice President shall review the Statement of 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 Vice President's decision whether or not to grant a grievance hearing shall be final and not subject to further appeal.

Time Limits

Any time specified in these procedures may be shortened or lengthened if there is mutual concurrence by all parties in writing. If the grieved party does not respond within the time limits defined herein, the grievance is considered terminated and no further action will be taken.

Further Rights to File a Complaint

After a student has exhausted all grievance rights at the College level, the student has the right to file a complaint with any of the following recourses:

1. The Accrediting Commission for Community and Junior Colleges (ACCJC) at <http://www.accjc.org/complaint-process>. ACCJC is the agency that accredits the academic programs of the California Community Colleges. A complaint associated with the College's compliance with academic programs quality and accrediting standards can be filed with this agency.
2. If the complaint does not concern the College's compliance with academic program quality or accrediting standards, then a complaint may be filed with the California Community College (CCC) Chancellor's Office by completing form(s) found at: <http://californiacommunitycolleges.cccco.edu/complaintsForm.aspx>
3. Any type of complaint may be filed with the California State Attorney General using the form found at: <http://oag.ca.gov/contact/general-comment-question-or-complaint-form>.

Legal References:

[Title IX, Education Amendments of 1972](#)

[California Education Code Section 76224\(a\)](#)

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