

# STUDENT GRIEVANCE

## Student Rights and Grievances

### Administrative Procedure 5530

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

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."

The exercise of rights of free expression is protected by state and federal constitutions and Education Code Section 76120.

This procedure does not apply to:

- Student disciplinary actions, which are covered under separate Board Policies and Administrative Procedures. (See AP 5520 Student Discipline Procedures: Violations of Student Conduct.)
- Parking citations (i.e. "tickets"); complaints about citations must be directed to the County Courthouse in the same way as any traffic violation.
- Financial Aid (the appeal procedure for eligibility, disqualification, and reinstatement of Financial Aid may be obtained in the Financial Aid Office)
- Sexual harassment and sexual assault as defined under Title IX (See AP 3540 Sexual and Other Assaults and AP 3433 Prohibition of Sexual Harassment under Title IX).
- Discrimination complaints pursuant to AP 3410 Nondiscrimination.
- Complaints concerning denial of accommodation for students with disabilities (See AP 5140 Disabled Student Programs and Services).
- Discrimination complaints concerning students with disabilities (See AP 3410 Nondiscrimination and AP 3435 Discrimination and Harassment Complaints and Investigations).
- An Act which, though deemed unfair, does not have a specific negative impact on the student. Included among non-grievable issues are situations which are deemed to be petty or to have no significant negative impact upon the students in question.
- Acts which affect another student. Only the student affected by an act may file a grievance. A student may not file on behalf of another student.

### Definitions

**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.

**College President** – The College President or a designated representative of the College 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 students shall be limited to grievances relating to course grades to the extent permitted by Education Code Section 76224(a).

**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 the local college administration.

The Vice President of Student Affairs shall appoint an employee who shall assist students in seeking resolution by informal means. This person shall be called the College Grievance Officer. The Grievance Officer and the student may also seek the assistance of the Associated Student Organization in attempting to resolve a grievance informally.

### Informal Resolution:

Informal meetings and discussions between persons directly involved in a grievance are essential at the outset of a dispute and should be encouraged at all stages. All parties involved should be encouraged to seek an informal remedy. 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.

A student who believes they have been treated unfairly by an employee of the District are strongly encouraged to make a reasonable good-faith attempt to resolve the problem on an informal basis. To resolve the matter informally, the student may, if appropriate, schedule a meeting with the person with whom the student has a grievance, schedule a meeting with the person's immediate supervisor, and/or schedule a meeting with the appropriate college administrator. If the issue is not resolved in that meeting (or reasonable attempts to arrange the meeting fail), then the employee's supervisor shall meet with both parties in an earnest and good faith attempt to resolve the matter successfully.

The student may, if appropriate, schedule a meeting with the College Grievance Officer to explore student rights and responsibilities and receive assistance with an informal resolution.

The College Grievance Officer may gather information, communicate with all parties, and attempt to mediate an informal resolution. If the matter cannot be resolved informally, the student may file a formal grievance. If the employee or their supervisor has not responded in (10) business days, the College Grievance Officer may help in contacting the appropriate persons.

Any student who believes they have a grievance, shall file a Statement of Grievance with the College Grievance Officer within (5) five days of the incident on which the grievance is based, or (5) five 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 Form, the College 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 15 days following the student's first meeting with the College 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.

#### **Formal Grievance:**

A formal grievance is a written allegation by a student, or group of students alleging they were directly wronged by an action of an employee of the District. Any action that violates an established rule or regulation of the District, or any law that protects student rights can be grieved.

#### **Eligibility to File a Grievance:**

Any person who at the time of the filing of the grievance is a student and any person who, although not a student at the time of the filing, was a student within 20 business days before the time of filing, is eligible to file a grievance under these procedures as long as the person has attempted to resolve their grievance informally. If the grievance is grade-related, a former student has 20 business days after receiving notification of the grade within which to file a grievance.

#### **Time Limit on filing a Grievance:**

A grievance must be filed with the Vice President of Student Affairs or designee, not more than 20 business days after the student learned or could have reasonably learned of the most recent of those events. Because of the difficulty in reaching associate faculty and the amount of time spent in the formal resolution process, the time limit will be considered as met if the student makes contact with the supervisor, dean, or vice president within 20 business days.

#### **Filing of Grievances:**

All formal grievances must be submitted on a standard grievance form. The standard grievance form may be obtained from the Office of Student Affairs or the Office of the Vice President of Student Affairs. It must include specific details regarding the events involved and the rule, regulation, or law alleged to have been violated by an employee of the District. Full factual data, (including names, dates, times, records, etc.) should be reported to support the allegation of the grievance and to make an impartial investigation and decision possible. The student may seek the assistance of an employee of the District or any official of the Associated Students' governing board to assist with their grievance.

By providing assistance, the faculty, staff, or student leader is not necessarily taking a position on the merits of the grievance.

All formal grievances must be filed with the Office of the Vice President of Student Affairs or designee. The Vice President of Student Affairs will forward the grievance to the College Grievance Officer to begin the formal grievance process.

#### **Grievance Hearing Committee**

The Vice President of Student Affairs or designee shall at the beginning of each semester, including any summer session, establish a standing

panel of twenty (20) members of the college community, including five (5) students, five (5) faculty members, one five (5) classified professionals, and one five (5) administrators, from which one or more Grievance Hearing Committees may be appointed. The panel will be established with the advice and assistance of the Associated Students Organization, and the Academic Senate, the Classified Senate, and the College Administration, who shall each submit five (5) names to the Vice President of Student Affairs or designee for inclusion on the panel.

All members of the pool shall be required to complete diversity and sensitivity training.

A Grievance Hearing Committee shall be constituted in accordance with the following:

- Within ten (10) business days after the date on which a grievance is filed, or as soon as reasonably possible thereafter, the College Grievance Officer shall convene the Grievance Hearing Committee for the purpose of a closed hearing.
- The remainder of the committee shall be composed of one (1) faculty member, one (1) student, one (1) classified professional, and one (1) administrator from the established standing panel. The College Grievance Officer shall be the Chairperson and a non-voting member of the Grievance Hearing Committee. All five (5) members shall be present at all deliberations. A recording secretary shall be appointed at the beginning of the grievance hearing process.
- No person shall serve as a member of a Grievance Hearing 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 of Student Services or designee who shall determine whether cause for disqualification has been shown. If the Vice President of Student Services or designee feels that sufficient ground for removal of a member of the committee has been presented, the College Grievance Officer or designee 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 College Grievance Officer shall sit with the Grievance Hearing Committee but shall not serve as a member nor vote. The College Grievance Officer shall coordinate all scheduling of hearings, shall serve to assist all parties and the Hearing Committee to facilitate a full, fair and efficient resolution of the grievance, and shall avoid an adversary role.

#### **Request for Grievance Hearing**

Within ten (10) days following receipt of the request for a grievance hearing form, the College Grievance Officer or designee shall appoint a Grievance Hearing Committee as described above, and the Grievance Hearing Committee shall meet in private and without the parties present to select a recording secretary 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 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.
- The resolution is within the purview of the Grievance Hearing Committee.

If the grievance does not meet each of the requirements, the College Grievance Officer 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 five (5) business days of the date the decision is made by the Grievance Hearing Committee.

If the request for a grievance hearing satisfies each of the requirements, the College Grievance Officer shall schedule a grievance hearing. The hearing will begin within fifteen (15) business days following the decision to grant a Grievance Hearing. All parties to the grievance shall be given not less than ten (10) business days notice of the date, time, and place of the hearing. The hearing shall be limited to one (1) meeting unless required otherwise by due process.

#### **Hearing Procedure**

The decision of the Grievance Hearing Committee 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. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to relying on in the conduct of serious affairs. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding. Unduly repetitious evidence may be excluded.

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 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 themselves and may also have the right to be represented by a person of their 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 at the time the grievance form is submitted. 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 Grievance Hearing Committee

may also request legal assistance through the College Grievance Officer or designee. 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 seven (7) business 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 College 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 Grievance Officer 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 College Grievance Officer. 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 ten (10) business days following the close of the hearing, the Grievance Hearing Committee shall prepare and send its final decision to all parties. 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(s), 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. The decision of the committee shall be final, subject only to appeal as provided below.

#### **Appeal Appealing the Denial of a Grievance Hearing**

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 Vice President of Student Affairs or designee within ten (10) business days of that decision. The Vice President of Student Affairs or designee 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 of Student Affairs or designee's decision whether or not to grant a grievance hearing shall be final and not subject to further appeal.

The party must state the grounds for appeal and present a statement of fact supporting those grounds. The grounds for appeal are as follows:

- A procedural irregularity affected the outcome;
- New evidence was not reasonably available at the time of the District's determination and this new evidence could affect the outcome; or
- A member of the Grievance Hearing Committee had a conflict of interest or bias for or against the Party that affected the outcome.

If either Party submits an appeal to the Vice President of Student Affairs or designee, the Vice President of Student Affairs or designee will notify the nonappealing Parties in writing within five (5) business days of receiving a party's appeal.

The Vice President of Student Affairs shall issue a written decision on whether to grant or deny the appeal for a Grievance Hearing within 14 business days after the Vice President receives the response to the appeal. The Vice President of Student Affairs decision whether to grant a Grievance Hearing shall be final and not subject to further appeal. If granted, a Grievance Hearing Committee of new members from the pool will be formed and follow the hearing procedures as outlined.

#### **Appealing the Grievance Hearing Committee Decision**

Any party to the grievance may appeal the decision of the Grievance Hearing Committee by filing an appeal with the College President. The College President may designate a college administrator to review the appeal and make a recommendation.

Any such appeal shall be submitted in writing within five (5) business days following receipt of the Grievance Hearing Committee's decision and shall state specifically the grounds for appeal.

The written appeal shall be sent to all concerned parties. All parties may submit written statements on the appeal.

The College President shall review the record of the hearing and the documents submitted in connection with the appeal but shall not consider any matters outside of the record. Following the review of the record and appeal statements, the College President may decide to sustain, reverse, or modify the decision of the Grievance Hearing Committee. The College President's decision shall be in writing and shall include a statement of reasons for the decision. The District Chancellor's decision shall be final.

The decision on appeal shall be reached within five (5) business days after receipt of the appeal documents. Copies of the College President's appeal decision shall be sent to all parties.

#### **Time Limits:**

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

Also see BP/AP 3410 titled Nondiscrimination, BP/AP 3430 titled Prohibition of Harassment, AP 3435 titled Discrimination and Harassment Investigations, BP/AP 5500 titled Standards of Student Conduct, and AP 5520 titled Student Discipline Procedures.