

AP 5530 Student Rights and Grievances

Reference:

*Education Code Section 76224(a);
ACCJC Accreditation Eligibility Requirement 20;
ACCJC Accreditation Standard IV.D*

The purpose of this procedure is to provide a prompt and equitable means of resolving student grievances.

Grievance: A claim by any Student who reasonably believes a college decision or action has adversely affected his/her/their status, rights or privileges as a student. Categories of Grievances addressed in this Administrative Procedure are:

Category 1 - Course grades:

1. Course grades, to the extent permitted by Education Code Section 76224(a), which provides: "When grades are given for any course 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.

Category 2 - includes grievance claims regarding:

2. Financial aid
3. The exercise of rights of free expression protected by state and federal constitutions and Education Code Section 76120.
4. Other student grievances not covered under separate Board Policies and/or Administrative Procedures.

A Grievance is not:

1. Student disciplinary actions, which are covered under separate Board policies and Administrative Procedures (see BP 5500/5520 and AP 5500/5520).
2. Police citations (i.e. tickets); complaints about citations must be directed to the County Courthouse in the same way as any traffic violation.

Definition or Terms

CEO - The Superintendent/President or a designated representative of the Superintendent/President.

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 Hearing - A formal hearing before a Grievance Hearing Committee.

Grievance Hearing Committee - A committee formed by the Superintendent/President when needed and consisting of two (2) students, two (2) faculty members, and one (1) college administrator.

Grievance Officer - Administrative representative appointed by the Superintendent/President to assist students in seeking resolution by informal means. The Grievance Officer also serves as the recorder during meetings of the Grievance Hearing Committee and Grievance Hearings.

Designated Grievance Officer - The Superintendent/President has designated the Vice President of Student Services as the Grievance Officer. The Superintendent/President will designate an alternate when the Vice President of Student Services cannot perform the responsibilities of Grievance Officer.

Grievant - A Student who has filed a Grievance.

Informal Resolution - A reasonable effort to resolve the matter on an informal basis made prior to requesting a Grievance Hearing.

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.

Respondent - Any person alleged to be responsible for the Grievance.

Request for a Grievance Hearing - Formal request for a hearing by a Grievance Hearing Committee. This request is filed *after* the Statement of Grievance and efforts to achieve an Informal Resolution.

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)

Statement of Grievance - An informal, written statement by the Grievant indicating the type of grievance and desired resolution.

Statement of Grievance Form - An official form that begins the official Grievance Hearing process. Category #1 and Category #2 Grievances *may not* be submitted on a single Statement of Grievance Form

Beginning the Grievance Process - Filing a Statement of Grievance Form

Any student who believes he/she/they has/have a grievance shall file a Statement of Grievance Form with the Vice President of Student Services as 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.

Category #1 and Category #2 Grievances *may not* be submitted on a single Statement of Grievance Form. Students may submit forms for both Categories of Grievance at the same time; however, each form may address only one (1) of the Categories of Grievance. For Category 2 grievances, the Statement of Grievances Form should indicate, but may not, the nature of issue(s) being grieved.

A Statement of Grievance is not a request for a Grievance Hearing. Filing of a Statement of Grievance begins the Informal Resolution efforts and preserves the option for requesting a Grievance Hearing within the timeline documented in this procedure.

Informal Resolution

Informal meetings and discussion between persons directly involved in a Grievance are essential at the outset of a dispute and are encouraged at all stages of the Grievance process.

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 Services or designee shall assist students in seeking resolution by informal means. The student may also seek the assistance of the Associated Student Organization (ASO) in attempting to resolve a Grievance informally.

If at the end of fifteen (15) days following the student's first meeting with the Vice President of Student Services or designee there is no informal resolution of the complaint which is satisfactory to the student, the student shall have the right to

request a hearing on the Grievance by notifying the Vice President of Student Services or designee in writing (email or other form of written notification).

Requesting a Grievance Hearing

Within five (5) days following receipt of the Request for Grievance Hearing, the Vice President of Student Services or designee shall advise the student of his/her/their rights and responsibilities under these procedures, and assist the student, if necessary, in the final preparation of Request for Grievance Hearing to include a signed statement specifying the time, place, the specific nature of the Grievance(s), to be considered, a list of witnesses, and a summary of the evidence to be presented at a grievance hearing.

Following completion of the Request for Grievance Hearing but no later than ten (10) days following first receipt of the Request for Grievance Hearing, the Vice President of Student Services or designee will notify the Superintendent/President of the need for a Grievance Hearing Committee and will refer the matter to the Grievance Hearing Committee.

Establishing a Grievance Hearing Committee

The Superintendent/President, when needed, establishes a Grievance Hearing Committee. The committee will be established with the advice and assistance of the Associated Students Organization and the Academic Senate, who shall each submit two (2) names to the Superintendent/President for inclusion on the panel. A Grievance Hearing Committee shall be constituted in accordance with the following:

1. It shall include two (2) students, two (2) faculty members, and one (1) college administrator as voting members and the college administrator will serve as chair. The Grievance Officer may not serve as a member of the Grievance Hearing Committee.
2. 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 Superintendent/President who shall determine whether cause for disqualification has been shown. If the Superintendent/President feels that sufficient ground for removal of a member of the committee has been presented, the Superintendent/President shall remove the challenged member or members and notify the ASO or Academic Senate, as appropriate, to submit a replacement.

3. The Vice President of Student Services or designee shall sit with the Grievance Hearing Committee but shall not serve as a member nor vote. The Vice President of Student Services or designee 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.

Consideration of the Request for Grievance Hearing

Within ten (10) days following receipt of the Request for a Grievance Hearing, the Superintendent/President shall appoint a Grievance Hearing Committee as described above, and the Grievance Hearing Committee shall meet in private and without parties present 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:

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

If the Request for Grievance Hearing satisfies each of the requirements of the college, the College Vice President of Student Services or designee shall schedule a Grievance hearing. The Grievance Hearing Committee will conduct a formal hearing to establish findings of fact and make recommendations for redress if the Grievance is determined valid.

The hearing will begin within fifteen (15) days following the decision to grant a Grievance Hearing. All Parties to the Grievance shall be given not less than ten (10) days' notice of the date, time and place of the hearing.

Decision to Reject the Request for Grievance Hearing - 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 five (5) days of the date the Grievance Hearing Committee reaches a decision. The Grievant may appeal the decision to reject the Request for a Grievance Hearing.

Appeal of Decision to Reject the Request for Grievance Hearing - Any appeal relating of 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 that decision.

The Superintendent/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 Superintendent/President's decision whether or not to grant a Grievance hearing shall be final and not subject to further appeal.

The Grievance Hearing Committee will conduct a formal hearing to establish findings of fact and make recommendations for redress if the Grievance is determined valid.

The hearing will begin within fifteen (15) days following the decision to grant a Grievance Hearing. All Parties to the Grievance shall be given not less than ten (10) days' notice of the date, time and place of the hearing.

Prior to the Hearing

The Vice President of Student Services or designee will provide members of the Grievance Hearing Committee with a copy of the Grievance and any written response provided by the respondent before the hearing begins.

Each party to the Grievance may represent himself/herself/themself, and may also have the right to be represented by a person of his/her/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 to the Grievance Hearing Committee not less than five (5) 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 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 to the Grievance Hearing Committee Chair no less than five (5) days prior to the date of the hearing. Regardless of open

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

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.

Conduct of the Hearing

The Grievance Hearing Committee Chair shall announce the beginning of the Hearing and verify that a digital recording has begun.

The Grievance Hearing Committee Chair shall, at the beginning of the hearing, ask each person present to identify themselves by name.

General Order of Events - 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(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.

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

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

In a closed or open hearing, witnesses shall not be present at the hearing. When a witness is called, the Grievance Hearing Committee Chair shall ask the witness to identify themselves by name.

Written statements of witnesses shall not be used unless the witness is unavailable to testify. A witness who refuses to be digitally recorded shall be considered to be unavailable.

Record of the Hearing - The Vice President of Student Services or designee will record the proceedings by digital recording which shall be the only recording made. No witness who refuses to be recorded may be permitted to give testimony. 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 digital 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 digital recording.

Decision of the Grievance Hearing Committee

Within fifteen (15) 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 specific conclusions regarding whether the hearing established a Grievance as defined below.

Category #1 Grievances – Grades - The Grievance Hearing Committee may only find for the Grievant to the extent permitted by Education Code Section 76224(a), which provides:

“When grades are given for any course 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.

Category #2 Grievances - The Grievance Hearing Committee may find for the Grievant based on a preponderance of evidence.

The decision shall also include a specific recommendation regarding the relief for the Grievant, if any. The Grievance Hearing Committee will base its decision 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.

Appeal: Any appeal relating of 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 [Days] days of that decision. The Superintendent/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 Superintendent/President’s decision whether or not to grant a Grievance hearing shall be final and not subject to further appeal.

Superintendent/President’s Decision

Within ten (10) days following receipt of the Grievance Hearing Committee’s decision and recommendation(s), the Superintendent/President or Vice President of Student Services or designee shall send to all Parties a his/her/their 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 by the Superintendent/President.