



**AP 5530 Student Rights and Grievances**

References: Education Code Section 76224(a); Title IX, Education Amendments of 1972; 34 Code of Federal Regulations Parts 106.1 et seq.; ACCJC Accreditation Eligibility Requirement 20; ACCJC Accreditation Standard IV.D

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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:

- 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 (see Administrative Procedures 5500 and 5520)
- Unlawful discrimination or harassment, including sexual harassment, as prohibited by Title IX of the Higher Education Amendments of 1972 (see Administrative Procedure 3400)
- Grade Changes (see Administrative Procedure 4231)
- Police citations (i.e. "tickets"); complaints about citations must be directed to the County Courthouse in the same way as any traffic violation.

Some education programs may have specific processes and procedures for grievances and complaints.

**A. 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.

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 Superintendent/President 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 Organization 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.

## **B. Levels for Resolving a Student Grievance**

### First Level – Informal Grievance

Any student with a grievance should discuss the problem directly with the person with whom the student has a grievance. This discussion must take place within ten (10) days of the alleged incident or ten (10) days after the student learns of the alleged incident, whichever is later.

### Second Level – Informal Grievance

If the grievance cannot be resolved at the first level, the student shall discuss the problem with the immediate supervisor of the person against whom the complaint is directed. The immediate supervisor shall make every effort to resolve the problem with the student and the person being grieved. This discussion must take place within ten (10) days after contact at the second level. The supervisor has ten (10) days to respond to the student's grievance.

### Third Level – Informal Grievance

If the grievance cannot be resolved at the second level, the student shall discuss the problem with the next-level administrator within ten (10) days from receiving a decision from the immediate supervisor. The next-level administrator, in consultation with the immediate supervisor, shall make every effort to resolve the problem with the student and the person being grieved. This discussion must take place within ten (10) days after contact at the third level. The next-level administrator has ten (10) days to respond to the student's grievance.

### Fourth Level – Formal Grievance and Hearing

If the grievance cannot be resolved informally at the third level, the student shall have the right to request a grievance hearing.

- C. Request for Grievance Hearing:** Any request for a grievance hearing shall be filed on a Request for a Grievance Hearing form within ten (10) days after receiving a decision from the next-level administrator. A Statement of Grievance will accompany the Request for a Grievance Hearing form.

Within ten (10) days following receipt of the Request for a Grievance Hearing form and Statement of Grievance, the Superintendent/President or designee shall appoint a Grievance Hearing Committee as described below, and the Grievance Hearing 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 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 five (5) days of the date the decision is made by the Grievance Hearing 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 two (2) days' notice of the date, time and place of the hearing.

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

- It shall include one (1) student selected by the President of the Associated Students, one (1) instructor selected by the President of the Academic Senate, and one (1) college administrator selected by the Superintendent/President or designee.
- 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 or designee who shall determine whether cause for disqualification has been shown. If the Superintendent/President or designee feels that sufficient grounds for removal of a member of the committee has been presented, the Superintendent/President 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 Grievance Officer shall sit with the Grievance Hearing 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 Hearing Committee to facilitate a full, fair and efficient resolution of the grievance, and shall avoid an adversary role.

#### **E. Hearing Procedure**

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 preponderance evidence that the facts alleged are true and that a grievance has been established as specified above.

Each party to the grievance may represent them self, and may also be accompanied by someone of their choice to act as support; except that a party shall not be represented by an attorney. Each party must present their own case; the party's supporting individual may not present the party's case.

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 (5) 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. Either party or both parties may request a copy of the recording. Either party may provide their own recording device or stenographer at their own cost. Witnesses who refuse to be recorded or sworn in at the hearing may not testify. In the event the hearing is recorded, 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.

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 recorded shall be considered to be unavailable.

Within five (5) 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 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.

**Superintendent/President's Decision:** Within five (5) days following receipt of the Grievance Hearing Committee's decision and recommendation(s), the Superintendent/President shall send to all parties 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, subject only to appeal as provided below.

**Appeal:** 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 five (5) 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.

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