



## **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 IV.D

In the pursuit of their educational goals, students should be free of unfair and improper action by any member of the academic community. A grievance may be initiated by students when they believe that they have been subject to unjust action or denied their rights as stipulated in published college regulations, state laws, or federal laws. Such action may be instituted by students against a faculty/staff member or an administrator. When students believe an injustice has been done to them, they may seek redress through the following procedures.

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 District decision or action has adversely affected the student's status, rights, or privileges as a student. The procedures shall include, but not be limited to, grievances regarding:

- Sex discrimination in education programs and activities as prohibited by Title IX of the Higher Education Amendments of 1972 (See AP 3435 Discrimination and Harassments Complaints and Investigations for sexual misconduct complaints under Title IX.)
- Financial aid (See AP 5130 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 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." See BP/AP 4231 Grade Changes.
- 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 addressed in BP/AP 5500 Standards of Student Conduct.

### **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 District 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 the admission process. Former students shall be limited to grievances relating to course grades to the extent permitted by Education Code Section 76224(a).

**Respondent(s)** – Any person or persons 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.

### **Procedure to File Grievances**

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 a college administrator.

The Superintendent/President or designee shall assist students in seeking resolution by informal means. This person shall be called the Grievance Officer. The Grievance Officer is the Dean, Student Support Services. 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.

### **Preliminary Action**

Students who believe an injustice has been done to them shall first attempt to resolve their grievances by consultation with the following persons in sequence:

- A. Accused faculty/staff member(s) or administrator.
- B. Department Chairperson of accused faculty member, or direct supervisor of accused staff member, or direct supervisor of accused administrator as appropriate.
- C. The area dean for an academic grievance issue.

Any student who believes that there is a basis for a grievance shall file a Statement of Grievance with the Grievance Officer within 30 days of the incident on which the grievance is based. 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 three days following receipt of the Statement of Grievance Form, the Grievance Officer shall meet with and advise the student of the student's 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 30 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 Superintendent/President shall at the beginning of each semester, including any summer session, establish a standing panel of two students appointed by the Associated Student Government, two faculty members appointed by the Academic Senate, and one manager appointed by the Chief Student Services Officer or designee.

- **Student Group:** Students must be enrolled in nine or more units in fall or spring or four units in summer and **have** a cumulative grade point average of 2.0 or better.
- **Faculty Group:** Faculty must be tenured contract faculty.



- **Management Group:** Any full-time, educational administrator or classified management employee with the exception of the Chief Student Services Officer 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 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 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.

### **Request for Grievance Hearing**

Any request for a grievance hearing shall be filed on a Request for a Grievance Hearing Form within 30 days after filing the Statement of Grievance as described above.

Within 15 days following receipt of the request for grievance hearing, 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 10 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 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 not less than 10 days' notice of the date, time, and place of the hearing.

### **Appeal: Request for Grievance Hearing Decision**

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 days of notification 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.

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

All parties 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 not less than three 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's Office. Any legal advisor provided to the hearing committee may sit with the committee 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 they be open to the public. Any such request must be made no less than three 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 by audio recording and 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 all persons present to identify themselves by name, and thereafter shall ask witnesses to identify themselves by name. The audio 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 audio 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 audio recorded shall be considered to be unavailable.



Within five 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 10 days following receipt of the Grievance Hearing Committee's decision and recommendation(s), the Superintendent/President shall send to all parties the Superintendent/President's 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; 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, and not subject to appeal.

### **Additional Information**

Also see BP/AP 4231 Grade Changes, BP/AP 3410 Nondiscrimination, BP/AP 3430 Prohibition of Harassment, and BP/AP 3540 Sexual and Other Assaults on Campus.

The District website has additional information, resources, and links on its Student Grievances & Complaints webpage which can be accessed from the homepage at [www.sbcc.edu](http://www.sbcc.edu).

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