

## **Administrative Procedure 5530**

## **Student Rights and Grievances**

For the purpose of this procedure, a student grievance is defined as a claim by a student that his/her student status, rights, or privileges have been adversely affected by a college decision or action. This procedure is available for students who desire to pursue grievance procedures against an employee of the District. The student shall be entitled to representation, by a person of his/her choice, other than legal counsel, at all informal complaint meetings. District employees will be notified of student grievances received by the Grievance Officer or designee and are entitled to representation at all informal complaint meetings.

Note: The District is committed to resolving student grievances in a fair and equitable manner. Students should work through the District's process first before escalating issues to other agencies. Issues that are not resolved at the District level may be presented to the California Community Colleges Chancellor's Office, the U.S. Department of Education, or other federal, state, or local applicable entity.

This procedure is not available for use by any student who believes he/she has been subjected to unlawful discrimination, including sexual and gender-based discrimination as prohibited by Title IX of the Higher Education Amendments of 1972. The basis for alleging unlawful discrimination, including sexual and gender-based discrimination, and the procedures to be used to file such a complaint are set forth in the District's Board Policy and Administrative Procedure 3430 – Prohibition of Harassment and Board Policy and Administrative Procedure 3540 – Sexual and Gender-Based Misconduct. The District's Title IX Coordinator will be notified immediately upon the receipt of such grievances by the Grievance Officer or designee.

Students who make false or malicious charges against an employee of the District are subject to disciplinary action as outlined in Board Policy 5500 and Administrative Procedure 5500 – Standards of Student Conduct.

The procedures shall include, but not be limited to, grievances regarding:

1. Admissions
2. Financial aid
3. Access to or receipt of aid from student service entities
4. Noncompliance with board policies and administrative procedures
5. The exercise of rights of free expression protected by state and federal constitutions and Education Code Section 76120.

This procedure does not apply to the following:

1. Student disciplinary actions, which are covered under Board Policy 5500 and Administrative Procedure 5500 – Standards of Student Conduct and Administrative Procedures 5520 – Student Discipline Procedures.
2. Complaints about police citations (e.g., "tickets"). Complaints about citations must be directed to the District's Campus Police Department.
3. Course grades to the extent permitted by Education Code Section 76224(a). Grade appeals, which are addressed in Board Policy 4231 and Administrative Procedure 4231 – Grade Change. Students may not grieve solely for receiving substandard grades.

**Definitions:**

1. Party - The student or respondent(s) together with their representatives. "Party" shall not include the Grievance Hearing Committee or the Grievance Officer.
2. Superintendent/President - The Superintendent/President or a designated representative of the Superintendent/President.
3. 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).
4. Grievant - A student who has filed a grievance.
5. Respondent - Any person claimed by a grievant to be responsible for the alleged wrongdoing.
6. Business Day - Unless otherwise provided, business day shall mean a day during which the College is in session and regular classes are held, excluding Saturdays, Sundays, and public holidays.
7. Grievance Officer - Appointed by the Superintendent/President or designated representative to assist students in seeking resolution.

## **Informal Resolution**

1. The Superintendent/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 Students Organization President or designee in attempting to resolve a grievance informally.
2. A student who believes that he/she has been treated unfairly by a District employee must make a reasonable, good faith attempt to resolve the problem on an informal basis by first meeting individually with the employee. In the event that the student first contacts the employee's supervisor (including the Dean of the faculty or classified staff member), the supervisor shall first direct the student to meet with the employee. 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. If, after this, the matter cannot be resolved informally, the student may file a formal grievance.
3. 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.
4. Any student who believes he/she has a grievance shall file a Statement of Grievance with the Grievance Officer within ten (10) business days of the incident on which the grievance is based, or ten (10) business 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 ten (10) business days following receipt of the Statement of Grievance Form, 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. All parties to the grievance shall be given notice not less than seven (7) business days from the filing of the grievance form.
5. If, at the end of ten (10) business 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. The respondent(s) will be informed at this stage within two (2) business days.

6. This concludes the Informal Resolution Process.

### **Grievance Hearing Committee**

The Superintendent/President or designee shall at the beginning of each semester, including any intersession, establish a standing panel of members of the College community, including students, classified staff, faculty members and 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, Classified Employees and the Academic Senate, who shall each submit names to the Superintendent/President or designee for inclusion on the panel. A Grievance Hearing Committee shall be constituted in accordance with the following:

1. It shall include one student, one faculty member, one member of the classified service and one College administrator selected from the panel described above.
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 or designee who shall determine whether cause for disqualification has been shown. If the Superintendent/President or designee feels that sufficient ground 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.
3. 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 Grievance Hearing Committee to facilitate a full, fair and efficient resolution of the grievance, and shall avoid an adversary role.

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

1. Any request for a grievance hearing shall be filed with the Grievance Officer on a Request for a Student Grievance Hearing Form within ten (10) business days after filing the Statement of Grievance as described above.
2. Within fifteen (15) business days following receipt of the request for a grievance

hearing, the Superintendent/President or designee shall appoint a Grievance Hearing Committee as described above. The Grievance Hearing Committee shall meet in private, without the parties present, to select a chair to determine the basis of the Statement of Grievance.

3. If the hearing is warranted, the determination of whether the Statement of Grievance presents sufficient grounds for a hearing shall be made by the Grievance Officer based on the following:
  - a. The statement contains facts which, if true, would constitute a grievance under these procedures;
  - b. The grievant is a student as defined in these procedures, which include applicants and former students;
  - c. The grievant is personally and directly affected by the alleged grievance;
  - d. The grievance was filed in a timely manner; and
  - e. The grievance is not clearly frivolous, clearly without foundation, or clearly filed for purposes of harassment.
4. If the grievance does not meet each of the requirements, the Grievance Officer shall notify the student in writing of the rejection of the Request for a Grievance Hearing, together with the specific reasons(s) for the rejection and the procedures for appeal. This notice will be provided within ten (10) business days of the date the decision is made by the Grievance Officer.
5. Any appeal relating to a Grievance Officer 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 or designee within five (5) business days of that decision. The Superintendent/President or designee shall review the Statement of Grievance and Request for a Student Grievance Hearing in accordance with the requirements for a grievance provided in these procedures, but shall not consider any other matters.
6. If the Request for a Grievance Hearing satisfies each of the requirements, the 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 seven (7) business days' notice of the date, time and place of the hearing, a copy of the grievance, any supporting documentation, and the opportunity to provide a written response.

## **Hearing Procedure**

1. 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.
2. 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.
3. 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.
4. District employees will be notified of grievance hearings in advance by the Grievance Officer or designee at least seven (7) business days in advance and are entitled to representation at grievance hearings. District employees will be provided with a copy of all documentation collected related to a grievance at least two (2) business days prior to grievance hearings. Student grievants will also have the right to request all documentation collected related to a grievance at least two (2) business days prior to grievance hearings.
5. 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) and respondent(s) may present rebuttal evidence after the respondent(s)' evidence is presented. 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.
6. Each party to the grievance may represent himself/herself, and may also have the right to be represented by a person of his/her choice; except that a party shall not be represented by an attorney unless, in the judgment of the Grievance Chair, complex legal issues are involved. If a party wishes to be represented by an attorney, a request must be presented no less than five (5) business days prior to the date of the hearing. If one party is permitted to be represented by an attorney, the other party shall have the

right to be represented by an attorney. The hearing committee may also request legal assistance through the Superintendent/President 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.

7. 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) business days prior to the date of the hearing.
8. 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.
9. The hearing shall be recorded by the Grievance Officer by audio tape 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 each person 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 at all times, unless released to a professional transcribing service. Any party may request a copy of the audio recording.
10. All testimony shall be taken under oath. The Grievance Hearing Committee Chair shall administer the oath. 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.
11. Within five (5) business days following the close of the hearing, the Grievance Hearing Committee shall prepare and send to the Superintendent/President or designee 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.

#### **Dean of Student Support Services or Designee Decision**

Within five (5) business days following receipt of the Grievance Hearing Committee's decision and recommendation(s), the Dean of Student Support Services or designee shall send to all parties his/her written decision, together with the Grievance Hearing

Committee's decision and recommendations. The Dean of Student Support Services or designee may accept or reject the findings, decisions and recommendations. The Dean of Student Support Services or designee may accept or reject the findings, decisions and recommendations of the Grievance Hearing Committee. The factual findings of the Grievance Hearing Committee shall be accorded great weight; and if the Dean of Student Support Services or designee does not accept the decision or a finding or recommendation of the Grievance Hearing Committee, the Dean of Student Support Services or designee 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 Dean of Student Support Services or designee shall be final, subject only to appeal as provided below.

### **Appeal**

Any party to the grievance may appeal the decision of the Grievance Hearing Committee by writing to the Vice President of Student and Community Advancement within seven (7) business days of the date on the written notification by the Grievance Hearing Committee.

1. The Vice President of Student and Community Advancement shall examine all documents received and shall grant review of the matter only if he or she determines from these documents that the decision of Grievance Hearing Committee was in error.
2. If the Vice President of Student and Community Advancement determines that review is not appropriate, he or she shall, within ten (10) business days after receipt of the request for review, send written notice denying review and affirming the decision of the Grievance Hearing Committee.
3. If the Vice President of Student and Community Advancement determines that review is appropriate, he or she shall, within ten (10) business days after receipt of the request schedule a meeting with the grievant or respondent and the Grievance Hearing Committee chair, giving the grievant or respondent at least five (5) business days written notice. The grievant or respondent will be allowed to present his or her objections to the Dean of Student Support Services' decision, and the Grievance Hearing Committee chair will be allowed to respond thereto.
4. After such meeting, the Vice President of Student and Community Advancement may reverse, revise or modify the decision or the Vice President may let the decision stand.
5. The Vice President's decision shall be in writing and shall include a statement of reasons for the decision. The Vice President's decision shall be final. The decision will be sent in writing to the grievant and respondent no more than five (5) business days following the appeal.

**Time Limits**

Any times specified in this administrative procedure may be shortened or lengthened if there is mutual concurrence by all parties.

References:

Education Code Section 76224(a);  
Title IX of the Higher Education Amendments of 1972

Revised version passed Academic Senate: March 1, 2016

Deans Council review: March 10, 2016

Board Review: January 19, 2010

Amended: October 17, 2016