

## AR 5530 Student Rights and Grievances (New AR)

We have AR 4405 Student Bill of Rights and AR 4410 Standard of Student Conduct (new AR#5500) as well. We need to add a new regulation AR 5520 Student Disciplinary Procedures which will conflict with the already existing number, AR 5520 Course Time Patterns

In green in first page only are minor Glendale Community College additions and GCC's entire regulation is included at the end. I also included Santa Barbara City College's regulation that more closely follows the League's template some changes in blue.

**NOTE:** This procedure is **legally advised**. Local practice may be inserted. The following is an illustrative example. League's template in black, dated October 2021.

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 district regulations, state laws, or federal laws. Such action may be instituted by students against a faculty, staff member, or 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. against decisions or actions by GCC and GCC employees that the student reasonably believes has adversely affected his/her status, rights, or privileges as a student in areas including, but not limited to, the following:

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 believes a district decision or action has adversely affected the student's status, rights, or privileges. A Grievance includes, but is not limited to, claims regarding:

**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. A Grievance includes, but is not limited to, ~~claims regarding~~ the following:

- Financial aid [ **unless the District's financial aid policy contains an appeal procedure** ];
- Course grades, to the extent permitted by Education Code Section 76224 subdivision (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." "Mistake" may include, but is not limited to errors made by an instructor in calculating a student's grade and clerical errors;
- The exercise of rights of free expression protected by state and federal constitutions and Education Code Section 76120 and BP 3900 and AR 3900.

- Discrimination based on protected classes established by statute and referenced in BP 3400 Protected Class (See AP 3430 Prohibition of Harassment and AP 3410 Nondiscrimination.)

A Grievance is **not**:

- Student disciplinary actions, which are covered under separate board policies and administrative procedures. See AR 5520 Student Discipline Procedures
- Police citations (i.e. "tickets"); complaints about citations must be directed to the County Courthouse in the same way as any traffic violation.
- Financial Aid eligibility which are governed by the financial aid appeals process.
- Sex discrimination in education programs and activities as prohibited by Title IX of the Higher Education Amendments of 1972 (See AP 3434 Discrimination and Harassments Complaints and Investigations for sexual misconduct complaints under Title IX.)

**Grievant** – A student who has filed a Grievance.

**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.

[ **CEO Superintendent/President** ] – The [ **CEO Superintendent/President** ] or a designated representative of the [ **CEO 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 denial of admission. Former students shall be limited to Grievances relating to course grades to the extent permitted by Education Code Section 76224 subdivision (a).

**Respondent(s)** – Any person or persons the Grievant claims 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 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 [ **CEO Superintendent/President** ] shall appoint an employee (**designee**) who shall assist students in seeking resolution by informal means. This person shall be called the Grievance Officer. The Grievance Officer (**or designee**) 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.

### Preliminary Action

Any student who believes he/she/they has a Grievance shall file a Statement of Grievance with the Grievance Officer within [ **number 30** ] days of the incident on which the Grievance is based, or [ **number** ] 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 (**three**) days following receipt of the Statement of Grievance Form, the Grievance Officer 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 the Statement of Grievance form.

If at the end of [ **number 30** ] days following the student's first meeting with the Grievance Officer 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 Grievance hearing.

**NOTE:** *The following language is optional.*

**Grievance Hearing Committee:** The [ **CEO Superintendent/President** ] shall at the beginning of each semester or summer (**intersession**) session, establish a standing panel of [ **number 5** ] members of the college community, including [ **number 2** ] students, [ **number 2** ] faculty members and [ **number 1** ] administrator (**manager**), 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, who shall each submit [ **number** ] names to the [ **CEO Superintendent/President** ] for inclusion on the panel. A Grievance Hearing Committee shall be constituted in accordance with the following:

- It shall include [ **number** ] students, [ **number** ] faculty members, and [ **number** ] college administrator selected from the panel described above.
- 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 [ **CEO Superintendent/President** ] who shall determine whether cause for disqualification has been shown. If the [ **CEO Superintendent/President** ] feels that sufficient ground for removal of a member of the committee has been presented, the [ **CEO 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 [ **number 30**] days after filing the Statement of Grievance as described above.

Within [ **number 15**] days following receipt of the request for Grievance hearing, the [ **CEO Superintendent/President**] 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 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 Grievance 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 [ **number 10**] days of the date the Grievance Hearing Committee makes its decision.

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 [ **number 10**] days following the decision to grant a Grievance Hearing. All Parties to the Grievance shall be given not less than [ **number 5**] days' notice of the date, time and place of the hearing.

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

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 [ **CEO Superintendent/President**] within [ **number 5**] days of that decision. The [ **CEO 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 [ **CEO Superintendent/President**]’s decision whether or not to grant a Grievance hearing shall be final and not subject to further appeal.

**NOTE:** A hearing must comply with principles of due process, including the right to confront and cross-examine witnesses. The following procedural language is **legally advised**.

### **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 Grievance Officer 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 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 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.

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 not less than [ **number 3** ] 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 [ **CEO 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 no less than [ **number 3** ] 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 Grievance Officer will record the hearing by tape recording or stenographic recording, and this will 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 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 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 witnesses must testify under oath; the Grievance Hearing Committee Chair will administer the oath. The Grievance Hearing Committee will only admit written statements of witnesses under penalty of perjury if the witness is unavailable to testify. A witness who refuses to be tape-recorded shall be considered to be unavailable.

Within [ **number 5** ] days following the close of the hearing, the Grievance Hearing Committee shall prepare and send to the [ **CEO Superintendent/President** ] a written decision. The decision shall include specific factual findings regarding the Grievance and shall include specific conclusions regarding whether the hearing established a Grievance as defined above. 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.

#### [ **CEO Superintendent/President's Decision**]'s Decision

Within [ **number 10** ] days following receipt of the Grievance Hearing Committee's decision and recommendation(s), the [ **CEO Superintendent/President** ] shall send to all Parties his/her/their written decision, together with the Hearing Committee's decision and recommendations. The [ **CEO 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 [ **CEO Superintendent/President** ] does not accept the decision or a finding or recommendation of the Hearing Committee, the [ **CEO 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 [ **CEO Superintendent/President** ] shall be final.

#### **Time Limits**

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

#### **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 Rights and Grievances webpage which can be accessed from the homepage at [www.sbcc.edu](http://www.sbcc.edu).

Also see AR 2427 Ombuds Office, AR 4405 Student Bill of Rights, 1. AR 3410 *Non-Discrimination*, 2. AR 3435 *Discrimination and Harassment Investigations*, AR 4410 Rules of Student Conduct and 3. AR 5520 *Student Disciplinary Procedures* (*Don't have these three*

#### **References:**

Education Code Section 76224 subdivision (a);

**Revised 8/07, 4/15, 10/17, 4/20, 7/20, 4/21, 10/25/21**

**76224.** (a) 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.

(b) No grade of a student participating in a physical **education** class, however, may be adversely affected due to the fact that the student does not wear standardized physical education apparel where the failure to wear such apparel arises from circumstances beyond the control of the student.

### From Glendale Community College's Regulation

#### **AR 5530 STUDENT GRIEVANCES**

The purpose of this procedure is to provide a prompt and equitable means of resolving student grievances against decision or actions by GCC and GCC employees that the student reasonably believes has adversely affected his/her status, rights, or privileges as a student in areas including, but not limited to, the following:

- The exercise of rights of free expression protected by the California and United States constitutions, Education Code Section 76120, and GCC Board Policy and Administrative Regulation 3900.
- Violation of published GCC rules, Board policies, and administrative regulations.
- Sex discrimination in education programs and activities as prohibited by Title IX and the Higher Education Amendments of 1972, and GCC Board Policy and Administrative Regulation 3540.
- Academic decisions (temporary removal from lab or classroom setting) consistent with the rights and responsibilities of the student, faculty member, and District.
- Correction of academic records (other than course grades).
- Course grades (appeal procedures for course grades are outlined in Section D: Student Grade Appeals).

This procedure does not apply to the following:

- Student disciplinary actions, which are governed by the provisions of GCC Board Policy and Administrative Regulation 5500.
- Police citations
- Financial aid eligibility, probation, and dismissal which are governed by the Financial Aid Appeals Process.

- The evaluation of the professional competence or job performance of a GCC employ

#### A. Definitions

1. The term “GCC” is defined as Glendale Community College.
2. The term “student” is defined as a person currently enrolled in GCC college credit and/or non-credit courses, 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).
3. The term “GCC employee” includes any person employed by GCC performing assigned administrative, professional, academic, or staff responsibilities.
4. The term “shall” is used in the imperative sense.
5. The term “may” is used in the permissive sense.
6. The terms “policy” and “regulations” are defined as the rules of GCC as found in publications including, but not limited to, the college catalog, class schedule, student handbook, GCC Board Policy and Administrative Regulations.
7. The term “respondent” is defined as any person claimed by a grievant to be responsible for the alleged grievance.
8. The term “instructional day” is defined as a day during which the college is in session and regular classes are held, excluding Saturdays and Sundays.

#### B. Student Grievance Procedures

##### 1. Informal Resolution

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

- a. Any student who has a grievance shall make a reasonable effort to resolve the matter on an informal basis with the GCC employee with whom he/she has the grievance prior to requesting a grievance hearing.



- b. If a student cannot resolve a grievance directly with the involved GCC employee, the student may request a meeting with the appropriate administrator/manager or division chair.
- c. The administrator/manager or division chair shall meet with the student in an attempt to resolve the issue, and may meet with the student and GCC employee either jointly or separately.

## 2. Administrative Hearing

If no informal resolution is reached with the administrator/manager or division chair that is satisfactory to the student, the student may request an administrative hearing with the appropriate senior GCC administrator as follows:

- Instructional Services employees: Vice President, Instructional Services or designee
  - Student Services employees: Vice President, Student Services or designee
  - Administrative Services employees: Vice President, Administrative Services or designee
  - College administrators: Superintendent/President or designee
- a. The student shall initiate the administrative hearing process by filing a written statement of the grievance with the appropriate senior administrator identified above within the next regular semester, as specified in the applicable class schedule, following the events giving rise to the grievance.
  - b. The senior administrator holding the administrative hearing shall meet with the student and GCC employee either jointly or separately to hear both sides of the complaint.
  - c. The senior administrator shall attempt to settle the grievance through mediation, negotiated agreement, or other mutually acceptable resolution.
  - d. The senior administrator shall communicate the final outcome or resolution to the involved parties within ten (10) instructional days after the conclusion of the administrative hearing.

## C. College Judicial Board

### 1. College Judicial Board Chair

- a. The Superintendent/President shall nominate a tenured faculty member

to serve as Chair of the College Judicial Board by October 1 of each academic year.

- b. The nomination shall be confirmed by a majority of the Academic Senators.
- c. The Chair shall serve a one-year term. There shall be no limits on the number of times a faculty member can be nominated for or serve as Chair.
- d. If the Chair's seat becomes vacant, or a nominee is not confirmed by the Academic Senate, the Superintendent/President shall make another nomination prior to the next regularly scheduled meeting of the Academic Senate.

D. College Judicial Board Composition

- a. The Superintendent/President shall establish a pool of a minimum of twenty-seven (27) members of the college community, including a minimum of ten (10) students, a minimum of seven (7) tenured faculty members, a minimum of five (5) classified staff, and a minimum of five (5) administrators from which one or more College Judicial Board hearing panels may be appointed.
- b. Student appointments shall be made by the Associated Students of Glendale Community College (ASGCC) Legislature in consultation with the Dean of Student Affairs.
- c. Faculty appointments shall be made by the Academic Senate.
- d. Classified staff appointments shall be made by the California School Employees Association (CSEA).
- e. Administrator appointments shall be made by the Superintendent/President.
- f. Appointments to the College Judicial Board pool shall be made by October 1 of each academic year. Members shall serve a one-year term with no limits on the number of times they can be nominated for or serve on the Board.

E. The College Judicial Board Chair shall select the membership of the College Judicial Board for formal hearings in accordance with the following:

- a. College Judicial Board hearing panels for student discipline cases and appeals for correction of education records shall be comprised of two (2) students, two (2) faculty members (one of whom shall be the College Judicial Board Chair), two (2) classified staff members, and one (1) administrator.

- b. College Judicial Board hearing panels for student grade appeals shall be comprised of two (2) students, three (3) faculty members (one of whom shall be the College Judicial Board Chair), and two (2) administrators.

F. Duties of College Judicial Board Members

- a. No person shall serve as matter a member of the College Judicial Board hearing panel when that person has been personally involved in any giving rise to a grievance or disciplinary charge, has made any public statement on the matters at issue, or could not otherwise act in a neutral manner.
- b. College Judicial Board members shall ensure that all Board hearings, deliberations, rulings, and records remain confidential as required by The Family Educational Rights and Privacy Act of 1974 (FERPA), California Education Code Section 76200 et seq., and GCC Board Policies and Administrative Regulations related to of student and employee records where applicable.
- c. The College Judicial Board Chair shall ensure that all Board members are provided copies of all applicable student due process policies and administrative regulations. The Chair shall conduct formal Board hearings according to established legal standards of due process.
- d. The Chair shall maintain records of all College Judicial Board hearings in a secure location on college premises for a period of seven (7) years.

Revised: 1/12/21 (The regulation is 16 pages since it includes grade appeals process)

[From Santa Barbara City College's Regulation](#)

AP 5530 STUDENT RIGHTS AND GRIEVANCES

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 district regulations, state laws, or federal laws. Such action may be instituted by students against a faculty, staff member, or 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 believes a district decision or action has adversely affected the student's status, rights, or privileges. A Grievance includes, but is not limited to, claims regarding:

- Discrimination based on protected classes established by statute and referenced in BP 3400 Protected Class (See AP 3430 Prohibition of Harassment and AP 3410 Nondiscrimination.)
- 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 free expression rights protected by state and federal constitutions and Education Code Section 76120.

A student may not file a Grievance for:

- Student disciplinary actions, which are covered under separate board policies and administrative procedures.
- Police citations (i.e. "tickets"); complaints about citations must be directed to the County Courthouse in the same way as any traffic violation.
- Sex discrimination in education programs and activities as prohibited by Title IX of the Higher Education Amendments of 1972 (See AP 3434 Discrimination and Harassments Complaints and Investigations for sexual misconduct complaints under Title IX.)

**Grievant** – A student who has filed a Grievance.

**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 the Grievant claims 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, and then 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 Chief Student Services Officer or designee. 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.

### **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, or administrator(s).
- B. Department Chairperson of accused faculty member, or direct supervisor of accused staff member, or direct supervisor of accused administrator as appropriate. If the faculty Departmental Chairperson is the accused party, the students shall consult instead with the area dean for this step.
- C. The area dean for an academic grievance issue.

Any student who still believes that there is a basis for a Grievance shall contact the Chief Student Services Officer or designee via email, in person, or by completing the Report a Concern form within 30 days of the incident on which the Grievance is based. The 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 business days following receipt of the Grievance, the Chief Student Services Officer or designee 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 Grievance.

If, at the end of 30 days following the student's first meeting with the Chief Student Services Officer 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 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. The manager appointee will serve as the chairperson for the Student Grievance Committee.

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 grounds 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 Dean, Student Affairs or designee shall sit with the Grievance Hearing Committee but shall not serve as a member nor vote. The Dean, Student Affairs 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.

### **Request for Grievance Hearing**

Any request for a Grievance hearing shall be made with the Dean, Student Affairs or designee within 30 days after reporting the grievance as described above.

Within fifteen (15) days following receipt of the request for Grievance hearing, the Grievance Hearing Committee shall meet in private and without the 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:

- 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 ten (10) days of the date the Grievance Hearing Committee makes its decision.

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 five (5) 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 Grievance Officer 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 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. The Parties may each be represented by legal counsel. 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 Grievance Officer will record the hearing by audio recording and this will 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 witnesses must testify under oath; the Grievance Hearing Committee Chair will administer the oath s. The Grievance Hearing Committee will only admit written statements of witnesses under penalty of perjury if 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 the hearing established a Grievance as defined above. 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 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.

#### **Time Limits:**

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

#### **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 Rights and Grievances webpage which can be accessed from the homepage at [www.sbccc.edu](http://www.sbccc.edu).

Legal Update #39 October 2021



## **AP 5530 Student Rights and Grievances**

### **References:**

Education Code Section 76224 subdivision (a);  
ACCJC Accreditation Eligibility Requirement 20;  
ACCJC Accreditation Standard 2

**NOTE:** *This procedure is **legally advised**. Local practice may be inserted below. The following is an illustrative example.*

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. A Grievance includes, but is not limited to, claims regarding:

- Financial aid [ **unless the District's financial aid policy contains an appeal procedure** ];
- Course grades, to the extent permitted by Education Code Section 76224 subdivision (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." "Mistake" may include, but is not limited to errors made by an instructor in calculating a student's grade and clerical errors;
- The exercise of rights of free expression protected by state and federal constitutions and Education Code Section 76120.

A Grievance is **not**:

- Student disciplinary actions, which are covered under separate board policies and administrative procedures.
- Police citations (i.e. "tickets"); complaints about citations must be directed to the County Courthouse in the same way as any traffic violation.

**Grievant** – A student who has filed a Grievance.

**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.

[ **CEO** ] – The [ **CEO** ] or a designated representative of the [ **CEO** ].

**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 subdivision (a).

**Respondent** – Any person the Grievant claims 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 [ **CEO** ] 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.

Any student who believes he/she/they has a Grievance shall file a Statement of Grievance with the Grievance Officer within [ **number** ] days of the incident on which the Grievance is based, or [ **number** ] 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 Grievance Officer 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 the Statement of Grievance form.

If at the end of [ **number** ] 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.

**NOTE:** *The following language is optional.*

**Grievance Hearing Committee:** The [ **CEO** ] shall at the beginning of each semester or summer session, establish a standing panel of [ **number** ] members of the college community, including [ **number** ] students, [ **number** ] faculty members and [ **number** ] 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, who shall each submit [ **number** ] names to the [ **CEO** ] for inclusion on the panel. A Grievance Hearing Committee shall be constituted in accordance with the following:

- It shall include [ **number** ] students, [ **number** ] faculty members, and [ **number** ] college administrator selected from the panel described above.
- 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 [ **CEO** ] who shall determine whether cause for disqualification has been shown. If the [ **CEO** ] feels that sufficient ground for removal of a member of the committee has been presented, the [ **CEO** ] 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 [ **number** ] days after filing the Statement of Grievance as described above.

Within [ **number** ] days following receipt of the request for Grievance hearing, the [ **CEO** ] 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 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 Grievance 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 [ **number** ] days of the date the Grievance Hearing Committee makes its decision.

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 [ **number** ] days following the decision to grant a Grievance Hearing. All Parties to the Grievance shall be given not less than [ **number** ] days' notice of the date, time and place of the hearing.

**NOTE:** *A hearing must comply with principles of due process, including the right to confront and cross-examine witnesses. The following procedural language is **legally advised.***

### **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 Grievance Officer 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 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 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.

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 not less than [ **number** ] 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 [ **CEO** ]. 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 [ **number** ] 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 Grievance Officer will record the hearing by tape recording or stenographic recording, and this will 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 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 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 witnesses must testify under oath; the Grievance Hearing Committee Chair will administer the oath. The Grievance Hearing Committee will only admit written statements of witnesses under penalty of perjury if the witness is unavailable to testify. A witness who refuses to be tape-recorded shall be considered to be unavailable.

Within [ **number** ] days following the close of the hearing, the Grievance Hearing Committee shall prepare and send to the [ **CEO** ] a written decision. The decision shall include specific factual findings regarding the Grievance and shall include specific conclusions regarding whether the hearing established a Grievance as defined above. 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 [ **CEO** ] within [ **number** ] days of that decision. The [ **CEO** ] 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 [ **CEO** ]'s decision whether or not to grant a Grievance hearing shall be final and not subject to further appeal.

### **[ CEO ]'s Decision**

Within [ **number** ] days following receipt of the Grievance Hearing Committee's decision and recommendation(s), the [ **CEO** ] shall send to all Parties his/her/their written decision, together with the Hearing Committee's decision and recommendations. The [ **CEO** ] 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 [ **CEO** ] does not accept the decision or a finding or recommendation of the Hearing Committee, the [ **CEO** ] 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 [ **CEO** ] shall be final.

### **Time Limits**

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

**Revised 8/07, 4/15, 10/17, 4/20, 7/20, 4/21, 10/21, 4/24**