



Book	Administrative Procedures
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## 1. **PURPOSES AND DEFINITION**

Information about grievance procedures and a copy of this regulation shall be available to Grievant (s) and/or Respondent (s) upon request. Grievants will be provided a copy of this regulation by the Ombudsperson when the Ombudsperson is first contacted regarding a grievance matter. Respondents shall be provided a copy of this regulation when Respondents are notified by the Ombudsperson that a grievance has been filed.

The purpose of this Administrative Procedure is to provide a prompt and equitable means for resolving student(s) grievances. In the pursuit of academic goals, the student should be free of unfair or improper action by any member of the academic community. The grievance procedure may be initiated by one or more students who reasonably believe he/she/they have been subject to unjust action or denied rights involving their status or privileges as students. It is the responsibility of the student(s) to submit proof of alleged unfair or improper action. Grievances pertaining to grades are subject to the California Education Code Section 76224(a) which states:

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.

\* In general, there is no definitive definition of bad faith. However, bad faith may exist if there is neglect or refusal to fulfill some duty or obligation (e.g., ignoring student evaluation standards published in the course syllabus), not prompted by an honest mistake.

This grievance procedure does NOT apply to the following:

- a. Challenge process for prerequisites, corequisites, advisories and limitations on enrollment. Information on challenges to prerequisites is available from the Office of Academic Affairs.
- b. Alleged violations of sexual harassment, actions dealing with alleged discrimination on the basis of ethnic group identification, religion, age, sex, color, sexual orientation, physical or mental disability. These complaints are handled through the Compliance Office.
- c. An appeal for residency determination. Residency appeals should be filed with the Admissions and Records Office.
- d. Eligibility, disqualification or reinstatement of financial aid. Procedures for eligibility, disqualification or reinstatement of Financial Aid may be obtained in the Financial Aid Office.
- e. Student Discipline: Actions dealing with student discipline are handled through the Office of Student Services.
- f. Freedom of the Press: Issues pertaining to freedom of press and journalism are addressed in board policies and administrative procedures.
- g. Employee Discipline. Students may file complaints about employee conduct with the appropriate administrator
- h. Challenges of established District policies, e.g. Board Policies and Administrative Procedures. Grievances regarding District policy, which are beyond the authority of a college president, shall be referred to the Chancellor or Chancellor's designee for appropriate handling and response.
- i. Financial claims against the District. Financial claims need to be made through the District's Office of General Counsel.

Information about other procedures is listed in the schedule of classes and college catalogues, or may be obtained from the Student Services Office.

## **2. STATUTE OF LIMITATIONS**

The statute of limitations period for requesting a Grievance Hearing under this regulation is one hundred twenty (120) calendar days after the occurrence of the incident giving rise to the grievance; or one hundred twenty (120) calendar days after the student learns, or should have learned, that the student has a basis for filing a grievance. Pursuing an informal remedy for a grievance does not relieve the Grievant of the responsibility of requesting a Grievance Hearing within one hundred twenty (120) calendar days of the incident giving rise to the grievance.

## **3. INFORMAL RESOLUTION**

All parties involved should be encouraged to seek an informal remedy. Informal meetings and discussion between persons directly involved in a grievance are essential at the outset of the dispute and should be encouraged at all stages. An equitable solution should be sought before persons directly involved in the case have assumed official or public positions that might tend to polarize the dispute and render a solution more difficult.

- a. In an effort to resolve the matter in an informal manner, the student(s) may, if appropriate, schedule a meeting with the person with whom the student(s) has the grievance, and if necessary, schedule a meeting with the person's immediate supervisor and/or schedule a meeting with the appropriate college administrator.
- b. If the matter is not resolved at step "a," the student will contact the College Ombudsperson for assistance. The student shall provide the Ombudsperson with a written Statement of Grievance and may provide any other information and documentation in support of the grievance. The Statement of Grievance shall specify the time, place, nature of complaint, and the remedy or corrective action requested. If a student believes that a specific District policy has been violated, the student should specify the policy or policies alleged to have been violated. The Ombudsperson shall inform the student of the student's rights and responsibilities under this regulation.
- c. The Ombudsperson will provide a copy of the Statement of Grievance to the Respondent within ten (10) instructional days of receipt of the grievance, or as soon thereafter as practicable.
- d. The Ombudsperson shall gather, copy and review pertinent information, records and documentation and communicate with all parties, and attempt to mediate an informal resolution.

#### **4. FORMAL RESOLUTION PROCEDURES**

- a. Thirty (30) instructional days after the student has requested assistance from the Ombudsperson (and provided a written Statement of Grievance), but not later than one-hundred twenty calendar days after the incident, if there is no informal resolution of the grievance, the student has a right to request a Grievance Hearing. The student may also request, through the Ombudsperson, that any relevant information and documentation be made available at a hearing. The information requested will be provided in such a way that it does not violate the privacy rights of others. The Grievance Hearing Request must be made within one hundred and twenty (120) calendar days of the date of the alleged incident that is the basis of the student's complaint.
- b. The Grievant may request from the Ombudsperson the assistance of a Student Advocate, if the Grievant so chooses (see Section 10); or the Grievant may obtain the assistance of a person of his or her choice, except the Grievant may not be represented by legal counsel.
- c. The Respondent may represent himself or herself; or the Respondent may obtain the assistance of a person of his or her choice, except the Respondent may not be represented by legal counsel.
- d. Within ten (10) instructional days following receipt of the Request for a Grievance Hearing, or as soon thereafter as practicable, a Grievance Hearing Committee (see Section 6) shall meet to select a chairperson and decide if a Grievance Hearing will be held. The Committee shall consider whether the Grievant has met the following requirements:
  1. The request contains allegations, which, if true, would constitute a grievance under Section 1 of these procedures;

2. The Grievant(s) has standing to assert the claim by being a student;
  3. The Grievant has met the requirements of the grievance procedure with respect to timeliness and standing to file; and the alleged act is subject to the grievance procedure;
  4. The Grievant (s) is personally and directly affected by the alleged grievance;
  5. The remedy requested by the Grievant is appropriate for the act that is alleged and is not frivolous; and
  6. The Grievant has cooperated in the processing of the grievance.
- e. If the above conditions are satisfied, the Grievance Hearing Committee Chairperson shall notify the Ombudsperson in writing, within five (5) instructional days, or as soon thereafter as practicable, that a Grievance Hearing will be held. At this time, the Grievance Hearing Committee may request the production of documents, records and information requested by the Grievant and by the Respondent.

Within ten (10) instructional days of the Grievance Hearing Committee's decision on whether to hold a hearing, the Ombudsperson shall notify the Grievant and Respondent that a Grievance Hearing will or will not be held, and whether the Grievance Hearing Committee is requesting certain additional information.

The Ombudsperson shall collect any documents requested by the Grievant, Respondent, or Grievance Hearing Committee and provide copies to the Grievant and respondent five (5) instructional days prior to the Grievance Hearing. The Ombudsperson shall schedule a Grievance Hearing, which shall commence within twenty (20) instructional days following the decision to grant a hearing, or as soon thereafter as practicable. All parties to the grievance shall be given no less than ten (10) instructional days' notice of the time and place of the hearing.

- f. If the Grievance Hearing Committee rejects the request for a Grievance Hearing, the Ombudsperson shall be notified, in writing, within five (5) instructional days, by the Committee's Chairperson. The specific reason(s) for rejection shall be stated. The Ombudsperson shall notify the Grievant in writing of the Grievance Hearing Committee's decision not to grant the request for a hearing within ten (10) instructional days of receipt of the decision. The notification shall contain the decision and the statement of reasons on which the decision is based. The notification shall also contain the appeal rights of the Grievant (see Section 7) as well as the names of the members of the Grievance Hearing Committee.
- g. If the Grievance Hearing Committee grants the Grievant's request for a hearing, the Grievance Hearing will be conducted in accordance the procedures delineated in Section 5.
- h. Within ten (10) instructional days following the conclusion of the Grievance Hearing, the Grievance Hearing Committee shall issue to the Ombudsperson a written recommendation intended for the College President. The recommendation shall include a statement of reasons for the recommendation. The Grievance Hearing Committee shall base its recommendation only upon the record of the

hearing and shall not consider matters outside of the record. Within ten (10) instructional days following receipt of the Grievance Hearing Committee's written recommendation, the Ombudsperson shall forward copies to the Grievant and the Respondent.

- i. If there is no appeal in accordance with Section 7, the Ombudsperson will forward the Grievance Hearing Committee's recommendations to the College President for review. The College President shall make a final decision and notify the Ombudsperson of that decision within ten (10) instructional days of receipt of the Grievance Hearing Committee's recommendations. Within ten (10) instructional days following receipt of the President's decision, the Ombudsperson shall forward copies of the President's decision to the Grievant and Respondent.
- j. If the Grievance Hearing Committee's recommendation is appealed, the Chief Student Services Officer shall forward the appeal of the Grievance Hearing Committee's recommendations to the Grievance Appeals Committee for review pursuant to the provisions of Section 7.

## **5. GRIEVANCE HEARING PROCEDURES**

- a. The Grievance Hearing shall be conducted in a manner determined by the Grievance Hearing Committee. Each party to the grievance may call witnesses and introduce oral and written testimony relevant to the issues of the grievance. The Grievant(s) and Respondent(s) have the right to question witnesses and to review all documents presented to the Hearing Committee.
- b. The Grievance Hearing Committee shall meet and consider the relevance and weight of the testimony and evidence presented. The committee shall reach a decision only upon the record of the hearing and shall not consider matters outside of that record. However, if a party or parties cited in the grievance fails to either 1) be present at the grievance hearing; 2) speak to the specific allegations of the grievance at the hearing; or 3) respond to reasonable requests for the information made by the student, the Ombudsperson, or the Grievance Hearing Committee, then the Grievance Hearing Committee may request that the College President, or the appropriate Vice President, direct the respondent(s) to do so.
- c. Formal rules of evidence shall not apply. Any relevant evidence, as determined by the Grievance Hearing Committee, shall be admitted.
- d. The burden shall be upon the Grievant (s) to prove by a preponderance of the evidence that the facts alleged are true.
- e. The Grievant and Respondent may represent himself or herself, or be represented by a person of their choice, except that neither the Grievant nor the Respondent shall be entitled to representation by legal counsel. In selecting a representative, the Grievant may choose an Advocate for Students (see Section 10) but is not required to do so.
- f. The Grievance Hearing shall be closed and confidential, unless it is the request of both parties that the hearing be open to the public.
- g. In a closed Grievance Hearing, witnesses shall not be present at the Grievance Hearing when not testifying unless both parties and the Grievance Hearing Committee agree to the contrary.

- h. The Grievance Hearing shall be recorded by an audio recording device, by the Ombudsperson, in accordance with the following procedures:
  - 1. All oral testimony shall be audio recorded. If a person called upon to give oral testimony refuses to consent to being recorded, they may not testify at the hearing.
  - 2. At the beginning of every meeting, all parties present for the formal hearing shall orally identify themselves by name for the audio recording record.
  - 3. The Grievance Hearing Committee Chairperson shall instruct all parties present for the formal hearing to identify themselves when speaking and instruct all present that only one person is to speak at a time so the audio recording will be understandable.
  - 4. Only one audio recording device shall be allowed at the Grievance Hearing. No other audio recording device shall be allowed.
- i. When the presentation of evidence is concluded, the Grievance Hearing Committee's deliberations shall be confidential and closed to all parties. The Grievance Hearing Committee's deliberations shall not be audio-recorded. Only those Grievance Hearing Committee members present throughout the Grievance Hearing may vote on the recommendations of the Grievance Hearing Committee.
- j. The grievance file, including all documents and recordings, shall be retained in a secure location on campus for a period of seven (7) years. The Grievant (s) and Respondent(s) may have access, upon request, to the files and recordings, and may request copies of the files and recordings through the Ombudsperson. The costs of these copies shall be paid by the individual making the request.
- k. All matters discussed during the closed Grievance Hearing shall remain confidential. Any violations of this provision are subject to disciplinary action.

## 6. **GRIEVANCE HEARING COMMITTEE COMPOSITION**

- a. The College President shall annually establish, a standing panel from which one or more Grievance Hearing Committees may be appointed. The panel shall consist of a minimum of:
  - 1. Five (5) students recommended by the Associated Student Government Organization;
  - 2. Five (5) faculty members recommended by the Academic Senate; and
  - 3. Five (5) administrators/supervisors selected by the College President.
- b. The College President shall appoint a Grievance Hearing Committee from the standing panel and shall ensure that committee members have no possible conflict of interest in hearing the grievance. The Grievance Hearing Committee shall be constituted in accordance with the following minimum criteria:
  - 1. Two (2) students;

2. Two (2) faculty members not from the same discipline as the Respondent; and
  3. One (1) administrator/supervisor.
- c. Three (3) voting members shall constitute a quorum by which business may proceed. The quorum must include at least one (1) student, one (1) faculty member, and one (1) administrator/supervisor.
  - d. Once a Grievance Hearing has commenced only those Grievance Hearing Committee members present throughout the Grievance Hearing may vote on the committee's actions.
  - e. The Grievance Hearing Committee shall select a chairperson from among its members.
  - f. No person shall serve as a member of the Grievance Hearing Committee if that person has been personally involved in any matter giving rise to the grievance, has made any public statement on the matters at issue, or could otherwise not act in a fair manner. The Grievant (s) or Respondent(s) may challenge for cause any member of the Grievance Hearing Committee prior to the beginning of the hearing by addressing a challenge, in writing, to the College President who shall determine whether cause for disqualification has been shown. If the College President feels that sufficient ground for removal of a member of the Grievance Hearing Committee has been presented, the College President shall remove the challenged member or members and replace them with another member or members from the standing panel.

## 7. **APPEAL PROCESS**

- a. Parties to the grievance may appeal the Grievance Hearing Committee's actions to the Grievance Appeals Committee. The Grievance Appeals Committee, consisting of the Chief Instructional Officer, the Chief Student Services Officer, the Academic Senate President (or designee), and one faculty member selected by the Academic Senate, shall review all appeals.
- b. **Appeal of a Decision Not to Hold a Grievance Hearing.** If the Grievant is dissatisfied with the decision of the Grievance Hearing Committee not to hold grant a Grievance Hearing, the Grievant may file a written appeal with the Grievance Appeals Committee (through the Chief Student Services Officer) within ten (10) instructional days after receipt of the Grievance Hearing Committee's decision or as soon thereafter as practicable. The appeal must state the specific basis on which it is made along with any supportive information. Within ten (10) instructional days of receipt of the appeal or as soon thereafter as practicable, the Grievance Appeals Committee will meet and review the Grievance Hearing Committee's decision not to hold a Grievance Hearing. Within ten (10) instructional days of its review of the appeal, the Grievance Hearing Committee will make a recommendation to the College President, through the Ombudsperson, on whether or not to hold a Grievance Hearing. Within ten (10) instructional days of receiving the recommendation from the Grievance Appeals Committee, the College President will make a final decision and notify the Grievant and the Respondent, through the Ombudsperson, on whether or not there will be a Grievance Hearing.

If the College President decides that a Grievance Hearing should be held, a Grievance Hearing Committee with different membership shall hear the grievance.

**c. Appeal of a Grievance Hearing Committee's Recommendation After a Grievance Hearing.**

If the Grievant or Respondent is dissatisfied with the Grievance Hearing Committee's recommendations regarding the merits of the grievance, a written appeal may be filed with the Grievance Appeals Committee (through the Chief Student Services Officer) within ten (10) instructional days after receipt of the Grievance Hearing Committee's recommendation. The appeal must state the specific basis on which it is made along with any supportive information. Within ten (10) instructional days of receipt of an appeal or as soon thereafter as practicable, the Grievance Appeals Committee will meet and review the Grievance Hearing Committee's recommendations and the appeal.

Within ten (10) instructional days of its review of the Grievance Hearing Committee's recommendations and the appeal, the Grievance Appeals Committee will make one of the following written recommendations to the College President: 1) uphold the Grievance Hearing Committee's recommendation, 2) reverse the Grievance Hearing Committee's recommendation or 3) order a new Grievance Hearing, because proper procedures were not followed. Within ten (10) instructional days of receipt of the Grievance Appeals Committee's recommendations, or as soon thereafter as practicable, the College President will review the Grievance Appeals Committee's recommendations, make a final decision, and notify the Grievant and Grievance Hearing Committee, through the Ombudsperson, of that final decision.

d. If, after meeting and reviewing an appeal, the Grievance Appeals Committee fails to make a determination regarding the appeal, the Ombudsperson will forward the appeal to the College President, who shall make a final decision on the appeal. The Grievance Appeals Committee will also provide the College President with a written explanation as to why it was unable to make a determination.

**8. ROLE OF THE CHANCELLOR**

If the College President is a party to the action resulting in the grievance, the Chancellor or designee shall assume the responsibilities of the College President in the grievance process.

**9. ROLE AND DUTIES OF THE OMBUDSPERSON**

- a. The role of the Ombudsperson is that of a facilitator of the grievance process, and not that of an advocate for either the Grievant(s) or Respondent(s). Each college shall have an Ombudsperson.
- b. The Ombudsperson shall provide information to Grievant(s) and Respondent(s) concerning the grievance procedures at any stage in the grievance process.
- c. The Ombudsperson may collect information, documents and records pertinent to the case.
- d. The Ombudsperson may hold and facilitate meetings and discussions that may lead to a resolution of the grievance.

- e. The Ombudsperson may train the Student Advocates prior to the Student Advocates assuming the duties of the position.
- f. The Ombudsperson shall sit with the Grievance Hearing Committee and may answer questions upon request but shall not serve as a member or vote.
- g. During the formal hearing stage of the grievance process, the Ombudsperson shall coordinate the preparation and conduct of the Grievance Hearing, including providing in-service training to committee members on hearing procedures and operation.
- h. The Ombudsperson shall ensure that the entire grievance process is conducted in an orderly, fair and respectful manner. The Ombudsperson shall have the authority to exclude from the hearing any individuals who fail to conduct themselves in an orderly, fair and respectful manner.
- i. The Ombudsperson shall be responsible for audio recording the Hearing and arranging for safe storage of the grievance file including the audio recording(s) and documents, for a period not less than seven (7) years.
- j. The Ombudsperson, shall assist the Grievant(s) in understanding the grievance procedures, filing the appropriate forms, meeting all the time lines of these procedures, communicating with college employees and officials and participating in the hearing process. (See Section 10 for non-student advocate options)

#### 10. **ADVOCATES FOR STUDENTS - PANEL COMPOSITION AND ROLE**

- a. The College President shall annually establish, a standing panel from which Student Advocates can be selected. It is recommended that the panel consist of a minimum of:
  - 1. Three (3) students recommended by the Associated Student Organization;
  - 2. Three (3) administrators/supervisors or staff selected by the College President.
- b. The Student Advocate(s) will receive training on process, regulations and procedures from the Ombudsperson. The training shall take place prior to the Student Advocates assumption of the duties of the position.

#### 11. **DEFINITIONS AND MISCELLANEOUS**

- a. "Student" is defined as a person currently enrolled, a person who has filed an application for admission to the college, or a former student.
- b. A "former student" is a person no longer enrolled at the college where the student has a grievable issue.
- c. "Instructional days" shall mean days when the college is in session, excluding Saturdays, Sundays, holidays and summer and winter session days.
- d. Timelines specified in this grievance procedure that govern action by either the Grievant or the Respondent may be shortened or lengthened by mutual consent of all parties.

