

# PROBLEM RESOLUTION

## Students' Problem Resolution Process

*Reference: Education Code Section 76224(a); Title IX, Education Amendments of 1972; ACCJC Accreditation Eligibility Requirement 20; ACCJC Accreditation Standard IV.D*

The purpose of this procedure is to provide a prompt and equitable means of resolving student grievances only. Faculty and staff with complaints regarding student are to refer to Administrative Procedure (AP) 5500, Student Code of Conduct, and AP 5520, Student Discipline Procedures. These procedures shall be available to any student who reasonably believes a college decision or action has adversely affected his or her status, rights or privileges as a student. The procedures shall include, but not be limited to, grievances regarding:

- Sex discrimination as prohibited by Title IX of the Higher Education Amendments of 1972
- Financial aid
- Illegal discrimination
- 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. ("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.
- Act of threat of physical aggression
- Formal complaints of discrimination harassment or sexual assault may be filed on a form prescribed by the State Chancellor. Approved complaint forms are available from the Associate Vice President of Human Resources and the Associate Vice President of Business and Security. An individual who feels she/he has been subjected to sexual assault may also file a report with the Campus Deputy Sheriff or local Police Department.

### This procedure does not apply to:

- Student disciplinary actions, which are covered under a separate Administrative Procedures.(See AP 5520, Student Discipline Procedures.)
- Sexual Harassment or Illegal Discrimination
- Sexual harassment or complaints on the basis of race, color national or ethnic origin , age, gender, sexual orientation, marital status, or physical or mental disability should be direct to the Associate Vice President of Human Resources
- Police citations (i.e. "tickets"); complaints about citations must be directed to the County Courthouse in the same way as any traffic violation.

### DEFINITIONS:

**Grievant:** A student alleging that a college decision or action has adversely affected his or her status, rights, or privileges as a student, or alleges that another student has violated the student's rights.

**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 of the Gavilan College Joint Community College District or a designated representative of the Superintendent/President.

**Student:** A currently enrolled student, a person who has filed an application for admission to the District, or a former student. A grievance by an applicant shall be limited to a complaint regarding denial of admission. Former students shall be limited to grievances relating to course grades to the extent permitted by Education Code Section 76224(a).

**Respondent:** Any person claimed by a grievant to be responsible for the alleged grievance.

**Day:** Unless otherwise provided, day shall mean a day during which the college is in session and regular classes are held, excluding Saturdays and Sundays unless noted

### INFORMAL RESOLUTION OF GRIEVANCES

Each student who has a grievance shall make a reasonable effort to resolve the matter on an informal basis prior to requesting a grievance hearing, and shall attempt to solve the problem with the person with whom the student has the grievance, that person's immediate supervisor, or the local District college administration.

The Superintendent/President of the District has appointed employees who shall assist students in seeking resolution by informal means. They shall be called the Grievance Officers. Student conduct related issues Grievance Officer is the Vice President of Student Services and instructional related issues Grievance Officer is the Vice President of Academic Affairs. The Grievance Officers 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 or she has a grievance shall file a Statement of Grievance with the appropriate Grievance Officer within thirty (30) calendar days of the incident on which the grievance is based, or thirty (30) calendar 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 (2) days following receipt of the Statement of Grievance, 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.

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If at the end of fifteen (15) calendar 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.

### **Informal Resolution of Grievances Involving District Employees**

**Step 1:** The student Shall confer with the faculty member, administrator or staff person directly involved in the facts giving rise to the grievance.

**Step 2:** If unresolved after Step 1, the student shall confer with the faculty member's area dean, or the supervisor of the administrator or staff person.

**Step 3:** If unresolved after Step 2, the student shall confer with the vice president of that dean's or supervisor's division.

**Step 4:** Within the thirty (30) calendar-day limit as outlined above, if the student does not feel that the matter can be resolved after completing Steps 1, 2 and 3, an official statement of Grievance may be filed with the Grievance Officer. The Grievance Officer will advise the student of his/her rights and assist the student, if necessary, in the final preparation of the formal Statement of Grievance.

**Step 5:** If after fifteen (15) days from the first meeting with the Grievance Officer there is no informal resolution, student may request a grievance hearing.

If the complaint involves a grievance against another student, the grievant shall confer directly with the Grievance officer, who will advise the grievant of this/her rights and assist the grievant in preparing a formal Statement of Grievance.

### **GRIEVANCE HEARING COMMITTEE**

The Superintendent/President of the District shall at the beginning of each semester, including any summer session, establish a standing panel of 14 (fourteen) members of the college community, including 6 (six) students, 6 (six) faculty members and 2 (two) 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 2 (two) names to the President of the College for inclusion on the panel. A Grievance Hearing Committee shall be constituted in accordance with the following:

It shall include 2 (two) students, 2 (two) instructors, and 1 (one) 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 Superintendent/President of the District who shall determine whether cause for disqualification has been shown. If the Superintendent/President feels that sufficient ground for removal of a member of the committee has been presented, the Superintendent/President shall remove the challenged member or members and substitute a member or members from the panel described above. This determination is subject to appeal as defined below.

Grievance Officer shall sit with the Grievance Hearing Committee but shall not serve as a member or 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 as on a Request for a Grievance Hearing within thirty (30) calendar days after discovery of the grievable action and after following steps 1, 2, and 3 of the informal grievance process above.

Within ten 10 calendar days following receipt of the Request for Grievance Hearing, the Superintendent/President of the District shall appoint a Grievance Hearing Committee as described above. The Grievance Hearing Committee shall meet in private and without the parties present to select a chair and to determine on the basis of the Statement of Grievance whether it presents sufficient grounds for a hearing.

The determination of whether the Statement of Grievance presents sufficient grounds for a hearing shall be based on the following:

- The statement contains facts which, if true, would constitute a grievance under these procedures;
- The grievant is a student as defined in these procedures, which include applicants and former students;
- The grievant is personally and directly affected by the alleged grievance;
- The grievance was filed in a timely manner;
- The grievance is not clearly frivolous, clearly without foundation, or clearly filed for purposes of harassment.

If the grievance does not meet each of the requirements, the Hearing Committee chair shall notify the student in writing of the rejection of the Request for a Grievance Hearing, together with the

specific reasons for the rejection and the procedures for appeal. This notice will be provided within fifteen (15) calendar days of the date the decision is made by the Grievance Hearing Committee.

If the Request for Grievance Hearing satisfies each of the requirements, the College Grievance Officer shall schedule a grievance hearing. The hearing will begin within forty-five (45) calendar days following the decision to grant a Grievance Hearing. All parties to the grievance shall be given not less than ten (10) days' notice of the date, time and place of the hearing.

### **HEARING PROCEDURE**

The decision of the Grievance Hearing Committee chair shall be final on all matters relating to the conduct of the hearing unless there is a vote of a majority of the other members of the panel to the contrary.

The members of the Grievance Hearing Committee shall be provided with a copy of the grievance and any written response provided by the respondent before the hearing begins.

Each party to the grievance may call witnesses and introduce oral and written testimony relevant to the issues of the matter.

Formal rules of evidence shall not apply. Any relevant evidence shall be admitted.

Unless the Grievance Hearing Committee determines to proceed otherwise, each party to the grievance shall be permitted to make an opening statement. Thereafter, the grievant(s) 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(s) 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 him or herself, and may also have the right to be represented by a person of his or her choice; except that an attorney shall not represent a party 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 five (5) calendar 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 of the District 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 five (5) business 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 shall record the hearing either by tape recording or stenographic recording, and shall 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 him or herself 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 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 tape-recorded shall be considered to be unavailable.

Within fifteen (15) calendar days following the close of the hearing, the Grievance Hearing Committee shall prepare and send to the Superintendent/President of the District 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 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.

### **SUPERINTENDENT/PRESIDENT'S DECISION**

Within fifteen (15) calendar days following receipt of the Grievance Hearing Committee's decision and recommendation(s), the Superintendent/President of the District shall send to all parties his or her written decision, together with the Hearing Committee's decision and recommendations. The Superintendent/President may accept or reject the findings, decisions and recommendations of the Hearing Committee. The factual findings of the Hearing Committee shall be accorded great weight; and if the Superintendent/President does not accept the decision or a finding or recommendation of the Hearing Committee, the Superintendent/

President shall review the record of the hearing, and shall prepare a new written decision, which contains specific factual findings and conclusions. The decision of the Superintendent/President shall be final, subject only to appeal as provided below.

### **APPEAL**

Any appeal relating to a Grievance Hearing Committee decision that the Statement of Grievance does not present a grievance as defined in these procedures shall be made in writing to the Superintendent/President of the District within thirty (30) calendar days of that decision. The Superintendent/President shall review the Statement of Grievance and Request for Grievance Hearing in accordance with the requirements for a grievance provided in these procedures, but shall not consider any other matters. The Superintendent/President's decision whether or not to grant a grievance hearing shall be final and not subject to further appeal.

### **TIME LIMITS**

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

Most complaints, grievances or disciplinary matters can be resolved at the campus level. This is the quickest and most successful way of resolving issues involving a California Community College (CCC). You are encouraged to work through the campus complaint process FIRST.

Issues that are not resolved at the campus level may be presented:

- to the Accrediting Commission for Community and Junior Colleges (ACCJC) at <http://www.accjc.org/complaint-process> if your complaint is associated with the institution's compliance with academic program quality and accrediting standards. ACCJC is the agency that accredits the academic programs of the California Community Colleges.
- to the CCC Chancellor's Office if your complaint does not concern CCC's compliance with academic program quality and accrediting standards by completing the web form at <http://californiacommunitycolleges.cccco.edu/ComplaintsForm.aspx>.
- to the Chancellor's Office website at <http://www.cccco.edu/ChancellorsOffice/Divisions/Legal/Discrimination/tabid/294/Default.aspx> if your complaint involves unlawful discrimination.

Nothing in this disclosure should be construed to limit any right that you may have to take civil or criminal legal action to resolve your complaints.