

STUDENT RIGHTS AND GRIEVANCES

The purpose of this procedure is to provide a prompt and equitable means of resolving student grievances against the District. These procedures shall be available to any student who reasonably believes a District decision or action has adversely affected his or her status, rights or privileges as a student.

This procedure does not apply to:

- Student disciplinary actions, which are covered under Board policies 5500, 5510, and 5550, and Administrative Procedure 5501 and 5520.
- Police citations (i.e. "tickets"); which are covered under Administrative Procedures 6750.
- Sex discrimination as prohibited by Title IX of the Higher Education Amendments of 1972; which is covered under Administrative Procedures 3410 and 3430.
- Sexual harassment; which is covered under separate Administrative Procedures 3410 and 3430, and collective bargaining agreements.
- Illegal discrimination; which is covered under Administrative Procedure 3410 and 3430, and collective bargaining agreements.
- The challenge process for prerequisites, co-requisites, advisories, and limitations on enrollment.
- Employee Discipline.
- Challenges to established district policies and administrative regulations.
- Financial claims against the District.

Furthermore, nothing in this Administrative Procedure can supersede education code or other local, state, or federal rules and regulations.

Definitions:

Bad Faith: Intent to deceive or to act in a manner contrary to law and/or a grade assigned because of a student's protected characteristics contrary to Education Code Section 66250 et. seq. (including, but not limited to, Section 66270) and Title 5, California Code of Regulations, Section 593000 et. Seq. If pursuant to the discrimination and

harassment complaint procedure it is determined that a grade was the results of discrimination or harassment the grade may be changed as a remedy of the discrimination or harassment.

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

District Representative: The person or representative of the group who rendered the decision or action that now serves as basis for the student's grievance against the District.

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."

Fraud: A deception deliberately practiced in order to secure unfair or unlawful gain.

Grievance Hearing Committee: A group made up of student representatives, faculty, and management who may hear the grievance.

Grievance Officer: The Superintendent/President shall appoint an employee who shall assist students in seeking resolution by informal means. This person shall be called the Grievance Officer.

Incompetence: A lack of ability, legal qualification, or fitness to discharge a required duty.

Mistake (in course grade(s)): May include, but is not limited to errors made by an instructor in calculating a student's grade and clerical errors.

Notification: Notification to parties may be via e-mail or telephone followed by a hard-copy document. The e-mail or telephone call will qualify as official notification for timeline purposes.

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.

Representative: A person standing or acting for another especially through delegated authority for either party, which may include a union representative, parent, or legal counsel. (Notification requirements exist for legal counsel as per this administrative procedure).

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

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).

Superintendent/President: The Superintendent/President or a designated representative of the Superintendent/President.

Due Process Procedures:

A. Informal Resolution

All attempts to solve the grievance by informal resolution shall be documented on the COS Statement of Grievance Form (Appendix A).

Step One:

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 District representative making the decision that the student is challenging and may be considered for a grievance.

If the student has a compelling reason for not directly seeking resolution from the District representative, the Grievance Officer and/or the student may seek the assistance of the Dean of Student Services in attempting to resolve a grievance informally. The Dean of Student Services may hold mediation session(s) with the student and the District representative to continue the informal resolution process. The Grievance Officer and/or the student may seek the assistance of the Dean of Student Services in attempting to resolve a grievance at any time during the informal resolution stage (optional). Documentation is required on the Grievance Form (Appendix A).

Step Two:

If the grievance is not resolved, then the student shall continue to seek resolution through the informal process with the assistance of the Division Chair and/or Director and the Area Dean. All attempts to solve the grievance by informal resolution shall be documented on the COS Statement of Grievance Form (Appendix A).

Step Three:

After exhausting all efforts in Step One and Two, the student may contact the District's Grievance Officer. The Grievance Officer shall verify completion of steps 1 and 2 and the required documentation on the Grievance Form (Appendix A).

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. Retaliation by any party stemming from initiating informal discussions or filing of a grievance is

prohibited.

B. Formal Resolution:

Step One:

A student who is still unsatisfied after the informal resolution process has the right to request a Formal Grievance Hearing by submitting to the District's Grievance Officer the Statement of Grievance form (Appendix A), which includes a signed written statement specifying the time, place, and nature of the grievance, identifying what occurred in the informal resolution process and requesting a hearing before the Grievance Hearing Committee.

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.

The Grievance Officer shall sit with the Hearing Committee but shall not serve as a member or vote.

The completed Statement of Grievance form must be submitted with the Grievance Officer no later than twenty (20) school days after the semester concludes that the incident on which the grievance is based occurred. Within five (5) school days following receipt of the Statement of Grievance form, the Grievance Officer shall advise the student of his or her rights and responsibilities under these procedures, and assist the student, if necessary, in the final preparation of the Statement of Grievance form.

Step Two:

Formal Hearing with Grievance Hearing Committee:

When presented with a written Grievance Statement and request for a formal hearing from the student, the Grievance Officer shall forward all documents to the Committee Chair for review. The Committee Chair shall retain the right to approve or deny the formal hearing request based on the guidelines set forth below. The Superintendent/President may delay acting on the case until after the hearing.

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

1. The statement contains facts which, if true, would constitute a grievance under these procedures;
2. The grievant is a student as defined in these procedures, which includes applicants and former students;
3. The grievant is personally and directly affected by the alleged grievance;
4. The grievance was filed in a timely manner; and,
5. 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 five (5) school days of the date the decision is made by the Hearing Committee.

Appeal: The student shall have the right to appeal a rejection of a Request for a formal Grievance Hearing. Any appeal relating to a Grievance Hearing Committee Chairperson decision that the Statement of Grievance does not present a grievance as defined in these procedures shall be made in writing to the Vice President supervising the Division where the alleged decision/action occurred within ten (10) school days of that decision. The appropriate Vice 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 appropriate Vice President's decision whether or not to grant a grievance hearing shall be final and not subject to further appeal.

Step Three:

If the Request for Grievance Hearing satisfies each of the requirements, the Grievance Officer shall schedule a grievance hearing. The hearing will begin within ten (10) school days following the decision to grant a grievance hearing. All parties to the grievance shall be given not less than five (5) school days notice of the date, time, and place of the hearing.

Grievance Hearing Committee Selection:

The Hearing Committee shall consist of the following seven members, each with the same right to vote:

1. Two students appointed by the Student Senate. Any full-time student in good standing is eligible, as defined by the Student Senate Constitution and By-Laws.
2. Two faculty members, one appointed by the Academic Senate President and one by the COSTA President.
3. Two administrators appointed by the Superintendent/President.
4. One person appointed by the Superintendent/President to serve as chairperson. Those eligible are students, faculty members, or administrators other than the Dean of Student Services.

Each person or group appointing a Grievance Hearing Committee member shall also appoint an alternate for each member. The purpose of an alternate is to take the place of a Grievance Hearing Committee member should they be unable to complete the hearing. Alternates may sit as non-voting members of the Grievance Hearing Committee, even if the regularly appointed member is present. Should a voting member of the Grievance Hearing Committee be unable to continue during the course of a hearing, the appropriate alternate may take the place of the voting member.

All seven members and their alternates are eligible for appointment on subsequent

Grievance Hearing Committees. Any four members shall constitute a quorum.

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 statement on the matters at issue, or could otherwise not act in a neutral manner. It is the responsibility of the Grievance Hearing Committee members to declare any potential conflict of interest and excuse themselves from proceedings. It is appropriate for a member of the Grievance Hearing Committee to recuse themselves from a hearing if during such hearing they realize that they cannot 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 Designated Vice President who shall then determine whether cause for disqualification has been shown. This challenge may occur a maximum of two times. If the Designated Vice 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 contact the appropriate group or individual for a substitute member or members from the panel described above in the Grievance Hearing Committee Selection portion.

C. Hearing Committee Procedures:

The Hearing Committee shall conduct its proceedings as follows:

1. Upon notification of the date, time and location of the hearing, all parties shall receive a list of the hearing committee members.
2. The decision of the Grievance Hearing Committee Chair shall be final on all matters relating to the conduct of the hearing.
3. The members of the Grievance Hearing Committee and both parties shall be provided with a copy of the grievance and any written response provided by the respondent before the hearing begins.
4. District representatives and committee members are required to keep all documentation and information related to the hearing confidential before, during, and after the proceedings. Hearings shall be in accordance with the Family Educational Rights and Privacy Act (FERPA).
5. The parties concerned shall have the opportunity to be present at the hearing, and may be accompanied by witnesses to testify on their behalf (a maximum of three witnesses unless special and extenuating circumstances, as determined by the Committee Chair, require more witnesses).
6. All parties to the case shall have the right to present statements, testimony, evidence, and witnesses, and to be represented by counsel, if they desire, and to question witnesses and testimony. Faculty and staff are not required to appear but may be represented by their department.
7. The burden of proof rests with the student who brings forth the grievance against the

District.

8. Formal rules of evidence shall not apply. Any relevant evidence shall be admitted. However, any and all relevant documents supporting either the grievant(s) or District's position may be admitted into evidence at the hearing. These documents shall be labeled as "exhibits" by the Grievance Officer and will remain the property of the District.
9. 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.
10. Each party to the grievance may represent himself or herself, and may also have the right to be represented by a person of his or her choice. If a party wishes to be represented by an attorney, a written request must be presented to the Grievance Officer not less than (5) five school 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. Upon notification from the Grievance Officer that a party will be represented by an attorney, the Hearing Committee Chair may also request legal assistance through the 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.
11. Hearings shall be closed. Witnesses shall not be present at the hearing when not testifying and shall remain outside the hearing until called to testify.
12. The Hearing Committee shall make findings of fact (render a decision) relative to the charges, by a majority vote. The Hearing Committee shall also make recommendations as to penalties or other action which it considers just.

The hearing shall be recorded by the Grievance Officer, either by tape recording or stenographic recording, and shall be the only recording made. Any witness who refuses to be recorded may not be permitted to give testimony. In the event the recording is by tape recording, the 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 at all times unless released to a professional transcribing service. Any party may request and receive a copy of the recording. A material fee may be charged for the copies of the transcription or tape.

All testimony shall be taken under oath; the oath shall be administered by the Hearing Committee Chair. Written statements of witnesses under penalty of perjury shall not be used unless the witness is deemed unavailable to testify by the Hearing Committee Chair. Grievance proceedings shall constitute a student record. As such, the recorded or transcribed hearing and exhibits shall be sealed and archived in the Dean of Student Services Office once Final Action (as described in Section D) has been completed. These

materials shall remain sealed unless a copy of the hearing is requested by either party or upon court order.

Within ten (10) school 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, the list of exhibits entered as evidence and shall include specific conclusions regarding whether a grievance has been established as defined above. The decision shall also include a specific recommendation regarding the relief to be afforded the grievant, if any. The decision shall be based only on the record of the hearing, and not on matters outside of that record. The record consists of the original grievance, any written response, and the oral and written evidence produced at the hearing.

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 by the student to the Superintendent/President within ten (10) school days of that decision.

Final Appeal to Superintendent/President:

Within ten (10) school days following receipt of the Grievance Hearing Committee's decision and recommendation(s), the Superintendent/President 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; no further appeals are allowed.

Reference: Title IX, Education Amendments of 1972; Education Code Section 76224 (a)
Appendix A, COS Statement of Grievance Form
Appendix B, COS Grievance Officer Duties

Adopted: February 12, 2008
Revised: November 3, 2010
Revised: March 30, 2016

STEP ONE:

I have attempted to resolve this issue by informal means with the person or representative of the group responsible for the decision or action (or through mediation with the Dean of Student Services). Please document every contact:

Date of Contact(s):	Means of communication(s): (Example: Email, phone call, office visit, etc.)	How did you attempt to resolve the issue(s)?	What was the result of your attempt(s)?

If additional documentation is needed, please attach.

Signature of District Representative/Dean of Student Services

Date

Does not imply agreement with the student's statement only signifies that student has met with District Representative (Person who rendered decision that now serves as basis for the student's grievance against the District).

Note: In Lieu of District Representative Signature, the student may obtain the signature of the Division Chair or Immediate Supervisor.

STEP TWO:

A. I have attempted to resolve this issue by informal means with the Division Chair and/or Director of the department. Please explain:

Date of contact:	Name/Title of person(s)	Means of communication(s)	How did you attempt to resolve the issue(s)?	What was the result of your attempt(s)?

If additional documentation is needed, please attach.

Signature of Division Chair and/or Director

Date

Does not imply agreement with the student's statement only signifies that student has met with Division Chair and/or Director

B. I have attempted to resolve this issue by informal means with the Area Dean of the department. Please explain:

Date of contact:	Name/Title of person(s)	Means of communication(s)	How did you attempt to resolve the issue(s)?	What was the result of your attempt(s)?

If additional documentation is needed, please attach.

Signature of Area Dean

Date

Does not imply agreement with the student's statement only signifies that student has met with Area Dean

STEP THREE:

I have contacted the District's Grievance Officer to verify completion of STEPS ONE and TWO:

<i>(To be completed by Grievance Officer)</i>		
I have met with student _____ and verified completion of STEPS ONE and TWO as outlined in AP 5530.		
_____ Date	_____ Signature	_____ Print name

OPTIONAL: As suggested by Grievance Officer, I have attempted to resolve this issue through mediation with the Dean of Student Services. Please explain:

<i>Date of contact:</i>	<i>Name/Title of person(s)</i>	<i>Means of communication(s)</i>	<i>How did you attempt to resolve the issue(s)?</i>	<i>What was the result of your attempt(s)?</i>

If additional documentation is needed, please attach.

Signature of Dean of Student Services

Date

Does not imply agreement with the student's statement only signifies that student has met with Dean of Student Services.

FORMAL RESOLUTION (Step One) REQUEST:

It has not been possible to resolve this issue by informal means. I request a formal hearing before the Grievance Hearing Committee.

Student's Signature

Date Request Completed

If requesting a hearing, please submit completed form to Grievance Officer in Room 101. Student may add additional documentation as needed (please attach).

Received by: _____
Grievance Officer

Date

For Office Use Only:

_____ Semester Incident/Issue Occurred _____ Date that semester ended _____ ALL STEPS COMPLETED
_____ Received on time (*Within 20 school days period*) _____ Advised student of rights/ responsibilities

FORMAL HEARING PROCESS:

_____ Date notification sent to Committee Chair (within 10 days of receiving signed request)

_____ Date Grievance Officer was notified REQUEST DENIED:
_____ Date notification was sent to student (*within 5 days*)

_____ Date Grievance Officer was notified REQUEST APPROVED:
_____ Date notification of Hearing Date sent to all parties & committee members.

COS Grievance Officer Duties

Grievance Officer Duties:

The Grievance Officer is appointed by the Superintendent/President of the District. In accordance with Government Code Sections 3540.1, 3544.1 and 3544.7 (modified by Senate Bill 253, August 2003), a confidential employee status is not required for this position.

The Grievance Officer is responsible for:

1. Guiding students who are seeking a resolution to a grievance with the District by:
 - a. Providing a copy of AP 5530, including the grievance form;
 - b. Explaining the steps in AP 5530;
 - c. Clarifying what a grievance procedure includes and excludes;
 - d. Consulting with the Dean of Student Services, if appropriate, in assisting students in the process; and
 - e. Directing students to other resources/staff if necessary
2. Keeping accurate records, this includes:
 - a. Maintaining files on active cases;
 - b. Securing all documents from grievance hearings in locked cabinet;
 - c. Ensuring all records are shared only with Grievance Committee members; and
 - d. Keeps records in accordance with federal and state statutes and regulations.
3. Scheduling the Grievance Hearing by:
 - a. Observing all deadlines; and
 - b. Notifying all parties.
4. During the Grievance Hearing, the Officer shall:
 - a. Take accurate records, including tape recording the procedure;
 - b. Mark all exhibits into evidence;
 - c. Ensure all parties adhere to all rules;
 - d. Provide information to Grievance Hearing Committee as needed; and
 - e. Attend deliberations (but shall not vote).
5. After the Hearing, the officer:
 - a. Submits a summary of the committee's findings to the President; and
 - b. Notifies all parties of the committee's findings.
 - c. Provide copies of taped/transcribed recording only when directed by Dean of Student Services.