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## AP 5530 Student Rights and Grievances

(Replaces current SBCCD AP 5530 and AP 5540)

~~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 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:~~ 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 reasonably believes a college decision or action by an instructor, college official, or by another student 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~~
- ~~• 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.~~
- Sex discrimination, in education programs and activities, as prohibited by Title IX of the Higher Education Amendments of 1972. For grievances related to sexual harassment, sexual assault, or illegal discrimination (i.e. age, ancestry, citizenship status, color, disability, ethnic group identification, gender, marital status, medical condition, national origin, parental status, race, religion, sexual orientation, or veteran status), students should contact the Human Resources Department and/or the San Bernardino Community College Police. Staff members in those areas will assist students with the correct processes for resolution. Complaint and investigation procedures related to harassment and discrimination (including sexual assault, sexual violence, dating violence, stalking, and domestic violence) can be found in Administrative Procedure 3435.
- Financial aid (see AP 5130 Financial Aid for appeals relating to financial aid):
- Course grades, to the extent permitted by Education Code Section 76224(a) (see AP 4231 Grade Changes for appeals relating to course grades)
- The exercise of rights of free expression protected by state and federal constitutions and Education Code Section 76120.

In addition to San Bernardino Community College District Procedures, a student may address a grievance directly to the California Community Colleges Chancellor's Office by accessing the following website:

<http://californiacommunitycolleges.cccco.edu/ComplaintsForm.aspx>

~~This procedure does not apply to:~~ This procedure does not apply to:

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

## Definitions:

### Definitions

~~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.~~ 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.

~~Chancellor—The Chancellor or a designated representative of the Chancellor.~~ Chancellor – The Chancellor or a designated representative of the Chancellor.

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

~~Respondent—Any person claimed by a grievant to be responsible for the alleged grievance.~~ 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.~~ 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

~~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.~~ 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 Chancellor 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.~~  
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 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 or her 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 is-*

~~Grievance Hearing Committee: The Chancellor shall at the beginning of each semester, including any 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 Chancellor for inclusion on the panel. A Grievance Hearing Committee shall be constituted in accordance with the following:~~

- ~~• It shall include [number] students, [number] instructors, 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 Chancellor who shall determine whether cause for disqualification has been shown. If the Chancellor feels that sufficient ground for removal of a member of the committee has been presented, the Chancellor 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 within [number] days after filing the Statement of Grievance as described above.~~

~~Within [number] days following receipt of the request for grievance hearing, the Chancellor 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.~~

## Formal Process

If informal resolution through discussion or mediation does not resolve the conflict, the student shall have the right to request a grievance hearing, in writing, to the Vice president of Student Services. The request for a hearing must be made within 180 calendar days of the incident being grieved.

~~The determination of whether the Statement of Grievance presents sufficient grounds for a hearing shall be based on the following:~~  
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 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 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 grievant is personally and directly affected by the alleged grievance;
- ~~• The grievance was filed in a timely manner;~~  
The grievance was filed in a timely manner;
- ~~• The grievance is not clearly frivolous, clearly without foundation, or clearly filed for purposes of harassment.~~  
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 [number] days of the date the decision is made by the Grievance Hearing Committee.~~  
If the grievance does not meet each of the requirements, the Vice president of Student Services 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 days of the date the decision is made.

~~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.~~ If the Request for Grievance Hearing satisfies each of the requirements, the Vice president of Student Services shall schedule a grievance hearing. The hearing will begin within *ten* days following the decision to grant a Grievance Hearing. All parties to the grievance shall be given not less than *five* 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 procedure is.~~

## ~~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.~~

### Grievance Hearing

The formal grievance hearing will be scheduled within 10 days (during which the college is in session) of receipt of the request.

The grievance hearing committee will be composed of the following:

- One student appointed by the Student Senate president.
- One faculty member appointed by the Academic Senate president if the grievance is against a faculty member.
- One staff member appointed by the Classified Senate president if the grievance is against a staff member.
- Vice president of Student Services, who will chair the committee if the grievance is non-academic, or the Vice president of Instruction if the grievance is academic.

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 chair, who shall determine whether cause for disqualification has been shown. If the chair feels that sufficient ground for removal of a member of the committee has been presented, he or she 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 chair will conduct the hearing. Possible protective measures that may be utilized include, but are not limited to, no-contact orders, remote participation during the hearing (telephone, videoconferencing, use of a privacy screen, etc.), separate waiting areas during hearing, safety escorts, and prohibitions against retaliation.

~~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.~~ The members of the grievance hearing committee will be provided a copy of the grievance and any written response to the grievance.

~~Each party to the grievance may call witnesses and introduce oral and written testimony relevant to~~

~~the issues of the matter.~~ Each party to the grievance may call witnesses and introduce oral and written testimony. Witnesses unable to be present may submit written statements.

~~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.~~

~~Each party to the grievance may represent himself/herself, and may also have the right to be represented by a person of his/her choice; except that a party shall not be represented by an attorney unless, in the judgment of the Grievance 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 Chancellor 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.~~

Although the hearing is formal, rules of evidence do not apply as they would in a court of law.

Each party to the grievance will be permitted to make an opening statement; thereafter, the grievant will present evidence followed by the respondent.

The student may bring an advocate or attorney to the hearing provided the Vice president of Student Services is notified at least five calendar days in advance of the hearing. In the event the student gives notification that he or she will have representation, the respondent has the right to legal counsel and a right to receive notification that the student will have counsel present.

The hearing will be recorded, and the recording shall remain in the custody of the Vice president of Student Services. Any party to the grievance may request a copy of the recording.

~~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.~~ 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 calendar days prior to the date of the hearing. In a closed hearing, witnesses will testify and be excused.

~~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 hearing shall be recorded by the Grievance Officer 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 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 testimony shall be taken under oath; the oath shall be administered by the Grievance Hearing Committee Chair. 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 [number] days following the close of the hearing, the Grievance Hearing Committee shall prepare and send to the Chancellor 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.~~  
The grievance hearing committee will recommend a resolution of the grievance after listening to all of the participants. The committee will inform the student and the respondent in writing about its recommendation within 10 days of the hearing. 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.

Within five days following the close of the hearing, the Grievance Hearing Committee shall prepare and send to the President a written decision. The recommendation shall include specific factual findings regarding the grievance. The recommendation shall also include relief afforded to the student, if any.

~~**Chancellor's Decision:** Within [number] days following receipt of the Grievance Hearing Committee's decision and recommendation(s), the Chancellor shall send to all parties his/her written decision, together with the Hearing Committee's decision and recommendations. The Chancellor 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 Chancellor does not accept the decision or a finding or recommendation of the Hearing Committee, the Chancellor 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 Chancellor shall be final, subject only to appeal as provided below.~~  
Within five days following receipt of the Grievance Hearing Committee's decision and recommendation(s), the President shall send to all parties his/her written decision, together with the Hearing Committee's decision and recommendations. The Chancellor 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 President does not accept the decision or a finding or recommendation of the Hearing Committee, the 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 President shall be final, subject only to appeal as provided below.

## Appeals

The student may appeal the recommendation of the grievance hearing committee by writing to the president within 10 calendar days of being notified of the grievance hearing committee's recommendation. The president will send the student a final decision in writing within 10 calendar days of receiving the appeal.

~~**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 Chancellor within [number] days of that decision. The Chancellor 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 Chancellor's decision whether or not to grant a grievance hearing shall be final and not subject to further 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 president within five days of that decision. The 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 Chancellor's decision whether or not to grant a grievance hearing shall be final and not subject to further appeal.

~~**NOTE: The following section applies only to multi-college Districts.**~~

~~Any party to the grievance may appeal the decision of the Chancellor after a hearing before a Grievance Hearing Committee by filing an appeal with the Chancellor. The Chancellor may designate a District administrator to review the appeal and make a recommendation.~~ Any party to the grievance may appeal the decision of the president after a hearing before a Grievance Hearing Committee by filing an appeal with the Chancellor. The Chancellor may designate a District administrator to review the appeal and make a recommendation.

~~Any such appeal shall be submitted in writing within five days following receipt of the Chancellor's decision and shall state specifically the grounds for appeal.~~ Any such appeal shall be submitted in writing within five days following receipt of the Chancellor's decision and shall state specifically the grounds for appeal.

~~The written appeal shall be sent to all concerned parties. All parties may submit written statements on the appeal.~~ The written appeal shall be sent to all concerned parties. All parties may submit written statements on the appeal.

~~The Chancellor or designee shall review the record of the hearing and the documents submitted in connection with the appeal, but shall not consider any matters outside of the record. Following the review of the record and appeal statements, the Chancellor's designee, if any, shall make a written recommendation to the Chancellor regarding the outcome of the appeal.~~ The Chancellor or designee shall review the record of the hearing and the documents submitted in connection with the appeal, but shall not consider any matters outside of the record. Following the review of the record and appeal statements, the Chancellor's designee, if any, shall make a written recommendation to the Chancellor regarding the outcome of the appeal.

~~The Chancellor may decide to sustain, reverse or modify the decision of the Chancellor's designee. The Chancellor's decision shall be in writing and shall include a statement of reasons for the decision. The Chancellor's decision shall be final.~~

~~The decision on appeal shall be reached within five days after receipt of the appeal documents. Copies of the Chancellor's appeal decision shall be sent to all parties.~~

## ~~Time Limits:~~

### Time Limits

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



- ~~From current SBCCD AP 5530 titled Student Grievances~~

The purpose of this ~~policy procedure~~ is to provide a due process procedure for review and resolution of student grievances.

## ~~Cause and Filing~~

Student grievance proceedings may be initiated against a District employee or another student for any of the following reasons:

1. Any act or threat of intimidation
2. Any act or threat of physical aggression
3. Any arbitrary action or imposition of sanctions without a proper regard to due process as specified in college procedures.

### ~~NOTICE:~~

1. Grades are not grievable (see Board Policy 5540)
2. Sexual Harassment complaints are filed in accordance with Board Policy 3430 and are not covered under Student Grievances.
3. Discrimination complaints are filed in accordance with Board Policy 3430 and are not covered under Student Grievances.

### ~~Who to File a Grievance With?~~

A student may submit a grievance to any manager or employee in any area for delivery to the Vice President of Student Services who will assess which manager or vice president is to oversee the grievance process.

A student grievance is to be handled in the area where the alleged grievance occurred. Examples are:

- Classroom or teacher related issues would go to the vice president or manager in Instruction
- Student service or counselor related issues would go to the vice president or manager in Student Services
- Building, grounds, cashiering, or police related issues would go to the vice president or manager in Administrative Services

## ~~Time for Filing a Grievance Notice~~

The appropriate vice president, district manager, or designee will accept a formal written student grievance when submitted within 180 calendar days of the event's occurrence and under the provisions specified. A grievance may be denied if the events occurred more than 180 calendar days prior to the date in which the grievance was filed in writing.

## ~~Student Status for Filing a Grievance~~

Only registered students may file a student grievance. Non-student grievances may be considered by the designated vice president or manager if the grievance is a result of a dispute arising out of the registration or enrollment process and the grievance is filed within thirty (30) calendar days of the alleged incident.

## ~~Group Grievance~~

If more than one student files a grievance against an individual on the same issue or situation, members of the

group shall select one person to serve as spokesperson/representative for the entire group.

## **~~Informal Student Complaint Resolution Process (Non-written)~~**

**~~Step 1.~~** Every effort shall be made to resolve a student complaint at the lowest level possible. A student must first attempt to resolve the issue directly. If this is not practical or possible, or due to the nature of the problem, or Failing a resolution the grievance progresses to Step 2.

**~~Step 2.~~** A student who is not satisfied with the Step 1 outcome may next attempt to resolve the alleged problem by conferring with the immediate supervisor of the employee with whom the initial conference was held. If the grievance is alleged against another student, Step 2 would be taken to the Director of Student Life. Upon such a request, the administrator shall inform and confer with any employee or student named by the student. In turn, the administrator shall schedule a meeting with the grievant and if requested, all involved parties, not more than ten (10) school days from the date of the initial request.

## **~~Formal Procedures~~**

If the alleged problem is not resolved at the Informal Level, the student may request a formal hearing in writing with the appropriate vice president or designee. This written notice shall state the conditions, practice, alleged act, or injustice that is being grieved, the date(s) of the alleged occurrence and should, if possible, include a proposed remedy or resolution to the problem.

**~~Step 1:~~** Within three (3) working days of receipt of the written student grievance notice, the appropriate Vice President or designee, shall determine if the allegations were filed in a timely manner and meet the criteria outlined. If the student grievance notice fails to meet the above criterion, the Vice President shall notify the student of this determination and the grievance shall be terminated. If the student grievance notice is not terminated, the Vice President shall appoint a Student Grievance Hearing Committee within five (5) working days.

**~~Step 2:~~** Any employee who has conferred with a student who requests a hearing shall prepare a written account of the discussion which shall be forwarded to the appropriate Vice President or designee.

**~~Step 3:~~** The student and any college personnel or student involved in the allegations shall be notified of a hearing and the time and place of the hearing in writing. The notice shall include the names of the Hearing Committee and all documentation relating to the allegation(s).

**~~Step 4:~~** The Hearing Committee shall consist of either a maximum of two faculty or two classified staff members, based on the nature of the classification of staff involved, two students, and one administrator to hear the grievance. The administrator where the issue relates shall serve as chairperson of the hearing committee.

## **~~Hearing Procedures~~**

- a. ~~The hearing shall convene within ten (10) working days of the receipt of the student grievance notice unless mutually agreed upon for a delay.~~
- b. ~~The hearing shall be closed unless the District employee or student against whom the grievance is brought requests that it be open.~~
- c. ~~The following persons should be present:~~

1. ~~The Hearing Committee~~
  2. ~~The student grievant and non-legal representative/advocate if any;~~
  3. ~~The college employee or student against whom the grievance is brought and a representative of the appropriate bargaining unit, if any;~~
  4. ~~Witnesses, while presenting testimony.~~
- d. ~~Both parties shall notify the appropriate Vice President or designee, in writing within three (3) working days of the hearing if he/she will be accompanied by a representative/advocate. Such notification shall include the name and title of the representative. The Committee Chairperson shall be obligated to immediately notify the parties directly involved.~~
- e. ~~Although minutes will be taken at the hearing to provide a written record, if all parties agree the hearing may also be tape recorded.~~
- f. ~~All participants in a hearing shall be advised by the Committee Chairperson that the proceedings are confidential.~~
- g. ~~Witnesses shall not be required to testify under oath; however, witnesses shall be advised that false testimony will constitute grounds for college disciplinary action.~~
- h. ~~The proceedings will not be bound by formal rules of evidence nor trial-like procedures. Rather, the procedures will be those upon which reasonable persons would rely in the conduct of serious affairs. The Committee Chairperson shall rule on all procedural issues. If substantive or procedural issues arise during the hearing that require external assistance for resolution, the Hearing Committee Chairperson should recess the hearing and submit the issue to the college president for resolution.~~
- i. ~~Evidence and/or testimony which may be irrelevant or unduly repetitious may be so noted by the Committee Chairperson.~~
- j. ~~The burden of proof to sustain a grievance rests with the student.~~
- k. ~~If the grievant fails to appear at the time and place scheduled for the hearing, and fails to notify the committee of the circumstances the grievance will be considered to have been withdrawn and procedures will be terminated. Depending on the nature of the circumstances, the committee shall determine if the hearing should be rescheduled within a reasonable period of time. It is recommended that the defendant participate in the hearing.~~
- l. ~~Upon conclusion of the hearing, within five (5) working days, the Committee Chairperson shall submit to the Vice President a written report. The report shall include:~~
1. ~~A brief summary of evidence submitted;~~
  2. ~~A finding of facts, supported by a preponderance of the evidence;~~
  3. ~~A recommendation that the grievance be sustained or denied; and~~
  4. ~~In the event the recommendation is to sustain the grievance, a recommendation of appropriate corrective action.~~
- m. ~~Upon review of the Hearing Committee's report, the Vice President or designee shall make a final determination.~~

## **Notification**

~~Within five (5) working days following receipt of the report of the Hearing Committee chairperson, the Vice President or designee shall provide a written notification to the student/s and to the employee/s directly~~

involved in the issues as to the final determination.

## **Appeal to College President**

If either the complainant or accused is not satisfied with the final college-level disposition of the grievance, the party may, within ten (10) working days, appeal the decision to the College President. The basis of appeals are: All parties shall be notified by the **College** President of the appeal. The **College** President shall provide written notification to the student and to other parties directly involved in the issues as to his/her recommendation within five (5) working days.

## **Appeal to the Chancellor**

If either party is not satisfied with the final college-level disposition of the grievance, he/she may, within ten (10) working days, appeal (state the basis of the appeal again) the decision to the Board of Trustees through the District Chancellor. All parties shall be notified by the Chancellor of the appeal. The Chancellor shall report the grievance in closed session to the Board of Trustees for final determination. The Chancellor shall provide written notification to the student and to other parties directly involved in the issues as to his/her recommendation within five (5) working days. The determination of the Board of Trustees is final.

## **General Provisions**

1. The time limits specified in this procedure may be shortened or extended if there is mutual written concurrence between the parties.
2. At any step of the grievance procedure, the **College** President may designate a substitute for the designated college officials.
3. Failure of the student grievant to appeal a grievance determination at any step to another step within the specified time limits shall be deemed acceptance of the last determination rendered.
4. It is the intent of this policy that the confidentiality of the discussions, including any documents or written records, be maintained by the participants.
5. It will not be mandatory for any staff member to attend the student grievance meetings nor will the student grievance procedure supersede staff member's contractual rights.

- **From current SBCCD AP 5540 titled Student Grade Appeals**

### **Student Grade Appeals**

**BP and AP 4231 titled Grade Changes delineates the process by which grades may be changed.**

Section 76224(a), California Education Code,

"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 incompetence, shall be final."

**Title 5** Section **55025** 55760(a), California Code of Regulation

"In any course of instruction in a community college district for which grades are awarded, the instructor of the course shall determine the grade to be awarded each student in accordance with section 55758 of this chapter. The determination of the student's grade by the instructor shall be final in the absence of mistake, fraud, bad faith, or incompetence. Procedures for the correction of grades given in error shall include expunging the incorrect grade from the record."

~~In any course of instruction in a community college district for which grades are awarded, the instructor of the course shall determine the grade to be awarded each student in accordance with this article. The determination of the student's grade by the instructor shall be final in the absence of mistake, fraud, bad faith, or incompetency.~~

~~For purposes of this section, "mistake" may include, but is not limited to, clerical errors and errors made by an instructor in calculating a student's grade.~~

~~Procedures for the correction of grades shall be consistent with Education Code Section 76232 or provide an alternative mechanism which will ensure that students receive a reasonable and objective review of the requested grade change. If the procedure requires the student to first request a grade change from the instructor, provisions shall be made for another faculty member to substitute for the instructor if the instructor is not available, the student has filed a discrimination complaint or the District determines that it is possible there has been gross misconduct by the original instructor.~~

~~Section 55758 California Code of Regulation~~

~~The academic record of a student who remains in a class beyond the time allowed by district policy must reflect a symbol as authorized in Section 55758 of this part, other than a "W." The governing board may by regulation authorize withdrawal from a class or classes in extenuating circumstances after the last day of the fourteenth week (or 75% of the term, whichever is less) upon petition of the student or his or her representative and after consultation with the instructor(s) or appropriate faculty. Extenuating circumstances are verified cases of accidents, illnesses or other circumstances beyond the control of the student. For purposes of withdrawal policies, the term "appropriate faculty"\* means the instructor of each course in question or, in the event the instructor cannot be contacted, the department chair or equivalent faculty officer.~~

~~**Military Withdrawal:** "Military withdrawal" occurs when a student who is a member of an active or reserve United States military service receives orders compelling a withdrawal from courses. Upon verification of such orders, a withdrawal symbol may be assigned at any time after the period established by the governing board during which no notation is made for withdrawals. Note: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections 70901, 70902 and 76000, Education Code. This means that no individual at the college has the authority to change a grade unless persuasive evidence is presented indicating mistake, fraud, bad faith or incompetence on the instructor's part.~~

## ~~INFORMAL PROCESS~~

~~All attempts should be made to resolve the grade dispute at the lowest level possible; however, a student may proceed directly to the formal process.~~

~~**Step 1:** If possible, the student first meets with the faculty member who issued the grade; or, if the faculty member is no longer employed or working at the College, the student then meets with the Department Chair or designee to resolve the grade dispute. If resolved and a grade change is indicated, the instructor or designee completes a Grade Change Form.~~

~~**Step 2:** If unresolved in Step 1, the student then meets with the Department Chair or designee. If resolved and a grade change is indicated, a Grade Change Form is completed. If the dispute is not resolved then a formal appeal process can be initiated.~~

~~According to code, if mistake, fraud, bad faith, or incompetence is the reason for the grade dispute, the burden of proof lies with the student to produce facts that support this allegation, proceeding then to the formal process. If such evidence exists, the student must complete the Grade Appeal Form and make an appointment to see the Dean.~~

# ~~FORMAL PROCESS~~

~~**STEP 1:** The student meets with the Division Dean who will confer with the faculty member and/or Department Chair or designee, to attempt to resolve the grade dispute. If resolved and a grade change is indicated, the faculty member completes a Grade Change Form.~~

~~**STEP 2: Investigation:** If the matter is not resolved, the student may submit the issue to the Director of Admissions and Records, in consultation with the Vice President of Instruction and appropriate instructional dean, where a full investigation will be conducted within 30 work days of the Step 2 filing date, and a determination made as to status of the grade dispute. During the investigation the student will be able to present evidence of mistake, fraud, bad faith, or incompetence of the instructor. The instructor will be able to provide evidence to support the grade. If the investigation shows fraud, bad faith, or incompetence, the investigative report will be provided to the Vice Chancellor of Human Resources for appropriate action. If a mistake has been made and a grade change is indicated, a Grade Change Form is submitted to Admissions and Records.~~

~~**STEP 3: Hearing:** If the matter is not satisfactorily resolved and a grade change may be warranted because evidence shows fraud, bad faith, or incompetence, the student may request a formal hearing by the Grade Appeal Committee through the Office of Admissions and Records. The committee shall be comprised of the Vice President of Instruction, 2 faculty members, 2 students and one educational administrator (not of the division where the accused faculty member works). A meeting will be convened within five (5) working days (unless mutually agreed upon to delay). The student and instructor, if still employed, will be expected to attend the hearing. All attempts will be made to contact an instructor who is no longer employed by the college regarding the grade dispute. The Grade Appeal Committee will provide a written decision to the student within five (5) working days of the date of the hearing. The decision of the Grade Appeal Committee is final. If resolved, the Change of Grade Form, the Grade Appeal Form, the written summary of the investigation findings, and the written decision of the Grade Appeal Committee are submitted to Admissions and Records.~~

## References:

Education Code Section 76224(a);

;Title IX, Education Amendments of 1972;

~~**ACCJC Accreditation Eligibility Requirement 20;**~~

~~**ACCJC Accreditation Standard IV.D** [34 Code of Federal Regulations Parts 106.1 et seq.:](#) [ACCJC Accreditation Eligibility Requirement 20;](#) [ACCJC Accreditation Standard IV.D](#)~~

## Attachments:

AP 5530 Student Rights and Grievances - Comments

AP 5530 Student Rights and Grievances - Legal Citations

AP5530 -OLD.pdf

SBCCD - Overview for Legal Update 31 Final Version.docx

Comment by Stat, Policy

2/2/2018, 5:48PM EST

Legal changes per Legal Update #31

Comment by Allen, Denise: Professor

3/7/2019, 12:10AM EST



Revisions to this AP were developed by the college VPSS's -

DRAFT