

AP 5530 Student Rights, Grievances, and Due Process

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

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Introduction

The educational philosophy of the Grossmont-Cuyamaca Community College District set forth by board policy BP 1300 Educational Philosophy states that “The colleges recognize the worth of the individual and the fact that individual needs, interests, and capacities vary greatly.” With acceptance of this principle comes the recognition that divergent viewpoints may result and that a process by which these viewpoints can be aired and resolved must be established.

The purpose of this document is to provide a prompt and equitable means for resolving student grievances. In the pursuit of academic goals, the student should be free of unfair or improper action by any member of the campus community. The grievance procedure may be initiated by a student who reasonably believes he or she has been subject to unjust action or denied rights that have adversely affected his or her status, rights, or privileges as a student. It is the responsibility of the student to submit proof of alleged unfair or improper action.

Grievances pertaining to grades are subject to the California Education Code Section 76224(a) which states:

“When grades are given for any course of instruction taught in a community college district, the grade given to each student shall be the grade determined by the faculty member 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.”

This Student Grievance and Due Process Procedure does not apply to the challenge process for prerequisites, corequisites, advisories, and limitations on enrollment; an appeal of residence decision determination; or the determination of eligibility, disqualification or reinstatement of Financial Aid. These processes should be directed to the administrator in charge of the specific area of concern. Alleged violations of sexual harassment policies, actions dealing with student discipline, alleged discrimination on the basis of ethnic group identification, religion, age, gender, color, sexual orientation, physical or mental disability should be directed to the Associate Dean of Student Affairs. This procedure does not apply to police citations (i.e., “tickets”). Complaints regarding citations must be directed to the Campus and Parking Services Office.

If it is reasonable to conclude that, if substantiated, discipline of an employee may follow from a violation, such grievance is not subject to this process. Allegations of this nature will be directed to the appropriate college administrator.

If the grievance is predicated on an alleged unlawful discrimination on the basis of ethnic group identification, religion, age, gender, color, sexual orientation, physical or mental disability, a complaint may be filed with the:

Vice Chancellor of Human Resources
District Office
Grossmont-Cuyamaca Community College District
8800 Grossmont College Drive
El Cajon, CA 92020

Information about grievance procedures and a copy of this document should be available to grievant(s) and/or the student respondent(s) upon request.

The appeal procedure for eligibility, disqualification, and reinstatement of financial aid may be obtained in the Financial Aid Office. Information about other procedures is listed in the schedule of classes, the college catalog, or may be obtained from the Chief Student Services Officer.

Definition of Student Grievance and Due Process Terms

Academic Senate: The elected representative body of the college faculty.

Administrator: The College President or another person designated by him or her who holds a status identified by the Governing Board as an administrative position.

Associate Dean of Student Affairs: The Associate Dean of Student Affairs at each college of the District.

Associated Student Government: The elected student representative body at each college.

Chief Student Services Officer: The Vice Presidents of Student Services at Grossmont College or Cuyamaca College.

Days: Days during which college is in session and regular classes are held, including summer session days, and excluding Saturdays and Sundays, unless otherwise specified in the procedures.

Decision: Any final outcome of the Grievance Council. This includes tie votes or no decision.

District: The Grossmont-Cuyamaca Community College District.

Faculty Member: Any academic employee of the District who is the instructor of record for a class in which a student is enrolled, or a counselor who is providing or has provided services to the student, or other academic employees who provide services related to the student's educational program.

Formal Grievance Hearing Committee: The Formal Grievance Hearing Committee is appointed by the College President and shall consist of two (2) students, two (2) faculty members, and one (1) college administrator, supervisor or staff member.

Grievance Council: The Grievance Council is composed of the Chief Student Services Officer, the Vice President of Instruction and the Chief Business Officer of the college or their designees.

Grievant: A grievant is a person currently enrolled or a person who has filed an application for admission to the college or a former student. Former students shall be limited to grievances relating to course grades to the extent permitted by Education Code Section 76224(a), and must file their grievance within one (1) year of the date the grade was awarded.

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 Formal Grievance Hearing Committee, members of the Grievance Council or the Associate Dean of Student Affairs.

Respondent: Any party who is a student and who is claimed by a grievant to be responsible for the alleged grievance.

Student Advocate: An individual selected from a panel established by the College President to assist a grievant.

Informal Resolution

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

In an effort to resolve the matter in an informal manner, the student may, if appropriate, schedule a meeting with the person with whom the student has the grievance, schedule a meeting with the person's immediate supervisor, and/or schedule a meeting with the appropriate college administrator.

If the matter is not resolved in an informal manner, the student may, if appropriate, schedule a meeting with the Associate Dean of Student Affairs to explore student rights and responsibilities and receive assistance with an informal resolution.

- The Associate Dean of Student Affairs may gather information, communicate with all parties and attempt to mediate an informal resolution.
- If the student believes the issue has not been resolved satisfactorily, the student may submit a written Statement of Grievance to the Associate Dean of Student Affairs, specifying the time, place, nature of the complaint, the specific policy or regulation alleged to have been violated, if any, and remedy or correction requested. This statement must be submitted to the Associate Dean of Student Affairs within thirty (30) days of the incident or thirty (30) days after the student learns of the basis for the grievance, whichever is later, but not to exceed one (1) year of the occurrence.
- At the end of ten (10) days following the receipt of the written Statement of Grievance by the Associate Dean of Student Affairs, if there is no informal resolution of the complaint, the student(s) shall have the right to request a Formal Grievance Hearing.

Formal Grievance Hearing

- The student grievant(s) shall file a Formal Grievance Hearing Request Form with the Associate Dean of Student Affairs no sooner than ten(10) days, but not more than fifteen (15) days from filing the written Statement of Grievance.
- The grievant(s) and/or the respondent(s) may request from the Associate Dean of Student Affairs the assistance of a Student Advocate. The grievant(s) or the respondent(s) shall select an advocate from the panel established by the College President.
- Within five (5) days following receipt of the Formal Grievance Hearing Form, the Associate Dean of Student Affairs shall meet with the grievant and all parties to outline their rights and responsibilities.

Formal Grievance Hearing Committee Composition

The College President shall establish annually a standing panel from which one or more Formal Grievance Hearing Committees may be appointed. The panel shall consist of a minimum of:

- Five (5) students recommended by the Associated Student Government;
- Five (5) faculty members recommended by the Academic Senate;
- Five (5) administrators, supervisors or staff selected by the College President.

The College President shall appoint a Formal Grievance Hearing committee from the standing panel. The College President shall ensure that these committee members have no possible conflict of interest in hearing the grievance. The committee shall include two (2) students, two (2) faculty members, and one (1) College administrator, supervisor or staff member selected from the panel described above.

The Formal Grievance Hearing Committee shall select a chairperson from among its members.

Once a Formal Grievance Hearing has commenced, only those committee members present throughout the Hearing may vote on the recommendation.

No person shall serve as a member of the Formal Grievance Hearing Committee if that person has been personally involved in any matter giving rise to the grievance, has made any public statement on the matters at issue, or could otherwise not act in a neutral manner. The grievant(s) or the respondent(s) may challenge for cause any member of the Formal Grievance Hearing Committee prior to the beginning of the hearing by addressing a challenge in writing, to the College President, who shall determine whether cause for disqualification has been shown. If the College President believes that sufficient grounds for removal of a member of the Formal Grievance Hearing Committee have been presented, the College President shall remove the challenged member or members and replace them with another member or members from the standing panel.

Within ten (10) days following receipt of the Formal Grievance Hearing Request Form, the Formal Grievance Hearing Committee shall meet to select a chairperson and to determine if the Formal Grievance Hearing Request fulfills all of the following requirements:

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

If the Formal Grievance Hearing Committee rejects the request for a Formal Grievance Hearing, the grievant and the Associate Dean of Student Affairs shall be notified in writing, within five (5) days, by the committee's chairperson. The specific reason(s) for rejection and the appeal process outlined in this document shall be included in this notification.

If the grievant(s) is dissatisfied with the decision of the Formal Grievance Hearing Committee not to grant a Formal Grievance Hearing, a written appeal may be filed with the Grievance Council within five (5) days after receipt of the Formal Grievance Hearing Committee's decision. The Grievance Council's decision on the appeal is final.

If the request for a Formal Grievance Hearing satisfies all of the requirements listed above, the committee Chairperson shall notify the grievant and the Associate Dean of Student Affairs, in writing, within five (5) days.

The Associate Dean of Student Affairs shall schedule a Formal Grievance Hearing which shall commence within ten (10) days following the decision to grant a Formal Grievance Hearing. All parties to the grievance shall be given no less than five (5) days notice of the date, time and place of the hearing.

The student may represent him or herself or may be assisted by another person except that an attorney shall not represent him or her.

Conduct of the Hearing

Opening: The committee chairperson shall call the hearing to order, introduce the participants, and announce the purpose of the hearing

Burden of Proof and Producing Evidence: Each party to the grievance may call witnesses and introduce oral and written testimony relevant to the issues of the grievance. The grievant(s) and the respondent(s) have the right to question all witnesses and to review all documents presented to the Formal Grievance Hearing Committee.

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

The burden shall be upon the grievant to prove by a preponderance of evidence that the facts alleged are true.

Student Advocacy: The grievant(s) or the respondent(s) shall have the right to be assisted by a Student Advocate or by an individual of their choice. The grievant(s) and the respondent(s) may assist him or herself, or may be assisted by a person of the party's choice, except that neither the grievant(s) nor the respondent(s) shall be entitled to representation by legal counsel.

Exclusion of Witnesses: The hearing shall be closed and confidential, unless it is the request of both parties that the hearing be open to the public. Any such request must be made in writing no less than five (5) days prior to the date of the hearing.

In a closed hearing, witnesses shall not be present at the hearing when not testifying unless both parties and the Formal Grievance Hearing Committee agree to the contrary.

Tape-Recording: The hearing shall be tape-recorded in accordance with the following procedures:

- All oral testimony shall be tape-recorded. If a person called upon to give oral testimony refuses to consent to being recorded, they may not testify at the hearing.
- At the beginning of every hearing, all parties present for the hearing shall orally identify themselves by name for the tape-recording.
- The committee chairperson shall instruct all parties present for the hearing to identify themselves when speaking and instruct all present that only one person is to speak at a time so the tape-recording will be understandable.
- Only one tape-recorder shall be allowed at the hearing. No other recording device shall be allowed.

When the presentation of evidence is concluded, the Formal Grievance Hearing Committee's deliberations shall be confidential and closed to all parties. The Formal Grievance Hearing Committee's deliberations shall not be tape-recorded. Only those committee members present throughout the entire hearing may vote on the decision.

The grievance file, including tapes and all documents, shall be retained in a secure location on campus for a period of four (4) years. The grievant(s) and the respondent(s) may have access, upon request, to the files and tapes through the Associate Dean of Student Affairs. The individual making the request shall pay the costs of any copies requested.

The Formal Grievance Hearing Committee shall meet and consider the relevance and weight of the testimony and evidence presented. This committee shall reach a decision only upon the record of the hearing and shall not consider matters outside of that record. Within five (5) days following the conclusion of the hearing, this committee shall issue a written recommendation that includes a statement of reasons for its conclusions. The committee's recommendation shall be forwarded to the Grievance Council through the Chief Student Services Officer with copies to the grievant(s) and the student respondent(s).

Grievance Council

The Grievance Council shall be composed of the Chief Student Services Officer, the Vice President of Instruction, and the Chief Business Officer of the college or designees.

Upon receipt of the Formal Grievance Hearing Committee's recommendation, the Chief Student Services Officer shall call a meeting of the Grievance Council.

The Grievance Council shall consider the committee's recommendation and any materials pertinent to the grievance, but shall not consider matters outside of the record. The Grievance Council shall render a written decision to the grievant(s) and the respondent(s) within five (5) days of receipt of the Formal Grievance Hearing Committee's recommendation.

Appeal Process

If either party is dissatisfied with a Grievance Council's decision, a written appeal may be filed with the College President within five (5) days of receipt of the Grievance Council's decision. If the College President is a party to the grievance, the appeal will be submitted directly to the District Chancellor.

Within five (5) days, the Grievance Council, or the College President (or District Chancellor if the President is a party to the grievance) shall send copies of the appeal to each party.

The College President (or the District Chancellor if the President is a party to the grievance), after reviewing the record of the Formal Grievance Hearing Committee, shall make a decision on the appeal and notify the parties in writing within five (5) days.

The College President's (or the District Chancellor's if the College President is a party to the grievance) decision shall be in writing and shall include a statement of reasons for the decision. The College President's (or District Chancellor's) decision shall be final.

Role and Duties of the Associate Dean of Student Affairs

The role of the Associate Dean of Student Affairs is that of a facilitator of the grievance process, and not that of an advocate for either the grievant(s) or the student respondent(s).

The Associate Dean of Student Affairs shall provide information to the grievant(s) and the respondent(s) regarding the grievance procedures at any stage in the grievance process.

During the informal resolution stage of the grievance process, the Associate Dean of Student Affairs shall facilitate informal meetings and discussions that may lead to a resolution of the grievance.

The Associate Dean of Student Affairs shall sit with the Formal Grievance Hearing Committee but shall not serve as a member or vote. During the Formal Grievance Hearing stage of the grievance process, the Associate Dean of Student Affairs shall coordinate the preparation and shall conduct the hearing, including providing in-service training to committee members on hearing procedures and operations. The Associate Dean of Student Affairs shall ensure that the entire grievance process is conducted in an orderly, fair, and respectful manner.

The Associate Dean of Student Affairs shall have the authority to exclude from the hearing any individuals who fail to conduct themselves in an orderly, fair, and respectful manner. The Associate Dean of Student Affairs shall be responsible for tape recording the hearing and arranging for safe storage of the grievance file, including tape(s) and documents, for a period of no less than four (4) years.

Student Advocate -- Panel Composition and Role

The College President shall annually establish a standing panel from which the student(s) who files the grievance or the respondent(s) select Student Advocates. The panel shall consist of a minimum of:

- Two (2) students recommended by the Associated Student Government;
- Two (2) faculty members recommended by the Academic Senate;
- Two (2) administrators, supervisors or staff selected by the College President.

The Associate Dean of Student Affairs will train the Student Advocate(s) regarding the grievance process, regulations, and procedures. This training shall take place prior to the Student Advocate's assumption of the duties of this position.

The Student Advocate(s) shall assist the grievant(s) or the respondent(s) in understanding the grievance procedures, filing the appropriate forms, meeting all the timelines of these procedures, and communicating with college officials.

Time Limits

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