

Student Grievance Procedure

August 2014

Student Grievance Procedure

A. Purpose

The purpose of this procedure is to provide a prompt and equitable means of resolving student grievances. These procedures are 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, grievance 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* – unintentional error on part of the instructor
 - *Fraud* – intentional misrepresentation of any or all facts, which lead to a negative outcome
 - *Bad faith* – any other intentional act of the instructor, which negatively impacts the grade of the student
 - *Incompetency* – there is evidence that the instructor does not have the knowledge, skills, and/or abilities to conduct and fairly grade the course. Incompetence is usually pervasive, and not restricted to one student or one incident
- The exercise of rights of free expression protected by the state and federal constitutions and Education Code Section 76120.

The procedure does not apply to:

- Student disciplinary actions, which are covered under different board policies and administrative procedures
- Sexual harassment and illegal discrimination, which are covered under different board policies and administrative procedures
- Police citations (i.e., “tickets”), of which complaints regarding citations must be directed to the County Courthouse in the same way as any traffic violation.

B. Process

Any student who believes he or she has a grievance shall begin the informal level within thirty (30) instructional days of the incident on which the grievance is based, or thirty (30) instructional days after the student learns of the basis for the grievance, whichever is later. If a student fails to file a Statement of Grievance

within sixty (60) instructional days, he or she has forfeited his or her right to file a grievance for that alleged circumstance.

1. Informal Level

Informal meetings and discussion between persons directly involved in a grievance are essential at the onset of a dispute and should be encouraged at all stages. Every effort shall be made to resolve a student complaint at the lowest level possible. Any discussion during the informal process must be held in confidence by all parties involved.

- a. A student will be encouraged to contact the appropriate faculty or staff member against whom the complaint exists and attempt, in good faith, to present his/her complaint and resolve the concern through the consultative process.
- b. If there is no resolution after meeting with the faculty/staff member, or the faculty/staff member refuses to meet or respond within ten (10) instructional days, the student may proceed to the next step by meeting with the faculty member's coordinator or staff member's immediate supervisor.
- c. If the complaint is still not resolved, the student must meet with the faculty or staff member's school dean or supervisor and submit to that person the Statement of Grievance.
- d. The appropriate Administrator will convene a meeting with the student and the person the grievance was filed against.
- e. If the student has not been able to resolve the complaint/grievance at any of the informal steps above, the student may file a Request for Grievance Hearing with the Dean of Student Discipline within ten (10) instructional days after meeting with the school dean or supervisor.

2. Formal Level

The student will complete all steps in the informal process prior to filing the Request for Grievance Hearing form.

a. Grievance Hearing Request

The student will submit to the Dean of Student Discipline, a Request for Grievance Hearing form, including:

1. Statement of Grievance form and all supporting facts and documentation
2. The following options will need to be included in the request if the student chooses to pursue:
 - a. The hearing shall be conducted privately unless the student requests that it be open to the public. In the event the student requests a public hearing, the hearing will remain closed to the public during any portions that would lead to the giving out of information involving other students that would be in violation of state or federal law regarding the privacy of those students and/or their student records.

- b. The student may represent himself/herself, and may also have the right to be accompanied by a person of his/her choice; except that a party shall not be accompanied by an attorney unless, in the judgment of the Grievance Hearing Panel, complex legal issues are involved.
- c. If the student wishes to be accompanied by an attorney, the request must include the attorney's name and contact information.
 - 1) If the student is permitted to be accompanied by an attorney, the Dean of Student Discipline may request legal assistance through the Office of the Superintendent/President.
 - 2) The Hearing Panel may also request legal assistance through the Office of the Superintendent/President; any legal advisor provided to the Hearing Panel may sit in an advisory capacity to provide legal counsel but shall not be a member of the Hearing Panel or vote with it.
 - 3) In the event the Hearing Panel permits the student and the College to be accompanied by attorneys, the role of the attorneys shall be limited to providing advice to their respective clients. In no event shall the attorneys present their respective client's case to the Grievance Hearing Panel.
- 3. If harassment or discrimination has been presented as a reason for the grievance, the college will conduct an investigation into the matter. As a result, the grievance will not move forward pending the investigation. Note: All harassment and discrimination complaints should be directed to Human Resources, (909) 652-6531.

b. Grievance Hearing Panel

Within five (5) instructional days after the filing of the Request for Grievance Hearing form, the Grievance Hearing Panel will be established by the Dean of Student Discipline:

An independent five-member grievance hearing panel, including one (1) administrator, two (2) faculty members (not from the academic area involved), and two (2) student representatives shall be selected from the Student Grievance Committee as established by the District. The Dean of Student Discipline will name the chair of the Grievance Hearing Panel. Four members shall constitute a quorum by which Hearing Panel business may proceed. The quorum must include at least one student member, one faculty member, and one administrative member.

Faculty representatives shall be selected by the Faculty Senate. Student representatives shall be selected by the Associated Students of Chaffey College (ASCC).

c. Determination of Whether a Valid Grievance Exists

Within ten (10) instructional days of the establishment of the panel, the Grievance Hearing Panel shall meet in private and without the parties

present determine on the basis of the Statement of Grievance whether it presents sufficient grounds for a hearing. The determination of whether the Statement of Grievance presents sufficient grounds for a hearing shall be based on the following:

- the statement contains facts which, if true, would constitute a grievance under these procedures
- the grievant is a student, which includes applicants and former students
- the grievant is personally and directly affected by the alleged grievance
- the grievance was filed in a timely manner
- the grievance is not clearly frivolous, clearly without foundation, or clearly filed for the purpose of harassment
- the resolution sought is within the purview of the Grievance Hearing Panel

If the grievance does not meet each of the requirements for a grievance, the Grievance Hearing Panel 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 procedures for the appeal. This notice will be provided within five (5) instructional days of the date the decision is made by the Grievance Hearing Panel.

The student may submit a Hearing Appeal form within ten (10) instructional days of receiving notice directly to the Student Discipline Office. Appeals must cite one or more reasons that address the Panel's reason(s) for rejection which the student seeks reconsideration of the decision. Merely disagreeing with the outcome is not sufficient grounds to submit an appeal. This will be the student's final opportunity to request a hearing.

Within ten (10) instructional days of receipt of the Hearing Appeal form and supporting documentation, the Hearing Panel chair shall review all documentation and render a final decision on whether to move forward with conducting a hearing.

Failure to appeal any determination within the specified time limit constitutes a waiver of the right to appeal and shall be deemed acceptance of the last determination rendered.

If the Request for Grievance Hearing satisfies each of the requirements the student will be notified that a hearing will be scheduled.

d. Notice of Grievance Hearing

If the Request for Grievance Hearing satisfies the requirements of a grievance, the person against whom the grievance is directed will be requested to submit to the Dean of Student Discipline, a written response

to the allegations. This grievance response must be submitted within five (5) instructional days of the receiving notice that the Request for Grievance Hearing meets the requirements of a grievance.

Within ten (10) instructional days after a determination is made that the Request for Grievance Hearing meets the requirements of a grievance, the Dean of Student Discipline will notify the parties, in writing, of the date, time, location and guidelines of the grievance hearing. At the time of notification that the hearing will convene, members of the Grievance Hearing Panel shall be provided with a copy of the statement of grievance provided by the student and any written response provided by the person against whom the grievance is directed.

e. Conduct of Grievance Hearing

All appropriate parties shall receive no less than ten (10) instructional days notice prior to the date of the hearing.

The grievance hearing shall be conducted privately with the student, the Grievance Hearing Panel, the Dean of Student Discipline, the Grievance Process Facilitator, and the person against whom the grievance is directed in attendance, unless all parties agree that it be open to the public.

If the student and/or the administrator do not appear and no satisfactory explanation for the absence is made at the earliest opportunity, or if the student and/or the administrator leave the hearing before its conclusion, the hearing shall proceed without the absent party, and the Panel shall reach a decision based on the evidence presented.

The Grievance Hearing Panel will hear the alleged complaint and the response and will examine all supporting facts and documents. The student and the person against whom the grievance is directed shall each be permitted to make an opening statement. The facts supporting the grievance shall be presented by the student. Thereafter, the student shall make the first presentation, followed by the person against whom the grievance is directed. Each may present evidence, call witnesses, question and cross-examine witnesses. Technical rules of evidence shall not apply, but relevant evidence may be admitted and given probative effect only if it is the kind of evidence upon which reasonable persons are accustomed to rely in the conduct of serious affairs. The student may present rebuttal evidence after the person against whom the grievance is directed completes his or her evidence. The burden shall be on the student to prove by substantial evidence that the facts alleged are true.

All testimony will be taken under oath; the oath will be administered by the Grievance Process Facilitator. The Grievance Process Facilitator shall, at

the beginning of the hearing, ask each person present to identify himself/herself by name. The Grievance Hearing Panel may dismiss any witness who fails or refuses to comply with the Panel's instructions.

Witnesses shall not be present at the grievance hearing when not testifying. No witness who refuses to be recorded may be permitted to give testimony. Written statements of witnesses under penalty of perjury shall not be used unless the witness is unavailable. Written statements from individuals not present at the hearing will not be permissible without some authentication of the statement, such as a notary signature and seal.

The grievance hearing shall be recorded by the District and that recording shall be the only recording made. The record may be maintained by any means, including electronic recording, so long as a reasonably accurate and complete written transcription of the proceedings can be made. The recording shall remain in the custody of the Chaffey College at all times, unless released to a professional transcribing service. Either party may request a copy of the recording by submitting a written request to the Dean of Student Discipline.

f. Grievance Hearing Panel Recommendation

Within five (5) instructional days, the Grievance Hearing Panel chair will submit a recommendation in writing with all supporting reasons to the Dean of Student Discipline. The recommendation 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. Written documentation pertaining to the grievance will be confidentially maintained by the Dean of Student Discipline.

g. Dean of Student Discipline Decision

Within five (5) instructional days following receipt of the Grievance Hearing Panel's recommendation(s), the Dean of Student Discipline shall send to all parties his or her written decision, together with the Grievance Hearing Panel's recommendation(s). The Dean of Student Discipline shall adopt, amend, modify, or reject the Grievance Hearing Panel's recommendation(s).

h. Right to Appeal

If either party is not satisfied by the decision of the Dean of Student Discipline, then either party may submit an appeal within fifteen (15)

instructional days of the close of the grievance hearing directly to the Superintendent/President of Chaffey College or designee by submitting a Hearing Appeal form to the Student Discipline Office. Appeals must cite one or more specific flaws on which the student seeks reconsideration of the decision. Merely disagreeing with the outcome is not sufficient grounds to submit an appeal.

Within ten (10) instructional days of receipt of the Hearing Appeal form and supporting documentation, the Superintendent/President or designee shall review all documentation and render a final decision.

Failure to appeal any determination within the specified time limit constitutes a waiver of the right to appeal and shall be deemed acceptance of the last determination rendered.

i. General Provisions

1. A student's refusal to receive or sign a receipt of notice shall not cause the notice to be defective. A student's failure to provide updated address information to the College shall not cause the notice to be defective so long as the College sends notice to the last known address provided to the College by the student.
2. All grievance proceedings shall be confidential and shall be closed to everyone other than those involved in the conduct to the hearing, witnesses while testifying, and the student. In compliance with the Family Education Rights and Privacy Act, persons not party to the proceedings shall be informed of their outcomes only on a "need to know" basis.
3. Any timelines specified in the above procedures may be shortened or lengthened if there is mutual concurrence by all parties.
4. A grievance may be withdrawn by the student at any time. However, the same grievance shall not be filed again by the same student.