

Student Grievance Process

August 2017

Definitions of Terms:

Student - The student grievant who is submitting any grievance forms brought against a Faculty/Staff member.

Faculty/Staff - The person of whom the grievance is being brought against.

Administrator - The person who is the Program Coordinator or Dean of the School in which the student attends.

Instructional Days - Consist of Monday thru Friday and do not include campus closures or observed holidays.

Designee - the Office of Student Discipline and the Dean of Student Life has been designated to receive any documentation on behalf of the Office of the Superintendent/President of Chaffey College.

Act of Affirmation - a solemn and formation declaration of asseveration that an affidavit is true, that the witness will tell the truth.

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:

1. Sex discrimination as prohibited by Title IX of the Higher Education Amendments of 1972
2. Financial aid
3. 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." A Student has the right to challenge the final grade given by the Instructor based on the Instructor demonstrating one of the following:
 - a. Mistake – unintentional error on part of the instructor
 - b. Fraud – intentional misrepresentation of any or all facts, which lead to a negative outcome

- c. Bad faith –any other intentional act of the instructor, which negatively impacts the grade of the student
 - d. 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
4. 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:

- a. Student disciplinary actions, which are covered under different board policies and administrative procedures, please see the section on Disciplinary Sanction.
- b. Sexual harassment and illegal discrimination, which are covered under different board policies and administrative procedures, please see the section on Title IX.
- c. 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 complete the informal process in good faith. The student grievant must file an Informal Grievance Complaint (Form A) along with a written statement of grievance with the School Dean or Program Coordinator 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 Form A within thirty (30) days, he or she has forfeited his or her right to file a grievance for that alleged grievance complaint.

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. The Student must 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 Form A within thirty (30) instructional days of the issuance of the final grade.

- d. The appropriate Administrator will convene a meeting with the student and the person the grievance was filed against within ten (10) instructional days.
- e. If the student has not been able to resolve the grievance at any of the informal steps above, the student may file Formal Grievance Request (Form B) with the Dean of Student Life within ten (10) instructional days after meeting with the School Dean or Supervisor.

* If the Student fails to file Form B within the required timeframe he/she forfeits the right to file a formal grievance for the alleged grievance.

2. Formal Level

The student must complete all steps in the informal process prior to filing Form B.

a. Grievance Hearing Request

The student must submit Form B to the Office of Student Discipline to request a Grievance Hearing with, including:

1. Completed Form A along with a written statement of grievance, and all supporting documentation and facts.
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. If the student wishes to be accompanied by an attorney, the request must be made in writing and include the attorney's name and contact information upon receiving the notification of the hearing date.
 - i. If the student is permitted to be accompanied by an attorney, the Dean of Student Life may request legal assistance through the Office of the Superintendent/President.
 - ii. The Grievance 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 Grievance Hearing Panel or vote with it.
 - iii. In the event the Grievance 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 the student requires special accommodations for their grievance hearing they will need to inform the Office of Student Discipline and Grievance in writing three (3) days before their scheduled hearing. Accommodations will be made on a case-by-case basis and will be coordinated with Disability Programs and Services office.

- a. The student may represent himself/herself, and may also have the right to be represented by a person of his or her choice who is a student or employee of Chaffey College.
4. 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) 652-6523.

b. Grievance Review & Hearing Panel

The Office of Student Discipline shall review Form B together with the supporting documentation supplied by the student to assure that the request is filed within the appropriate timeframe required for a formal grievance request.

Within five (5) instructional days after submitting Form B, the Grievance Hearing Panel will be established by the Dean of Student Life:

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 Life will name the chair of the Grievance Hearing Panel. Four members shall constitute a quorum by which Grievance 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. The Associated Students of Chaffey College (ASCC) Campus Council shall select the Student representatives.

- If scheduling conflicts arise members of the Grievance Hearing Panel may change between the review stage and the grievance hearing.

c. Determination of Whether a Valid Grievance Exists

Within ten (10) instructional days of the establishment of the Grievance Hearing Panel, the Panel shall meet in private and without the parties present review and determine whether Form B along with the supporting documentation presents sufficient grounds for a grievance hearing. The determination of whether Form B presents sufficient grounds for a hearing shall be based on the following:

1. the grievant is a student, which includes applicants and former students (verified by the Office of Student Discipline)
2. the grievance was filed in a timely manner (verified by the Office of Student Discipline)
3. the grievant is personally and directly affected by the alleged grievance

4. the grievance is not clearly frivolous, clearly without foundation, or clearly filed for the purpose of harassment
5. the resolution sought is within the purview of the Grievance Hearing Panel, and based on the alleged violation
6. the statement contains facts which, if true, would constitute a grievance under these procedures

The Grievance Hearing Panel will review and deliberate to decide if there is a valid grievance or not. If the Panel decides that Form B and the supporting documentation satisfies each of the requirements of a grievance, a grievance hearing will be scheduled. For further instructions on a grievance hearing process please move on to section d. Notice of Grievance Hearing.

If the grievance does not meet each of the requirements for a grievance, the Office of Student Discipline shall notify the student in writing of the denial of the request for a grievance hearing. This notice will be provided within five (5) instructional days of the date the decision is made by the Grievance Hearing Panel along with the specific reasons for the denial and procedures for an appeal.

The student may submit a Grievance Review Appeal (Form C) within ten (10) instructional days of receiving notice directly to the Office of Student Discipline. Appeals must be accompanied by a written response that cites one or more reasons that address the Panel's reason(s) for denial 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 for this specific alleged grievance.

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

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 Office 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 Form B meets the requirements of a grievance, the Dean of Student Life 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 copies of Form A along with the written 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 by the Grievance Facilitator with the Student, the Grievance Hearing Panel, the Dean of Student Life, and the Faculty/Staff against whom the grievance is directed in attendance, unless all parties request that it be open to the public.

Either party may bring an individual of their choice to accompany them to the hearing. However, the individual shall be limited to providing advice or support. In no event shall the accompanying individual address the Hearing Panel for the Student.

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

All testimony will be taken under an act of affirmation; the affirmation will be administered by the Grievance Facilitator. The Grievance Facilitator shall, at the beginning of the hearing, ask each person present to identify himself/herself by name. The Grievance Facilitator may dismiss any witness who fails or refuses to comply with the Facilitator's instructions.

The Grievance Hearing Panel will hear the alleged complaint and the response and will examine all supporting facts and documents. The Student and the Faculty/Staff 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 Faculty/Staff. Each may present evidence, call witnesses, as well as 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 Faculty/Staff 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. Furthermore, the Faculty/Staff cannot issue a rebuttal statement.

Witnesses shall only be present at the grievance hearing when testifying. Any witness who refuses to be recorded will not 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 Life within ten (10) days from the hearing.

Technical departures from these procedures and errors in their application shall not be grounds to void the Grievance Panels decision.

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 Life. The recommendation shall include specific factual findings regarding the grievance, and shall include specific conclusions regarding whether a grievance has been established as defined within section A. Purpose. 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 any 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 Office of Student Discipline.

g. Dean of Student Life's Decision

Within five (5) instructional days following receipt of the Grievance Hearing Panel's recommendation(s), the Dean of Student Life shall send to all parties his or her written decision, together with the Grievance Hearing Panel's recommendation(s). The Dean of Student Life 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 Life they may request an appeal by submitting a Grievance Hearing Decision Appeal (Form D) and supporting documentation within five (5) instructional days from receiving notice directly to the Superintendent/President of Chaffey College or designee in the Office of Student Discipline. 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 Form D and any additional 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.