

Student Services

1 AP 5530 STUDENT RIGHTS AND GRIEVANCES

2 References:

- 3 Education Code, Section 76224(a);
- 4 Title IX, Education Amendments of 1972;
- 5 34 Code of Federal Regulations Parts 106.1 et seq.;
- 6 Sections 504 and 508 of the Rehabilitation Act of 1973;
- 7 Americans with Disabilities Act of 1990;
- 8 ACCJC Accreditation Eligibility Requirement 20;
- 9 ACCJC Accreditation Standard IV.D.

10 Note: Complaints under Section 504, Section 508, and/or the Americans with Disabilities
11 Act are to be made to the Section 504/508/ADA Coordinator in the Disabled Student
12 Programs and Services Office or to the Diversity/Compliance/Title IX Officer in the Human
13 Resources Office. Complaints of sexual harassment and other illegal discrimination are
14 to be made to the Diversity/Compliance/Title IX Officer in the Human Resources Office or
15 the Vice President of Human Resources.

16 If a student files a grievance under this procedure that includes an allegation of unlawful
17 discrimination, including harassment or retaliation, the grievance, or portion of the
18 grievance, will immediately be referred to (i) the Diversity/Compliance/Title IX Officer or
19 to the Vice President of Human Resources or designee per AP 3435, "Intake and
20 Processing of the Complaint," or to (ii) the Cerritos College Section 504/ADA Coordinator
21 per Administrative Procedure 3412, for attempted informal resolution or investigation.

22 STUDENT GRIEVANCE PROCEDURES

23 A student of the College may address grievances as applied to and regarding academic,
24 administrative, and instructional matters relating to students, and including, but not limited
25 to, any grievance dealing with any academic or management employee of the District.

26 A grievance shall herein be defined as any act depriving a student of any of the rights set
27 forth in the statement of "Student Rights and Responsibility," or any state, federal, or local
28 codes. Grades and grading grievances are addressed within this administrative
29 procedure. Student should refer to "Student Grade Grievance Procedure."

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

- 32 • The statement contains facts which, if true, would constitute a grievance under
33 these procedures;
- 34 • The grievant is a student, which include applicants and former students;
- 35 • The grievant is personally and directly affected by the alleged grievance;

- 36 • The grievance was filed in a timely manner;
37 • The grievance is not clearly frivolous, clearly without foundation, or clearly filed for
38 purposes of harassment.

39 If the grievance does not meet each of the requirements, the Office of Student Conduct
40 and Grievance or ASCC Chief Justice or designee shall notify the student in writing of the
41 rejection of the request for a grievance hearing, together with the specific reasons for the
42 rejection and the procedures for appeal.

43 **GRIEVANCE PROCEDURE (EXCEPT GRADES AND GRADING, SEXUAL**
44 **HARASSMENT, AND OTHER ILLEGAL DISCRIMINATION):**

45 **STEP I - INFORMAL ACTION**

46 A. The student with a grievance shall first attempt to resolve the matter by informal
47 discussion with the employee(s) involved.

48 B. If the problem is not resolved in step I-A, the student shall then attempt to resolve
49 the matter by informal discussion with the person at the lowest level of supervisory
50 authority for the person with whom there is a complaint.

51 C. If the grievant still believes the issue has not been resolved satisfactorily after Step
52 I-B, a student Statement of Grievance Form may be obtained from the Office of
53 Student Conduct and Grievance. After completion of the Form, specifying the time,
54 place, nature of the complaint and remedy or correction requested, it should be
55 submitted to the Coordinator of Student Conduct and Grievance who will send a
56 copy of the written statement to the ASCC Supreme Court Chief Justice and the
57 Vice President of Academic Affairs. This statement must be submitted within 30
58 instructional days after the grievant has become aware of the act or condition on
59 which the complaint is based. An instructional day is defined as any day Monday
60 through Friday that all normal college business is conducted, both in the classroom
61 and administrative offices. All weekend days and college holidays are excluded.

62 D. The ASCC Chief Justice or Court designee shall attempt to resolve the problem
63 through informal meeting and discussion among the pertinent parties while
64 remaining neutral on all issues involved. This informal meeting and discussion is
65 intended to include the levels of management or administration concerned with the
66 problem and should be completed within ten instructional days, as such days are
67 defined herein. In the event the informal procedure fails, the formal procedure may
68 be implemented.

69 STEP II - FORMAL ACTION

70 A. PRELIMINARY STEPS

71 1. If the grievant does not believe the grievance has been resolved, the grievant may
72 request Step II-Formal Action through the ASCC Chief Justice. The Chief Justice
73 upon receiving the request of the grievant shall call a meeting of the Student
74 Grievance Hearing Committee. The Hearing Committee will be composed in the
75 following manner:

- 76 • ASCC Chief Justice or designee and two Court Justices or designees,
- 77 • the Vice President of Academic Affairs or administrative designee,
- 78 • the Faculty Senate President or Senate designee, and
- 79 • one Faculty Senate member, chosen by the Faculty Senate.

80 If replaced per section II.A.5. herein, the ASCC Chief Justice or designee or Court
81 Justices or designees substitute(s) shall be appointed by the ASCC Court.

82 2. The Chief Justice or designee shall serve as the Hearing Committee Chair, but shall
83 have no vote in committee decisions. The five voting members of the Hearing
84 Committee may be selected within the first six weeks of the academic year. Names
85 selected by the Faculty Senate are to be submitted to the Chief Justice. Members
86 of the Committee are to serve for an academic year.

87 3. The Vice President of Academic Affairs or administrative designee shall serve as
88 Hearing Committee Executive Secretary. The Executive Secretary, a voting
89 member of the committee, shall be responsible for keeping necessary records of
90 committee hearings and assist the ASCC Chief Justice in the conduct of the
91 hearing.

92 4. Grievance Committee members are to deal with all grievances in a confidential
93 manner, except when both parties agree to a public hearing or otherwise required
94 by law.

95 5. No person shall serve as a member of a Hearing Committee if that person has been
96 personally involved in any matter giving rise to the grievance, has made any
97 statement on the matters at issue, or could otherwise not act in a neutral manner.
98 Any party to the grievance may challenge for cause any member of the hearing
99 committee prior to the beginning of the hearing by addressing a challenge to the
100 Hearing Committee Chair, who shall determine whether cause for disqualification
101 has been shown. If the Hearing Committee Chair determines that sufficient
102 grounds for removal of a member of the committee have been presented, the
103 Hearing Committee Chair shall remove the challenged member or members and
104 request a substitute from the original appointing constituent group.

105 B. FORMAL HEARING

106 The Hearing Committee shall conduct its proceedings according to the following
107 procedures:

- 108 1. The Hearing Committee must meet within 15 instructional days after informal action
109 has been completed and the grievant has requested a formal hearing.
- 110 2. The Chair must notify the parties involved within five instructional days before the
111 hearing of the date, time, and location of the hearing and must include a copy of
112 the written complaint, a copy of the Statement of Student Rights and
113 Responsibilities, and copy of the Grievance Procedure.
- 114 3. Four members shall constitute a quorum by which Hearing Committee business
115 may proceed. The quorum must include at least one student member, one faculty
116 member, and one administrative member.
- 117 4. The members of the Hearing Committee shall be provided with a copy of the
118 grievance and any written response provided by the respondent before the hearing
119 begins.
- 120 5. Both parties shall have the right to present personal statements, testimony,
121 evidence, and witnesses. Formal rules of evidence shall not apply. Any relevant
122 evidence shall be admitted. Unless the Hearing Committee determines to proceed
123 otherwise, each party to the grievance shall be permitted to make an opening
124 statement. Thereafter, the grievant or grievants shall make the first presentation,
125 followed by the respondent or respondents. The grievant(s) may present rebuttal
126 evidence after the respondent(s)' evidence. The burden shall be on the grievant
127 or grievants to prove by substantial evidence that the facts alleged are true.
- 128 6. Each party shall have the right to be present, to be accompanied by the person of
129 his or her choice (who may not participate in the hearing), and to question
130 witnesses who are present. In a closed hearing, witnesses shall not be present at
131 the hearing when not testifying, unless all parties and the committee agree to the
132 contrary.
- 133 7. The hearing shall be recorded by the Coordinator of Student Conduct and
134 Grievance, either by audio recording or stenographic recording, and shall be the
135 only recording made. No witness who refuses to be recorded may be permitted to
136 give testimony. The audio or stenographic recording shall remain in the custody
137 of the District, at all times, unless released to a professional transcribing service.
138 Any recognized party to the grievance may request a copy of the recording.
- 139 8. The Hearing Committee Chair shall, at the beginning of the hearing, ask each
140 person present to identify themselves by name, and thereafter shall ask witnesses
141 to identify themselves by name.

- 142 9. The Hearing Committee shall discuss the stated grievance(s), hear testimony,
143 examine witnesses, and receive all available evidence to the charge.
- 144 10. The hearing shall be closed to the public unless otherwise agreed upon in writing
145 by both parties.
- 146 11. The Hearing Committee shall make decisions in private. The Hearing Committee
147 shall write up findings and decisions. Copies of findings and decisions, including
148 majority and minority reports, are to be sent to each party and the appropriate Vice
149 President. The Hearing Committee's decision(s) shall be final unless appealed.
- 150 12. A recording of the proceedings shall be kept in a confidential file in the Office of
151 Student Conduct and Grievance and shall be available at all times to parties
152 directly involved. All documents, communications, and records dealing with the
153 processing of a grievance will be filed separately from the personnel files of the
154 participants. After a period of four years, the grievance file shall be destroyed.
- 155 13. Reprisals of any kind will not be taken by the District or any of its agents against
156 any party of interest or any other participant in the grievance procedure by reason
157 of such participation.
- 158 14. Evidence and testimony given in each case presented shall not be the sole cause
159 of initiating or filing further grievances.
- 160 15. If the grievant does not act within the time limits provided herein, the ability to
161 proceed with the grievance shall be terminated and no further action will be taken.
- 162 16. The number of instructional days indicated at each step herein should be
163 considered a maximum and every effort must be made to expedite the process.
164 Time limits may be extended by mutual consent in writing or by decision of the
165 Hearing Committee.
- 166 17. The Hearing Committee should attempt to reach a decision by discussion and
167 consensus on a workable solution. Voting should be a last course of action.
- 168 18. If in the course of the proceedings a student graduates before a solution is found,
169 the student shall not be denied full consideration under this policy. A student may
170 also submit a grievance after graduation if the grievance did not become known
171 until that time. However, it must be submitted within 30 instructional days after the
172 grievant should have reasonably become aware of the act or condition on which
173 the complaint is based.

174 APPEALS PROCESS

- 175 1. If a party wishes to formally appeal a recommendation of the Hearing Committee,
176 an appeal must be submitted within ten instructional days to the appropriate Vice

177 President, provided the appropriate Vice President is not a direct party to the
178 grievance. If the appropriate Vice President is a direct party to the grievance, and
179 either party is dissatisfied with the recommendation of the Hearing Committee, an
180 appeal may be submitted to a Vice President/Assistant Superintendent not a direct
181 party to the grievance.

182 2. Upon receiving the findings and recommendations of the Hearing Committee, and
183 after examination of the appeal as requested by either party, the appropriate Vice
184 President or alternate may accept or reject the Hearing Committee's decision.

185 3. If the appropriate Vice President or alternate rejects the Hearing Committee's
186 decision, he or she shall submit his or her decision with the stated reasons for
187 objections to the Hearing Committee within ten instructional days. The Hearing
188 Committee shall within ten instructional days reconsider its decision(s) and submit
189 its decisions to the appropriate Vice President for a final decision.

190 4. The appropriate Vice President shall transmit his or her final decision to the parties
191 within ten instructional days.

192 5. An appeal of the appropriate Vice President's decision may be submitted to the
193 President/Superintendent by either party within five instructional days of the
194 appropriate Vice President's decision. The President/Superintendent shall
195 transmit his or her final decision to the parties within ten instructional days.

196 6. An appeal of the President/Superintendent's decision may be submitted to the
197 Board of Trustees by either party within five instructional days of the
198 President/Superintendent's decision. The Board of Trustees may review an
199 appeal for two consecutive regular Board meetings before making a final
200 determination of the matter at the District level.

201 7. The President/Superintendent or designee, or the Board of Trustees may reject a
202 Hearing Committee decision only after reviewing a transcription of the involved
203 hearing.

204 **STUDENT GRADE GRIEVANCE PROCEDURE**

205 A student of the College may present a grade grievance for a final course grade. The
206 California Education Code, Section 76224, quoted below, states the conditions upon
207 which grades or grading can be questioned.

208 "When grades are given for any courses of instruction taught in a community college
209 district, the grade given to each student shall be determined by the instructor of the course
210 and the determination of the student's grade by the instructor, in the absence of mistake,
211 fraud, bad faith, or incompetence, shall be final." "Mistake" may include, but is not limited
212 to, errors made by an instructor in calculating a student's grade and clerical errors.

213 **Definitions**

214 **Fraud** – Fraud consists of some deceitful practice with intent to deprive another of
215 their right.

216 **Bad Faith** – Intentional design to mislead or deceive another, or neglect or refusal
217 to fulfill some duty or contractual obligation.

218 **Incompetence** – That a person is incapable, inefficient, and without the qualities
219 needed to discharge their obligations and duties.

220 **Mistake** – An unintentional act, omission, or error.

221 **Instructional Day** - Any day Monday through Friday that all normal college
222 business is conducted, both in the classroom and in the administrative offices. All
223 weekend days and college holidays are excluded.

224 **STEP I – INDIVIDUAL ACTION**

225 If a student believes they have valid grounds to challenge a final course grade based on
226 the presence of a mistake, fraud, bad faith, or incompetence, they must first meet with
227 the faculty member to attempt to resolve his or her concern informally. Once grades are
228 available, the student is expected to contact their instructor directly to discuss the dispute.
229 If the instructor is not available or is no longer employed, the student should contact the
230 Division Dean.

231 When challenging a grade, the burden of proof is on the student to provide evidence of
232 mistake, fraud, bad faith, or incompetence.

233 **STEP II – MANAGEMENT ACTION**

234 Note: If a student files a grade grievance that includes an allegation of unlawful
235 discrimination, including harassment or retaliation, the grievance, or portion of the
236 grievance, will immediately be referred to (i) the Diversity/Compliance/Title IX Officer or
237 to the Vice President of Human Resources or designee per AP 3435, "Intake and
238 Processing of the Complaint" or to (ii) the Cerritos College Section 504/ADA Coordinator
239 per AP 3412, for attempted informal resolution or investigation.

240 1. The student will submit the Grade Grievance Form on the Office of Student
241 Conduct and Grievance website within 30 instructional days after the completion
242 of the course about which the grade grievance is filed. Information from the form
243 will be used to create a Grade Grievance Petition, provided to the student during
244 the meeting with the Student Conduct Coordinator. Students may obtain an
245 alternate electronic format of this form by request to the Student Conduct
246 Coordinator or Dean of Student Services. Stated deadline still applies.

247 2. The Student Conduct Coordinator will meet with the student to review this
248 procedure and the Grade Grievance Petition. The student must schedule and
249 meet with the Student Conduct Coordinator within 10 instructional days of
250 submitting the form. If the student wishes to pursue the grievance, the Student
251 Conduct Coordinator will sign and date the Petition and provide to the student. In
252 the absence of the Coordinator, the Dean of Student Services will perform these
253 duties.

254 3. The student will present a copy of the Grade Grievance Petition and all supporting
255 evidence to the applicable Division Dean within 10 instructional days of obtaining
256 the signature of the Student Conduct Coordinator. The Division Dean may
257 schedule a meeting with the student and the faculty if appropriate. The Division
258 Dean shall render a decision, and communicate the decision in writing to all parties
259 within 15 instructional days. The outcome notice must include a summary of the
260 grievance allegations, findings from review of the grievance and supporting
261 evidence, a statement of analysis and determination, and instructions for appeal.

262 STEP III – ADMINISTRATIVE ACTION

263 If either party is dissatisfied with the decision of the Division Dean, he or she may appeal
264 the matter to the Vice President of Academic Affairs or designee within ten instructional
265 days of the Division Dean's recommendation. The Vice President of Academic Affairs or
266 designee shall call a meeting with the student, the ASCC Chief Justice, the Division Dean,
267 and if needed, the faculty member. The Vice President of Academic Affairs or designee
268 shall transmit his or her decision to the parties within ten instructional days. The outcome
269 notice must include a summary of the grievance allegations and prior findings, findings
270 from review of the grievance appeal and supporting evidence, a statement of analysis
271 and determination, and instructions for appeal.

272 STEP IV – BOARD OF TRUSTEES ACTION

273 If either party is dissatisfied with the decision of the Vice President of Academic Affairs or
274 designee, an appeal may be submitted to the Board of Trustees. The appeal must be
275 submitted within ten instructional days of the Vice President of Academic Affairs or
276 designee's decision. The Board may review an appeal for two consecutive regular Board
277 meetings during closed session, and if needed, request persons involved in the grievance
278 to appear before making a final determination of the matter at the District level. Following
279 final determination, the outcome will be recorded in the Board minutes and notice
280 provided to all parties in writing from the Office of the President within ten instructional
281 days. The outcome notice must include a summary of the grievance allegations and prior
282 findings, findings from review of the grievance appeal and supporting evidence, and the
283 statement of final determination.

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

286 Also see AP 4231 titled Grade Changes

287 Office of Primary Responsibility: Vice President, Student Services

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