

# BP 5532 General Student Grievances

## Introduction:

The purpose of this policy is to provide a prompt and equitable means for resolving student(s) grievances. In the pursuit of academic goals, the student should be free of unfair or improper action by any member of the academic community. The grievance procedure may be initiated by one or more students who reasonably believe he/she/they have been subject to unjust action or denied rights involving their status or privileges as students. It is the responsibility of the student(s) to submit proof of alleged unfair or improper action. Grievances pertaining to grades may be addressed through the procedures contained in Board Policy 5533, Student Grades or Grading Review Policy.

## I. Definitions:

- A. Grievant – For the purpose of this policy, at the time the alleged circumstance(s) giving rise to a grievance has occurred, a grievant is defined as a student who
  - 1. has submitted an application to the College for the current or upcoming terms, or;
  - 2. is enrolled in, or registered with an academic program of the College, including classes for credit, noncredit classes, fee based training classes, and programs including, but not limited to the Employee Training Institute, Community Education, and free workshops where teaching or training occurs, or;
  - 3. has met the conditions above in the immediately preceding semester or intersession.
  - 4. Grievances by applicants (non-students as described above) shall be limited to a complaint regarding denial of admission.
- B. Days - shall mean normal business days and shall not include Saturdays, Sundays, or administrative holidays.
- C. Respondent – Any person claimed by a grievant to be responsible for the alleged grievance.
- D. Grievance Officer – For the purposes of this policy the Chief Student Services Officer, (CSSO) or designee shall serve as grievance officers.
- E. Standard of Evidence - Should a grievance involve a formal hearing the standard of proof in effect will be that of a “preponderance of evidence.” Evidence may be received of the sort upon which responsible persons are accustomed to rely in the conduct of serious affairs, and is not restricted to evidence admissible under the strict rules of evidence of a court of law.
- F. Burden of Proof - It is the responsibility of the grievant(s) to submit proof of alleged unfair or improper action.
- G. This Policy Does Not Apply to the Following:
  - 1. Challenge process for prerequisites, co-requisites, advisories and limitations on enrollment. (Information on challenges to prerequisites is available from the Office of Admissions & Records.)

2. Grievances pertaining to grades. (See Board Policy 5533, Student Grades or Grading Review Policy.)
3. Alleged violations of sexual harassment, sexual assault, actions dealing with alleged discrimination on the basis of ethnic group identification, religion, age, sex, color, sexual orientation, physical or mental disability. (Refer to Human Resources policy BP 3430, Prohibition of Harassment, and Administrative Procedure 3435, Discrimination and Harassment Investigations).
4. An appeal for residency determination. (File residency determinations with the Office of Admissions & Records.)
5. Eligibility, disqualification or reinstatement of financial aid. (Refer to the Financial Aid Office.)
6. Student Discipline (Actions pertaining to student discipline are handled through the Office of the Dean of Student Services.) (See Board Policies 5529, 2230, 5531.)
7. Parking Citations (or other infractions) (Citation appeals are handled by the Office of Campus Safety.)
8. Freedom of the Press, Student Rights to Expressive Activities (Actions pertaining to freedom, of speech or freedom of expression may be referred to the Office of Student Development.
9. Employee Discipline (Students may file complaints about employee conduct with the appropriate level department chairperson and/or administrator.)
10. Challenges of established District policies, e.g. Board Policies and Administrative Procedures. (Challenges to policies, administrative procedures, or practices may be referred to the appropriate level department and/or administrator.)
11. Financial claims against the District. (Financial claims against the District may be made through the Office of Risk Management.)

## II. Statute Limits:

- A. The statute of limitations period for requesting a grievance hearing under this policy is one hundred twenty (120) days after the occurrence of the incident giving rise to the grievance; or one hundred twenty (120) days after the student learns, or should have learned, that the student has a basis for filing a grievance. (For definition of "days" see, 5532.I.B, above.)
- B. Pursuing an informal remedy for a grievance does not relieve the grievant of the responsibility of requesting a grievance hearing within one hundred twenty (120) days of the incident giving rise to the grievance.
- C. Appeal of the time limits must be made to the grievance officer, and shall be based upon documented extenuating circumstances. (Documentation of extenuating circumstances may include, but are not limited to, verifiable medical records, accident reports, court records, military records, and letters from lawyers, doctors, employers, etc. To clarify that which constitutes a documented extenuating circumstance, contact the designated grievance officer.

### III. Informal Resolution

- A. Each grievant 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(s) with whom the grievant has the grievance, or that person's immediate supervisor if there is no reasonable opportunity to solve the problem with the individual(s) directly involved.
  1. Specifically, the grievant(s) should, if appropriate, schedule a meeting about the issue(s) with the person with whom the grievant(s) has the grievance, and if necessary, schedule a meeting with the person's immediate supervisor and/or schedule a meeting with the appropriate college administrator. An "informal" discussion (for example, after class, or a chance meeting regarding the issue), does not constitute completion of III.A of the informal process.
  2. If the matter is not resolved at III.A above, the grievant will contact the college grievance officer for assistance. (See I.D, above.) The grievant shall provide the grievance officer with a written statement of grievance on the Statement of Grievance form provided to the grievant, and attached to this policy as Form #1, and the grievant may provide any other information and documentation in support of the grievance. The statement of grievance form shall specify the time, place, nature of the complaint, and the remedy or corrective action requested. If a grievant believes that a specific District policy has been violated, the grievant should specify the policy or policies alleged to have been violated, to the best of his or her knowledge. The grievance officer shall inform the grievant of their rights and responsibilities under this policy.
  3. The grievance officer will provide a copy of the statement of grievance to the respondent within ten (10) days of receipt of the grievance, or as soon thereafter as practicable. (In accordance with I.B, above.)
  4. The grievance officer shall gather, copy and review pertinent information, records and documentation and communicate with all parties, and attempt to mediate an informal resolution.

### IV. Formal Resolution

- A. If there is no informal resolution of the grievance, the grievant has a right to request a grievance hearing through the Chief Student Services Officer (CSSO), or designee, and by employing the use of the Request for Formal Grievance Hearing form attached to this policy as Form #2. This request must occur no later than one-hundred twenty (120) days after the alleged incident. The grievant may request that any relevant information and documentation be made available at a hearing. The information requested will be provided in such a way that it does not violate the privacy rights of others. The formal grievance hearing request must be made within one hundred and twenty (120) days of the date of the alleged incident that is the basis of the grievant's complaint.
- B. Meeting of the Grievance Hearing Committee
  1. Within fifteen (15) days following receipt of the request for a grievance hearing, or as soon thereafter as practicable, a Grievance Hearing Committee shall meet to select a chairperson and decide if a grievance hearing will be held. The committee shall consider whether the grievant has met the following requirements:

- a. The request contains allegations, which, if true, would constitute a grievance under this policy;
  - b. The grievant meets the definition of a grievant as defined by this policy (See I.A.1-4, above.);
  - c. The grievant has met the requirements of the grievance policy with respect to timeliness;
  - d. The grievant has attempted to solve the matter informally;
  - e. The grievant(s) is personally and directly affected by the alleged grievance;
  - f. The remedy requested by the grievant is appropriate for the act that is alleged and is not frivolous; clearly without foundation, or clearly filed for the purposes of harassment.
  - g. The grievant has cooperated in the processing of the grievance.
2. If the above conditions are satisfied, and within five (5) days of the meeting, the Grievance Hearing Committee Chairperson shall notify the grievance officer in writing, that a grievance hearing will be held. At this time, the Grievance Hearing Committee may request the production of documents, records, and information requested by the grievant and by the respondent.
  3. If the grievance does not meet each of the requirements, the hearing committee chair shall notify the grievant 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 (5) days of the date the decision is made by the grievance hearing committee. The grievant may appeal this decision per V. A of this policy.
- C. Composition of the Grievance Hearing Committee:
1. The Grievance Hearing Committee shall be made up of five members of the campus community. Two members shall be faculty members appointed by the Academic Senate President. Two members shall be students appointed by the Associated Student Government President. One member shall be a classified staff member appointed by the person with the authority to appoint Classified Staff to committees. ~~President of the Classified Senate.~~ One of the faculty members shall serve as chair. Alternates will be appointed as necessary. Three members of the above committee shall constitute a quorum. All members are entitled to vote on matters related to the grievance.
  2. No person shall serve as a member of the 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 fair manner. The grievant(s) or respondent(s) may challenge for cause any member of the hearing committee prior to the beginning of the hearing by addressing a challenge, in writing, to the CEO or designee who shall determine whether cause for disqualification has been shown. If the CEO or designee feels that sufficient grounds for removal of a member of the grievance committee has been presented, the CEO or designee shall remove the challenged member or members and ask that the appropriate person name a replacement.
- D. Formal Hearing Procedure

1. The grievance officer will ensure that relevant information and documentation is made available at the hearing. Information requested will be provided in such a way that it does not violate the privacy rights of others.
2. 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.
3. The grievant may obtain the assistance or advice of a person of his or her choice, including legal counsel (at his or her own expense), except the grievant may not be represented by legal counsel.
4. The respondent may represent himself or herself; or the respondent may obtain the assistance or advice of a person of his or her choice, (at his or her own expense) including legal counsel, except the respondent may not be represented by legal counsel.
5. Each party to the grievance may call witnesses and introduce oral and written testimony relevant to the issues of the matter.
6. Formal rules of evidence shall not apply. Any relevant evidence shall be admitted.
7. 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(s) shall make the first presentation, followed by the respondent(s). The grievant(s) may present rebuttal evidence after the respondent(s)' evidence. The burden shall be on the grievant(s) to prove with a preponderance of the evidence ~~by substantial evidence~~ that the facts alleged are true and that a grievance has been established as specified IV.B.1.a-g above.
8. 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 ten (10) days prior to the date of the hearing.
9. 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.
10. The hearing shall be recorded by the grievance officer either by tape recording or digital 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 or digital recording, the 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 or digital recording shall remain in the custody of the District, at all times, unless released to a professional transcribing service. Any party may request a copy of the recording.
11. When the presentation of evidence is concluded, the hearing committee's deliberations shall be confidential and closed to all parties. The hearing committee's deliberations shall not be recorded. Only those committee members present throughout the hearing may vote on the recommendations of the Grievance Hearing Committee.

#### E. Findings of the Grievance Hearing Committee

1. Within twenty (20) days following the close of the hearing, the grievance hearing committee shall prepare and send a written decision to the grievant(s), respondent, and grievance officer.
2. The decision shall include specific factual findings regarding the grievance, and shall include specific conclusions regarding whether a grievance has been established as defined in IV.B.1.a-g above.

3. The decision shall also include a specific recommendation regarding the relief to be afforded the grievant, if any.
4. The decision shall be based only on the record of the hearing, and not on matters outside of that record.
5. The record will consist of the original grievance, any written response, and the oral and written evidence produced at the hearing.

## V. Appeal

### A. Part I

1. 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 CEO within ten (10) days of that decision.
2. The CEO shall review the statement of grievance and request for grievance hearing in accordance with the requirements for a grievance provided in this policy, but shall not consider any other matters. The CEO's decision whether or not to grant a grievance hearing shall be final and not subject to further appeal.
3. The decision on appeal shall be reached within five (5) days after receipt of the appeal documents. Copies of the CEO's appeal decision shall be sent to the grievant, respondent, and the grievance officer.

### Part B.

1. Any appeal related to the findings of the grievance hearing committee following a formal hearing shall be made, in writing, to the CEO within ten (10) days of that decision.
2. The CEO 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 CEO shall make a written recommendation regarding the outcome of the appeal.
3. The CEO may decide to sustain, reverse or modify the decision of the grievance hearing committee. The CEO's decision shall include a statement of reasons for the decision. The CEO's decision shall be final.
4. The decision on appeal shall be reached within five days after receipt of the appeal documents. Copies of the CEO's appeal decision shall be sent to the grievant, respondent, and the grievance officer.

Board Approved: 6-28-2017

Next Review Date: Spring, 2023