

Student Grievances

AP 5530

I. PURPOSE:

The purpose of this procedure is to provide a prompt and equitable means of resolving student complaints and grievances for students who reasonably believe a college decision or action has negatively affected their status, rights or privileges as a student. This procedure is for student complaints and grievances only. Faculty and staff with complaints regarding students should refer to *Administrative Procedure 5510 (Student Code of Conduct)* and *5520 (Student Due Process and Discipline)*. This procedure should be used for the following complaints:

1. *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 incompetence, shall be final.”
2. *Act or threat of intimidation or harassment*. These procedures do not apply to sexual harassment or illegal discrimination. Sexual harassment or complaints on the basis of race, color, national or ethnic origin, age, gender, sexual orientation, marital status, or physical or mental disability should be directed to the following contacts:
 - Foothill College: Dean of Student Affairs and Activities or Dean of Enrollment Services
 - De Anza College: Dean of Student Development and EOPS/CARE (illegal discrimination [only](#))
 - [Dean of Counseling and Disability Support Programs and Services \(sexual harassment only\)](#)
 - District Office: Foothill-De Anza Vice Chancellor, Human Resources & Equal Opportunity
3. Imposition of punishment without allowing students to exercise their right to a fair conduct hearing.
4. *The exercise of rights of free expression* protected by state and federal constitutions and Education Code Section 76120.

This procedure does not apply to:

1. *Student disciplinary actions*, which are covered under separate Board policies and Administrative Procedures (See *Administrative Procedure 5520, Student Due Process & Discipline*).
2. *Parking citations; to contest a parking citation, a Foothill-De Anza College District Parking Citation Administrative Review request form must be submitted with the Foothill-De Anza Police Department in person or online at police.fhda.edu.*
3. *Traffic citations* (i.e. “tickets”); complaints about citations must be directed to the Santa Clara County Courthouse.

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4. *Sexual harassment.* Complaints of sexual harassment should be directed to the following contacts:
 - Foothill College: Dean of Student Affairs and Activities or Dean of Enrollment Services
 - De Anza College: Dean of Counseling and Disability Support Programs
 - District Office: Foothill-De Anza Vice Chancellor, Human Resources & Equal Opportunity
5. *Illegal discrimination.* Complaints of discrimination on the basis of race, color, national or ethnic origin, age, gender, sexual orientation, marital status, or physical or mental disability filed against an employee of the District should be directed to the following contacts:
 - Foothill College: Dean of Student Affairs and Activities or Dean of Enrollment Services
 - De Anza College: Dean of Student Development and EOPS/CARE
 - District Office: Foothill-De Anza Vice Chancellor, Human Resources & Equal Opportunity
6. *Residence Determination.* Student should contact the Dean of Enrollment Services at De Anza or Foothill College.
7. [Dismissal from College for Academic Reasons.](#) Student should consult a student services academic counselor.
8. [Prerequisite clearance or challenges for meeting course enrollment requirements.](#)
9. [Resolution of issues previously addressed by another grievance and/or appeal process.](#)

II. DEFINITIONS:

Grievant. A student alleging that a college decision or action has negatively affected their status, rights or privileges as a student, or alleges that another student has violated the student's rights.

Grievance Officer. The individual appointed by the College President or designee to assist students with the grievance process. **In Absentia.** A hearing held without the responding party present.

Party. The student, employee, or any person or side involved in the student complaint or grievance. "Party" shall not include the Grievance Hearing Committee or the College Grievance Officer.

President. The college president or a designated representative of the college president.

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Student. A currently enrolled person, a person who has filed an application for admission to the college, or a former student. A complaint or grievance by an applicant shall be limited to a complaint regarding denial of admission.

Respondent. Any person claimed by a student submitting the complaint to be responsible for the reported actions.

Workday. A workday shall mean days during which the District is in session and regular classes are held, excluding Saturdays, Sundays and district observed holidays. All time deadlines shall be measured by workday, unless otherwise specified as calendar days.

Sanction: A penalty or punishment for disobeying a law or rule.

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California Education Code: A collection of all the laws directly related to California public schools. Local school boards and county offices of education are responsible for complying with these provisions.

Administrative Procedure: Administrative procedures implement policies and are approved through the district's participatory governance process. The Chancellor is charged with recommending changes to policy as well as developing and implementing administrative procedures.

Due Process: The right to due process is grounded in the Fifth Amendment to the U.S. Constitution and ensures that, during disciplinary proceedings, individuals or parties, at public colleges and universities are presented with a notice of the charges and evidence against them and an opportunity to respond to the charges through a fair hearing where the individual or party, being charged with alleged misconduct may also present their evidence in the case.

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Harassment: offensive, belittling, threatening, or otherwise unwelcomed behavior directed at another person.

Deleted: someone based on protected characteristics, including age, race, color, religion, national origin, sex, gender identity, pregnancy, sexual orientation, and disability. ¶

Intimidation: the act or process of attempting to force or deter an action by inducing fear.

Unlawful Discrimination: Unlawful Discrimination is harassment or discrimination based on ethnic group identification, race, religion, color, national origin, ancestry, physical disability, mental disability, medical condition, marital status, sex or gender, age, sexual orientation, or any other legally protected status, or harassment based on the perception that a person has one or more of these statuses or associates with a person or persons perceived as having one or more of these statuses.

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Rebuttal Evidence: Evidence presented by either party of the grievance that disproves or calls into question the statements, evidence or arguments of the opposing party.

Preponderance of the Evidence: Under the preponderance standard, the burden of proof is met when the party with the grievance or complaint provides enough evidence to convince the Hearing Board that there is a greater than 50% chance that their allegations against the

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responding party are true.

Witness: Any individual who has first-hand knowledge and/or is an eyewitness to the incident(s), circumstances or situation(s) which lead to the grievance and can provide specific and factual information during a grievance hearing.

III. INFORMAL RESOLUTION OF GRIEVANCES:

Any student with a complaint or grievance on the grounds listed above, must attempt to resolve the matter informally before requesting a formal grievance hearing (see time limits below). The college president has appointed a Grievance Officer to assist students in this process, which should begin with informal meetings and discussion between the student and the employee(s) with whom the student has a dispute. The responding party and their direct supervisor shall receive notification from the Grievance Officer within 3 workdays after the student submits the Informal Grievance or Complaint Form. This may require the involvement of the employee's immediate supervisor and ultimately the vice president overseeing that campus area.

Informal meetings and discussion between persons directly involved in a grievance are essential and should be encouraged at all stages. An equitable solution should be attempted before those directly involved in the case make public statements or take positions that might exacerbate the dispute and make a solution more difficult. Such informal discussion should only be used for the purpose of settling the dispute and not to build a case for or against any of the parties directly or indirectly involved.

If the student wishes the complaint or grievance to become official, they must submit a "Formal Grievance Hearing Request Form." It must be filed within thirty (30) work days from the date the Informal Grievance or Complaint Form was submitted to the Grievance Officer. Within five (5) work days following receipt of the "Informal Grievance or Complaint Form", the Grievance Officer shall advise the student of their rights and responsibilities under these procedures, and assist the student, as needed, in the final preparation of the Formal Grievance Hearing Request Form, if necessary.

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Steps in the Informal Process Involving College Employees:

Step 1: The student will submit an Informal Grievance or Complaint Form to notify the college's Grievance Officer of the actions or incident involving a college employee that negatively affected the student on the grounds listed above. The student must submit the Informal Grievance or Complaint Form to the college Grievance Officer no later than the last day of finals week of the following quarter from the initial date the grievable action took place or from the initial date the student became aware of the grievable action. If the incident happens during the summer quarter, the student would have until the last day of finals week of the following fall quarter to submit their Informal Grievance or Complaint Form.

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Step 2: The student shall communicate with the faculty member, administrator or classified staff person that allegedly took actions that negatively affected the student in order to resolve the dispute informally.

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Step 3: If the dispute is unresolved after Step 2, the student shall communicate with the faculty member's division dean, or the supervisor of the administrator or classified person.

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Step 4: If the dispute is unresolved after Step 3, the student shall communicate with the vice president of that dean's or supervisor's division.

Step 5: Within the thirty (30) workday limit as outlined above, if the student does not feel that the matter can be resolved after completing Steps 2-4, an official Formal Grievance Hearing Request Form may be filed with the Grievance Officer. The Grievance Officer will advise the student of their rights and assist the student, if necessary, in the final preparation of the Formal Grievance Hearing Request form.

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If the complaint involves a grievance against another student, the grievant shall confer directly with the Grievance Officer, who will advise the grievant of their rights and assist the grievant in preparing a Statement of Grievance form.

IV. FORMAL GRIEVANCE PROCESS:

A. Grievance Hearing Committee.

The President or their Designee shall at the beginning of each quarter, including any summer session, establish a standing panel of members of the college community, including faculty members, classified staff, students and administrators, from which one or more Grievance Hearing Committees may be appointed. The panel will be established with the advice and assistance of the Academic Senate, Classified Senate and Student Senate who shall submit names to the appropriate administrator or their designee for inclusion on the panel. A Grievance Hearing Committee shall include three (3) members from the panel described above. The Administrator on the hearing panel shall serve as Chair.

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No person shall serve as a member of a Grievance Hearing Committee if that person has been personally involved in any matter giving rise to the grievance, has made any statement on the matters at issue, or could otherwise not act in a neutral manner.

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The Grievance Officer shall sit with the Grievance Hearing Committee but shall not serve as a member nor vote. The Grievance Officer shall coordinate all scheduling of hearings, shall serve to assist all parties and the Hearing Committee to facilitate a full, fair and efficient resolution of the grievance, and shall avoid an adversary role.

B. Formal Request for Grievance Hearing.

As stated in the timeline outlined above, if a student does not reach a resolution during the informal process, a student can submit the Formal Grievance Hearing Request Form within thirty (30) work days after submitting the Informal Grievance or Complaint Form.

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Within ten (10) work days following receipt of the Request for Grievance Hearing, the Grievance Officer shall convene a Grievance Hearing Committee as described above, and the Grievance Hearing Committee shall meet in private and without the parties present to determine on the basis of the Formal Grievance Hearing Request Form whether it presents sufficient grounds for a hearing.

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The determination that the Formal Grievance Hearing Request Form presents sufficient grounds for a hearing shall be made if the following are found to be true:

1. The hearing request contains allegations, which, if true, would constitute a grievance under these procedures;

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2. The grievant is a student as defined in these procedures, which include applicants and former students;
3. The grievant is personally and directly affected by the alleged grievance;
4. The grievance was filed in a timely manner;
5. The grievance is clearly not frivolous, clearly not without foundation, or clearly not filed for the purposes of harassing the responding party.
6. The grievant is filing a grievance about an issue that is under the purview of the Grievance Hearing Board and is not governed by another resolution process.

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If the grievance hearing request does not meet each of the requirements, the Hearing Committee 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 the procedures for appeal. This notice will be provided within seven (7) work days of the date the decision is made by the Grievance Hearing Committee.

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If the Request for Grievance Hearing satisfies each of the requirements, the College Grievance Officer shall schedule a grievance hearing. The hearing will begin within thirty (30) calendar days following the decision to grant a Grievance Hearing. All parties to the grievance shall be given not less than seven (7) work days' notice of the date, time and place of the hearing. If either party is unable to attend the hearing in person, alternative means for attending may be available, including videoconferencing, telephone, or by submitting written documentation. If the respondent is unable or unwilling to attend the scheduled hearing date, and it is not possible to reschedule the hearing due to time sensitive matters, the hearing will be held in absentia.

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If it is not possible to postpone the hearing until the following quarter due to time sensitive issues, and the respondent is still unable to attend/participate, or is unwilling to be scheduled for a hearing date within a reasonable amount of time, the hearing will be held in absentia.

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C. Hearing Procedure.

The Grievance Hearing Committee Chair is responsible for making sure that Administrative Procedures are followed and for maintaining decorum at the hearing.

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The members of the Grievance Hearing Committee shall be provided with a copy of the grievance and any written response provided by the respondent before the hearing begins.

Each party to the grievance may call witnesses and introduce oral and written testimony relevant to the issues of the matter.

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

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 or

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grievants shall make the first presentation, followed by the respondent or respondents. The grievant(s) may present rebuttal evidence after the respondent(s)' evidence. The burden shall be on the grievant or grievants to prove by substantial evidence that the facts alleged are true and that a grievance has been established as specified above.

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Each party to the grievance may represent themselves and may also have the right to be represented by a person of their choice; except that a party shall not be represented by an attorney unless, in the judgment of the Grievance Hearing Committee, complex legal issues are involved. If a party wishes to be represented by an attorney, a request must be presented not less than ten (10) work days prior to the date of the hearing. If one party is permitted to be represented by an attorney, any other party shall have the right to be represented by an attorney.

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The hearing committee may also request legal assistance; any legal advisor provided to the hearing committee may sit with it in an advisory capacity to provide legal counsel but shall not be a member of the panel nor vote with it.

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 five (5) workdays prior to the date of the hearing.

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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.

The hearing shall be recorded by the Grievance Officer either by video, audio, stenographic recording, and shall be the only recording made. No witness who refuses to be recorded will be permitted to give testimony. In the event the recording is by audio or video recording, the Grievance 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.

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The hearing recording shall remain in the custody of the District, either at the college or the District office, at all times, unless released to a professional transcribing service. Any party may request a copy of the recording.

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All testimony shall be taken under oath; the oath shall be administered by the Grievance Hearing Committee Chair. Written statements of witnesses under penalty of perjury shall not be used unless the witness is unavailable to testify. A witness who refuses to be tape recorded shall be considered to be unavailable.

The Grievance Hearing Committee shall prepare and send a decision to the Grievance Officer. The decision will be forwarded by the Grievance Officer to the Grievant within fourteen (14) work days. The decision 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.

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D. Appeal and President’s Decision.

A student prejudiced by a decision of the Grievance Hearing Committee shall be entitled to appeal that decision to the President of the college.

The appeal shall be made in writing to the President within thirty (30) calendar days of receipt of the Grievance Hearing Committee’s decision. The President shall review the appeal and the Grievance Hearing Committee’s findings and conclusions and render a decision. Within seven (7) workdays following the receipt of the request for appeal, the President shall prepare and send a decision to the Grievant. The decision of the President shall be final.

E. Time Limits.

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

See Board Policy 5500—Student Rights and Responsibilities

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