

Policy Change	<input checked="" type="checkbox"/>	Subject Matter Area Review	<input checked="" type="checkbox"/>
Procedure Change	<input type="checkbox"/>	Constituency Group Review	<input checked="" type="checkbox"/>
New Policy	<input type="checkbox"/>	District Council	<input type="checkbox"/>
New Procedure	<input checked="" type="checkbox"/>	Board 1 st Reading	<input type="checkbox"/>
		Board 2 nd Reading	<input type="checkbox"/>

KEY:
BOLD= new language
~~strikethrough=~~ delete language

Comments:
CCLC Spring 2015 Update

Referred to:

Edited:
 11/18/15



Policy

5530 ~~Complaint Policy~~ Student Rights and Grievances

Yosemite Community College District shall provide a means by which student grievances and complaints may be heard.

Students may take their complaint to the appropriate division dean or immediate supervisor. The colleges' organizational structures provide the appropriate levels of appeal through which complaints can be pursued. The exceptions to this process would be those complaints which deal with:

- State regulations, Title VI and VII of the Civil Rights Act, **and** Title IX of the Education Amendment of 1972, **for employees and Section 504 of the Rehabilitation Act of 1973**. Complaints dealing within these areas are handled by the Vice Chancellor for Human Resources.
- **Section 504 of the Rehabilitation Act of 1973. Complaints dealing within this area is handled by the ADA Coordinator.**
- Complaints by students about the acts of other students are handled by the Vice President of Student Services and are covered under the colleges' Student Conduct Standards and Due Process/Discipline Procedure and the Student Grievance Process.

Cross References (see also):
YCCD Policy 5500 – Standards of Student Conduct

Adopted: June 28, 2004

Last Reviewed:

Administrative Procedure

5530 ~~Complaint Policy~~ Student Rights and Grievances

Note: This procedure is legally required. Local practice may be inserted. The following is an illustrative example that meets legal requirements, especially for Title IX requirements.

The purpose of this procedure is to provide a prompt and equitable means of resolving student grievances. These procedures shall be 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, grievances regarding:

- Sex discrimination as prohibited by Title IX of the Higher Education Amendments of 1972;
- ~~Sexual harassment;~~
- Financial aid [unless the District's financial aid policy contains an appeal procedure];
- ~~Illegal discrimination;~~
- 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" may include, but is not limited to errors made by an instructor in calculating a student's grade and clerical errors.;
- The exercise of rights of free expression protected by state and federal constitutions and Education Code Section 76120.

This procedure does not apply to:

- Student disciplinary actions, which are covered under separate Board policies and Administrative Procedures.
- Police citations (i.e. "tickets"); complaints about citations must be directed to the County Courthouse in the same way as any traffic violation.

Definitions:

Party – The student or any persons claimed to have been responsible for the student's alleged grievance, together with their representatives. "Party" shall not include the Grievance Hearing Committee or the College Grievance Officer.

Chancellor – The Chancellor or a designated representative of the Chancellor.

Student – A currently enrolled student, a person who has filed an application for admission to the college, or a former student. A grievance by an applicant shall be limited to a complaint regarding denial of admission. Former students shall be limited to grievances relating to course grades to the extent permitted by Education Code Section 76224(a).

Respondent – Any person claimed by a grievant to be responsible for the alleged grievance.

Day – Unless otherwise provided, day shall mean a day during which the college is in session and regular classes are held, excluding Saturdays and Sundays.

1 Informal Resolution – Each student who has a grievance shall make a reasonable effort to resolve the
2 matter on an informal basis prior to requesting a grievance hearing, and shall attempt to solve the
3 problem with the person with whom the student has the grievance, that person’s immediate
4 supervisor, or the local college administration.

5
6 The Chancellor shall appoint an employee who shall assist students in seeking resolution by informal
7 means. This person shall be called the Grievance Officer.

8
9 Informal meetings and discussion between persons directly involved in a grievance are essential at the
10 outset of a dispute and should be encouraged at all stages. An equitable solution should be sought
11 before persons directly involved in the case have stated official or public positions that might tend to
12 polarize the dispute and render a solution more difficult. At no time shall any of the persons directly or
13 indirectly involved in the case use the fact of such informal discussion, the fact that a grievance has
14 been filed, or the character of the informal discussion for the purpose of strengthening the case for or
15 against persons directly involved in the dispute or for any purpose other than the settlement of the
16 grievance.

17
18 Any student who believes he/she has a grievance shall file a Statement of Grievance with the Grievance
19 Officer within [number] days of the incident on which the grievance is based, or [number] days after
20 the student learns of the basis for the grievance, whichever is later. The Statement of Grievance must
21 be filed whether or not the student has already initiated efforts at informal resolution, if the student
22 wishes the grievance to become official. Within two days following receipt of the Statement of
23 Grievance Form, the Grievance Officer shall advise the student of his or her rights and responsibilities
24 under these procedures, and assist the student, if necessary, in the final preparation of the Statement
25 of Grievance Form.

26
27 If at the end of [number] days following the student’s first meeting with the Grievance Officer, there is
28 no informal resolution of the complaint which is satisfactory to the student, the student shall have the
29 right to request a grievance hearing.

30
31 **Note: The following is optional.**

32
33 **Grievance Hearing Committee:**

34 The Chancellor shall at the beginning of each semester, including any summer session, establish a
35 standing panel of [number] members of the college community, including [number] students, [number]
36 faculty members and [number] administrators, from which one or more Grievance Hearing Committees
37 may be appointed. The panel will be established with the advice and assistance of the Associated
38 Students Organization and the Academic Senate, who shall each submit [number] names to the
39 Chancellor for inclusion on the panel. A Grievance Hearing Committee shall be constituted in
40 accordance with the following:

- 41 • It shall include [number] students, [number] instructors, and [number] college administrator
42 selected from the panel described above.
- 43 • No person shall serve as a member of a Grievance Hearing Committee if that person has been
44 personally involved in any matter giving rise to the grievance, has made any statement on the
45 matters at issue, or could otherwise not act in a neutral manner. Any party to the grievance
46 may challenge for cause any member of the hearing committee prior to the beginning of the
47 hearing by addressing a challenge to the Chancellor who shall determine whether cause for
48 disqualification has been shown. If the Chancellor feels that sufficient ground for removal of a
49 member of the committee has been presented, the Chancellor shall remove the challenged

1 member or members and substitute a member or members from the panel described above.
2 This determination is subject to appeal as defined below.

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

7
8 Request for Grievance Hearing – Any request for a grievance hearing shall be filed on a Request for a
9 Grievance Hearing within [number] days after filing the Statement of Grievance as described above.

10
11 Within [number] days following receipt of the request for grievance hearing, the Chancellor shall
12 appoint a Grievance Hearing Committee as described above, and the Grievance Hearing Committee
13 shall meet in private and without the parties present to select a chair and to determine on the basis of
14 the Statement of Grievance whether it presents sufficient grounds for a hearing.

15
16 The determination of whether the Statement of Grievance presents sufficient grounds for a hearing
17 shall be based on the following:

- 18 • The statement contains facts which, if true, would constitute a grievance under these
19 procedures;
20 • The grievant is a student as defined in these procedures, which include applicants and former
21 students;
22 • The grievant is personally and directly affected by the alleged grievance;
23 • The grievance was filed in a timely manner;
24 • The grievance is not clearly frivolous, clearly without foundation, or clearly filed for purposes
25 of harassment.

26
27 If the grievance does not meet each of the requirements, the Hearing Committee chair shall notify the
28 student in writing of the rejection of the Request for a Grievance Hearing, together with the specific
29 reasons for the rejection and the procedures for appeal. This notice will be provided within [number]
30 days of the date the decision is made by the Grievance Hearing Committee.

31
32 If the Request for Grievance Hearing satisfies each of the requirements, the College Grievance Officer
33 shall schedule a grievance hearing. The hearing will begin within [number] days following the decision
34 to grant a Grievance Hearing. All parties to the grievance shall be given not less than [number] days'
35 notice of the date, time and place of the hearing.

36
37 *Note: A hearing must comply with principles of due process, including the right to confront and cross
38 examine witnesses. The following procedure is legally advised.*

39
40 **Hearing Procedure**

41 The decision of the Grievance Hearing Committee chair shall be final on all matters relating to the
42 conduct of the hearing unless there is a vote of a majority of the other members of the panel to the
43 contrary.

44
45 The members of the Grievance Hearing Committee shall be provided with a copy of the grievance and
46 any written response provided by the respondent before the hearing begins.

47
48 Each party to the grievance may call witnesses and introduce oral and written testimony relevant to the
49 issues of the matter.

1
2 **Formal rules of evidence shall not apply. Any relevant evidence shall be admitted.**

3
4 **Unless the Grievance Hearing Committee determines to proceed otherwise, each party to the grievance**
5 **shall be permitted to make an opening statement. Thereafter, the grievant or grievants shall make the**
6 **first presentation, followed by the respondent or respondents. The grievant(s) may present rebuttal**
7 **evidence after the respondent(s)' evidence. The burden shall be on the grievant or grievants to prove**
8 **by substantial evidence that the facts alleged are true and that a grievance has been established as**
9 **specified above.**

10
11 **Each party to the grievance may represent himself/herself, and may also have the right to be**
12 **represented by a person of his/her choice; except that a party shall not be represented by an attorney**
13 **unless, in the judgment of the Grievance Hearing Committee, complex legal issues are involved. If a**
14 **party wishes to be represented by an attorney, a request must be presented not less than [number]**
15 **days prior to the date of the hearing. If one party is permitted to be represented by an attorney, any**
16 **other party shall have the right to be represented by an attorney. The hearing committee may also**
17 **request legal assistance through the Chancellor. Any legal advisor provided to the hearing committee**
18 **may sit with it in an advisory capacity to provide legal counsel but shall not be a member of the panel**
19 **nor vote with it.**

20
21 **Hearings shall be closed and confidential unless all parties request that it be open to the public. Any**
22 **such request must be made no less than [number] days prior to the date of the hearing.**

23
24 **In a closed hearing, witnesses shall not be present at the hearing when not testifying, unless all parties**
25 **and the committee agree to the contrary.**

26
27 **The hearing shall be recorded by the Grievance Officer either by tape recording or stenographic**
28 **recording, and shall be the only recording made. No witness who refuses to be recorded may be**
29 **permitted to give testimony. In the event the recording is by tape recording, the Grievance Hearing**
30 **Committee Chair shall, at the beginning of the hearing, ask each person present to identify themselves**
31 **by name. The tape recording shall remain in the custody of the District, either at the college or the**
32 **District office, at all times, unless released to a professional transcribing service. Any party may request**
33 **a copy of the tape recording.**

34
35 **All testimony shall be taken under oath; the oath shall be administered by the Grievance Hearing**
36 **Committee Chair. Written statements of witnesses under penalty of perjury shall not be used unless**
37 **the witness is unavailable to testify. A witness who refuses to be tape recorded shall be considered to**
38 **be unavailable.**

39
40 **Within [number] days following the close of the hearing, the Grievance Hearing Committee shall**
41 **prepare and send to the Chancellor a written decision. The decision shall include specific factual**
42 **findings regarding the grievance, and shall include specific conclusions regarding whether a grievance**
43 **has been established as defined above. The decision shall also include a specific recommendation**
44 **regarding the relief to be afforded the grievant, if any. The decision shall be based only on the record**
45 **of the hearing, and not on matter outside of that record. The record consists of the original grievance,**
46 **any written response, and the oral and written evidence produced at the hearing.**

47
48 **Chancellor's Decision: Within [number] days following receipt of the Grievance Hearing Committee's**
49 **decision and recommendation(s), the Chancellor shall send to all parties his/her written decision,**

1 together with the Hearing Committee’s decision and recommendations. The Chancellor may accept or
2 reject the findings, decisions and recommendations of the Hearing Committee. The factual findings of
3 the Hearing Committee shall be accorded great weight; and if the Chancellor does not accept the
4 decision or a finding or recommendation of the Hearing Committee, the Chancellor shall review the
5 record of the hearing, and shall prepare a new written decision which contains specific factual findings
6 and conclusions. The decision of the Chancellor shall be final, subject only to appeal as provided below.
7

8 **Appeal:** Any appeal relating to a Grievance Hearing Committee decision that the Statement of
9 Grievance does not present a grievance as defined in these procedures shall be made in writing to the
10 Chancellor within [number] days of that decision. The Chancellor shall review the Statement of
11 Grievance and Request for Grievance Hearing in accordance with the requirements for a grievance
12 provided in these procedures, but shall not consider any other matters. The Chancellor’s decision
13 whether or not to grant a grievance hearing shall be final and not subject to further appeal.
14

15 *Note: The following section applies only to multi-college Districts.*

16
17 Any party to the grievance may appeal the decision of the Chancellor after a hearing before a Grievance
18 Hearing Committee by filing an appeal with the Chancellor. The Chancellor may designate a District
19 administrator to review the appeal and make a recommendation.
20

21 Any such appeal shall be submitted in writing within five days following receipt of the Chancellor’s
22 decision and shall state specifically the grounds for appeal.
23

24 The written appeal shall be sent to all concerned parties. All parties may submit written statements on
25 the appeal.
26

27 The Chancellor or designee shall review the record of the hearing and the documents submitted in
28 connection with the appeal, but shall not consider any matters outside of the record. Following the
29 review of the record and appeal statements, the Chancellor’s designee, if any, shall make a written
30 recommendation to the Chancellor regarding the outcome of the appeal.
31

32 The Chancellor may decide to sustain, reverse or modify the decision of the Chancellor’s designee. The
33 Chancellor’s decision shall be in writing and shall include a statement of reasons for the decision. The
34 Chancellor’s decision shall be final.
35

36 The decision on appeal shall be reached within five days after receipt of the appeal documents. Copies
37 of the Chancellor’s appeal decision shall be sent to all parties.
38

39 **Time Limits:**

40 Any times specified in these procedures may be shortened or lengthened if there is mutual concurrence
41 by all parties.
42

43 **References:**

44 Education Code Section [76224\(a\)](#); [Title IX, Education Amendments of 1972](#); [ACCJC Accreditation](#)
45 [Eligibility Requirement 20](#); [ACCJC Accreditation Standard IV.D](#)
46

47 **Procedure Last Revised:**

48 **Last Reviewed:**