



ADMINISTRATIVE **PROCEDURE**

5530

DESERT COMMUNITY COLLEGE DISTRICT

STUDENT RIGHTS AND GRIEVANCES

Purpose:

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 their status, rights, or privileges as a student as outlined in the college catalog. The procedures shall include, but not be limited to, grievances regarding:

- Sex discrimination in education programs and activities as prohibited by Title IX of the Higher Education Amendments of 1972 (see Administrative Procedure 3435 Complaint: Discrimination and Harassment Investigation for sexual misconduct complaints under Title IX);
- Sexual harassment (see Board Policy 3430 Prohibition of Harassment);
- Financial aid (see Board Policy 5130 Financial Aid);
- Illegal discrimination (see Board Policy 3410 Non 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 76120.

The procedure does not apply to:

- Student disciplinary actions, which are covered under separate Board Policies and Administrative Procedures.
- Parking citations (i.e. “tickets”); complaints about citations must be directed to the Office of Security.

There are two parts to this process. The informal process attempts to seek positive resolution for all parties involved. Only those directly involved plus any appropriate administrator will be present. The formal process may include appropriate representation for all parties involved. Each student who has a grievance 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 with whom the student has the grievance, that person’s immediate supervisor, and/or the appropriate Vice President or designee.

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.

Superintendent/President: The Superintendent/President or a designated representative of the Superintendent/President.

Appropriate Vice President: The Vice President of Student Success, the Vice President of Student Learning, or designee.

Grievance Officer: The campus administrative officer appointed by the Superintendent/President to respond to student disciplinary and grievance issues.

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

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.

Time Limits

The Superintendent/President or designee may shorten or lengthen the times specified in these procedures. The intent, however, is to ensure that each and every step will take place as expeditiously as possible. Any change to the time requirements will be made in writing.

Informal Grievance Resolution Procedure

Each student whom has a grievance 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 with who the student has the grievance, that person's immediate supervisor, or the college administration.

A. The student shall first discuss the matter with the party in question. If however, the student cannot discuss the matter with the other party or if the student is not satisfied with the discussion, he/she may proceed with the informal grievance process.

B. A student must begin the informal grievance procedure within five (5) days from the date of the alleged grievance. The informal procedure must precede the formal procedure. The student may choose to terminate the grievance at any time during the informal procedure. A grievance filed within thirty (30) days of the end of the semester will be deferred until the following semester.

C. The informal procedure shall be completed within ten (10) days of reporting of the original complaint to the other party. It is the student's responsibility to describe to the

parties involved the nature of the grievance so that involved parties understand that the grievance procedure has been initiated.

D. An informal meeting will be held by the student and appropriate college staff. The purpose of the meeting is to identify the perceived violation of the student's rights and to develop a resolution that is of mutual satisfaction to all parties involved. The student shall discuss and attempt to resolve the matter with the faculty, the person's immediate supervisor or the administrator at the informal meeting. If the student is satisfied with the outcome of the informal meeting, the process could end.

Formal Procedure: Filing Statement of Student Grievance

A. If the student is not satisfied with the outcome of the informal procedure, a Student Statement of Grievance Form may be filed within ten (10) days following the informal meeting to the Grievance Officer. Grievance Forms are available at the offices of the Deans, Counselors, and the Office of Student Life the student may choose to terminate the grievance at any time during the formal procedure.

B. A summary of the outcomes of the informal process will be prepared by the faculty or the immediate supervisor and forwarded to Grievance Officer.

C. The Grievance Officer shall investigate the nature of the grievance including meeting with the parties involved and possible witnesses for each, clarification of the perceived violation of rights and investigation of college policies that may or may not have been followed.

D. The Grievance Officer, after conferring with student may determine that the grievance can be resolved by an additional attempt to engage in the informal procedure within ten (10) days. If the student isn't satisfied with the outcome of this informal procedure, the student may still request a formal hearing. The Grievance Officer shall give written notice to the student if it is determined that additional informal procedures should not be pursued.

Request for Student Grievance Hearing

A request for a Student Grievance Hearing shall be filed within twenty (20) days by the student if the student is not satisfied with the outcome of the informal procedure after filing a Student Statement of Grievance Form, or, if after conferring with the student, the Grievance Officer has determined an informal procedure would be unlikely to help resolve the matter.

Within ten (10) days following receipt of the Request for Student Grievance Hearing, the Superintendent/President shall appoint a Student Grievance Hearing Committee as described below, and the Student Grievance Hearing Committee shall meet in private and without the parties present to select a chair and to determine on the basis of the Statement of Grievance Form whether it presents sufficient grounds for a hearing.

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

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

If the grievance 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 Student 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 Student Grievance Hearing Committee.

If the Request for Student Grievance Hearing satisfies each of the requirements, the Grievance Officer or designee shall schedule a grievance hearing. The hearing will begin within ten (10) days following the decision to grant a Student Grievance Hearing. All parties to the grievance shall be given not less than five (5) days notice of the date, time and place of the hearing.

Student Grievance Hearing Committee

The Superintendent/President shall at the beginning of each Fall semester, establish a standing panel of fifteen (15) members of the college community, including five (5) students, five (5) faculty members and five (5) administrators, from which one or more Student Grievance Hearing Committees may be appointed. The panel will be established with the advice and assistance of the Associated Students Organization and the Academic Senate who shall each submit five (5) names to the Superintendent/President for inclusion on the panel. A Student Grievance Hearing Committee shall be constituted in accordance with the following:

- It shall include one (1) student, one (1) instructor, and one (1) college administrator selected from the panel described above.
- No person shall serve as a member of a Student 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. Any party to the grievance may challenge for cause any member of the hearing committee prior to the beginning of the hearing by addressing a written challenge to the Superintendent/President who shall determine whether cause for disqualification has been shown. If the Superintendent/President feels that sufficient ground for removal of a member of the committee has been presented, the Superintendent/President shall remove the challenged member or members and substitute a member or members from the panel described above. This determination is subject to appeal as defined below.
- The Grievance Officer or designee shall sit with the Student Grievance Hearing Committee but shall not serve as a member nor vote. The Grievance Officer or designee 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.

Hearing Procedure

The decision of the Student 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.

The members of the Student Grievance Hearing Committee shall be provided with a copy of the Student Statement of 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 Student Grievance Hearing Committee determines to proceed otherwise, each party to the grievance shall be permitted to make an opening statement. Thereafter, the grievant or grievant(s) 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 to prove by substantial evidence that the facts alleged are true and that a grievance has been established as specified above.

Each party to the grievance may represent himself or herself, and may also have the right to be represented by a person of his or her choice; except that a party shall not be represented by an attorney unless, in the judgment of the Student 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 five (5) 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. The hearing committee may also request legal assistance through the Superintendents/President's Office. Any legal advisor provided to the Student Grievance 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) days prior to the date of the hearing. 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 or designee either by tape recording or stenographic 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 recording, the Student 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. The tape 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 tape recording.

All testimony shall be taken under oath; the oath shall be administered by the Student 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.

Within five (5) days following the close of the hearing, the Student Grievance Hearing Committee shall prepare and send to the Superintendent/President a written decision. 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.

Superintendent/President's Decision

Within five (5) days following receipt of the Student Grievance Hearing Committee's decision and recommendation(s), the Superintendent/President shall send to all parties his or her written decision, together with the Hearing Committee's decision and recommendations. The Superintendent/President may accept or reject the findings, decisions and recommendations of the Hearing Committee. The factual findings of the Hearing Committee shall be accorded great weight; and if the Superintendent/President does not accept the decision or a finding or recommendation of the Hearing Committee, the President shall review the record of the hearing, and shall prepare a new written decision which contains specific factual findings and conclusions. The decision of the Superintendent/President shall be final.

Appeal of Student Grievance Hearing Committee Decision That There Are Insufficient Grounds for a Hearing

Any appeal relating to a Student 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 Superintendent/President within five (5) days of that decision. The Superintendent/President shall review the Statement of Grievance and Request for Grievance Hearing in accordance with the requirements for a grievance provided in these procedures, but shall not consider any other matters. The Superintendent/President's decision whether or not to grant a grievance hearing shall be final and not subject to further appeal.

Reference: Title IX Education Amendments of 1972; Education Code Section 76224(a)

STUDENT GRADE GRIEVANCE PROCEDURES

By law, an instructor is solely responsible for the grades assigned; no instructor may be directed to change a grade except in certain narrow circumstances authorized by the California Education Code, Section 76224(a), which reads as follows: "When grades are given for any courses of instruction taught in a community college, the grade given to each student shall be that determined by the instructor of the course and its determination, in the absence of mistake, fraud, bad faith, or incompetency, shall be final."

When a student believes that the District grading policy has not been followed, and that the grade received in class was the result of “mistake, fraud, bad faith, or incompetency,” the student MUST discuss this concern with the course instructor by the end of the fourth week of the following semester (excluding summer). Any student who is not satisfied after meeting with the instructor, may choose to pursue a grievance.

FRAUD: A deliberate misrepresentation of the truth or a fact used to take money, rights, or other privilege or property away from a person or persons may be found to be fraud.

BAD FAITH: Bad faith may be found in an instance of intent to deceive, in an act of dishonesty.

INCOMPETENCY: Incompetency may be found in a lack of ability, qualifications, fitness, or performance.

If a student files a grade grievance in accordance with the definitions and procedures described herein, and if, following the grievance procedures, it is found that the grade assigned has in fact been the result of “mistake, fraud, bad faith, or incompetency,” then a new grade will be assigned, and that grade will become the final grade.

The student must observe the following procedures. The procedures must be completed by the end of the following semester (excluding Summer School) during which the cause for grievance occurred.

Please Note: A grade is not a disciplinary action but an evaluation of work, and is not subject to appeal except as provided in the grade grievance procedures outlined below.

LEVEL 1: The student meets with the instructor and the department chair. Prior to filing a formal written grievance, the student must attempt to solve the problem. When grades are available, the student must contact his or her instructor directly to discuss their differences not later than the fourth week of the following semester. At this stage most differences will be resolved. This contact should be conducted in the privacy of the instructor’s office whenever possible, and the pertinent issues should be well defined so that they may be discussed as objectively as possible.

If the problem cannot be resolved at this level, the student may, after informing the instructor that he or she plans to file a written grievance, progress to Level 2.

LEVEL 2: The student submits a written request for a meeting with the instructor’s dean to resolve the grievance. The written request must include, in detail, the student’s basis for initiating the grievance. The student shall initiate this request within five (5) days after meeting with the instructor and the department chair. The dean shall meet with the instructor, department chair and student within five (5) days of reception of the formal grievance accompanied by all supporting data supplied by the student in an attempt to resolve the issue at this level. Any such meeting regarding a grade grievance will be closed to all observers.

At this level, if the issue can be resolved to the satisfaction of the instructor and student, and the action to be taken is to change a grade due to a mistake, fraud, bad faith or incompetency, the incorrect grade shall be removed from the student’s record. Within two (2) school days, the decision and proposed action of the dean will be communicated in writing with copies to the

student involved, the faculty member involved, the appropriate Vice President or designee, and the Office of Admissions and Records.

If the problem cannot be resolved at this level, the student may, after informing the instructor and dean that he or she plans to file a written grievance, progress to Level 3.

LEVEL 3: The student submits a written request for a meeting with the appropriate Vice President or designee to resolve the grievance. The written request must include, in detail, the student's basis for initiating the grievance. The student shall initiate this request within five (5) days of receiving the decision and proposed action of the dean. The appropriate Vice President or designee shall meet with the instructor, department chair, dean and student within five (5) days of reception of the formal grievance accompanied by all supporting data supplied by the student in an attempt to resolve the issue at this level. Any such meeting regarding a grade grievance will be closed to all observers.

At this level, if the issue cannot be resolved to the satisfaction of the dean, department chair, instructor, and student, the appropriate Vice President or designee assumes the responsibility for arriving at a decision regarding the validity of the grievance and appropriate action to be taken. If the action to be taken is to change a grade due to a mistake, fraud, bad faith or incompetency, the incorrect grade shall be removed from the student's record. Within two (2) days, the decision and proposed action of the appropriate Vice President or designee will be communicated in writing with copies to the student involved, the faculty member involved, the department chair involved, the dean involved, and the Office of Admissions and Records. **The appropriate Vice President's or designee's decision completes and exhausts the Desert Community College District's Grade Grievance Procedure.**

The Superintendent/President or his/her designee may shorten or lengthen the times specified in these procedures. The intent, however, is to ensure that each and every step will take place as expeditiously as possible. Any changes to the time requirement will be made in writing. Failure of the student to adhere to the time requirements of the procedures will be considered a waiver of the right to proceed further in the grievance process.

References:

Education Code Section 76224(a);
Title IX, Education Amendments of 1972;
34 Code of Federal Regulations Parts 106.1 et seq.;
ACCJC Accreditation Eligibility Requirement 20;
ACCJC Accreditation Standard IV.D

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