STUDENT GRIEVANCE POLICY

3235.1 Student Grievance Policy

In the pursuit of his/her academic ends, a student should be free of unfair and improper action by any member of the academic community. A grievance may be initiated by a student when he/she believes that he/she has been subject to unjust action or denied his/her rights as stipulated in published college regulations, State laws or Federal laws. Such action may be instituted by a student against a faculty/staff member or an administrator. When a student believes an injustice has been done to him/her, he/she may seek redress through the following policy and procedures. In cases of student discrimination complaints, this policy shall be adjusted, as appropriate, to comply with the District's regulations regarding unlawful discrimination (AB803).

Students may initiate a grievance for any of the following actions:

1. Grievances related to course grades to the extent permitted by Education Code, Section 76224, 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."

2. Act of threat of intimidation or harassment.

3. Act of threat of physical aggression.

4. Arbitrary action or imposition of sanctions without proper regard for academic due process as specified in college procedures.

5. Violation of student rights as delineated in Board approved college policies for Student Personnel.

3235.2 Procedure to File Grievances

Preliminary Action

1. The student who believes an injustice has been done to him/her shall first attempt to resolve his/her grievance by consultation with the following persons in sequence:

   a. Accused faculty/staff member(s) or administrator.

   b. Department Chairperson of accused faculty member, or direct supervisor of accused staff member or direct supervisor of accused administrator as appropriate.

   c. The Dean, Educational Programs for an academic or designee for non-academic grievance issues.

2. If the student still believes that the issue has not been resolved to his/her satisfaction, he/she should submit a signed statement specifying the time, place and nature of the grievance to the Executive Vice President, Educational Programs or designee.

3. The written request for grievance must be filed with the Executive Vice President, Educational Programs or designee within sixty (60) calendar days of the time the event occurred or the grievant first learned of the event. A grievance will not be heard if more than sixty (60) calendar days have elapsed in either case.

4. The Executive Vice President, Educational Programs or designee will determine on the basis of the request for grievance whether it states sufficient grounds for a hearing.
5. Within ten (10) working days of receiving the request, the Executive Vice President, Educational Programs or designee shall notify the student through consultation and/or in writing of the findings with the specific reasons for the decision. If the recommendation by the Executive Vice President, Educational Programs or designee is to initiate a formal hearing, within ten (10) working days of receiving the decision the student must notify the Executive Vice President, Educational Programs or designee that he/she is requesting a formal hearing.

a. From the time the student receives the Executive Vice President, Educational Programs' or designee's decision, any request for the hearing committee to make a determination must be in writing and delivered to the Executive Vice President, Educational Programs or designee. The notice must be hand-delivered by the student or designee or mailed and received by the Executive Vice President, Educational Programs or designee within ten (10) working days from the time the student receives the Executive Vice President, Educational Programs' or designee's decision.

b. If the findings by the Executive Vice President, Educational Programs or designee or the Hearing Committee, pursuant to Section 3233.2A5a is to initiate a formal hearing, within ten (10) working days of receiving the decision the student must meet with the Executive Vice President, Educational Programs or designee and mutually agree to a date for a formal hearing.

Grievance Hearing Procedures

1. The Grievance Hearing Committee - There shall be on campus a standing panel from which one or more Grievance Hearing Committees may be appointed. The panel shall be made up of the following:

   - Group 1 - All students enrolled in 9 or more units with a cumulative grade point average of 2.0 or better.

   - Group 2 - All tenured contract certificated faculty or regular classified personnel except those designated as management.

   - Group 3 - All full-time, certificated and classified management personnel with the exception of the Executive Vice President, Educational Programs or designee.

   The committee composition shall be as follows: From Group 1, the Associated Student Body President shall appoint two students and one alternate; from Group 2, the President of the Academic Senate shall appoint two tenured contract certificated faculty and one alternate when appropriate, or in the alternative, the Chairperson of the Classified Council shall appoint two regular classified non-management employees and one alternate; and from Group 3, the Superintendent/President shall appoint one management person and one alternate.

2. Right to Challenge Committee Membership - The hearing shall be convened by the Executive Vice President, Educational Programs or designee. The Executive Vice President, Educational Programs or designee shall introduce the members of the Committee. At such time, the accused and/or the student grievant shall exercise their rights to challenge the members of the Committee as set out below.

   The student grievant and/or the accused may each challenge one member of the Grievance Hearing Committee as a matter of right. Any member of the Grievance Hearing Committee may be challenged for cause. Grounds for cause shall be limited to any personal involvement in the situation giving rise to the grievance action, any statement made on the matters at issue, or any other act or statement indicating that the person could not act in a neutral manner. The validity of the challenges shall be determined by the Executive Vice President, Educational Programs or designee. The appropriate replacements shall be appointed from the appropriate group by the Executive Vice President, Educational Programs or designee. Any and all challenges must be made prior to evidence being heard.

3. Selection of Chairperson - Upon completion of the challenges, if any, the Committee shall receive copies of
these procedures and meet alone to select a Chairperson. If the members cannot reach mutual agreement on a Chairperson, the Executive Vice President, Educational Programs or designee shall designate a member to serve as Chairperson.

The Chairperson shall preside over the hearing and make rulings as to its conduct. The Chairperson shall have the privilege of voting on all issues.

4. Right to Representation - The student grievant or the accused may represent himself or herself or may be represented by an attorney. If represented by an attorney, the student grievant or the accused shall notify the Executive Vice President, Educational Programs or designee, in writing, of that fact no later than three (3) working days prior to the date of the hearing. The Grievance Hearing Committee may then be provided legal counsel. Such counsel may sit with the Grievance Hearing Committee in an advisory capacity but shall not be a member of the Committee nor vote with it.

5. The Hearing - (a) Opening: The Chairperson shall call the hearing to order, introduce the participants, and announce the purpose of the hearing (e.g. "The committee meets to hear a grievance of action against ______ and to make recommendations for action to the President"). (b) The Chairperson shall distribute copies of the grievance. (c) Plea - The accused shall admit or deny each charge. If the accused admits each charge and wishes to present no evidence of mitigating circumstances or other defense, the Committee shall retire the make its decision. If the accused denies any or all of the charges or wishes to present evidence of mitigating circumstances, the hearing shall proceed. (d) Arguments - First, the student grievant and then the accused shall be afforded an opportunity to make or waive an opening statement. The accused may reserve his or her opening statement until after the student grievant has presented his or her evidence. After the opening statements, first the student grievant and then the accused shall have the opportunity to present witnesses and other relevant evidence. (e) Burden of Proof and of Producing Evidence - The student grievant has the burden of proving their accusation. The student grievant may present evidence in support of his or her position and then the accused may present evidence to refute such evidence.

Evidence

1. Oral evidence shall be taken only on oath or affirmation.

2. Each party shall have these rights: to call and examine witnesses, to introduce exhibits, to cross-examine opposing witnesses on any matter relevant to the issues even though the matter was not covered in the direct examination, to impeach any witness regardless of which party first called him or her to testify, and the rebut the evidence against him or her. If the accused does not testify in his or her own behalf, he or she may be called and examined as if under cross-examination.

3. The hearing need not be conducted according to technical rules related to evidence and witnesses, except as hereinafter provided. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining the evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions, or if it is a signed and dated written declaration of a witness who is shown to be unavailable. Irrelevant and unduly repetitious evidence shall be excluded.

Closed Hearings

- Hearings shall be closed to the general public and confidential and all witnesses shall be excluded before and after testifying unless the accused, the student grievant, and the Committee agree to the contrary, except neither the student grievant nor the accused and their respective attorneys, if any, shall be excluded. Both the accused and the student grievant shall be entitled to call witnesses and to question witnesses presented by the other. Any member of the Committee may ask questions at any time upon recognition by the Chairperson. Either side may recall a witness, who again may be questioned by both parties and the Committee.
Absence of the Student Grievant or the Accused

- If the student grievant or the accused do not appear and no satisfactory explanation for the absence is made at the earliest opportunity, or if the student grievant or the accused leave the hearing before its conclusion, the hearing shall proceed without the absent party, and the Committee shall reach a decision based on the evidence presented.

Conclusions

- First, the student grievant and then the accused shall be afforded the opportunity to make or waive a closing argument. The Committee shall retire to deliberate with all of the members of the Committee present and may include the legal advisor to the committee when appropriate. The committee shall reach its decision based only upon the record of the hearing and shall not consider matters outside of that record. Within five (5) working days of the hearing, the Chairperson shall deliver to the Executive Vice President, Educational Programs or designee, the student grievant, and the accused, their written decision arrived at by a simple majority of the Committee. The Grievance Hearing Committee's notification of their decision to the student grievant and the accused will be by United States mail which shall include a declaration of mailing specifying the date of mailing such letter. The Grievant Hearing Committee is deemed to have mailed such letter on the date so declared.

The decision of the Grievance Hearing Committee is binding on all parties.

5. Appeal to the Superintendent/President - Either the student grievant or the accused may appeal the decision of the Grievance Hearing Committee to the Superintendent/President by filing an appeal with the Superintendent/President. Any such appeal shall be made in writing and either mailed, postmark evidencing the date of such mailing, or hand-delivered, received and receipted by the Superintendent/President within ten (10) working days of the mailing of the decision by the Grievance Hearing Committee and shall state specifically the grounds for appeal. Appeal shall be based only on the record of the Grievance Hearing. Both the student grievant and the accused may submit written statements on appeal. No personal appearances will be made before the Superintendent/President. The decision will be based upon the record.

The Superintendent/President shall report his/her decision to all relevant parties including the Governing Board within fifteen (15) working days of receiving the appeal request. The Superintendent/President's notification of his/her decision to the appellant will be by United States mail which shall include a declaration of mailing specifying the date of mailing such letter. The Superintendent/President is deemed to have mailed such letter on the date so declared.

6. Appeal to the Governing Board - Either the student grievant or the accused may appeal the decision of the Superintendent/President to the Governing Board by filing an appeal with the Superintendent/President. Any such appeal shall be made in writing and either mailed, postmark evidencing the date of such mailing, or hand-delivered, received and receipted by the Superintendent/President within ten (10) working days of the mailing of the decision by the Superintendent/President and shall state specifically the grounds for appeal. Appeal shall be based only on the record of the Grievance Hearing. Both the student grievant and the accused may submit written statements on appeal. No personal appearances will be made before the Governing Board. The decision will be based upon the record.

The Governing Board shall consider appeals at any regularly scheduled public meeting held within thirty (30) working days of receipt of the appeal by the Superintendent/President.

The Governing Board shall consider the matter in executive session. Before calling such an executive session, the Governing Board shall, in writing, by registered or certified mail notify the student grievant and the accuse of the intent of the Governing Board to call and hold such executive session. The final action of the Governing Board shall be taken at a public meeting and the result of such action shall be a public record.

The Governing Board's review shall be limited to the record of the Grievance Hearing, and the decision of the Superintendent/President. The Board shall not consider any evidence outside the record.

The Governing Board's action shall be final and binding on all parties.