
Administrative Procedure
Chapter 5 – Student Services

AP 5530 STUDENT RIGHTS AND GRIEVANCES

References:

ACCJC Accreditation Eligibility Requirement 20;

The purpose of this procedure is to provide a prompt and equitable means of resolving student grievances.

Definitions

A Grievance is not:

- Student disciplinary actions, which are covered under Board Policy 5500, Administrative Procedure 5500, and Administrative Procedure 5520.
- Discipline of employees
- Traffic or parking citations; complaints about citations must be directed to the City of Long Beach Parking Services in the same way as any traffic violation.
- Grade Changes, which are covered under Board Policy 4231 and Administrative Procedure 4231
- Challenges to process for pre-requisites, co-requisites, and limitations on enrollment, which are covered under Board Policy 4260 and Administrative Procedure 4260.
- Complaints under Section 504, Section 508, and/or the Americans with Disabilities Act. These complaints are to be made to the Section 504/508/ADA Coordinator in the Disabled Student Programs and Services Office per Administrative Procedure 5140 or to the Diversity/Compliance/Title IX Officer in the Human Resources Office per Administrative Procedure 3435.
- Complaints of sexual harassment, discrimination, including harassment or retaliation, are to be made to the Diversity/Compliance/Title IX Officer in the Human Resources Office or the Vice President of Human Resources per Administrative Procedure 3435.
- Complaints against vendors or businesses contracted with LBCC are to be made directly to the vendor, business and/or to the Office of Business Support Services.

If a student files a grievance under this procedure that includes an allegation of unlawful discrimination, including harassment or retaliation, the grievance, or portion of the grievance, will immediately be referred to (i) the Diversity/Compliance/Title IX Officer or to the Vice President of Human Resources or designee per Administrative Procedure 3435

or to (ii) the Long Beach City College Section 504/ADA Coordinator per Administrative Procedure 5140, for attempted informal resolution or investigation.

Grievance: A claim by any student who reasonably believes a college decision or action has adversely affected his/her/their status, rights, or privileges as a student. A Grievance includes but is not limited to, claims regarding:

- The exercise of rights of free expression protected by state and federal constitutions and Education Code Section 76120, as defined in Administrative Procedure 3900.
- Academic Complaints outside of course grades.
- Non-Academic Complaints including, but not limited to concerns related to Student Services (e.g., Financial Aid) or Administrative and Business Services.

Grievant – A student who has filed a Grievance.

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.

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. Former students shall be limited to Grievances relating to course grades, as outlined in Administrative Procedure 4231, to the extent permitted by Education Code Section 76224 subdivision (a).

Respondent – Any person the Grievant claims 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.

Grievance Officer Appointment

The Superintendent-President or designee shall appoint an employee(s) who shall assist students in seeking resolution by informal and formal means. This person(s) shall be called the Grievance Officer.

Step I – Informal Resolution

Each student who has a Grievance shall first attempt to resolve the grievance by consultation with the following persons in sequence prior to requesting a Grievance Hearing:

- A. Accused faculty/staff member(s), administrator, or designated contact (e.g., LGBTQIA+ ally) per type of grievance
- B. Department Head of accused faculty member, or direct supervisor of accused staff member, or direct supervisor of accused administrator as appropriate
- C. The area dean for an academic or student services grievance issue

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

STEP II – Statement of Grievance Process

If the student still believes the issue has not been resolved satisfactorily after completing step I, the student can submit a Statement of Grievance with the Grievance Officer within **[20]** days of the incident on which the Grievance is based, or **[20]** days after the student learns of the basis for the Grievance, whichever is later. The Statement of Grievance must be filed whether or not the student has already initiated efforts at informal resolution, if the student wishes the Grievance to become official. Within three days following receipt of the Statement of Grievance Form, the Grievance Officer shall advise the student in writing of his/her/their rights and responsibilities under these procedures, and assist the student, if necessary, in the final preparation of the Statement of Grievance form.

If at the end of **[30]** days following the student's first meeting with the Grievance Officer, there is no informal resolution of the complaint which is satisfactory to the student, the student shall have the right to request a Grievance Hearing (see Request for a Grievance Hearing section below).

Step III – Formal Hearing

Grievance Hearing Committee: The Vice President of Student Services and Vice President of Academic Affairs shall at the beginning of each academic year establish a diverse standing pool of at least **[20]** persons who will serve on Grievance Hearing Committees. The Vice President of Student Services shall appoint student services administrators or classified managers and in collaboration with the Associated Student Body, **[5]** ASB students or student workers, including the Student Trustee and Associated Student Body President. The Vice President of Academic Affairs shall appoint **[5]** Department Heads as faculty members and **[5]** academic affairs administrators or classified managers, from which one or more Grievance Hearing Committees may be appointed. All members of the pool shall be required to annually complete sensitivity

training provided by the District. A Grievance Hearing Committee shall be constituted by the Vice President of Student Services and Vice President of Academic Affairs in accordance with the following:

- It shall include [1] Department Head as faculty members, and [1] Academic Affairs administrator or classified manager, [1] Student Services administrator or classified manager, [1] ASB student or student worker and [1] Department Head selected from the pool described above. No member of the pool who participated in the informal resolution process for a grievance shall serve on the Grievance Hearing Committee for said grievance.
- No Vice President shall serve as a member of a Grievance Hearing Committee.
- 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.
- Any Party to the Grievance may challenge for cause any member of the Grievance Hearing Committee prior to the beginning of the hearing by addressing a challenge to the appropriate Vice President who shall determine whether cause for disqualification has been shown. If the appropriate Vice President feels that sufficient ground for removal of a member of the Grievance Hearing Committee has been presented, the appropriate Vice President shall remove the challenged member or members and substitute a member or members from the pool described above. This determination is subject to appeal as defined below.
- 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 Grievance Hearing Committee to facilitate a full, fair, and efficient resolution of the Grievance, and shall avoid an adversary role.

Request for Grievance Hearing – If at the end of 30 days following the student's first meeting with the Grievance Officer, there is no informal resolution of the complaint which is satisfactory to the student, the student must file the request for a Grievance Hearing on a Request for a Grievance Hearing Form within [10] days.

Within [15] days following receipt of the Request for Grievance Hearing, the Vice President of Academic Affairs and Vice President of Student Services shall appoint a Grievance Hearing Committee as described above, and the Grievance Hearing Committee shall meet in private and without the Parties present to select a Grievance Hearing Committee Chair and to determine on the basis of the Statement of Grievance 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;
- 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 purposes of harassment.

If the Grievance does not meet each of the requirements, the Grievance 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, as described in the appeal procedure below. This notice will be provided within **[10]** days of the date the Grievance Hearing Committee makes its decision.

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 **[15]** days following the decision to grant a Grievance Hearing. All Parties to the Grievance shall be given not less than **[10]** days' notice of the date, time and place of the hearing. The hearing shall be limited to **[1]** meeting unless required otherwise by due process.

Hearing Procedure

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 Grievance Hearing Committee to the contrary.

The Grievance Officer will provide members of the Grievance Hearing Committee 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. 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. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but shall not be sufficient in itself to support a finding. Unduly repetitious evidence may be excluded.

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 Grievants shall make the first presentation, followed by the Respondent or Respondents. The Grievant 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.

Each Party to the Grievance may represent himself/herself/themself, and may also have the right to be accompanied by a person of his/her/their choice; except that for a Party that is a member of a bargaining unit, they will be represented by said bargaining unit.-No

Party shall be represented by an attorney unless, in the judgment of the Grievance Hearing Committee, complex legal issues are involved. If a student wishes to be accompanied by an attorney, the name and address of that attorney must be submitted to the Office of the Vice President of Student Services at the time the Request for a Grievance Hearing Form is submitted. Failure to do so shall constitute good cause for a continuance of the hearing and good cause to exclude the attorney. If the student is accompanied by an attorney, the attorney may be present at the Grievance Hearing. The attorney may not address the Grievance Hearing Committee and shall not be permitted to participate in any way during the hearing.

If the student is accompanied by an attorney, the Respondent(s) may also be accompanied by an attorney. Any attorney provided to the Grievance Hearing Committee shall not be a member of the Grievance Hearing Committee 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 **[3]** 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 Grievance Hearing Committee agree to the contrary.

The hearing will be transcribed.

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. The transcription shall remain in the custody of the District, at all times. Any Party may request to inspect the transcription that is kept on file with the District.

All witnesses must testify under oath; the Grievance Hearing Committee Chair will administer the oath. The Grievance Hearing Committee will only admit written statements of witnesses under penalty of perjury if the witness is unavailable to testify. A witness who refuses to be transcribed shall be considered to be unavailable.

The Grievance Hearing Committee shall make decisions in private with only members of the Grievance Hearing Committee present. The Grievance Hearing Committee shall write up findings and evidence. Within **[10]** days following the close of the hearing, the Grievance Hearing Committee shall prepare a written decision. The decision shall include specific factual findings regarding the Grievance and shall include specific conclusions regarding whether the hearing established a Grievance as defined above. The decision shall also include a specific decision regarding the relief for the Grievant, if any. The Grievance Hearing Committee will base its decision 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.

Grievance Hearing Committee Decision

Within [10] days of the Grievance Hearing Committee's decision(s), the Grievance Hearing Committee Chair shall send to all Parties the Grievance Hearing Committee's written decision. The decision of the Grievance Hearing Committee shall be final and the grievance process is completed.

If the Grievance Hearing Committee decision results in a finding of wrongdoing on behalf of the employee that rises to the level of the progressive discipline process, the progressive discipline procedure will be handled accordingly through Human Resources.

Appeal of Dismissal of a Formal Grievance or of the Determination of Responsibility

Any appeal relating to a Grievance Hearing Committee decision that the Statement of Grievance does not present a Grievance as defined in these procedures or any appeal of the District's determination regarding the dismissal of a written decision on a formal grievance shall be made in writing to the appropriate Vice President within [10] days of that decision.

Grounds for Appeal

The appropriate Vice President shall serve as the decision-maker on appeal. In filing an appeal of the District's determination regarding the dismissal of a statement of grievance that does not present a grievance as defined in these procedures or the dismissal of a written decision on a formal grievance, the Party must state the grounds for appeal and a statement of facts supporting those grounds. The grounds for appeal are as follows:

- A procedural irregularity affected the outcome;
- New evidence was not reasonably available at the time of the District's determination and this new evidence could affect the outcome; or
- A member of the Grievance Hearing Committee had a conflict of interest or bias for or against the Party that affected the outcome.

Appeal Procedure

If either Party submits an appeal to the appropriate Vice President, the appropriate Vice President will:

- Notify the non-appealing Parties in writing within [5] days of receiving a Party's appeal;
- Allow the non-appealing Parties [10] days from the date of receipt of the appeal to submit a written statement in support of, or challenging, the outcome.

For appeals pertaining to the Grievance Hearing Committee decision that the Statement of Grievance does not present a Grievance as defined in these procedures, the appropriate Vice 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 appropriate Vice President shall issue a written decision on whether to grant or deny the appeal for a Grievance Hearing within 30 days after the appropriate Vice President receives the response to the

appeal or the last day to provide a response. The appropriate Vice President decision whether or not to grant a Grievance Hearing shall be final and not subject to further appeal. If granted, a Grievance Hearing Committee of new members from the pool will be formed and follow the procedures outlined in Step III – Formal Hearing.

For appeals pertaining to the District's determination regarding the written decision on a formal grievance, the appropriate Vice President shall review the original Grievance, any written response, the record of the hearing, and the decision of the Grievance Hearing Committee. The appropriate Vice President shall issue a written decision which contains specific factual findings and conclusions within **[30]** days after the appropriate Vice President receives the response to the appeal or the last day to provide a response. The decision of the appropriate Vice President on the appeal shall be final and not subject to further appeal.

If the decision of the appropriate Vice President through the appeal process results in a finding of wrongdoing on behalf of the employee that rises to the level of the progressive discipline process, the progressive discipline procedure will be handled accordingly through Human Resources

Records

All Grievance Hearing Committee proceedings, including audio recording and copies of all decisions made, shall be maintained by the Grievance Officer for seven (7) calendar years. Access to the recordings and copies of the decisions made shall be limited to the parties involved, unless otherwise required by law.

Time Limits

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

Also see BP/AP 3410 Nondiscrimination, BP/AP 3430 Prohibition of Harassment, BP/AP 3433 Prohibition of Sexual Harassment under Title IX, AP 3434 Responding to Harassment Based on Sex under Title IX, AP 3435 Discrimination and Harassment Complaints and Investigations, BP/AP 5500 Standards of Student Conduct, and AP 5520 Student Discipline Procedures.

Approved: January 26, 2022