STUDENT RIGHTS AND GRIEVANCES

This procedure is intended to ensure that any alleged violation of students’ rights will be reviewed and that appropriate action will be taken. Cabrillo College’s goal is to ensure an equitable and fair resolution of the grievance. Except as set forth in Complaints Regarding the Non-Discrimination and Sexual Harassment Policy, this grievance procedure applies to any issue involving, 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
- 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.

Students in the Allied Health programs must adhere to the additional guidelines stated in their respective handbooks.

In the event that it becomes necessary to resolve a grievance under this policy, every effort shall be made to maintain confidentiality at each level of the procedure; however, complete confidentiality cannot be guaranteed.

The complaining party bears the burden of proving the facts of his/her grievance.

Complaints Regarding the Non-Discrimination and Sexual Harassment Policy

Complaints for discrimination and/or harassment under the college’s Non-Discrimination and Sexual Harassment Policy (AR5040) are not dealt with under this grievance policy. Every effort should be made to refer such a complaint to the college’s AR5040 administrator, the Dean of Student Services. If a student files a grievance that alleges unlawful discrimination, including harassment, the college shall immediately refer the grievance to the Dean of Student Services. The college will make the referral without a determination as to whether the discrimination/harassment claim is timely filed or states a claim.
Chapter Five: Student Services and Operations

If only a portion of a grievance involves a claim of discrimination or harassment, the college will refer those portions of the grievance concerning discrimination and/or harassment to the Dean of Student Services. If the determination of the discrimination/harassment claim is relevant to the other portions of the grievance, then the determination of the Dean of Student Services shall be provided to the Hearing Committee as part of the grievance process set forth below.

Forms for complaints of discrimination/harassment are in the Student Rights and Responsibilities Handbook and are also available in the college’s Human Resources Office and Student Affairs Office.

Rights
To guard against disparate treatment and to ensure the right to due process:

1. Any party to a grievance may seek assistance of an advocate of his or her choosing.
2. Advocates may be present at any stage of the grievance process described herein. In the event that any party to a grievance is entitled by law to legal representation, and chooses to be represented by an attorney, all other parties to the grievance will also be entitled to representation by legal counsel.
3. Students, staff, or faculty having a visual, auditory, or communicative disability, (for students verified by the Disabled Student Services Department) may also seek a reader- interpreter to be present to assist the parties. Such an assistant must limit the participation to the function of an interpreter.
4. Students who do not speak English as their native language may seek an interpreter to be present who speaks both English and their native language to assist the student. Such an assistant must limit participation to the function of an interpreter.

Timely Resolutions to All Complaints
Students must respond to each relevant step in the grievance procedure within ten (10) working/school days, unless specified otherwise herein, or unless the timelines are extended by mutual agreement of the parties. In those cases where a portion of a student grievance involves a claim of discrimination and harassment under AR5040 and the determination of the discrimination/harassment claim is relevant to the other portions of the grievance, the grievance may be placed in abeyance by the Dean of Student Services pending the resolution of the discrimination harassment grievance pursuant to AR5040.

Pre-Grievance Problem Resolution Procedure
The primary goal of this procedure is to produce a mutually acceptable solution to the student’s complaint as soon as possible and at the lowest administrative level possible. This pre-grievance dispute resolution procedure does not apply to complaints of discrimination and/or harassment under the College’s Non-Discrimination and Sexual Harassment Policy (AR5040). If such a complaint is made to the Program Chair, the Division Dean or another administrator, he/she shall immediately refer the complaint (or the relevant portions of the complaint) to the Dean of Student Services.

Experience has shown that most concerns which students have regarding support services and instructional matters are relatively easy to resolve through informal discussion. Students are
expected to deal directly with the person(s) causing the alleged complaint to resolve such concerns. To initiate a grievance at the informal level:

Step 1
The student should discuss the problem directly with the person involved for a possible solution. This should be done as soon as possible but no later than the end of the semester following the school term in which the grievable offense occurred. If the student is not comfortable with Step 1, they may proceed directly to Step 2.

Step 2
If the problem cannot be resolved at the first step, the student shall discuss the problem with the Program Chair or immediate supervisor of the person against whom the complaint is directed. The Program Chair or immediate supervisor shall make every effort to resolve the problem with the student and the person being grieved. Upon receipt of the complaint from the student, the supervisor must respond within ten (10) school/working days, stating a decision to the student.

Step 3
If the problem cannot be resolved at the second step, the student shall make an appointment to discuss the grievance with the Division Dean or next level appropriate administrator within 10 school/working days of the step 2 decision. Complaints at this level must be submitted in writing at the time the appointment is being made. The written complaint shall contain the following information:

1. A description of the general and specific grounds on which the grievance is based.
2. A listing of the names of all persons involved in the matter at issue and the times, places, and events in which each person so named was involved.
3. Requested resolution desired by the student (i.e. what outcome does the student desire).

The Division Dean (or other appropriate administrator) must respond in writing to the student’s written complaint within ten (10) working/school days.

At any point during the pre-grievance problem-resolution level, a student may also informally and orally present the complaint to the Dean of Student Services. The Dean will attempt to resolve the issue informally, if requested by the student.

Step 4
If the problem cannot be resolved at the third step then the student has the right to repeat Step 3 with the appropriate Vice President or next level administrator. The administrator will respond to the claimant, in writing, within 15 school/working days. After appealing to the level of the appropriate Vice President, if the grievance is still not resolved, the complainant may proceed to a formal procedure, except for academic matters.

Academic matters and grade disputes: Final authority to resolve grade disputes and other academic matters rests with the Vice President of Instruction. There are no exceptions.

**Formal Grievance Procedure**
The Formal Grievance Procedure is only to be used by students who are unable to resolve their grievance through the Pre-Grievance Procedure, set forth above. The Formal Grievance Procedure does not apply to complaints for discrimination and/or harassment under the college’s Non-Discrimination and Sexual Harassment Policy (AR5040). If such a complaint is made to the Hearing Committee it shall immediately refer the complaint (or the relevant portions of the complaint) to the Dean of Student Services.
1. The student will receive an explanation of his/her rights to appeal and the procedure to appeal by the Dean of Student Services.

2. The offense with which the person is being charged must be one which is contrary to District policy or local, state or federal law.

3. The complainant and person charged in the grievance are entitled to a fair and impartial hearing.

4. To initiate a grievance at the formal level:
   a. The complainant shall complete all steps in the informal grievance procedures prior to filing the written formal grievance.
   b. The complainant must complete and submit a Student Grievance Form (see Student Rights and Responsibilities Handbook) within ten (10) school/working days after receiving the decision of the appropriate Vice President.
   c. The remedy sought by the complainant must be included on the Student Grievance Form.
   d. The Dean of Student Services will retain the original Student Grievance Form and provide a copy to the complainant and one to the person against whom the grievance was directed.
   e. Within ten (10) school/working days after the filing date, the person against whom the grievance is directed (respondent) will submit a written response to the allegations to the Dean of Student Services.
   f. Within twenty (20) school/working days after receipt from the respondent, the Dean of Student Services will convene the Hearing Committee.

5. Hearing Procedures
   a. The Hearing Committee shall be chaired by one of the Hearing Committee members. For Hearing Committee membership, see Student Rights and Responsibilities Handbook.
   b. The hearing shall be closed to everyone other than the Hearing Committee members, the complainant and the advocate selected by the complainant, the respondent and his/her advocate, any witnesses while they are presenting testimony, the Dean of Student Services or designee presenting on behalf of the District, and the person designated to record the minutes.
   c. The Dean of Student Services or designee shall first make any further comments or answer questions regarding the procedures of the hearing.
   d. The complainant and respondent together with advocates and witnesses (called at the appropriate time) shall appear before the committee to present evidence. Each party shall be allocated 30 minutes for his/her presentation with the complainant presenting first. Each party may ask to reserve 10 minutes of their 30 minutes allocated to provide rebuttal testimony.
   e. Deliberations of the committee will be held in closed session.
   f. The Hearing Committee will submit its findings and written recommendation on the grievance and the basis for its recommendation to the Dean of Student Services, the complainant, and the respondent within ten (10) working/school days of the hearing.
Appeals

If the complainant or respondent is not satisfied by the findings and recommendation of the Hearing Committee:

1. The complainant or respondent may, through the Vice President of Student Services, appeal to the college President within ten (10) working/school days of receipt of the committee’s recommendation.
   a. The student’s appeal must be addressed to the Superintendent/President, in writing, and clearly state justification for the appeal and the desired outcome.
   b. The appeal must be submitted to the Vice President of Student Services. The Vice President of Student Services will review all aspects of the case and refer it to the President.
   c. The President will consider the appeal and respond, in writing, within 15 working/school days.

2. If not resolved through Grievance Procedures above:
   a. The complainant may prepare a written appeal addressed to the Board of Trustees within ten (10) school/working days.
   b. The written appeal must state the reason for the appeal and the desired remedy.
   c. The appeal must be addressed to the Board of Trustees and delivered to the Office of the President.
   d. The Governing Board will review all documentation presented within 45 days after the next regularly scheduled board meeting and may request a hearing. The claimant and respondent will be sent a written notification of the final decision within ten (10) school/working days from the Board’s review.
   e. The decision of the Governing Board will be considered the final decision on the grievance matter.

HEARING COMMITTEE

Membership

The Hearing Committee is a standing college committee. Members shall serve a two-year term, except the Student Senate representative, who may serve for only one year. The committee shall consist of the following representatives:

1. One (1) administrator appointed by the Vice President of Student Services.
2. One (1) member of the faculty appointed by the Faculty Senate.
3. One (1) student appointed by the ASCC Student Senate President except in the case where the complainant or respondent is a member of the ASCC Student Senate. In such a case, a non-ASCC Student Senate student member will be appointed by the Dean of Student Services.
4. One (1) member from classified staff appointed by the CCEU President.

If, for whatever reason, the President of the Faculty Senate, CCEU, and/or ASCC Student Senate cannot select their representatives for the hearing committee, then the Dean of Student Services shall select them.
Responsibilities
The Hearing Committee shall:

1. Hear and examine all supporting facts to determine whether the complainant’s charges should be sustained.
2. Examine all written and oral statements presented that are relevant to the charges at hand. Any irrelevant prior knowledge or information concerning any of the parties involved shall not be discussed.
3. Conduct all proceedings with a high level of confidentiality to ensure the confidentiality rights of all parties.
4. Draw conclusions and make recommendations to the administration through the use of consensus whenever possible. When consensus is not possible, the chairperson shall make a recommendation based on the deliberations of the committee and ask the committee to vote on the recommendation. The number of votes in favor and against, along with the recommendation shall be reported to the administration.

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

Approved by Student Services Council January 18, 2012