

Student Services

AP 5530 STUDENT RIGHTS AND GRIEVANCES

References:

- Education Code Section 76224 subdivision (a);
- ACCJC Accreditation Eligibility Requirement 20;
- ACCJC Accreditation Standard IV.D

The purpose of this Administrative Procedure is to provide a prompt and equitable means of resolving student grievances when no other administrative procedure, Marin Community College District departmental procedure, collective bargaining agreement, or statutory procedure applies.

Any students or applicants who have questions about which procedure applies to their particular concerns are encouraged to contact Student Services – Office of Activities and Advocacy for assistance, and submit a COM Care report.

I. Definitions

Applicant - A person whose application for admission to the District has been denied.

Day – Unless otherwise provided, day shall mean any day on which the District’s Administrative Office is open for business.

District – Marin Community College District

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:

- Financial aid;
- Course grades, to the extent permitted by Education Code Section 76224 subdivision (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.

A Grievance is not:

- 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.

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 District's Superintendent/President or a designated representative of the Superintendent/President.

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, and 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.

Informal Resolution – 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 meeting, and shall attempt to solve the problem with the person with whom the student has the Grievance, that person's immediate supervisor, or the local college administration.

The Superintendent/President shall appoint an employee who shall assist students in seeking resolution by informal means. This person shall be called the Grievance Officer. The Grievance Officer and the student may also seek the assistance of the Associated Student Organization in attempting to resolve a Grievance informally.

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. A reasonable and 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.

Any student who believes he/she/they has a Grievance, or learns of the basis of the Grievance towards them, shall file a Statement of Grievance with the Grievance Officer 180 days of the incident on which the Grievance is based. 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 two days following receipt of the Statement of Grievance Form, the Grievance Officer shall advise the student 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.

Grievance Facilitator – District administrator appointed by the Superintendent/President to facilitate resolution of grievances by mutual agreement of the parties.

Grievance Officer – A District administrator or administrators appointed by the Superintendent/President to review a specific Grievance and render a final decision.

Grievance Statement – A written statement which clearly and concisely states (1) the law or Board Policy or Administrative Procedure that allegedly has been violated or arbitrarily, capriciously, or unequally applied; (2) the facts and circumstances giving rise to the grievance and name(s) of all District employees and/or agents whose acts or omissions are at issue; (3) the desired remedy; (4) a brief description of informal resolution efforts and whether informal resolution efforts are still in progress; and (5) the student's or applicant's mailing address and/or email address and telephone number for notices and other communications in relation to the grievance.

Unsafe Assignments - A student may file a grievance if he or she believes a faculty member has given the student an assignment that is unreasonable or unsafe, i.e., an assignment that subjects a student to unreasonable demands or requirements, or to unsafe conditions as determined by state or federal law.

II. Grievance Resolution Procedures

A. Informal Resolution

Students and applicants shall make a reasonable effort to communicate with the respondent(s) and, if unsuccessful, with the respondent's(s') immediate supervisor(s) to try to resolve the matter.

B. Facilitated Voluntary Resolution

If an Informal Resolution has not been reached and the student or applicant desires to continue to pursue resolution, he/she/they shall submit a written Grievance Statement to the Grievance Facilitator's Office within 30 days after the act or omission giving rise to the grievance.

The Grievance Facilitator shall determine whether, as submitted, the Grievance Statement is sufficient. A Grievance Statement shall be deemed sufficient if:

1. The Grievance Statement specifies facts which, if true, would constitute a grievance under this procedure;
2. The person submitting the Grievance Statement is a "student" or "applicant," as defined in this procedure, and has made a reasonable effort to meet with the respondent(s) and respondent's(s') immediate supervisor(s) to try to resolve the matter;
3. The student or applicant is personally and directly affected by the act(s) or omission(s) alleged in the Grievance Statement;
4. The Grievance Statement was filed in a timely manner; and

5. The grievance is not clearly frivolous, clearly without foundation, or clearly filed for purposes of harassment.

If a Grievance Statement is not sufficient, the Grievance Facilitator shall notify the student or applicant in writing within ten (10) days whenever practicable. The Notice of Insufficiency shall identify the reason(s) for insufficiency.

A student or applicant shall be given an opportunity to submit a revised Grievance Statement which must be received in the Grievance Facilitator's office within ten days after the Grievance Facilitator either mailed or emailed the Notice of Insufficiency, whichever is later. If a revised Grievance Statement is not timely received or is also determined to be insufficient by the Grievance Facilitator, the student or applicant shall be notified, and no further action under this procedure shall ensue.

The Grievance Facilitator shall try to facilitate a resolution through conference(s) with the parties, individually or together, and any other voluntary means designed to facilitate a mutually agreeable, voluntary resolution. If the Grievance Facilitator concludes that the parties are unable to reach a mutually agreeable, voluntary resolution, the Grievance Facilitator shall issue a Notice of Non-Resolution to the Grievant with a copy to the respondent(s).

C. Administrative Resolution

If the Grievant desires to seek an Administrative Review of the Grievance, within ten days after the Grievance Facilitator mailed or emailed the Notice of Non-Resolution, whichever is later, the Grievant shall submit a written Request for Administrative Review to the Grievance Facilitator, who shall forward it to the Superintendent/President, or designee, with a copy of the Grievance Statement, for assignment to a Grievance Officer. If the Grievance concerns a District employee, the Grievance Facilitator shall also forward a copy of the Request for Administrative Review to the employee within five days after receipt and notify the employee of the District's intention to investigate in accordance with these procedures.

Unless other procedures are required by applicable laws or regulations, the Grievance Officer shall set an Administrative Review Conference ("ARC") as soon as practicable. At the ARC, the Grievance Officer shall give the parties an opportunity to present information in support of, or to rebut, the Grievance and to state any proposed resolution(s). The Grievance Officer may ask the parties and non-parties questions and request that they provide relevant documents. Presentation of information and/or appearances by non-parties shall be permitted only with the Grievance Officer's express authorization or as permitted under an applicable collective bargaining agreement.

The Grievance Officer shall issue a Notice of Decision to the parties within ten days after conclusion of the ARC whenever practicable and send a copy to the Grievance Facilitator. The Grievance Officer's decision shall be final.

III. Other Available Procedures.

The District has specific procedures in place to address various concerns. The list below is intended to assist in identifying the appropriate procedure for the specific complaints. Any questions about which procedure applies should be directed to the Office of the Vice President of Student Learning and Success.

Prohibition of Harassment (BP/AP 3430): Contact Student Services, Activities and Advocacy.

Nondiscrimination (BP/AP 3410) and Discrimination and Harassment Investigations (AP 3435): Contact Student Services, Activities and Advocacy.

Responding to Harassment Based on Sex Under Title IX (BP/AP 3434): Contact Human Resources.

Grade Changes (BP/AP 4231): Contact Enrollment Services.

Academic Probation, Dismissal, and Readmission (BP 4250) Probation (AP 4250), and Academic Dismissal (AP 4255): Contact Enrollment Services.

Standards of Conduct (BP 5500) and Student Discipline and Due Process (AP 5520): Contact the Office of the Vice President of Student Learning and Success.

Residence Determination (BP/AP 5015): Contact Enrollment Services.

Student Records and Directory Information (BP/AP 5040): Contact Enrollment Services.

Student Records – Student Content and Access Log (AP 5045): Contact Enrollment Services.

Withholding of Student Records (BP/AP 5035): Contact Enrollment Services.

Police Citations (i.e., tickets, etc.): Contact the Marin County Courts in San Rafael, CA.

Neither the United Professors of Marin (UPM) nor its unit members waive any rights they may have in disciplinary matters, evaluations, and other contexts under the MCCD/UPM collective bargaining agreement, the Educational Employment Relations Act (EERA), the Education Code and/or other sources of federal and state law. To the extent that a Grievance has implications for faculty within the scope of the MCCD/UPM collective bargaining agreement, EERA, the Education Code, and/or other federal and state laws, those requirements shall govern how faculty may be impacted.

Offices of Primary Responsibility: Student Activities and Services and Human Resources

Date Approved: March 19, 2013

(Replaced College of Marin Policies 4.0023, 7.0003 and Procedure 4.0023 DP.1)

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