

CHABOT-LAS POSITAS COMMUNITY COLLEGE DISTRICT

September 18, 2018

8.0 Informational Item: Revised AP 4240; Revised AP 5530  
9.0 Other Action Item: New BP and AP 4029; Revised BP 4240  
[Combined Format for Chancellor's Council Discussion]

Subject: Second Reading and Adoption of New Board Policy 4029 (Administrative Procedure 4029) and Revised Board Policy 4240. Informational report on revised Administrative Procedure 4240 and Revised Administrative Procedure 5530

Background:

In accordance with Board Policy and Procedure 2410, prior to the adoption of a new Board Policy or a substantive policy revision, the policies were presented on the August 21, 2018 Board agenda for First Reading as an informational item. Action to adopt the new policy (approve the accompanying new procedure) and revised policy is now being recommended. Revised administrative procedures are being presented for informational purposes.

During the spring semester, several changes in policy and procedure were initiated by district constituents:

Board Policy 4029, Hours and Units (New). This policy and accompanying administrative procedure come out of the College Curriculum Committees and Academic Senates. It is necessitated by changes to Title 5 regulations which require there be a board policy stating the district's minimum number of units for a course, the hours to unit ratios, and unit increments.

[Note: a few minor revisions are being suggested by the Academic Senates and will be available for review at the Chancellor's Council meeting.]

Board Policy 4240, Academic Renewal. This revision to policy and accompanying administrative procedure came out of discussions at the districtwide governance Educational Support Services Committee. The revision permits a student to apply for academic renewal at Chabot College or Las Positas College if they have completed equivalent coursework at another accredited institution. This change is reflective of the common situation for students of taking courses at multiple community colleges prior to completing their program of study, and also is supportive of student success by reducing the number of course units students might otherwise have to take.

Administrative Procedure 5530, Student Rights and Grievances. This proposed revision to procedure is presented in draft form for informational purposes. The need to revise this procedure for organization and clarity came to the multi-constituency Chancellor's Council from the Las Positas College Academic Senate.

**Academic Affairs**

**BP 4029 HOURS AND UNITS**

**References:**

Title 5 Sections 55002, 55002.5, 55256.5  
Code of Federal Regulations: 34 CFR 668

Title 5 (§55002 and §55002.5) provides minimum hour to unit ratios and minimum unit increments at California Community Colleges. Specific hour to unit ratios and unit increments are defined locally. At the Chabot-Las Positas Community College District, 54 total student learning hours is equivalent to 1 unit of credit and the minimum unit increment is 0.5.

Title 5 (§55256.5) provides specific hour to unit ratios for Cooperative Work Experience. The ratios are 75 hours of paid work experience for 1 unit of credit and 60 hours of non-paid work experience for 1 unit of credit.

The Code of Federal Regulations defines clock hour programs (34 CFR 668). Clock hour programs are required to use the formula for calculating units of credit that is contained within the code.

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**Date Adopted:** , 2018

**AP 4029 HOURS AND UNITS**

**References:**

Title 5: 55002, 55002.5, 55256.5  
Code of Federal Regulations: 34 CFR 668

This document will define the specific relationship between hours and units at Chabot-Las Positas Community College District.

**Hour Requirements for One and Two Units of Credit**

One unit of credit is 54 hours of total student learning hours (lecture, activity, laboratory, and/or outside of class work). Two units of credit is 108 hours of total student learning hours (lecture, activity, laboratory, and/or outside of class work).

**Minimum Unit Increment and Thresholds**

The minimum unit increment is 0.5 units. As a result, the minimum number of units for a course is a multiple of 0.5 units. The total student learning hours required to reach a unit value are treated as a threshold. Examples of common thresholds are:

Units	Hour Threshold
0.5	27
1.0	54
1.5	81
2.0	108
2.5	135
3.0	162

If the number of total student learning hours is between thresholds, then the unit value for the course will be the unit value for the maximum crossed hour threshold. For example, if a course has 120 total student learning hours, then the maximum crossed hour threshold is 108 hours and the unit value would be 2.

**Standard Formula (Relationship) for Hours and Units of Credit**

Courses not classified as cooperative work experience use the following formula for calculating units of credit: Divide the total of all student learning hours (lecture, laboratory, and/or outside-of-class hours) by 54, then round down to the nearest 0.5 units.

Expressed as an equation:

$$\frac{[\text{Total Contact Hours} + \text{Outside-of-class Hours}]}{54} = \text{Units of Credit}$$

The result of this calculation is then rounded down to the nearest .5 increment. For example, if a course contains 180 total student learning hours (36 lecture, 72 lab, and 72 outside-of-class hours), then the unit calculation is as follows:

$$\frac{36 + 72 + 72}{54} = \frac{180}{54} = 3.33, \text{ which is rounded down to 3 units of credit}$$

Definitions for terms used above:

- **Total Contact Hours:** The total time per term that a student is under the direct supervision of an instructor or other qualified employee as defined in §§58050 - 58051. This number is the sum of all contact hours for the course in all calculations categories, including lecture, recitation, discussion, seminar, laboratory, activity, clinical, studio, practica, to-be-arranged, etc. Contact hours for courses may include hours assigned to more than one instructional category, e.g. lecture and laboratory, lecture and activity, lecture and clinical.
- **Outside-of-class Hours:** Hours students are expected to engage in course work outside of the classroom. Federal and state regulations for credit hour calculations are based on the total time a student spends on learning, including outside-of-class hours. As a matter of standard practice in higher education, lecture and related course formats require two hours of student work outside of class for every hour in-class. All other academic work, including laboratory, activity, clinical, studio, practica, to-be-arranged, etc. must provide an equivalent total number of student learning hours as typically required for lecture, with the ratio of in-class to outside-of-class work prorated appropriately for the instructional category.

Total student learning hours are provided using common ratios of Total Contact Hours to Outside-of-Class hours. The terms that correspond to these ratios are below:

Instructional Category	In-class Hours	Outside-of-class Hours
Lecture (Lecture, Discussion, Seminar, and Similar)	1	2
Laboratory (Traditional Lab, Natural Science Lab, Clinical, Physical Activity, and Similar)	3	0

### Cooperative Work Experience

Title 5 (§55256.5c) specifies the following relationship between hours of work experience and units of credit: One unit of credit is 75 hours of paid work experience. One unit of credit is 60 hours of non-paid work experience.

### Clock Hour Courses / Programs

Code of Federal Regulations Title 34 (§668.8k2iA) defines clock hour programs. Programs that meet this definition are required to use a federal formula for determining appropriate units of credit. This formula is outlined in the Code of Federal Regulation Title 34 (§668.8l).

### Sample Calculation Table for Semester Hours and Units (54 Hours = 1 Unit)

Lecture	0.5 units	1	1.5	2	2.5	3	3.5	4	4.5	5
Contact Hours	9	18	27	36	45	54	63	72	81	90
Outside-of-class Hours	18	36	54	72	90	108	126	144	162	180
Total Hours	27	54	81	108	135	162	189	216	243	270

Lab	0.5 units	1	1.5	2	2.5	3	3.5	4	4.5	5
Contact Hours	27	54	81	108	135	162	189	216	243	270
Outside-of-class Hours	0	0	0	0	0	0	0	0	0	0
Total Hours	27	54	81	108	135	162	189	216	243	270

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**Date Approved:**, 2018

**Academic Affairs**

**BP 4240 ACADEMIC RENEWAL**

**References:**

Title 5 Section 55046

Academic Renewal is a process that permits the alleviation of substandard (D's, F's) academic coursework not reflective of the student's current scholastic ability. Previously recorded substandard academic performance may be disregarded if it is not reflective of a student's demonstrated ability. ~~Only courses taken at the Chabot-Las Positas Community College District will apply. Work completed at other institutions may be considered for graduation eligibility only.~~

The Chancellor shall establish procedures that provide for academic renewal.

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**Date Adopted:** February 18, 2014

**Academic Affairs**

**AP 4240 ACADEMIC RENEWAL**

**References:**

Title 5 Section 55046

Students may petition for academic renewal only once. For students to be eligible for academic renewal ~~they must be currently enrolled at Chabot and/or Las Positas College,~~ and a period of at least two years must have elapsed since completion of the coursework to be disregarded. The student may submit a petition for academic renewal to the Admissions and Records Office upon completion, at an accredited institution, of the following:

- a minimum of 12 units taken consecutively ~~at Las Positas and/or Chabot~~ with a grade point average of 2.5 or better; or
- a minimum of 20 units with at least a 2.0 grade point average.

Up to 24 units of course work may be eliminated from consideration in the cumulative grade point average.

Specific courses and/or categories of courses that are exempt from academic renewal must be described. Academic renewal actions are irreversible. When academic renewal procedures permit previously recorded substandard coursework to be disregarded in the computation of a student's grade point average, the student's permanent academic record should contain an accurate record of all coursework to ensure a complete academic history.

Academic renewal procedures may not conflict with the District's obligation to retain and destroy records or with the instructor's ability to determine a student's final grade.

Upon approval to have his/her records renewed, the student's transcript shall be annotated in such a manner that all courses disregarded shall remain legible on the transcript, indicating a true and accurate history of the student's record.

Academic renewal at Chabot and Las Positas College does not guarantee that other colleges will accept this action. Acceptance of academic renewal is at the discretion of the receiving institution.

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**Date Approved:** February 18, 2014

**Student Services**

**AP 5530 STUDENT RIGHTS AND GRIEVANCES**

**References:**

Education Code Section 76224(a)  
CLPFA-Chabot-Las Positas Community College District Agreement, Articles 16-1,  
16-2, 16-3

Section One- Applicability

Section Two- Definitions

Section Three- Instructional Services and Grade Grievances

Section Four- Other Service Grievances

**SECTION ONE- APPLICABILITY**

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 his or her status, rights or privileges as a student.

This procedure addresses the following types of student grievance:	
Instruction related service and grades	<ul style="list-style-type: none"><li>• issue or complaint regarding instruction related services and classroom policies or grades</li><li>• occurs during the delivery of instruction, lab, tutoring, or library services by a faculty member to the student grievant</li></ul>
Other service grievance	<ul style="list-style-type: none"><li>• issue or complaint that does not pertain to instructional service or grades</li><li>• occurs from a violation of policy and procedure by the college that has a direct and significant impact on the student (such as free speech, smoking on campus, course repetition, instructional materials fees, etc)</li><li>• issue or complaint does not involve Financial Aid actions; police citations; student disciplinary actions; illegal discrimination or illegal harassment</li></ul>



This procedure does not address the following types of student grievance or complaint:	
Financial Aid actions	Please refer to: BP/AP 5130 Financial Aid; college catalog for processes related to financial aid complaints and appeals
Police citations (i.e. "tickets")	Complaints about citations must be directed to the county courthouse in the same way as any traffic violation
Student disciplinary actions	Please refer to: BP/AP Standards of Student Conduct; AP 5520, Student Discipline Procedures
Illegal discrimination, including sex discrimination, and illegal harassment, including sexual harassment	Please refer to: BP/AP 3410, Nondiscrimination; BP/AP 3430, Prohibition of Harrassment; AP 3435, Discrimination and Harrassment Complaint Procedures; Title IX, Education Amendments of 1972
Complaints related to student employment	Complaints related to student employment must be directed to District Human Resources

## SECTION TWO- DEFINITIONS

### **Definitions:**

**Party** – The student, and ~~or~~ any persons claimed to have been responsible for the student's alleged grievance, together with their representatives. "Party" ~~shall~~ does not include the Grievance Hearing Committee or the College Grievance Officer.

**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 only to the extent permitted by Education Code Section 76224(a).

**Designee**- A person designated by the college or District. The Vice President of Student Services or college President may name a designee for Vice President of Student Services. The Vice President of Academic Affairs or college President may name a designee for Vice President of Academic Affairs. The Chancellor or college President may name a designee for President. The Chancellor may name the college President or another designee for Chancellor.

**Respondent** – Any person claimed by a grievant to be responsible for the alleged grievance.

**Grievance Officer [moved from other section of AP below]**– The Vice President of Student Services will serve as College Grievance Officer for receipt of student grievances

under this procedure, monitoring of forms, documentation and timelines, and general procedure-related communications. The Vice President of Academic Affairs or designee shall serve as Grievance Officer on grade disputes and grievances arising out of instruction and library services. The Vice President of Student Services ~~or designee~~ shall serve as Grievance Officer for instructional services grievances arising out of counseling, and for Other Service Grievances.

**Grievant** – The student who has filed a grievance.

**Ombuds** – The Ombuds will be an identified college employee who is committed to serve as a neutral and an impartial conflict resolution practitioner. The Ombuds will have no formal decision-making authority or disciplinary responsibilities. The Ombuds may serve as an initial point of contact for students who encounter challenges or difficulties while navigating the college environment and will be identify proper resources or processes of the college. The goal of the Ombuds is to ensure the rights and interests of all parties to a dispute are considered with the goal of achieving a fair outcome. The inability to achieve a fair outcome may result in the student being referred to the grievance or complaint process.

**Day** – Days during fall and spring semesters when the College is in session and regular classes are held, excluding Saturdays and Sundays. ~~For~~ During the summer session, the number of days—for purposes of notice and response under this Administrative Procedure-- may be reasonably extended to ensure the responsible parties are able to appropriately attend to the issue. Notice of extension will be provided to the student.

**Time Limits** – Any times specified in these procedures may be shortened or lengthened if there is mutual concurrence by all parties.

**Grievance Hearing Committee:** The college President shall at the beginning of each academic year, establish a standing panel of members of the college community, including students, faculty members, classified professionals and administrators, from which one or more Grievance Hearing Committees may be appointed. The panel will be established with the advice and assistance of the Associated Students Organization, the Classified Senate, and the Academic Senate, ~~who~~ which shall each submit names to the Chancellor for inclusion on the panel.

An Instructional Services Grievance or Grade Grievance Hearing Committee shall be constituted in accordance with the following:

- It shall include at least 1 student, 1 instructor, and 1 college administrator selected from the panel described above.

An Other Service Grievance Hearing Committee shall be constituted in accordance with the following:

- It shall include at least 1 student, 1 classified professional, and 1 college administrator selected from the panel described above.

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 hearing committee prior to the beginning of the hearing by addressing a challenge to the Grievance Officer who shall determine whether cause for disqualification has been shown. If the Grievance Officer feels that sufficient ground for removal of a member of the committee has been presented, the Grievance Officer 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 appropriate Grievance Officer shall sit with the Grievance Hearing Committee but shall not vote, except to break a tie. The Grievance Officer 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.

### SECTION THREE- INSTRUCTIONAL SERVICES AND GRADE GRIEVANCES

An Instructional Service Grievance or Grade Grievance is a grievance that occurs during the delivery of instruction, counseling, or library services within a scheduled class, library service, or counseling session by a faculty member to the student grievant. The instructional services and grade grievance procedure is intended to provide all parties with due process in the event of an issue or complaint regarding instructional services and classroom policies or grades.

This grievance process does not address personality, character, or styles of teaching or delivery of instructional services; rather it takes into account state laws and regulations concerning grades, as well as district and college policies.

Course grades, to the extent permitted by Education Code Section 76224(a), which provides: Community College grading is regulated by law. California Education Code Section 76224(s) states: "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. A student seeking a grade change must bring forth evidence that would support a grade grievance.

**Filing a Grievance-** Any student who believes he/she has an instructional services grievance or grade grievance shall file an Instructional Services and Grade Grievances Statement of Grievance with the appropriate-College Grievance Officer within 10 days of the incident on which the grievance is based, or 10 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 5 days following receipt of the Statement of Grievance Form, the College Grievance Officer shall advise the student of his or her 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 10 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.

**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, 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 student may seek the assistance of the Ombuds in attempting to resolve a grievance informally. The Grievance Officer may refer the student to the Ombuds for assistance.

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.

**Request for Grievance Hearing** – A request for a grievance hearing shall be filed on a Instructional Services and Grade Grievance Request for a Grievance Hearing no later than 10 days following the student's first meeting with the College Grievance Officer.

### **Review to Determine Sufficient Grounds for a Hearing**

Within 15 days following receipt of the request for grievance hearing, the Grievance Officer 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 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 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 purposes of harassment.

If the grievance does not meet each of the requirements, the College Grievance Officer 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 appealing denial of a Grievance Hearing. This notice will be provided within 5 days of the date the decision is made by the Grievance Hearing Committee.

If the Request for Grievance Hearing meets ~~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 5 days notice of the date, time and place of the hearing.

The hearing will be scheduled with due consideration for the student's class schedule, documented required work assignment, or other extenuating circumstances. The grievant may request that the hearing take place via CCC Confer conference call, or that there be a paper review only of written documentation in lieu of a hearing.

### **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 panel to the contrary.

The members of the Grievance Hearing Committee shall be provided 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.

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(s) 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, and may also have the right to be represented by a person of his/her choice; ~~except that a party shall not be represented by an attorney unless, in the judgment of the Grievance Officer, complex legal issues are involved.~~ If a party wishes to be represented by an attorney, a request must be presented not less than 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

Grievance Officer. Any legal advisor provided to the 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 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 either by audio 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 audio recording, 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 audio recording shall remain in the custody of the District, either at the college or the District office, at all times, unless released to a professional transcribing service. Any party may request a copy of the audio recording.

All testimony shall be taken under oath; the oath shall be administered by the 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 10 days following the close of the hearing, the Grievance Hearing Committee shall prepare and send to the college 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.

**President's Decision:** Within 10 days following receipt of the Grievance Hearing Committee's decision and recommendation(s), the college President shall send to all

parties his/her written decision, together with the Hearing Committee's decision and recommendations. The 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. If the 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 President shall be final, subject only to appeal as provided below.

### **Appeals:**

**Appeal of Denial of a Grievance Hearing** Any appeal relating to a 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 college President within 5 days of that decision. The 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 President's decision whether or not to grant a grievance hearing shall be final and not subject to further appeal.

**Appeal of Decision From Grievance Hearing** Any party to the grievance may appeal the decision of the President after a hearing before a Grievance Hearing Committee by filing an appeal with the President. The President may designate a college administrator or request that the Chancellor designate a District administrator to review the appeal and make a recommendation to the President.

Any such appeal shall be submitted in writing within five days following receipt of the President's decision and shall state specifically the grounds for appeal.

The written appeal shall be sent to all concerned parties. All parties may submit written statements on the appeal.

The appeal is a paper review process only; there are no interviews or oral statements accepted by any party for the appeal. The President or President's designee shall review the record of the hearing and the documents submitted in connection with the appeal, but shall not consider any matters outside of the record. Following the review of the record and appeal statements, the President's designee shall make a written recommendation to the President regarding the outcome of the appeal.

The President may decide to sustain, reverse or modify the decision of the President's designee. The President's decision shall be in writing and shall include a statement of reasons for the decision. The President's decision shall then be final.

The decision on appeal shall be reached within five days after receipt of the appeal documents. Copies of the appeal decision shall be sent to all parties. The Instructional Services Grievance or Grade Grievance will be deemed concluded at that time.



### **Results of Instructional Services and Grade Grievances:**

If at the conclusion of a Grade Grievance, a grade change results from the decision, then the grade change document shall be submitted and signed by the appropriate manager, with a notation that the grade was changed "from \_\_\_\_\_ to \_\_\_\_\_" by a Grade Grievance decision. In the event that a grievance is sustained and further investigation or other remedial actions are part of the final decision, the protections and restrictions articulated in the \_\_\_\_\_ CLPFA/CLPCCD Agreement shall apply.

### **Time Limits:**

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

## **SECTION FOUR- OTHER SERVICE GRIEVANCES**

An Other Service Grievance is a grievance that occurs outside the delivery of instruction, counseling, or library services and does not involve a student grade. The other service grievance procedure is intended to provide all parties with due process in the event of an issue or complaint regarding a college decision or action.

Other service grievances involve violation of policies and procedures by the college to the extent they have violation has a direct and significant impact on the student, such as on the student's exercise of rights of free expression. Under this section, a grievance may also be initiated by a student alleging the violation of college/district policies and procedures against an instructor, an administrator or a member of the classified staff which has directly and significantly impacted the student.

The Vice President of Student Services will serve as the Grievance Officer for Other Service Grievances.

### **Filing an Other Service Grievance**

Any student who believes he/she has a grievance shall file an Other Service Grievance Statement of Grievance with the ~~appropriate~~ Grievance Officer within 10 days of the incident on which the grievance is based, or 10 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 5 days following receipt of the Statement of Grievance Form, the Grievance Officer shall advise the student of his or her 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 10 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.

**Informal Resolution** – Each student who has an other service grievance ~~shall~~ must 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, or ~~the local~~ with college administration. The student may seek the assistance of the Ombuds in attempting to resolve a grievance informally. The Grievance Officer may refer the student to the Ombuds for assistance.

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.

**Request for Grievance Hearing** – A request for a grievance hearing shall be filed on an Other Service Grievance Request for a Grievance Hearing no later than 10 days following the student's first meeting with the Grievance Officer.

### **Review to Determine Sufficient Grounds for a Hearing**

Within 10 days following receipt of the request for grievance hearing, the Grievance Officer 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 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 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 purposes of harassment.

If the grievance does not meet each of the requirements, the Grievance Officer 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. This notice will be provided within 5 days of the date the decision is made by the Grievance Hearing Committee.

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 5 days notice of the date, time and place of the hearing.

The hearing will be scheduled with due consideration for the student's class schedule, documented required work assignment, or other extenuating circumstances. The grievant

may request that the hearing take place via CCC Confer conference call, or that there be a paper review only of written documentation in lieu of a hearing.

### **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 panel to the contrary.

The members of the Grievance Hearing Committee shall be provided 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.

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(s) 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, and may also have the right to be represented by a person of his/her choice; ~~except that a party shall not be represented by an attorney unless, in the judgment of the Grievance Officer, complex legal issues are involved.~~ If a party wishes to be represented by an attorney, a request must be presented not less than 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 Grievance Officer. Any legal advisor provided to the 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 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 either by audio 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 audio recording, 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 audio recording shall remain in the custody of the District, either at the college or the District office, at all times, unless released to a professional transcribing service. Any party may request a copy of the audio recording.

All testimony shall be taken under oath; the oath shall be administered by the 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 10 days following the close of the hearing, the Grievance Hearing Committee shall prepare and send to the college 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.

**President's Decision:** Within 10 days following receipt of the Grievance Hearing Committee's decision and recommendation(s), the college President shall send to all parties his/her written decision, together with the Hearing Committee's decision and recommendations. The 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. If the 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 President shall be final, subject only to appeal as provided below.

#### **Appeals:**

**Appeal of Denial of a Grievance Hearing** Any appeal relating to a 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 college President within 5

days of that decision. The 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 President's decision whether or not to grant a grievance hearing shall be final and not subject to further appeal.

**Appeal of Decision From Grievance Hearing** Any party to the grievance may appeal the decision of the President after a hearing before a Grievance Hearing Committee by filing an appeal with the President. The President may designate a college administrator or request that the Chancellor designate a District administrator to review the appeal and make a recommendation to the President.

Any such appeal shall be submitted in writing within five days following receipt of the President's decision and shall state specifically the grounds for appeal.

The written appeal shall be sent to all concerned parties. All parties may submit written statements on the appeal.

The appeal is a paper review process only; there are no interviews or oral statements accepted by any party for the appeal. The President or President's designee shall review the record of the hearing and the documents submitted in connection with the appeal, but shall not consider any matters outside of the record. Following the review of the record and appeal statements, the President's designee shall make a written recommendation to the President regarding the outcome of the appeal.

The President may decide to sustain, reverse or modify the decision of the President's designee. The President's decision shall be in writing and shall include a statement of reasons for the decision. The President's decision shall then be final.

The decision on appeal shall be reached within five days after receipt of the appeal documents. Copies of the appeal decision shall be sent to all parties. The Other Services Grievance will be deemed concluded at that time.

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**Date Approved:** March 18, 2014; Revised August 2016

*(This procedure replaced Administrative Rules and Procedures 5513)*