

## **Chapter 5 - Student Services**

### **AP 5530 Student Rights and Grievances**

#### **References:**

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

Students are protected against capricious, arbitrary, unreasonable, unlawful, false, malicious, or professionally inappropriate evaluations or behavior by an instructor, an employee, or an administrator or an official of the College or another student. Student complaints may be classified as grievances and fall into four categories: Academic, Non-Academic, Discrimination, and Financial Aid Challenge.

- A. Academic Grievances: 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 (Education Code Section 76224). If a student files a grievance relative to a grade, he/she must prove that "mistake, fraud, bad faith, or incompetency" as the reason for the grade assignment. The student must follow the Student Complaint and Grievance Procedures and complete the form located on the College's website, at <http://mtsac.edu/studentlife/studentgrievances.html>
- B. Non-academic Grievances: As used in this section, grounds for a non-academic grievance include, but are not limited to, the following:
- any act or threat of intimidation;
  - any act or threat of physical aggression;
  - arbitrary action, violation of student rights, or imposition of sanctions without proper regard to College policy as specified in the Education Code, Board Policies, and/or Administrative Procedures;
  - Course Repetition, Withdrawals, and Enrollment Fees: Students may file complaints related to course repetition, withdrawals or enrollment fees based on evidence of extenuating circumstances. Students should use the Petition for Exceptional Action form and provide supporting documentation. Action will be taken by the appropriate administrator or by the Board of Appeals. Petition for Exceptional Action forms can be found in the offices of Counseling, Admissions and Records, and Student Life. Petitions may be submitted through the Office of the Dean, Student Services for review by the Board of Appeals;
  - Non-Resident Reclassification: Complaints can be filed with the Board of Appeals by submitting a written appeal, including supporting documentation, to the Admissions and Records Office within 30 calendar days after notification of the final residency classification decision. Non-Resident Reclassification appeal procedures are posted on the College's website.

- <http://www.mtsac.edu/admissions/forms-and-publications.html>

C. Discrimination Complaints: Students wishing to file discrimination complaints on the basis of ethnic group identification, national origin, religion, age, sex or gender, gender identity, sexual orientation, race, color, ancestry, physical or mental disability, or on the basis of these perceived characteristics or based on association with a person or group with one or more of these perceived characteristics, and any other category of unlawful discrimination should contact the College's Title IX/504 Compliance Officer/Equal Employment Opportunity Programs representative, located in the Office of Human Resources, Building 4, Room 1460, 909.274.4225. Additional information on discrimination can be found at the following websites:

- AP 3410 Non Discrimination  
<http://www.mtsac.edu/governance/trustees/apbp/AP3410.pdf>
- AP 3435 Discrimination and Harassment Investigations  
<http://www.mtsac.edu/governance/trustees/apbp/AP3435.pdf>
- Unlawful Discrimination  
<http://extranet.cccco.edu/Divisions/Legal/Discrimination.aspx>
- OCR (Office of Civil Rights)  
<http://www2.ed.gov/about/offices/list/ocr/complaintintro.html>
- DFEH (Department of Fair Employment and Housing)  
<http://www.dfeh.ca.gov/>

D. Financial Aid Challenge: Financial Aid students wishing to file a complaint regarding the financial aid process and/or determination should refer to the Right to Challenge section of Financial Aid Policies. Financial Aid Policies are posted on the College's website at:

<http://www.mtsac.edu/financialaid/resources/policies/right-to-challenge.html>

Grievances must be filed no later than 30 instructional days, Monday through Friday, when classes are in session, after the beginning of the primary term following the alleged violation, or 30 instructional days from the time that the student learns of the basis for the grievance. Students may pick up Grievance Procedures and forms from the Student Life Office. Procedures and forms are also available on the College's website at:  
<http://mtsac.edustudentlife/studentgrievances.html>

Students are required to meet with the Director, Student Life regarding the grievance prior to starting the process to establish deadline dates. The following is the College's approved process to pursue a grievance:

## INFORMAL PROCESS

### A. Statement of Grievance – Level I

Any student who believes an injustice or a violation of State, Federal, or College policies, laws, or regulations has occurred should try to resolve the problem through informal consultation with each of the individuals indicated below, in order, before filing a formal grievance (Level II).

1. instructor-involved (or employee/supervisor for non-academic grievances);
2. the appropriate Department Chairperson or Department representative designated by the College; and
3. division dean or supervisor of the employee.

The Statement of Grievance form (Level I) must be completed in order to document that the student followed the informal resolution process. Within three days of initiating the grievance with the Student Life Office, the student must submit the Statement of Grievance form (Level I) to the employee.

The student will have 20 instructional days to meet with the employee, the department chair, or the immediate supervisor, and the division dean. If there is no resolution after meeting with the employee, or the employee fails to meet or respond within 10 instructional days, the student may proceed to the next level by meeting with the employee's department chair or immediate supervisor. If the complaint is still not resolved at this level, the student must meet with the employee's division dean or supervisor. If the student has not been able to resolve the complaint/grievance at any of the informal levels indicated, the student may file a Formal Grievance – Level II within 10 instructional days after meeting with the division dean or supervisor.

## FORMAL PROCESS

### B. GRIEVANCE REVIEW - LEVEL II

If the student believes the issue has not been resolved satisfactorily at Level I, the student must meet with the Director, Student Life to establish deadline dates for Level II. The subsequent procedures are to be followed:

1. The student shall file a Formal Grievance form with the Student Life Office within 10 instructional days after completing Level I. Additional documentation substantiating the grievance must be attached to the form.
2. The Director, Student Life is responsible for informing the aggrieved student of his/her rights, responsibilities, and procedures.
3. The employee against whom the grievance is filed will be sent a copy of the student grievance (Levels I and II) by the Student Life Office within 10 instructional days. A notification of the grievance will be sent to the employee's division dean or supervisor. The employee will have 15 instructional days to submit a response.

4. The Director, Student Life seeks committee appointees within the same 10 instructional day period that is considered the notification deadline for the employee being grieved.
5. Both the student and employee involved may solicit documentation from other persons to support their position.
6. The written grievance and written response by the employee shall be forwarded to the Director, Student Life.
7. The Grievance Review Committee will be convened to review the student grievance. The committee will be comprised of the following members:
  - a. Chair, Dean of Student Services or Vice President's designee (non-voting);
  - b. one student appointed by the Associated Students;
  - c. one faculty (from outside the organizational area specified in the grievance) appointed by the Academic Senate or one classified employee (from outside of the organizational area specified in the grievance) appointed by CSEA for non-academic grievances; and
  - d. one administrator from within the organizational area specified, in the grievance, designated by the Dean, Student Services; and
  - e. resource person (non-voting), Director, Student Life or Student Services Vice President.
8. The Grievance Review Committee will make one of the following determinations within 20 instructional days:
  - a. the complaint of the student is not grievable; or
  - b. there is insufficient evidence to warrant further action; or
  - c. the case should proceed to formal action, Level III.
9. The employee, dean/supervisor, and grievant will be notified within five instructional days of the committee's written report.

#### C. GRIEVANCE HEARING - LEVEL III

If the Grievance Review Committee determines that further action is warranted, the case is referred to the Dean, Student Services.

1. The Dean, Student Services is responsible for setting the formal hearing date and notifying the appropriate bodies in writing of the need to appoint members to the Grievance Hearing committee. The hearing must commence within 10 instructional days after the Grievance Review Committee renders its written decision.
2. The Dean, Student Services shall send confidential packets to the Grievance Hearing Committee members (in person or by express/certified mail) five instructional days prior to the hearing.

3. The Grievance Hearing Committee will be comprised of the following members:
  - a. Chair, Dean, Student Services (non-voting);
  - b. resource person, Director, Student Life (non-voting);
  - c. two student appointments made by the President, Associated Students;
  - d. two faculty appointments made by the Academic Senate (one from the organizational area and one outside of the organizational area in which the grievance has been made) or for non-academic grievances, two classified appointments made by CSEA (one from the organizational area and one outside of the organizational area in which the grievance has been made); and
  - e. one Instruction Team administrator (designated by the Executive Dean, Instruction) for academic grievances; or, one Student Services administrator (designated by the Dean, Student Services) for all other grievances.
4. The following persons shall be present at the hearing to answer questions by the Grievance Hearing Committee:
  - a. the student grievant;
  - b. the employee; and
  - c. the department chairperson/division dean or immediate supervisor who participated in the Grievance Review Committee.
5. The hearing shall be recorded and retained for seven years. The following process shall be adhered to when the hearing is convened:
  - a. purpose, function, and guidelines of hearing will be reviewed by the Chair;
  - b. the student is allowed to make a statement specific to the grievance and the requested outcome;
  - c. employee is allowed to make a statement specific to the grievance, requested outcome, and any statements/evidence presented by the student;
  - d. the hearing panel members may ask questions specific to the case;
  - e. discussion, clarification, and additional comments are allowed;
  - f. hearing is recessed for a decision; student and employee and any other invited parties are excused; and
  - g. a decision is made by the hearing panel within 15 instructional days.
    - (1) Reject grievance - deny requested outcome;
    - (2) Support grievance - approve requested outcome; or
    - (3) Support grievance - approve revised outcome.
  - h. The Dean, Student Services shall send out written notification including the rationale for the decision to the student, the employee, the Vice President, Student Services, the Vice President, Instruction, and the President of the College within 10 instructional days.
6. Both the grievant and the employee have the right to present witnesses, testimony, and evidence, but only as related to the charges previously presented to the Grievance Review Committee. No new charges shall be admitted for consideration.

7. Both the grievant and the employee have the right to be accompanied by an advocate in the formal grievance hearing.
8. The hearing shall be closed to the public.

### TIME LIMITS

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

### APPEAL PROCESS

#### College President

1. If either party is dissatisfied with the decision of the Grievance Hearing Panel, an appeal may be submitted to the College President.
2. Such an appeal must be submitted to the College President by certified mail within 10 instructional days after notification of the decision.
3. The College President has 10 instructional days to respond to the appeal. The College President can uphold and support the original requested outcome or the decision of the hearing committee. The President's decision shall be final.

Issues that are not resolved at the campus level may be presented to:

The Accrediting Commission for Community and Junior Colleges (ACCJC) for complaints associated with the institution's compliance with academic program quality and accrediting standards. ACCJC is the agency that accredits the academic programs of the California Community Colleges. The complaint process and form can be found at the Accrediting Commission for Community and Junior Colleges' website at: <http://www.accjc.org/complaint-process>

The California Community Colleges Chancellor's Office if the complaint does not concern the College's compliance with academic program quality and accrediting standards. The complaint form can be found at the California Community Colleges Chancellor's Office website, at:

<http://californiacommunitycolleges.cccco.edu/ComplaintsForm.aspx>

Any further appeal must be filed through civil court.

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