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**Allan Hancock Joint Community College District  
Board Policy  
Chapter 5 – Student Services**

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**BP 5530 STUDENT RIGHTS AND GRIEVANCES**

Students are encouraged to pursue academic studies and other college-sponsored activities that will promote intellectual growth and personal development. In pursuing these ends, and in compliance with the requirements of Title IX and Section 504 of P.L. 93x112, the District establishes this Student Complaint Policy.

The District's Title IX Coordinator is responsible for ensuring that the District complies with the rules and regulations adopted by the Board of Governors of the California Community Colleges regarding unlawful discrimination against students. When a student feels that he/she has been subjected to unfair and improper action by any member of the college community, the student can seek to resolve the complaint in an expeditious manner by following the Administrative Procedure 5530 titled Student Rights and Grievances).

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

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*(Replaces Board Policy 6200)*

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**Allan Hancock Joint Community College District**  
**Administrative Procedure**  
Chapter 5 – Student Services

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## **AP 5530 STUDENT RIGHTS AND GRIEVANCES**

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/her status, rights or privileges as a student. The procedures shall include, but not be limited to, grievances regarding:

- Sex discrimination as prohibited by Title IX of the Higher Education Amendments of 1972
- 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.
- Academic Complaints.

This procedure does not apply to:

- Student disciplinary actions, which are covered under Board Policies 5500 and Administrative Procedure 5520.
- Police citations (i.e. "tickets"); complaints about citations must be directed to the County Courthouse in the same way as any traffic violation.
- Harassment and discrimination, which are covered under Board Policies and Administrative Procedures 3410, 3430, and Administrative Procedure 3435

Procedures are published and available to students in the catalog and on the District's website.

## **Definitions:**

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

**Respondent** – Any person claimed by a grievant 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, 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 Body's (ASB) Director of Student Advocacy 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. 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.

### **Informal Resolution Procedure**

The following steps must be taken in the sequence presented within 60 days of the alleged incident:

Step 1: Meet with the person(s) involved in the complaint to seek a solution. The Associated Student Body's (ASB) Director of Student Advocacy may accompany the student and may assist both parties to achieve a mutually acceptable resolution of the complaint.

Step 2: Confer with the chairperson of the appropriate department in cases involving faculty or staff. The ASB Director of Student Advocacy may attend.

Step 3: Confer with the Chief Student Services Officer or designee. He/she will call an informal conference with the parties involved in the complaint. In the case of a complaint against the vice president, student development and services, confer with the district affirmative action officer. In either case, the ASB Director of Student Advocacy may attend.

The ASB Director of Student Advocacy may record the dates and outcome of such conferences, and may present in writing such information to the Chief Student Services Officer or designee. If in any of the steps in the informal procedure college staff cannot make or keep an appointment with the student within five days of the student's attempt to make the appointment, that step may be omitted and the next step initiated. Unavailability of the student is not cause to move to the next step. The ASB commissioner of student rights and development may also record any deviation from normal procedure.

## **Section A: Formal Process for Academic and Non-Academic Grievances (Excluding Grade Grievances)**

**Note: See Section B for Grade Grievances**

### **Step 1. Formal Resolution Procedure**

Any student who believes he/she has a grievance shall file a Statement of Grievance with the Grievance Officer within 60 days of the incident on which the grievance is based, or 60 days after the student learns of the basis for the grievance, whichever is later. If the student wishes that the grievance becomes official, the Statement of Grievance must be filed whether or not the student has already initiated efforts at informal resolution. Within two 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.

### **Step 2. Review of Grievance**

The Chief Student Services Officer will review the Statement of Grievance and will meet with the person(s) involved prior to making an administrative determination. This may include faculty, staff, administrators, or students.

The determination of whether the Statement of Grievance presents sufficient grounds 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 at the end of 14 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.

### **Step 3. Request for Grievance Hearing**

#### Grievance Hearing Committee

The Superintendent/President shall at the beginning of each semester, including any summer session, establish a standing panel of four members of the college community, including two students, two faculty members and one administrator, 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 and the Academic Senate, who shall each submit two names to the Superintendent/President for inclusion on the panel. A Grievance Hearing Committee shall be constituted in accordance with the following:

- It shall include two students, two faculty members, and one 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 Superintendent/President who shall determine whether cause for disqualification has been shown. If the Superintendent/President feels that sufficient ground for removal of a member of the committee has been presented, the Superintendent/President 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.
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- 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 Hearing Committee to facilitate a full, fair and efficient resolution of the grievance, and shall avoid an adversary role.

Request for Grievance Hearing – Any request for a grievance hearing shall be filed on a Request for a Grievance Hearing Form within 30 days after filing the Statement of Grievance as described above.

Within 14 days following receipt of the request for grievance hearing, the Superintendent/President 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 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. This notice will be provided within seven 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 30 days following the decision to grant a Grievance Hearing. All parties to the grievance shall be given not less than five day notice of the date, time and place of the 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 Hearing Committee, complex legal issues are involved. If a party wishes to be represented by an attorney, a request must be presented not less than seven 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 Superintendent/President 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 seven 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 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 tape 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 tape 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 tape 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 14 days following the close of the hearing, the Grievance Hearing Committee shall prepare and send to the Superintendent/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

### **Superintendent/President's Decision**

Within 14 days following receipt of the Grievance Hearing Committee's decision and recommendation(s), the Superintendent/President shall send to all parties his/her written decision, together with the Hearing Committee's decision and recommendations. The Superintendent/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; and if the Superintendent/President does not accept the decision or a finding or recommendation of the Hearing Committee, the Superintendent/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 Superintendent/President shall be final, subject only to appeal as provided below.

#### **Step 4: Appeal to the Superintendent/President**

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

#### **Section B: Formal Process for Grade Grievances (Excluding Grade Grievances)**

The State of California Education Code states (Section 76224) that the "...determination of the student's grade by the instructor in the absence of mistake, fraud, bad faith, or incompetence, shall be final."

If a student feels she or he has been unfairly assigned a grade based upon mistake, fraud, bad faith, or incompetence, not more than 120 days after the last day of the semester or term for which the grade was awarded, the student could initiate "Step 1" of the grade review procedure (certain exceptions can apply if extenuating circumstances are documented and approved by the Grade Review Committee (GRC)).

Step 1: Meet with the instructor to explain the situation and see if the problem can be resolved.

Step 2: If Step 1 does not resolve the issue and the student wishes to pursue it further then the student shall complete the Grade Review Petition Form and arrange a meeting with the department chair of the faculty person who assigned the grade.

Step 3: If Step 2 does not resolve the issue and the student wishes to pursue it further then the student shall arrange a meeting with the dean of the faculty person who assigned the grade.

Step 4: If Step 3 does not resolve the issue then the student may request a formal hearing by the GRC. The GRC shall be composed of the vice president, student development & services (who shall chair the committee), two faculty members (the president and vice president of the Academic Senate or their designees), and the ASB president or his/her designee.

The GRC shall hold a hearing within four weeks of receiving a valid request for such from the student, unless the student and/or the faculty member is unavailable due to vacation or other extenuating circumstances. All parties involved will have the right to present oral or written testimony, to have counsel, to have and question witnesses, and to hear all testimony. If the principal parties, either the student and/or the faculty member, do not wish to attend all formal hearings, he/she may waive this right by letter.

The findings of the GRC shall be stated in writing to all participants no later than two weeks from the date of the hearing. A copy of such findings will be forwarded to the superintendent/president.

Within two weeks the superintendent/president will issue a written decision to the GRC, the dean, chair, faculty member, and the student. If the faculty member or the student wishes to appeal the decision, the board of trustees will arrange an appeal review hearing within two months of the filing of the appeal. The board of trustees can review the matter based upon the record through Step 4, or grant a hearing de nova (full hearing).

Step 5            Within two weeks after the board hearing, the board will issue its finding. The decision of the board is final.

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

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