

**Student Services  
DRAFT as of 6/4/13**

**Gerald and Diana will review this document and current college language**

**AP 5530 STUDENT RIGHTS AND GRIEVANCES**

**References:**

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

***NOTE: This procedure is **legally required**. Local practice may be inserted. The following is an illustrative example that meets legal requirements, especially for Title IX requirements.***

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. 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
- Sexual harassment
- Financial aid
- Illegal discrimination
- Course grades, to the extent permitted by Education Code Section 76224(a), which provides: "When grades are given for any course of instruction taught in a community college District, the grade given to each student shall be the grade determined by the instructor of the course and the determination of the student's grade by the instructor, in the absence of mistake, fraud, bad faith, or incompetency, shall be final." "Mistake" may include, but is not limited to errors made by an instructor in calculating a student's grade and clerical errors.
- The exercise of rights of free expression protected by state and federal constitutions and Education Code Section 76120.

This procedure does not apply to:

- Student disciplinary actions, which are covered under separate Board policies and Administrative Procedures.
- Police citations (i.e. "tickets"); complaints about citations must be directed to the County Courthouse in the same way as any traffic violation.

**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.

**Chancellor** – The Chancellor or a designated representative of the Chancellor.

**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 Chancellor 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. 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.

Any student who believes he/she has a grievance shall file a Statement of Grievance with the Grievance Officer within **[number]** days of the incident on which the grievance is based, or **[number]** 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 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.

If at the end of [number] 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.

***NOTE: The following is optional.***

**Grievance Hearing Committee:** The Chancellor shall at the beginning of each semester, including any summer session, establish a standing panel of [number] members of the college community, including [number] students, [number] faculty members and [number] 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 and the Academic Senate, who shall each submit [number] names to the Chancellor for inclusion on the panel. A Grievance Hearing Committee shall be constituted in accordance with the following:

- It shall include [number] students, [number] instructors, and [number] 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 Chancellor who shall determine whether cause for disqualification has been shown. If the Chancellor feels that sufficient ground for removal of a member of the committee has been presented, the Chancellor 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 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 within [number] days after filing the Statement of Grievance as described above.

Within [number] days following receipt of the request for grievance hearing, the Chancellor 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 [number] 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 [number] days following the decision to grant a Grievance Hearing. All parties to the grievance shall be given not less than [number] days notice of the date, time and place of the hearing.

***NOTE: A hearing must comply with principles of due process, including the right to confront and cross examine witnesses. The following procedure is legally advised.***

### **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 [number] 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 Chancellor's 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 [number] 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 tape 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 [number] days following the close of the hearing, the Grievance Hearing Committee shall prepare and send to the Chancellor 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.

**Chancellor's Decision:** Within **[number]** days following receipt of the Grievance Hearing Committee's decision and recommendation(s), the Chancellor shall send to all parties his/her written decision, together with the Hearing Committee's decision and recommendations. The Chancellor 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 Chancellor does not accept the decision or a finding or recommendation of the Hearing Committee, the Chancellor 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 Chancellor shall be final, subject only to appeal as provided below.

**Appeal:** 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 Chancellor within **[number]** days of that decision. The Chancellor 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 Chancellor's decision whether or not to grant a grievance hearing shall be final and not subject to further appeal.

**NOTE:** *The following section applies only to multi-college Districts.*

Any party to the grievance may appeal the decision of the Chancellor after a hearing before a Grievance Hearing Committee by filing an appeal with the Chancellor. The Chancellor may designate a District administrator to review the appeal and make a recommendation.

Any such appeal shall be submitted in writing within five days following receipt of the Chancellor'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 Chancellor or 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 Chancellor's designee, if any, shall make a written recommendation to the Chancellor regarding the outcome of the appeal.

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

The decision on appeal shall be reached within five days after receipt of the appeal documents. Copies of the Chancellor's appeal decision shall be sent to all parties.

**Time Limits:**

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

❖ **From current CLPCCD Administrative Rules and Procedures 5513 titled Student Grievance – Chabot College & Las Positas College**

**1. Chabot College**

The Chabot-Las Positas Community College District encourages all its students to pursue academic studies and other college sponsored activities that will promote intellectual growth and personal development. In pursuit of these goals, the student should be free of unfair or improper action from any member of the academic community. Toward that end, the following procedures have been developed to provide every student with a prompt and equitable means of seeking an appropriate remedy for any alleged violation of the student's rights.

The district accords every student the right of protection. Students, however, must also be aware that they are responsible for complying with all college regulations and for maintaining the appropriate requirements as established by the instructor for each course in which they are enrolled. The district shall insure that the student is fully accorded due process as stated in this student grievance policy.

*General Provisions*

Under this section, a grievance may be initiated by a student alleging violation of college/district policies and procedures. The grievance may be against another student, an instructor, an administrator or a member of the classified staff.

*Processing the Grievance*

When a student feels subjected to an unjust action or denied rights by a member of the academic community, the students may seek redress according to the following procedures. The following actions are grounds for student grievance:

- a. Prejudiced or capricious decision in the academic evaluation of a student's performance.
- b. Prejudiced or capricious decision in orientation, counseling, assessment or any other matriculation procedure.
- c. Act or threat of intimidation or harassment.
- d. Act or threat of physical aggression.
- e. Arbitrary action or imposition of sanctions without proper regard to due process as specified in college procedures.
- f. Violation of student rights which are described in the college rules and regulations.

*Step 1 - Informal Procedure*

Before filing a formal, written grievance, the student shall first attempt to resolve the issue in the following manner. An informal conference should be conducted with:

- a. The person against whom the grievance is directed.

- b. The appropriate division dean or manager.
- c. The Vice President for Academic Services for academic evaluation of a student's performance (a., above under Processing the Grievance.)
- d. The Vice President of Student Services for all other student grievances (b. through f., above under Processing the Grievance.)

If the student feels that the grievance has not been resolved by any of the above conferences within five (5) working days, a formal grievance may be submitted to the appropriate vice-president.

#### *Step II- Formal Procedure*

Grievances involving prejudiced or capricious decisions in the academic evaluation of a student's performance shall be submitted to the Vice President for Academic Services for referral to the Academic Fairness Committee; all other grievances requiring further investigation shall be submitted to the Vice President of Student Services and referral to the Student Grievance Committee. Both of these committees shall be standing committees with one year appointments.

The process for submitting a formal grievance to the appropriate vice-president is as follows:

- a. The student shall complete and submit within five (5) working days a grievance form provided by the vice-president.
- b. Upon receipt of the completed grievance form, the vice-president shall within five (5) working days, (1) request a response from the person against whom the charges are made. That person should submit a response within ten (10) working days (failure to respond within the defined time lines will not delay the processing of the grievance); and (2) refer the grievance materials from both parties to the chair of the (appropriate) committee. The committee chair will convene the committee to conduct formal hearings; establish findings of facts, and recommend action for resolution.

The vice-president shall also advise the student of the investigation that will ensue.

a. The Academic Fairness Committee shall be established as follows:

(1) The academic senate shall appoint two standing members. A third appointment shall be made at the time of the grievance to ensure that one faculty member be named who has specific knowledge of the academic discipline involved. Should one of the standing members be a party to the grievance, an alternate will be named.

(2) The Associated Students shall appoint one student to serve as a standing member for a one-year term. Should the standing member be a party to the grievance, an alternate will be selected.



(3) The president of the college shall appoint one member who may be a student, an instructor, a member of the classified staff, or an administrator other than the vice-president of academic services or a member of that vice-president's administrative staff.

(4) The committee shall select one of their members to be chair.

b. The Academic Fairness Committee shall conduct its proceedings as follows:

(1) A record of all information in the possession of the vice-president shall be given to the committee chair. The committee shall make every reasonable effort to conduct its hearing and present its findings and recommendations within fifteen (15) working days of receiving the grievance.

(2) The committee shall discuss issues, hear testimony, examine witnesses and consider all available evidence pertaining to the charge.

(3) Both parties shall have the right to present written or oral statements, testimony, evidence and witnesses. Each party may be present at the hearing and be represented by a person of their choice. Each person has the right to question witnesses and hear testimony.

(4) The committee shall judge the relevancy and weight of testimony and evidence and make its findings of facts, limiting its investigation to the formal charge. The committee shall also make recommendations for the disposition of the charge.

(5) The hearing shall be closed to the public unless the student requests from the vice-president at least two (2) working days in advance that the hearing be public.

(6) The committee shall submit its findings of facts and recommend action within seven (7) working days after the hearing to the vice-president with a copy to each party and the president of the college.

(7) A summary record of the proceedings will be the responsibility of the chair of the committee, if the hearing is held in closed session. These proceedings shall be kept in a confidential file by the vice-president and shall be available at all times to both parties.

c. The Student Grievance Committee shall be established as follows:

(1) The associated students shall appoint two standing members. Should one of the standing members be a party to the grievance, an alternate will be named.

(2) The academic senate shall appoint two standing members. Should one of the standing members be a party to the grievance, an alternate will be named.

(3) The president of the college shall appoint one member who may be an instructor, a member of the classified staff, or an administrator other than the vice-president or a member of the vice-president's administrative staff.

(4) The committee shall select one of their members to be chair.

d. The Student Grievance Committee shall conduct its proceedings as follows:

(1) A record of all information in the possession of the vice-president shall be given to the committee chair. The committee shall make every reasonable effort to conduct its hearing and present its findings and recommendations within fifteen (15) working days of receiving the grievance.

(2) The committee shall discuss issues, hear testimony, examine witnesses and consider all available evidence pertaining to the charge.

(3) Both parties shall have the right to present written or oral statements, testimony, evidence and witnesses. Each party has the right to be present at the hearing and be represented by a person of their choice. Each person shall have the right to question witnesses and hear testimony.

(4) The committee shall judge the relevancy and weight of testimony and evidence and make its findings of facts, limiting its investigation to the formal charge. The committee shall also make recommendations for the disposition of the charge.

(5) The hearing shall be closed to the public unless the student requests from the vice-president at least two (2) working days in advance that the hearing be public.

(6) The committee shall submit its findings of facts and recommended action within seven (7) working days to the vice-president with a copy to each party, and the president of the college.

(7) A summary record of the proceedings will be the responsibility of the chair of the committee, if the hearing is held in closed session. These proceedings shall be kept in a confidential file by the vice-president and shall be available at all times to both parties.

e. Final action for all grievances: the vice-president, upon receiving the findings of facts and recommendations of the committee, will review the proceedings of the committee, conduct such investigations as are appropriate and take one of the following actions:

- (1) Concur with the committee's recommendations.
- (2) Reduce the recommended sanctions.
- (3) Dismiss the charge.

If (2) or (3) should occur, the vice president shall convene the committee for further discussion and consultation.

The decision by the vice-president shall be rendered within seven (7) working days and transmitted in writing to the accused person, the appropriate committee, the president of the college and the student filing the grievance.

f. The accused or the aggrieved person may write an appeal of the decision made by the vice-president to the president of the college within seven (7) working days. Upon receipt of the appeal, the college president will review the proceedings of the committee, conduct such investigations as are appropriate and take one of the following actions:

- (1) Concur with the committee's recommendations.
- (2) Reduce the recommended sanctions.
- (3) Dismiss the charge.

If (2) or (3) should occur, the college president shall convene the vice-president and committee for further discussion and consultation. The decision by the president shall be rendered within seven (7) working days and transmitted in writing to the accused person, the committee, the vice-president and the student filing the grievance.

g. If the accused or aggrieved person is dissatisfied with the college president's decision, a written appeal may be filed with the chancellor within seven (7) working days. Upon receipt of the appeal, the chancellor will review the proceedings of the committee, conduct such investigations as are appropriate and take one of the following actions:

- (1) Concur with the committee's recommendations.
- (2) Reduce the recommended sanctions.
- (3) Dismiss the charge.

The decision by the chancellor shall be rendered within fourteen (14) working days and transmitted, in writing, to the accused person, the committee, the president, the vice-president and the student filing the grievance.

h. If the accused or aggrieved person is dissatisfied with the chancellor's decision, a written appeal may be filed with the board of trustees within fourteen (14) working days. Upon receipt of the appeal, the board of trustees will review the proceedings of the committee, conduct such investigations as are appropriate and take one of the following steps:

- (1) Concur with the committee's recommendations.
- (2) Reduce the recommended sanctions.
- (3) Dismiss the charge.

The decision by the Board of Trustees shall be rendered within twenty-one (21) working days and transmitted, in writing, to the accused person, the committee, the Chancellor, the president, the vice-president and the student filing the grievance. The decision of the board of trustees shall be considered the final step that may be taken under academic grievance and due process.

i. Retaliation: Any retaliatory action of any kind by an employee or student of the district/college against any student as a result of filing a grievance under these procedures, cooperating in an investigation, or other participation in these procedures is prohibited, and may be regarded as the basis for disciplinary action.

## **2. Las Positas College**

Las Positas College accords each student the right to redress for infringement of his/her rights. However, the student must also be aware that she/he is responsible for complying with all District/College regulations and for maintaining the appropriate requirements as established by the instructor for each course in which they are enrolled. The College shall insure that the student is fully accorded due process as stated in the written procedures of the College.

### **GENERAL PROVISIONS**

a. A student may file a grievance when s/he feels that there has been a violation of College/District policies and procedures. A grievance may be initiated against another student, an instructor, an administrator or a member of the classified staff.

b. The following actions are grounds for student grievance:

- 1) Prejudiced or capricious decision in the academic evaluation of a student's performance.

- 2) Prejudiced or capricious decision in orientation, counseling, assessment or any other Matriculation procedure.
- 3) Act or threat of intimidation or harassment.
- 4) Act or threat of physical aggression.
- 5) Arbitrary action or imposition of sanctions without proper regard to due process as specified in college procedures.
- 6) Violation of student rights which are described in the college rules and regulations. However, grievances of harassment of students, including sexual harassment, shall be processed in compliance with the provisions of Board Policy 5000 and any regulations adopted pursuant to that policy.

### **PROCESSING THE GRIEVANCE**

When a student feels that s/he has been subjected to an unjust action or denied his/her rights by a member of the academic community, s/he may seek redress according to the following procedures.

#### **a. Informal Procedures**

Before filing a formal, written grievance the student shall first attempt to resolve the issue in the following manner. An informal conference shall be conducted with:

- 1) The person against whom the student has the grievance; or
- 2) The appropriate Dean or Area Chair; or
- 3) The Vice President of Academic Services for academic evaluation of a student's performance (grounds for student grievance number 1 above); or the Vice President of Student Services for all other student grievances (grounds for student grievance numbers 2 through 6 above).

#### **b. Formal Procedures**

- 1) If the student feels that the grievance has not been successfully resolved by any of the above conferences within five (5) working days following the informal conference, the student may submit a formal grievance by filing a completed grievance form (See Appendix A) with the Vice President of Student Services.

The student grievance form shall be available from the Vice President of Student Services. Upon request, the Vice President of Student Services shall advise the student of the process that will ensue and provide the grievant with a copy of the grievance procedure policy.

The Vice President of Student Services may dismiss the grievance, if, during the informal procedures, the grievance is shown to be capricious or malicious.

2) Confidentiality--Every effort shall be made to protect the privacy of parties involved in any grievance. Files pertaining to grievances handled under this process are confidential, and therefore, will only be discussed on a "need to know" basis as a means of investigating and resolving the matter.

3) If the grievance involves prejudiced or capricious decisions in the academic evaluation of a student's performance, the Vice President of Student Services shall refer it to the Vice President of Academic Services who shall, in turn, refer the grievance to the Academic Fairness Committee. All other grievances shall be referred to the Student Grievance Committee for further investigation.

4) The process for submitting a formal grievance to the Vice President of Student Services is as follows:

a) Within five (5) working days after receipt of the completed grievance complaint form, the appropriate dean shall refer the grievance to the appropriate committee chair who will convene the Committee. The Committee will conduct formal hearings to establish findings of fact and recommend action for resolution. The Vice President of Student Services shall meet with the Committee to review the Committee's charge and the range of its options.

b) Any retaliatory action of any kind by an employee or a student of the District/College against any student as a result of filing a grievance under these procedures, cooperating in an investigation, or other participation in these procedures is strictly prohibited. Any such retaliation or attempted retaliation may be the basis for disciplinary action. Reports of any person subjected to any attempted retaliatory conduct shall be made to the Vice President of Student Services who shall process the alleged retaliation in the same manner as all other student grievances.

### **c. Grievances Concerning Fairness in Evaluation of a Student's Performance**

1) Grievances involving prejudiced or capricious decisions in the academic evaluation of a student's performance shall be referred by the Vice President of Academic Services to the Academic Fairness Committee.

a) The Academic Fairness Committee shall be established as follows:

(i) The Academic Senate shall appoint two standing members for staggered two-year terms. A third appointment shall be made by the Senate at the time of the grievance to ensure that one faculty member has specific knowledge of the academic discipline involved. Should one of the standing members be a party to the grievance, an alternate will be named.

(ii) The Associated Students shall appoint one student to serve as a standing member for a one-year term. Should the standing member be a party to the grievance, an alternate will be named.

(iii) The President of the college shall appoint an administrator, other than the Vice President of Academic Services to serve as a member of the committee for the purpose of investigating the particular grievance.

(iv) The committee shall select one of its members to act as chair.

b) The Academic Fairness Committee shall conduct its proceedings as follows:

(i) All pertinent and appropriate information in the possession of the Vice President of Academic Services shall be given to the Committee Chair. The Committee shall make every reasonable effort to conduct its hearing and present its findings of facts and recommended actions within fifteen (15) working days of receiving the grievance.

(ii) The Committee shall discuss issues, hear testimony, examine witnesses and consider all available evidence pertaining to the charge.

(iii) Both parties shall have the right to present written or oral statements, testimony, evidence and witnesses. The accused person may be present at the hearing and be represented by a person of his/her choice. Each party shall have the right to be represented by counsel and to question witnesses and hear testimony.

(iv) The Committee shall judge the relevance and weight of testimony and evidence and make its findings of facts, limiting its investigation to the formal charge. The Committee shall also make recommendations for the disposition of the charge.

(v) The hearing shall be closed to the public unless both the accusing person and the accused person notify the Vice President of Academic Services at least forty-eight (48) hours in advance that s/he requests the hearing to be public. The Vice President may refuse such a request if confidentiality must be maintained to insure the rights of any party in the dispute.

(vi) Within five (5) working days after the conclusion of its hearing and no more than five (5) working days after receipt of the grievance from the Vice President of Academic Services, the Committee shall submit its findings of facts and recommended action to the Vice President of Academic Services with a copy to each party, the Vice President of Student Services and to the President of the College.

(vii) The Chair of the Committee will be responsible for creating a summary record of the proceedings. Upon conclusion of the committee's business, these proceedings shall be kept in a confidential file by the Vice President of Academic Services and shall be available upon reasonable notice to both parties.

**d. All Other Student Grievances Shall be Handled as Follows:**

1) Grievances not involving prejudiced or capricious decisions in the academic evaluation of a student's performance shall be referred to the Student Grievance Committee.

a) The Student Grievance Committee shall be established as follows:

(i) The Academic Senate shall appoint two standing members for staggered two-year terms. Should one of the standing members be a party to the grievance, an alternate will be named.

(ii) The Associated Students shall appoint one student as a standing member for a one-year term. Should the standing member be a party to the grievance, an alternate will be named.

(iii) The President of the College shall appoint an administrator, other than the Vice President of Student Services to serve as a member of the committee for the purpose of investigating the particular grievance.

(iv) The Classified Senate shall appoint one standing member for a one-year term. Should the standing member be a party to the grievance, an alternate will be named.

(v) The Committee shall select one of its members to act as chair.

b) The Student Grievance Committee shall conduct its proceedings as follows:

(i) The Vice President of Student Services shall meet with the Committee to explain their charge.



All pertinent and appropriate information in the possession of the Vice President of Student Services shall be given to the Committee Chair.

The Committee shall make every reasonable effort to conduct its hearing and present its findings of facts and recommend action within fifteen (15) working days of receiving the grievance.

(ii) The Committee shall discuss issues, hear testimony, examine witnesses and consider all available evidence pertaining to the charge.

(iii) Both parties shall have the right to present written or oral statements, testimony, evidence and witnesses. The accused person may be present at the hearing and be represented by a person of his/her choice. Each party shall have right to be represented by counsel and to question witnesses and hear testimony.

(iv) The Committee shall judge the relevance and weight of testimony and evidence and make its findings of facts, limiting its investigation to the formal charge. The Committee shall also make recommendations for the disposition of the charge.

(v) The hearing shall be closed to the public unless both the accusing person and accused person notify the Vice President of Student Services at least two (2) working days in advance that s/he requests the hearing to be public. The Vice President may refuse such a request if confidentiality must be maintained to insure the rights of any party in the dispute.

(vi) Within five (5) working days after conclusion of its hearing and no more than fifteen (15) working days after receipt of the grievance from the Vice President of Student Services, the Committee shall submit its findings of facts and recommended action to the Vice President of Student Services with a copy to each party, and the President of the college.

(vii) The Chair of the Committee shall be responsible for creating a summary record of the proceedings. Upon conclusion of the Committee's business, the record of these proceedings shall be kept in a confidential file by the Vice President of Student Services and shall be available upon reasonable notice to both parties.

#### **e. Final Action for all Grievances**

1) The Vice President of Academic Services, (for grievances pertaining to academic evaluation of a student's performance), or the Vice President of Student Services, (for all other student grievances), upon receiving the findings of facts and recommendations of the appropriate Committee will review the proceedings, conduct such investigations as are appropriate, and take one of the following actions:

- a) concur with the Committee's recommendations;
- b) reduce the recommended sanctions;
- c) dismiss the charge.

2) The Vice President of Academic Services/Student Services may reconvene the appropriate Committee for further discussion and consultation as needed. If necessary, the Vice President may request the appropriate Committee to submit supplemental findings of facts and recommend action within seven (7) working days to the Vice President with copies to each party and to the President of the College.

3) Within fourteen (14) working days of receipt from the appropriate Committee, the decision by the Vice President of Academic Services/Student Services shall be rendered and transmitted in writing to the accused person, the appropriate Committee, the President of the College and the student filing the grievance.

#### **f. Appeal of the Vice President's Decision**

1) Either the accused or the aggrieved person may appeal the decision of the Vice President of Academic Services or Vice President of Student Services by submission of written request for appeal to the President of the College within seven (7) working days of receipt. Upon receipt of the written request for appeal, the President will review the proceedings of the Committee, the decision of the Vice President of Academic Services/Student Services, conduct such investigations as are appropriate and take one of the following actions:

- a) concur with the Vice President's decision;
- b) reduce the recommended sanctions;
- c) dismiss the charge.

2) The decision by the President shall be rendered within twenty-one (21) working days and transmitted in writing to the accused and aggrieved person, the appropriate committee, and the appropriate dean.

#### **g. Appeal of the President's Decision**

1) If the accused or aggrieved person is dissatisfied with the President's decision, s/he may write an appeal by submission of a written request for appeal to the Chancellor within seven (7) working days of receipt. Upon receipt of the written request for appeal, the Chancellor will review the decision of the President and the Vice President of Academic Services/Student Services, the proceedings of the committee, conduct such investigations as are appropriate and take one of the following actions:

- a) concur with the President's recommendations;
- b) reduce the recommended sanctions;
- c) dismiss the charge.

2) Within twenty-one (21) working days of receipt of the written request for appeal, the decision by the Chancellor shall be rendered and transmitted in writing to the accused and aggrieved person, the appropriate Committee, the President and the appropriate Vice President.

#### **h. Appeal of the Chancellor's Decision**

1) If the accused or aggrieved person is dissatisfied with the Chancellor's decision, s/he may appeal by submission of a written request for appeal to the Board of Trustees within seven (7) working days of receipt. Upon receipt of the appeal, the Board of Trustees will review the decision of the Chancellor, the proceedings of the Committee, conduct such investigations as are appropriate and take one of the following actions:

- a) concur with the Chancellor's recommendations;
- b) reduce the recommended sanctions;
- c) dismiss the charge.

2) The decision by the Board of Trustees shall be rendered within twenty-one (21) working days and transmitted in writing to the accused or aggrieved person, the Chancellor, the appropriate Committee, the President of the College, and the appropriate Vice President.

3) The decision of the Board of Trustees shall be considered the final step that may be taken under the District's grievance process.

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**NOTE:** The **red ink** signifies language that is **legally required** and recommended by the Policy and Procedure Service and its legal counsel. The language in **black ink** is from current CLPCCD Administrative Rules and Procedures 5513 titled Student Grievance – Chabot College & Las Positas College issued on March 19, 1996 and revised on March 24, 1998. This document was reviewed by the administrative team on June 4, 2013.

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**Date Approved:**

*(This new procedure replaces current  
Administrative Rules and Procedures 5513)*

# Legal Citations for AP 5530

## Title IX Education Amendments of 1972; Education Code Sections 76224(a)

### Title IX, Education Amendments of 1972

(Title 20 U.S.C. Sections 1681-1688)

#### Section 1681. Sex

**(a) Prohibition against discrimination; exceptions.** No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance, except that:

##### **(1) Classes of educational institutions subject to prohibition**

in regard to admissions to educational institutions, this section shall apply only to institutions of vocational education, professional education, and graduate higher education, and to public institutions of undergraduate higher education;

##### **(2) Educational institutions commencing planned change in admissions**

in regard to admissions to educational institutions, this section shall not apply (A) for one year from June 23, 1972, nor for six years after June 23, 1972, in the case of an educational institution which has begun the process of changing from being an institution which admits only students of one sex to being an institution which admits students of both sexes, but only if it is carrying out a plan for such a change which is approved by the Secretary of Education or (B) for seven years from the date an educational institution begins the process of changing from being an institution which admits only students of one sex to being an institution which admits students of both sexes, but only if it is carrying out a plan for such a change which is approved by the Secretary of Education, whichever is the later;

##### **(3) Educational institutions of religious organizations with contrary religious tenets**

this section shall not apply to any educational institution which is controlled by a religious organization if the application of this subsection would not be consistent with the religious tenets of such organization;

##### **(4) Educational institutions training individuals for military services or merchant marine**

this section shall not apply to an educational institution whose primary purpose is the training of individuals for the military services of the United States, or the merchant marine;

##### **(5) Public educational institutions with traditional and continuing admissions policy**

in regard to admissions this section shall not apply to any public institution of undergraduate higher education which is an institution that traditionally and continually from its establishment has had a policy of admitting only students of one sex;

**(6) Social fraternities or sororities; voluntary youth service organizations**

this section shall not apply to membership practices --

(A) of a social fraternity or social sorority which is exempt from taxation under section 501(a) of Title 26, the active membership of which consists primarily of students in attendance at an institution of higher education, or

(B) of the Young Men's Christian Association, Young Women's Christian Association; Girl Scouts, Boy Scouts, Camp Fire Girls, and voluntary youth service organizations which are so exempt, the membership of which has traditionally been limited to persons of one sex and principally to persons of less than nineteen years of age;

**(7) Boy or Girl conferences**

this section shall not apply to--

(A) any program or activity of the American Legion undertaken in connection with the organization or operation of any Boys State conference, Boys Nation conference, Girls State conference, or Girls Nation conference; or

(B) any program or activity of any secondary school or educational institution specifically for--

(i) the promotion of any Boys State conference, Boys Nation conference, Girls State conference, or Girls Nation conference; or

(ii) the selection of students to attend any such conference;

**(8) Father-son or mother-daughter activities at educational institutions**

this section shall not preclude father-son or mother-daughter activities at an educational institution, but if such activities are provided for students of one sex, opportunities for reasonably comparable activities shall be provided for students of the other sex; and

**(9) Institutions of higher education scholarship awards in "beauty" pageants**

this section shall not apply with respect to any scholarship or other financial assistance awarded by an institution of higher education to any individual because such individual has received such award in any pageant in which the attainment of such award is based upon a combination of factors related to the personal appearance, poise, and talent of such individual and in which participation is limited to individuals of one sex only, so long as such pageant is in compliance with other nondiscrimination provisions of Federal law.

**(b) Preferential or disparate treatment because of imbalance in participation or receipt of Federal benefits; statistical evidence of imbalance.**

Nothing contained in subsection (a) of this section shall be interpreted to require any educational institution to grant preferential or disparate treatment to the members of one sex on account of an imbalance which may exist with respect to the total number or percentage of persons of that sex participating in or receiving the benefits of any federally supported program or activity, in comparison with the total number or percentage of persons of that sex in any community, State, section, or other area: *Provided*, that this subsection shall not be construed to prevent the

consideration in any hearing or proceeding under this chapter of statistical evidence tending to show that such an imbalance exists with respect to the participation in, or receipt of the benefits of, any such program or activity by the members of one sex.

**(c) Educational institution defined.**

For the purposes of this chapter an educational institution means any public or private preschool, elementary, or secondary school, or any institution of vocational, professional, or higher education, except that in the case of an educational institution composed of more than one school, college, or department which are administratively separate units, such term means each such school, college or department.

**Section 1682. Federal administrative enforcement; report to Congressional committees**

Each Federal department and agency which is empowered to extend Federal financial assistance to any education program or activity, by way of grant, loan, or contract other than a contract of insurance or guaranty, is authorized and directed to effectuate the provisions of section 1681 of this title with respect to such program or activity by issuing rules, regulations, or orders of general applicability which shall be consistent with achievement of the objectives of the statute authorizing the financial assistance in connection with which the action is taken. No such rule, regulation, or order shall become effective unless and until approved by the President. Compliance with any requirement adopted pursuant to this section may be effected (1) by the termination of or refusal to grant or to continue assistance under such program or activity to any recipient as to whom there has been an express finding on the record, after opportunity for hearing, of a failure to comply with such requirement, but such termination or refusal shall be limited to the particular political entity, or part thereof, or other recipient as to whom such a finding has been made, and shall be limited in its effect to the particular program, or part thereof, in which such noncompliance has been so found, or (2) by any other means authorized by law: *Provided, however,* that no such action shall be taken until the department or agency concerned has advised the appropriate person or persons of the failure to comply with the requirement and has determined that compliance cannot be secured by voluntary means. In the case of any action terminating, or refusing to grant or continue, assistance because of failure to comply with a requirement imposed pursuant to this section, the head of the Federal department or agency shall file with the committees of the House and Senate having legislative jurisdiction over the program or activity involved a full written report of the circumstances and the grounds for such action. No such action shall become effective until thirty days have elapsed after the filing of such report.

**Section 1683. Judicial Review**

Any department or agency action taken pursuant to section 1682 of this title shall be subject to such judicial review as may otherwise be provided by law for similar action taken by such department or agency on other grounds. In the case of action, not otherwise subject to judicial review, terminating or refusing to grant or to continue financial assistance upon a finding of failure to comply with any requirement imposed pursuant to section 1682 of this title, any person aggrieved (including any State or political subdivision thereof and any agency of either) may obtain judicial review of such action in accordance with chapter 7 of title 5, United States Code, and such action shall not be deemed committed to unreviewable agency discretion within the meaning of section 701 of that title.

**Section 1684. Blindness or visual impairment; prohibition against discrimination**

No person in the United States shall, on the ground of blindness or severely impaired vision, be denied admission in any course of study by a recipient of Federal financial assistance for any

education program or activity; but nothing herein shall be construed to require any such institution to provide any special services to such person because of his blindness or visual impairment.

#### **Section 1685. Authority under other laws unaffected**

Nothing in this chapter shall add to or detract from any existing authority with respect to any program or activity under which Federal financial assistance is extended by way of a contract of insurance or guaranty.

#### **Section 1686. Interpretation with respect to living facilities**

Notwithstanding anything to the contrary contained in this chapter, nothing contained herein shall be construed to prohibit any educational institution receiving funds under this Act, from maintaining separate living facilities for the different sexes.

#### **Section 1687. Interpretation of "program or activity"**

For the purposes of this title, the term "program or activity" and "program" mean all of the operations of --

(1)(A) a department, agency, special purpose district, or other instrumentality of a State or of a local government; or

(B) the entity of such State or local government that distributed such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(2)(A) a college, university, or other postsecondary institution, or a public system of higher education; or

(B) a local educational agency (as defined in section 2854(a)(10) of this title, system of vocational education, or other school system;

(3)(A) an entire corporation, partnership, or other private organization, or an entire sole proprietorship --

(i) if assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(ii) which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(B) the entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(4) any other entity which is established by two or more of the entities described in paragraph (1), (2) or (3);

any part of which is extended Federal financial assistance, except that such term does not include any operation of an entity which is controlled by a religious organization if the application



of section 1681 if this title to such operation would not be consistent with the religious tenets of such organization.

### **Section 1688. Neutrality with respect to abortion**

Nothing in this chapter shall be construed to require or prohibit any person, or public or private entity, to provide or pay for any benefit or service, including the use of facilities, related to an abortion. Nothing in this section shall be construed to permit a penalty to be imposed on any person or individual because such person or individual is seeking or has received any benefit or service related to a legal abortion.

### **Education Code Section 76224(a)**

**76224.** (a) 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.

(b) No grade of a student participating in a physical **education** class, however, may be adversely affected due to the fact that the student does not wear standardized physical **education** apparel where the failure to wear such apparel arises from circumstances beyond the control of the student.