

HARTNELL COMMUNITY COLLEGE DISTRICT
BOARD POLICY AND ADMINISTRATIVE PROCEDURE
ROUTING /TRACKING FORM

Review and approval by the various college governance groups is requested: Yes No

Policy/Procedure #: AP 5530

Policy/Procedure Name Student Rights and Grievances

New Revised Replaces existing policy/procedure

New policy/procedure or revisions initiated/proposed | Student Affairs

Reason for new policy/procedure or revisions:

Recommendations: remove or provide further explanation about students' rights to grieve course grades, providing information about timelines for students and instructors. The intent of the paragraph would indicate that the statement should be placed after the second bullet list ("this procedure does not apply to:_____." Remove or relocate the second statement ("the exercise

Board of Trustees consideration to occur o N/A

HARTNELL COMMUNITY COLLEGE DISTRICT

AP 5530 Student Rights and Grievances

References Education Code Section 76224(b), Title IX, Education Amendments of 1972

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:

- x Sex discrimination as prohibited by Title IX of the Higher Education Amendments of 1972
- x Sexual harassment
- x Financial aid
- x Illegal discrimination

Course grades, to the extent permitted by Education Code Section 76224(a), which provides:
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- x It shall include one (1) student, one (1) instructor, and one (1) college administrator selected from the panel described above.
- x No person shall serve as a member of a Hearing Panel 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.

If the Request for a Hearing Panel satisfies each of the requirements, the Director of Student Affairs shall schedule a grievance hearing. The hearing will begin within ten (10) days following the decision to grant a Grievance Hearing. All parties to the grievance shall be given not less than five (5) days' notice of the date, time and place of the hearing.

Hearing Procedure

The decision of the Hearing Panel 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 Hearing Panel 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 Hearing Panel determines to proceed otherwise, each party to the grievance shall be permitted to make an opening statement. Thereafter, the grievant(s) 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(s) 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 Hearing Panel, complex legal issues are involved. If a party wishes to be represented by an attorney, a request must be presented not less than seven (7) 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 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 five (5) days prior to the date of the hearing.

In a closed hearing, witnesses shall not be present at the hearing when not testifying, unless all parties and the committee agree to the contrary.

The hearing shall be recorded by the Director of Student Affairs either by tape recording or stenographic recording, and shall be the only recording made. A witness who refuses to be recorded may be permitted to give testimony. In the event the recording is by tape recording,

the Hearing Panel 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 Hearing Panel Chair. Written statements of witnesses under penalty of perjury shall not be used unless the witness is unavailable to testify. A witness who refuses to be tape recorded shall be considered to be unavailable.

Within 10 (ten) days following the close of the hearing, the Hearing Panel 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 ten (10) days following receipt of the Hearing Panels decision and recommendation(s), the Superintendent/President shall send to all parties his/her written decision, together with the Hearing Committees 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.

Appeal: Any appeal relating to a Hearing Panel 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 (10) 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.

Approved by the Superintendent/President: