

IMPERIAL COMMUNITY COLLEGE DISTRICT AP 5530 Student Rights and Grievances

References:

Education Code Section 76224(a);
Title IX, Education Amendments of 1972;
ACCJC Accreditation Eligibility Requirement 20;
ACCJC Accreditation Standard IV.D

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 procedure shall include, but not be limited to, grievances regarding:

- Access to classes;
- Deviation from course content;
- Refusal of instructor to confer with a student;
- Sex discrimination as prohibited by Title IX of the Higher Education Amendments of 1972;
- Financial aid [unless the District's financial aid policy contains an appeal procedure];
- 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 policy does not apply to:

- Student Code of Conduct issues.
- Allegations of discrimination based on race, color, national origin, disability, or age in any of its policies, procedures, or practices, in compliance with Title VI of the Civil Rights Act of 1964 (pertaining to race, color or national origin), Section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act of 1990 (pertaining to disability) and the Age Discrimination Act of 1975 (pertaining to age). For complaints of this nature, please refer to the Discrimination Complaint Form.
- 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.

For a clarification regarding student conduct issues or discrimination issues, the student may contact the Director of Admissions & Records, Director of Disabled Student Programs and Services or Title IX Officer.

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.

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.

A grievance must be initiated within twenty (20) instructional days of the alleged act or decision. If the alleged circumstance or act occurs during the last twenty (20) instructional days of the Spring semester, the grievance must be made prior to the end of the third Friday of the Fall semester.

Step 1 The student may discuss the problem with the individual or the individual's supervisor.

Step 2 If a mutually satisfactory understanding has not been reached with the other person, the student may, within five (5) instructional days, present the student grievance to the immediate supervisor.

If Grievance is About:	Contact:
<ul style="list-style-type: none"> • Classified Staff/ Managers/ Confidentials 	<ul style="list-style-type: none"> • Immediate Supervisor/ Chief Human Resource Office
<ul style="list-style-type: none"> • Teaching & Non-Teaching Faculty 	<ul style="list-style-type: none"> • Appropriate Dean
<ul style="list-style-type: none"> • Department Chair 	<ul style="list-style-type: none"> • Appropriate Dean
<ul style="list-style-type: none"> • Dean 	<ul style="list-style-type: none"> • Administrator

<ul style="list-style-type: none"> • Administrator 	<ul style="list-style-type: none"> • Appropriate Vice President or President
<ul style="list-style-type: none"> • Another Student 	<ul style="list-style-type: none"> • Dean of Student Affairs and Enrollment Services

Within two days following receipt of a grievance, the immediate supervisor shall advise the student of his or her rights and responsibilities under these procedures, and assist the student, if necessary, in the preparation of the Grievance form. The supervisor must respond via verbal communication or email within ten (10) instructional days of the initiation of the grievance.

Step 3 FORMAL RESOLUTION

If, within ten (10) days, the grievance is not resolved informally, or the student is not satisfied with the resolution recommended by the supervisor, or if the supervisor does not respond timely a student may submit a student grievance form to the Vice President for Academic Services regarding academic matters or Dean of Student Affairs & Enrollment Services regarding non-academic matters.

The Vice President for Academic Services or the Dean of Student Affairs & Enrollment Services will respond in writing to the grievance within ten (10) instructional days of receipt of the grievance form.

Students' Grievance forms are available from:

Dean of Student Affairs	Student Affairs	(760) 355-6456
Director of Disabled Student Programs & Services	DSP&S Office	(760) 355-6312
Title IX Officer	Student Affairs	(760) 355-6456
Chief Student Services Officer	Student Services	(760) 355-6106
Chief Human Resource Officer (staff)	Human Resource Office	(760) 355-6212

Or at: <http://www.imperial.edu/students/admissions-and-records/>

Step 4 REQUEST FOR HEARING

If a student is not satisfied with the decision made by the Vice President for Academic Services, Vice President of Student Services, or the Dean of Student

Affairs & Enrollment Services, a student may request a hearing within five (5) instructional days of that decision (forms are available in the Student Affairs Office and on the back of the Handbook for Student Lead.

Academic matters will be heard by the Admissions, Petitions and Registration Committee. Non-Academic Matters will be heard by the Student Affairs Committee.

A request for a hearing shall be filed no later than thirty (30) instructional days following the initiation of the grievance (step 2). If a grievance is filed within the last thirty (30) instructional days of the semester the president of the college may delay any further action on the grievance until the next semester.

Any committee member who has a direct involvement with the grievance shall be excluded from reviewing that grievance or participating in any manner in the determination of the ultimate outcome of that grievance.

The appropriate Committee shall meet in private and without the parties present to determine on the basis of the Grievance whether it presents sufficient grounds for a hearing.

The determination of whether the 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 Hearing, together with the specific reasons for the rejection and the procedures for appeal. This notice will be provided within ten (10) days of the date the decision is made by the Hearing Committee.

If the Request for Hearing satisfies each of the requirements, the Committee Chair shall schedule a grievance hearing. The hearing will begin within twenty (20) days following the decision to grant a 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.

Step 5 Hearing Procedures

The decision of the 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 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 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 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 five (5) days prior to the date of the hearing. If one party is permitted to be represented by an attorney, any other party shall have the right to be represented by an attorney. The hearing committee may also request legal assistance through the **CEO**. 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 Hearing Committee by electronic recording device, 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 an electronic recording device, the 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 electronic 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 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.

Following the close of the hearing, the Hearing Committee shall prepare and send to the **CEO** 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.

CEO's Decision: Within five (5) days following receipt of the Hearing Committee's decision and recommendation(s), the **CEO** shall send to all parties his/her written decision, together with the Hearing Committee's decision and recommendations. The **CEO** 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 **CEO** does not accept the decision or a finding or recommendation of the Hearing Committee, the **CEO** 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 **CEO** shall be final, subject only to appeal as provided below.

Step 6 Appeals

If the student desires to appeal the Hearing Committee's recommendation, this appeal must be made in writing directly to the CEO within five (5) instructional days of the hearing.

The CEO may approve, reject or modify the Hearing Committee's recommendation within five (5) instructional days after the appeal is received.

Any appeal relating to a Hearing Committee decision that Grievance form does not present a grievance as defined in these procedures shall be made in writing to the **CEO** within **[five]** days of that decision. The **CEO** shall review the Grievance and Request for Hearing in accordance with the requirements for a grievance provided in these procedures, but shall not consider any other matters. The **CEO's** decision whether or not to grant a hearing shall be final and not subject to further appeal.

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.

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

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.