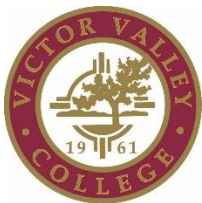


AP 5530 Student Rights, Complaints, and Grievances

A. Purpose

The purpose of this procedure is to provide a series of prompt and equitable means of resolving student (informal) complaints and (formal) grievances, which are 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. It is the intention of the College to resolve problems at the lowest level possible. A student who has a complaint shall make a reasonable effort to resolve the matter on an informal basis prior to filing a formal grievance and shall attempt first to solve the problem with the person with whom the student has the problem or dispute. The Student Complaint and Grievance Process shall include, but not be limited to, any grievance regarding:

1. 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.”
 - a. Mistake – unintentional error in calculating or posting a student’s grade.
 - b. Fraud – intentional misrepresentation of any or all facts, which leads to a negative outcome.
 - c. Bad faith – any other intentional act of the instructor, which negatively impacts the grade of the student.
 - d. Incompetency – there is evidence that the instructor does not have the knowledge, skills, and/or abilities to conduct and fairly grade the course. Incompetence is usually pervasive, and not restricted to one student or one incident.
2. The exercise of rights of free expression protected by the state and federal constitutions and Education Code Sections 66301 and 76120.
3. Any other student complaints or grievances not addressed in other College administrative policies.
4. The procedure does not apply to the following, which are protected under different policies and procedures:
 - a. Student disciplinary actions (AP 5520).
 - b. Allegations of sexual harassment and illegal discrimination, which are covered under AP 3430.
 - c. Challenges to the process for determining satisfaction of pre-requisites, co-requisites, advisories and limitations on enrollment, (information about other procedures is listed in the college catalog or may be obtained from the Counseling Office). (AP 4260)
 - d. Appeals for residency determination (filed in Admissions & Records). (AP 5015)
 - e. Financial Aid appeals (filed in Financial Aid)
 - f. Police citations (i.e., “tickets”) (see VVC Campus Police webpage).



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B. Process

Any student who believes he or she has a valid complaint shall file a Statement of Complaint with the school dean or supervisor within thirty (30) instructional days of the incident on which the complaint is based, or thirty (30) instructional days after the student learns of the basis for the complaint, whichever is later.

At any time, the student may request assistance of the Dean of Student Discipline in understanding or arranging the resolution process.

If a student fails to file a Statement of Complaint within thirty (30) days, he or she has forfeited his or her right to file a grievance for that alleged circumstance.

1. Informal Level

- a. A student is encouraged to contact the appropriate faculty or staff member against whom the complaint exists and attempt, in good faith, to present his/her complaint and resolve the concern through the consultative process.
 - i. If there is no resolution after meeting with the faculty/staff member, or the faculty/staff member refuses to meet or respond within five (5) instructional days, the student will proceed to the next step by meeting with the faculty member's department chair or staff member's immediate supervisor.
 - ii. If the complaint is still not resolved, the student must meet with the faculty or staff member's dean or supervisor and submit to the person the Statement of Grievance.
 1. The appropriate administrator will convene a meeting with the student and the person the grievance was filed against.
 - iii. If the student has not been able to resolve the complaint at any of the informal steps above, the student may file a Request for Grievance Hearing with the Dean of Student Services within ten (10) instructional days after meeting with the school dean or supervisor.

2. Formal Level

The student will complete all steps in the informal process prior to requesting a Grievance Hearing.

a. Grievance Hearing Request

The student must submit to the Dean of Student Services a Request for Grievance Hearing form, including:

- i. Statement of Complaint and all supporting facts and documentation.
- ii. The following will need to be addressed in the request if the student chooses to pursue:
 1. The student may represent himself/herself and may also have the right to be accompanied by a person of his/her choice; except that a party shall not



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be accompanied by an attorney unless, in the judgment of the Grievance Hearing Panel, complex legal issues are involved.

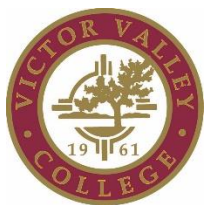
2. If the student is accompanied by an attorney, the request must include the attorney's name and contact information.
 - a. If the student is permitted to be accompanied by an attorney, the Dean of Student Services will request legal assistance through the Office of the Superintendent/President.
 - b. The Hearing Panel may also request legal assistance through the Office of the Superintendent/President; any legal advisor provided to the Hearing Panel may sit in an advisory capacity to provide legal counsel but shall not be a member of the Hearing Panel or vote with it.
 - c. In the event the Hearing Panel permits the student and the College to be accompanied by attorneys, the role of the attorneys shall be limited to providing advice to their respective clients. In no event shall the attorneys present their respective client's case to the Grievance Hearing Panel.
3. When harassment or discrimination is alleged and not covered under AP 3430, the College will conduct an investigation into the matter. As a result, the grievance will not move forward pending the investigation.

b. Grievance Hearing Panel

Within five (5) instructional days after the filing of the Request for Grievance Hearing form, the Grievance Hearing Panel will be established by the Dean of Student Services. This independent three-member grievance hearing panel will include one (1) administrator, one (1) faculty member (not from the academic area involved), and one (1) student representative. The Dean of Student Services will facilitate the Grievance Hearing Panel and will be a non-voting member. Faculty representatives shall be selected by the Academic Senate. Student representatives shall be selected by the Associated Students of Victor Valley College. Administrator representative shall be appointed by the Superintendent/President or designee. All members must be present for the entire hearing.

c. Determination of whether a Valid Grievance Exists

Within ten (10) instructional days of the establishment of the Hearing Panel, the Hearing Panel shall meet in private and without the parties present 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:



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- i. The statement contains facts which, if true, would constitute a grievance under these procedures.
- ii. The grievant is a student, which includes applicants and former students.
- iii. The grievant is personally and directly affected by the alleged grievance.
- iv. The grievance was filed in a timely manner.
- v. The grievance is not clearly frivolous, clearly without foundation, or clearly filed for the purpose of harassment.
- vi. The resolution sought is within the purview of the Grievance Hearing Panel.

If the Request for Grievance Hearing satisfies each of the requirements of a grievance, a grievance hearing will be scheduled.

If the grievance does not meet each of the requirements for a grievance, the Grievance Hearing Panel 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 procedures for an appeal. This notice will be provided within five (5) instructional days of the date the decision is made by the Grievance Hearing Panel.

Failure to appeal any determination within the specified time limit constitutes a waiver of the right to appeal and shall be deemed acceptance of the last determination rendered.

d. Notice of Grievance Hearing

If the Request for Grievance Hearing satisfies the requirements of a grievance, the person against whom the grievance is directed will be requested to submit to the Dean of Student Services, a written response to the allegations. This grievance response must be submitted within five (5) instructional days of the receiving notice that the Request for Grievance Hearing meets the requirements of a grievance.

Within ten (10) instructional days after a determination is made that the Request for Grievance Hearing meets the requirements of a grievance, the Dean of Student Services will notify the parties, in writing, of the date, time, location and guidelines of the grievance hearing. At the time of notification that the hearing will convene, members of the Grievance Hearing Panel shall be provided with a copy of the statement of grievance provided by the student and any written response provided by the person against whom the grievance is directed.

e. Conduct of Grievance Hearing

All appropriate parties shall receive no less than ten (10) instructional days' notice prior to the date of the hearing.



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The grievance hearing shall be conducted privately with the student, the Grievance Hearing Panel, the Dean of Student Services, the Grievance Process Facilitator, and the person against whom the grievance is directed in attendance, unless all parties request that it be open to the public.

If the grievant and/or the respondent do not appear and no satisfactory explanation for the absence is made at the earliest opportunity, or if the grievant and/or the respondent leave the hearing before its conclusion, the hearing shall proceed without the absent party, and the Panel shall reach a decision based on the evidence presented.

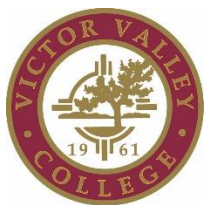
The Grievance Hearing Panel will hear the alleged complaint and the response and will examine all supporting facts and documents. The student and the person against whom the grievance is directed shall each be permitted to make an opening statement. Technical rules of evidence shall not apply, but relevant evidence may be admitted and given probative effect only if it is the kind of evidence upon which reasonable persons are accustomed to rely upon in the conduct of serious affairs. The student may present rebuttal evidence after the person against whom the grievance is directed completes his or her evidence.

The burden shall be on the student to prove by substantial evidence that the facts alleged are true.

The Hearing Panel may dismiss any witness who fails or refuses to comply with the Panel's instructions.

Witnesses shall not be present at the grievance hearing when not testifying. No witness who refuses to be recorded may be permitted to give testimony. Written statements of witnesses under penalty of perjury shall not be used unless the witness is unavailable. Written statements from individuals not present at the hearing will not be permissible without some authentication of the statement, such as a notary signature and seal.

The grievance hearing shall be recorded by the District and that recording shall be the only recording made. The record may be maintained by any means, including electronic recording, so long as reasonably accurate and complete written transcription of the proceedings can be made. The recording shall remain in the custody of Victor Valley College at all times, unless released to a professional transcribing service.



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f. Grievance Hearing Panel Recommendation

Within five (5) instructional days, the Dean of Student Services will create a recommendation in writing with all supporting reasons for the Hearing Panel to review and sign and forward to the Superintendent/President. The recommendation 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. Written documentation pertaining to the grievance will be confidentially maintained by the Dean of Student Services.

g. After reviewing the Panel's recommendation, the Superintendent/President shall deliver to the Dean of Student Services in writing a decision regarding the Panel's recommendation. The Superintendent/President's decision shall be final unless the appeal process is followed below.

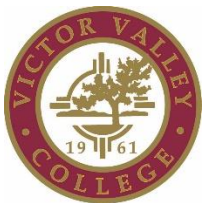
h. Dean of Student Service's Decision

Within five (5) instructional days following receipt of the Superintendent/President's decision, the Dean of Student Services shall send to all parties the Superintendent/President's decision.

i. Right to Appeal Hearing Panel Decision

If the student is not satisfied by the decision, he/she may submit an appeal within ten (10) instructional days of the receipt of the decision to the Hearing Appeal Committee by submitting a Hearing Appeal form to the Dean of Student Services Office. Appeals must cite one or more specific flaws on which the student seeks reconsideration of the decision. Merely disagreeing with the outcome is not sufficient grounds to submit an appeal. Within ten (10) instructional days of receipt of the Hearing Appeal form and supporting documentation, the Dean of Student Discipline shall review all documentation and constitute a Hearing Appeals Panel constituted by two College cabinet members (excluding the Superintendent/President) and one faculty member appointed by the Academic Senate.

Within ten (10) instructional days of receipt of the Hearing Appeal form and supporting documentation, the Hearing Appeals Panel shall review all documents and render a final decision to uphold the decision or order a new Hearing Panel.



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- j. In the event a new Hearing Panel is constituted it shall follow the same guidelines as outlined in above with the following stipulations.
 - i. Should the Hearing Panel determine there in no merit to conducting full hearing using the same criteria as above in determining whether the criteria for a hearing has been met.
 - ii. If a hearing is conducted, the process shall be the same as provided above and a recommendation made to the Superintendent/President.
 - iii. The Superintendent/President’s decision shall be final.

- k. General Provisions
 - 1. A student’s refusal to receive or sign a receipt of notice shall not cause the notice to be defective. A student’s failure to provide updated address information to the College shall not cause the notice to be defective so long as the College sends notice to the last known address provided to the College by the student.
 - 2. All grievance proceedings shall be confidential and shall be closed to everyone other than those involved in the conduct to the hearing, witnesses while testifying, and the student. In compliance with the Family Education Rights and Privacy Act, persons not party to the proceedings shall be informed of their outcomes only on a “need to know” basis.
 - 3. Any timelines specified in the above procedures may be shortened or lengthened if there is mutual concurrence by all parties.
 - 4. A grievance may be withdrawn by the student at any time. However, the same grievance shall not be filed again by the same student.
 - 5. A student may only use an appeal process once for a single grievance.

References:

Education Code Section 76224(a);
Title IX, Education Amendments of 1972;
34 Code of Federal Regulations Parts 106.1 et seq.;
ACCJC Accreditation Eligibility Requirement 20;
ACCJC Accreditation Standard IV.D