



**Kern Community College District
Board Policy
Chapter 4 – Academic Affairs/~~Students Instructional~~**

Employ the Process of Mutual Agreement

Policies: None
Procedures: None
Appendices: None

Rely Primarily Upon the Advice and Judgment

- (1) **4A2**, Student Responsibilities *(includes Policies 4A2A through 4A2G)*
- (2) **4A3**, Matriculation *(includes Policies 4A3A through 4A3G)*
- (3) **4A4**, Prerequisites, Co-requisites, and Advisories on Recommended Preparation *(includes Policies 4A4A through 4A4E)*
- (4) **4A6**, Admission to Impacted Programs *(includes Policies 4A6A through 4A6K)*
- (5) **4A9**, Instructional and Other Materials *(includes Policies 4A9A through 4A9D)*
- (6) **4B1**, Educational Programs *(includes Policies 4B1A through 4B1D1)*
- (7) **4B5**, Program Review
- (8) **4B7**, Articulation *(includes Policies 4B7A through 4B7C)*
- (9) **4B10A**, (re: guest/visitors) *(includes Policies 4B10A1 through 4B10A7)*
- (10) **4B10B**, (re: guest/visitors)
- (11) **4B11**, Controversial Issues in Curriculum *(includes Policies 4B11A through 4B11C)*
- (12) **4C**, Academic Regulations *(includes Policies 4C1 through 4C7)*
- (13) **4D**, Minimum Graduation Requirements *(includes Policies 4D1 through 4D1G)*

Procedures: None
Appendices: None

11/14

Governance Process: Information Only

Reason for Revision: To Establish District Procedure

Student Complaint Procedures

The Student Complaint Procedures are established so that students can resolve difficulties/problems they encounter in College-related activities. Student complaints are taken seriously; therefore, the complaint must be of a compelling, substantive, and verifiable nature. Repeated filings of the same complaint, filings of a frivolous nature, or capricious complaints against school personnel will be considered abuse of the student conduct and/or complaint process. Such repeated filings will be referred to the College President for a decision.

- 1. These procedures apply to student complaints such as:

- Course content
- Access to classes
- Verbal or physical abuse by faculty, staff, or students
- Faculty member refusal to confer with student(s)
- Harassment

These procedures do not apply to student complaints which involve:

- Unlawful Discrimination (See **Policy 7D4**)
- Sexual Harassment (See **Policy 7D2**)
- Assignment of grades (See **Policy 4C4C** for final grade changes)

2. The College President will determine and publicize which administrative office will receive and administer student complaints.

3. Any party to a complaint may be represented by one (1) person on the College staff or student body.

4. Filing of complaints against any party is a serious undertaking. Prior to filing a written complaint, and within ten (10) instructional days of the incident leading to the complaint, the student(s) should contact the staff member involved in an attempt to resolve the issue. If this attempt is not feasible or does not resolve the problem, the student(s) may initiate Level I action. Complaints may not be filed after ninety (90) instructional days from the date of the incident leading to the complaint.

5. Notices sent to the last address available in the records of the College and deposited in the United States mail, postage prepaid, shall be presumed to have been received and read.

Level I

a. The student(s) should contact the office of the staff member's immediate supervisor/designee. At the time of contact, the student(s) should complete and submit a Level I "Initial Student Complaint Form" which will be available in the supervisor's office. The student(s) will be given an appointment to meet with the immediate supervisor/designee at this time. The appointment to meet shall be within ten (10) instructional days of notice of the occurrence to the alleged incident.

b. At the time of the appointment, the student(s) and the immediate supervisor/designee will attempt to resolve the issue in a satisfactory manner. All Level I conferences may be tape recorded with the concurrence of both parties. (These recordings shall be the exclusive property of the College/District and shall become part of the complaint file.)

If the complainant fails to appear for the scheduled appointment, the Level I complaint process shall be terminated and the complainant shall have no further recourse.

c. Subsequent to the student(s) meeting with the immediate supervisor/designee, the latter shall meet and confer with the staff member(s) involved in an effort to resolve the complaint. If

possible, this meeting shall be within five (5) instructional days of the student(s) meeting with the immediate supervisor/designee.

d. After meeting with student(s) and staff member(s), the immediate supervisor/designee shall notify the parties involved of his/her suggestion for resolution. If this resolution is acceptable to the complainant(s), the immediate supervisor/designee shall complete the Level I "Information/Disposition Form" and submit copies of it to the complainant(s), the staff member(s) and maintain the original in a suitable file.

e. If the immediate supervisor/designee does not resolve the complaint to the complainant's satisfaction, the complainant may, within ten (10) instructional days of the decision, file with the appropriate administrator a request to move the complaint to Level II.

f. At the written request of the student(s), action on the complaint may be delayed until the term of the class is completed. In this event, the appropriate administrator may delay any further action on the complaint until the next semester.

g. In the event of a group complaint, at most two (2) students shall be chosen to carry the complaint forward.

Level II

a. Under certain circumstances, and in the interest of fairness to all parties, the immediate supervisor/designee may refer the complaint to Level II immediately. The immediate supervisor/designee shall notify the student(s), staff member(s), and appropriate administrator when the referral has been made to Level II.

b. If the complainant(s) choose(s) to move the complaint to Level II, he/she/they must complete a "Request to Appeal from Level I Recommendation" form.

c. Within ten (10) instructional days of receiving the request (either the immediate supervisor's/designee's referral or the student(s)' appeal), the appropriate administrator shall investigate the allegations and convene a conference of the student(s), the staff member(s), and the staff member(s)' immediate supervisor/designee.

All Level II conferences shall be tape recorded by the appropriate administrator. These recordings shall be the exclusive property of the College/District and shall become part of the complaint file.

If a complaint is filed within the last thirty (30) instructional days of the semester or the last ten (10) instructional days of summer school, the appropriate administrator may delay any further action on the complaint until the next academic term.

The student(s) bringing the complaint and the staff member(s) being complained against must be present at this conference. Under compelling circumstances this meeting may involve teleconferencing. At this meeting, an attempt will be made to resolve the issue(s) and agree upon the remedy.

If the complainant fails to appear for this conference, except for good cause, the Level II complaint process shall be terminated, and the complainant shall have no further recourse.

d. Following this Level II conference, the appropriate administrator shall, within five (5) instructional days, provide his/her written decision and the basis for the decision. Copies of this decision shall be sent to the student(s), the staff member(s), the immediate supervisor/designee, and the appropriate Vice President.

e. The student(s) bringing the complaint and/or staff member(s) being complained against may challenge the Level II decision by proceeding to Level III.

Level III

a. If the student(s) and/or the staff member(s) challenge(s) the Level II decision he/she/they must file a written appeal (See "Request to Appeal from Level II Recommendation" form) within ten (10) instructional days of notification of the Level II decision. This Level III appeal shall be filed with the appropriate Vice President.

b. The appropriate Vice President must be provided with copies of all written materials, recordings, and any other documents generated regarding the complaint at Levels I and II.

c. The purpose of Level III is to make one last attempt to resolve the issues to the satisfaction of the parties involved. To that end, the appropriate Vice President shall, within ten (10) instructional days of receiving the referral assemble the complainant(s), the staff member(s), the appropriate administrator from Level II, the immediate supervisor/designee. (This meeting shall be tape recorded by the appropriate Vice President. These recordings shall be the exclusive property of the College/District and shall become part of the complaint file.)

d. If the appropriate Vice President is able to resolve the difference(s)/complaint(s), such resolution shall be established in written form and shall be validated by the signatures of all parties involved. This agreement shall become part of the file and copies of same shall be made available to the complainant(s), staff member(s), appropriate administrator, immediate supervisor/designee.

e. If the appropriate Vice President is unable to resolve the difference(s)/complaint(s) he/she shall assemble the Hearing Panel within ten (10) instructional days of that determination. He/she shall provide the Hearing Panel with the procedure to be used and answer any procedural questions which may arise. [See Student Complaint Hearing Panel **Procedure 4F10(b)**]

Approved by Chancellor's Cabinet
January 12, 1993

Revised 01/11/94; Renumbered 04/21/94; Revised 03/21/95; Renumbered 06/01/95; Revised 10/02/01; Chancellor's Executive Council 12/13/2005; District Consultation Council 05/18/09

Student Complaint Hearing Panel Procedures

Basis For Hearing

The Student Complaint Procedures are established so that students can resolve difficulties/problems which they encounter in College related activities. Student complaints are taken seriously. Therefore, the complaint must be of a compelling, substantive, and verifiable nature. If the complaint cannot be resolved at Levels I, II or III, then a Hearing Panel shall be convened to hear the student complaints that reach Level IV.

The Hearing Panel

Each College shall appoint a Standing Committee from which a panel will be chosen to hear student complaint appeals beyond Level III of the Student Complaint Procedures. The College standing committee shall be composed of eight (8) members. Members shall be appointed each August to serve through July as follows:

- Two (2) faculty members appointed by the Academic Senate President
- Two (2) classified staff appointed by the CSEA or Classified Senate-President
- Two (2) students appointed by the Associated Student Body President
- Two (2) administrators appointed by the College President

Composition of Hearing Panel

The non-voting Chair of the Hearing Panel (not a Standing Committee member) shall be appointed by the College President. The Student Complaint Hearing Panel shall be composed of selected members of the Standing Committee and an ad hoc member as follows:

If the complaint is against a faculty member, the Hearing Panel shall consist of:

- two (2) faculty members
- one (1) student member
- one (1) classified member
- one (1) administrator
- one (1) ad hoc voting member appointed by the Academic Senate President

If the complaint is against an administrator, the Hearing Panel shall consist of:

- two (2) administrators
- one (1) student member

- one (1) faculty member
- one (1) classified member
- one (1) ad hoc voting member appointed by the College President

If the complaint is against a classified staff member, the Hearing Panel shall consist of:

- two (2) classified members
- one (1) faculty member
- one (1) administrator
- one (1) student member
- one (1) ad hoc voting member appointed by the CSEA or Classified Senate President

Student Complaint Hearing Panel Procedures

Notifications

When a Student Complaint Hearing Panel is to be convened, the appropriate administrator shall prepare and personally deliver or mail a written notice to the parties involved, including the Hearing Panel members, not less than ten (10) instructional days prior to the hearing. Notices personally delivered shall be evidenced by a signed receipt. Notices sent to the last address available in the records of the College and deposited in the United States mail, postage prepaid, return receipt requested, shall be presumed to have been received and read.

The notice shall specify the date, time, and place of the hearing and shall include all data pertinent to the complaint from Levels I, II and III, the Student Complaint Policies and Procedures, and these Hearing Panel Procedures. The notice shall also include a statement apprising each party of his/her/their right to: (1) self-representation or representation by a member of the College staff or student body, (2) present witnesses, and (3) cross-examine witnesses presented by the opposing party.

Hearing Preparation

The appropriate administrator shall be responsible for making the necessary arrangements for the hearing. Arrangements shall include scheduling a room, providing for a tape recorder, providing notice to the parties as provided above; notifying members of the Hearing Panel, and any other arrangements.

Either the student(s) or the staff member(s) complained against may challenge any member of the Hearing Panel for cause. Grounds for cause include any personal involvement in the situation giving rise to the grievance, any statement made on the matters at issue, or any other act or statement indicating that a person could not act in an impartial manner. Any challenge must be made in writing, not less than five (5) instructional days prior to the hearing. Challenges shall be considered by the appropriate administrator. If a challenge is upheld, the appropriate administrator shall direct that an alternate be appointed to the Hearing Panel.

Right to Representation

The student(s) and the staff member(s) may represent themselves, or may be represented by another student or staff member. Neither the student(s) nor the staff member(s) may be represented by any person not in the College community. Neither the student(s) nor the staff member(s) may be represented by an attorney acting in the role of legal advocate.

Right to Advisor

The student(s) and the staff member(s) have the right to be assisted by any advisor they choose. The advisor may be an attorney. However, the advisor, while permitted to attend the hearing, shall not be permitted to participate directly. In other words, the advisor shall not be allowed to address the Hearing Panel, cross examine witnesses, or make arguments on behalf of his/her advisee.

Guidelines for Student Complaint Hearings

Hearings shall be conducted by the Hearing Panel according to the following guidelines:

- a. The Chair of the Hearing Panel shall preside over the Hearing and make decisions regarding procedure. The Chair's procedural decisions shall be final. In hearings involving more than one (1) accused student, the Chair may conduct separate hearings for each student.
- b. All proceedings of the hearing shall be recorded using audio and/or audio video recorders. The recording of the Hearing shall be the exclusive property of the College and the Kern Community College District and shall be maintained by the appropriate administrative officers. To protect the integrity and confidentiality of the proceedings, no other recording or transcription shall be allowed.
- c. All hearings shall be closed. All witnesses shall be excluded from the hearing except when testifying. Admission of any person to the hearing shall be at the discretion of the Chair.
- d. The Chair shall call the hearing to order, introduce the parties, and announce the purpose of the hearing, e.g., "This Hearing meets pursuant to **Level III of the Student Complaint Procedures** to hear a complaint brought by _____ against _____, and make findings of fact and recommendations for action to the College President.
- e. The Chair shall distribute copies of the written complaint to the Hearing Panel members, read the complaint aloud, and ask the parties if they have reviewed the allegations. The Chair shall explain the procedures to be followed during the hearing.
- f. The Hearing Panel may consider only allegations filed by the student(s) at Levels I and II of the Student Complaint Procedures.

- g. The complainant, the staff member(s) being grieved against, and the Hearing Panel shall have the privilege of presenting witnesses, subject to the right of cross-examination. Witnesses shall only be identified at the hearing. The panel Chair shall retain the right to limit the amount of time allowed for the complainant's case, rebutting evidence, argument, examination of witnesses and the number of witnesses. Each side must, however, be granted equal time to present their cases.
- h. Each party shall be afforded the opportunity to make an opening statement. This statement may not exceed five (5) minutes in length. After the opening statements, each party shall have the opportunity to present relevant evidence and testimony.

Guidelines for Student Complaint Hearings (continued)

- i. Formal rules of evidence shall not apply. All relevant evidence is admissible, including, but not limited to, statements of witnesses and relevant documents. The Chair shall decide on these matters.
- j. The student(s) has (have) the burden of proving that the allegation(s) is (are) true. The student(s) will present evidence in support of the allegation(s) first. Subsequently, the staff member(s) may present evidence to refute the allegation(s).
- k. Each party shall be afforded an opportunity to make a closing statement. This statement may not exceed five (5) minutes in length. The complainant shall close first. Subsequently, the Hearing Panel shall retire to deliberate with only the members of the panel and the panel chair present.
- l. The Hearing Panel shall make its decision and/or recommendation(s) based on the preponderance of evidence presented at the hearing and relevant to the allegations filed at Levels I and II of the Student Complaint Procedures. In situations where a consensus cannot be achieved, the decision or recommendation(s) shall be made by a simple majority vote.

Procedures Subsequent to the Student Complaint Hearing

Notifications

- a. Within five (5) instructional days of the hearing, the Chair shall deliver to the College President the written recommendation(s) arrived at by consensus or by majority vote of the panel members. Minority opinion(s) may be attached to the majority report. The recommendations to the College President are advisory.
- b. Within five (5) instructional days of receiving the Hearing Panel's recommendation(s), the College President shall render a decision. This decision shall be communicated, in writing, to the complainant(s), the parties grieved against, appropriate supervisor(s) and administrator(s), and the Hearing Panel Chair and members. The decision of the College President is final.

Confidentiality of Records

- a. All reports, records, transcripts, tapes, etc., which are made a part of the hearing shall be retained in the office of the appropriate Vice President.
- b. All such reports, records, transcripts, tapes, etc., shall be held confidential except as required by law.

Approved by Chancellor' Cabinet
January 12, 1993

Revised 1/11/94; Renumbered 4/21/94; Revised 3/21/95; Renumbered 6/01/95; Revised 10/02/01; Chancellor's Executive Council 12/13/2005