Memorandum from Policy Facilitation Team

To: President Eduardo M. Ochoa
Date: July 11, 2012
Subject: Policy Recommendation
From: Provost Kathryn Cruz-Uribe
Policy: Student Grievance Policy

The Provost, along with the Policy Facilitation Team, recommends that the Student Grievance Policy be approved.

Kathryn Cruz-Uribe
Provost

7/11/12
Date
Student Grievance Policy

This policy establishes the guidelines and standards for student grievances NOT involving an academic assessment or grade appeal, discrimination, harassment and/or retaliation, financial appeal, or challenges to student records.

1.00 Purpose

The purpose of this policy is to set out the guidelines and standards for the filing of a grievance by a student. This policy is intended to reflect the University's commitment to the principles, goals, and ideals described in the CSUMB Vision statement and to its core values.

2.00 Scope

A grievance may arise out of a decision or action reached or taken in the course of official duty by a member of the faculty, staff, or administration. Any student has the right to file a grievance when he/she feels unjustly or improperly treated by the University. A grievable action is defined in Section 3.00. The process set out here is not intended to initiate disciplinary action against a member of the faculty, staff, or administration, or to alter University policy.

In the case of an academic assessment or grade appeal, students shall follow the process for assessment and grade appeals, outlined in the Grade Appeal Policy.

In the case of a student allegation of discrimination, harassment, and/or retaliation by the CSU, a University employee, another student, or a third party the complaint shall be directed to the campus DHR Administrator. The DHR Administrator1 will determine the status of the complaint.

In the case of challenges to student records through the Family Educational Rights and Privacy Act (FERPA), the University Registrar shall be responsible for handling concerns.

Student appeals relating to Financial Aid decisions, rules, and regulations shall be directed to the Financial Aid Office.

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1 Executive Order 1074 calls for a specific administrator to address allegations and complaints of Discrimination, Harassment, and/or Retaliation. This person will be the “campus DHR Administrator”.
3.00 Terminology

Grievance: A grievance is a formal complaint by a student arising out of an alleged action of the faculty, administrative units, or staff of CSUMB. Such action is alleged by the student to be:

1. An unauthorized, unjustified or unethical action(s), which adversely affects the status, rights, or privileges of the student.
2. In violation of official campus policies or procedures.
3. The arbitrary, capricious, or unequal application of official campus policies or procedures.

Grievant: The student(s) who file(s) a grievance.

Respondent(s): The person(s) or unit whose perceived actions or omissions gave rise to the grievance, or any person(s) designated by the University to respond to the grievance.

Unit: Any specified official institutional organization, e.g., a committee, program, administrative office, department or college.

Appropriate Administrator: The Vice President responsible for the respondent’s employment unit.

Parties: Parties to a grievance include the grievant(s), respondent(s), advisors for either of the former, members of the Student Grievance Committee (SGC) (see Section 8.10), administrators processing the grievance, and those staff members with designated responsibilities for handling grievance materials.

4.00 Standing to File a Grievance

Any person, who at the time of filing a grievance is a student enrolled in a course, or was such a student within one hundred eighty (180) calendar days prior to the time of the filing, has standing to file a grievance under this policy. No person shall be penalized for submitting or proceeding with a grievance. No restraining, coercive, discriminatory, or retaliatory action shall be taken against a person because of initiating or participating in a grievance.

A grievance shall be filed no more than one hundred eighty (180) days after the occurrence of the action on which it is based, regardless of the date of the discovery of the action.
5.00 Confidentiality of Grievances

All grievances shall be considered confidential and shall not be divulged to individuals or organizations not party to the grievance, unless required by law or California State University policy. All materials developed in the course of the grievance investigation and hearing shall be placed in a confidential, non-personnel file to be maintained by Office of Judicial Affairs. None of these materials shall be removed from the file or copied unless needed for compliance with appropriate administrative or legal requirements.

6.00 Advice and Counsel

Each party to a grievance may designate one and only one person to be present during the grievance process. Legal counsel shall not be present during any part of the grievance process.

6.10 Office of Judicial Affairs
The Office of Judicial Affairs shall receive all grievances and determine the following:

1. Standing to file a grievance;
2. Timeliness;
3. That the grievance is not a resubmission of a previously submitted or decided grievance;
4. That the grievance does not seek disciplinary action;
5. That the grievance is not an academic assessment or grade appeal;
6. That the grievance does not relate to discrimination, harassment and/or retaliation based on any protected status;
7. That it is not a financial appeal;
8. That it is not a FERPA issue.

If the Office of Judicial Affairs determines the complaint should not go forward for any of the above reasons, and the student disagrees, the student may appeal the decision to the appropriate Vice President.

If the Office of Judicial Affairs determines that the complaint should go forward, the complaint will be given to the Chair of the Student Grievance Committee. The next steps are described in section 8.20 of this policy.

The Office of Judicial Affairs may assist the student in preparing any necessary forms to ensure clarity and completeness. In the event that a student files a grievance that requires a review of his/her student records, the student waives his/her rights under the FERPA statutes to the extent that those records are released to the Student Grievance Committee (SGC). The Office shall also convene the meeting of the SGC, provide the administrative support to implement
this policy, and monitor all decisions for the Appropriate Administrator to assure actions are implemented in a timely fashion.

7.00 Informal Process

Prior to initiating formal Grievance Procedures, the student(s) is required to make a good faith effort to resolve the dispute with the Respondent. If the student(s) is not satisfied, the student is then required to attempt to informally resolve the grievance through either of the following channels:

1. In the case of faculty: through the Department Chair, and if resolution cannot be attained, the College Dean or the Management Personnel Plan (MPP) employee responsible for the faculty member’s unit.
2. In the case of support staff or administrative personnel: through the employee’s supervisor, and if resolution cannot be attained, the Director of the unit or the Management Personnel Plan employee responsible for the faculty member’s unit.

8.00 Formal Grievance Process

There shall be a Student Grievance Committee with duties established by this policy. The Office of Judicial Affairs will work with each representative body regarding the appointments of members to the Committee. Committee members will be appointed using procedures consistent with the Academic Senate Constitution and Bylaws and the Associated Students Constitution and Bylaws.

8.10 Student Grievance Committee (SGC)
Membership of the Student Grievance Committee (SGC) shall consist of:

- Two students and two student alternates to be named by the Associated Students. Students serving on this committee must be regular students in good standing, determined to be so under the same regulations imposed for Associated Student Council members.

- Two faculty members and two faculty member alternates to be named by the Executive Committee of the Academic Senate. All faculty members and alternates shall hold full-time faculty appointments.

- One member of the administration and one alternate to be named by the President. The administrative member and alternate shall hold continuing (regular) employed positions.

- One staff representative and one alternate to be named by the President. The staff representative and alternate shall hold regular full time positions.
- An MPP representative from Human Resources shall be a nonvoting ex-officio member.

- Members shall be appointed for a two-year term of office. The Chair shall be elected annually from the membership of the Committee.

8.1.1 Student Grievance Committee Duties
The Student Grievance Committee shall be convened as needed to hear individual grievances. Grievances shall normally be heard during the fall and spring semesters. The duties of the Student Grievance Committee members include:

1. To attend all meetings called by the Chair of the SGC;
2. To determine if a complaint will move on to a hearing;
3. To ensure that fair and proper procedures are followed;
4. To consider all pertinent and relevant evidence in the case;
5. To determine matters of fact, interpret policies and procedures, and make recommendations in writing to the Appropriate Administrator.

8.20 Considering a Complaint
Upon receiving a complaint from the Judicial Officer, the Chair of the Student Grievance Committee will convene the Committee. Deliberation by the SGC and any consequent hearings shall begin within twenty-one (21) calendar days of the filing of the grievance with the Office of Judicial Affairs.

The Student Grievance Committee will consider a complaint and determine whether to dismiss the complaint or to proceed to a hearing. The complaint may be dismissed if the Committee determines that the dispute is frivolous or without merit or insufficiently related to the concerns of an academic community. The decision to dismiss or to proceed to hearing may not be appealed.

The complainant will be notified by the Office of Judicial Affairs regarding the decision to dismiss the case or to proceed to a hearing.

The Office of Judicial Affairs shall reserve the appropriate facility and notify all parties involved of the hearing date(s) and location.

8.30 Hearing Process
The hearing is considered a fact-finding/information gathering proceeding, not a judicial process.

A hearing must have a quorum in order to proceed. A quorum consists of four (4) members, including at least one faculty, one student, one administrator and one staff member. The members present shall choose a chair of the hearing if the SGC Committee Chair is not present.
The hearing process shall proceed as follows:

- The Committee shall determine who shall be involved in the hearing process.
- The grievant and the respondent may be present for the hearing process.
- The Committee may seek advice from a "panel of experts" from the appropriate area.
- The Committee may invite persons having information related to the grievance to participate in the hearing.
- There shall be no confrontation or cross-examination of witnesses by principals.
- Only the Committee, the grievant, the respondent, and those currently providing information may be present during that portion of the hearing.
- The Chair shall preside at the hearing. The Committee shall choose one of its members as a recorder to take minutes. Those minutes shall be the official record and shall reside in the Office of Judicial Affairs. Committee members, including the Chair, possess the sole right to ask questions. The grievant and respondent may provide a list of questions for the Committee to consider.

8.40 Recommendation
The Committee shall deliver a written report for each grievance to the Appropriate Administrator within twenty-one (21) calendar days of completing its information gathering procedures. The report shall include both a finding of fact and the recommendation of the Committee for an appropriate remedy, if found necessary.

8.50 Decision
The Appropriate Administrator shall render the final decision within twenty-one (21) days of receiving the Grievance Hearing Committee's report. The decision shall be in writing and shall state the reasons for the decision. The decision shall be sent to all parties, and to the members of the Student Grievance Committee.

It is expected that the Appropriate Administrator shall give great weight to the recommendations of the Student Grievance Committee. However, if these recommendations are not implemented, an explanation of this decision shall be provided to all of the aforementioned parties.
9.00 Implementation

The party responsible for implementing the recommendation shall take action solely based on the factual findings and recommendations provided by the Appropriate Administrator. The party responsible for implementing the recommendation shall not re-investigate the complaint. Further, the party shall promptly notify the Office of Judicial Affairs of the course of action taken. If, within a reasonable time, remedial action has not been taken, the Office of Judicial Affairs may request the Appropriate Administrator, or other appropriate officials, to expedite resolution of the situation.

10.00 Appeals

Within seven days (7) of the decision of the Appropriate Administrator, either party to the grievance may appeal the decision to the President or his/her designated representative. The notice of appeal shall clearly state the grounds for appeal. The appeal must describe a substantial procedural error or some other significant factor that seriously prejudiced the outcome of the hearing.

The President may accept, reject, or modify the recommendations from the Appropriate Administrator based solely on procedural improprieties, California State University policy, or state or federal law. This decision shall be in writing and based on the record of the hearing. There shall be no new hearing or new evidence presented. This decision is final and shall conclude the University's review of the matter.

11.00 Maintenance of Records/Annual Reporting

The Office of Judicial Affairs shall be responsible for maintaining all records and materials developed in the course of the grievance investigation and hearing. These files are confidential. The records for each grievance shall be maintained for a period of four years after the final action has been rendered.

The Office of Judicial Affairs shall submit an annual report to the President's Cabinet, Chair of the Academic Senate, and President of the Associated Students on the number of cases heard and the disposition of the cases, taking all necessary steps to protect confidentiality. The report may contain recommended changes in campus policy designed to prevent repetition of actions that are shown by the findings of fact to be unauthorized and/or unjustified and that adversely affect the status, rights, or privileges of the students.
12.00 Continuous Renewal

This policy shall be reviewed 10 years from its effective date to determine its effectiveness and appropriateness. This policy may be reviewed before that time as necessary to reflect substantial organizational, physical, or academic change(s) at CSUMB or any change required by law.

President Eduardo M. Ochoa

Effective Date: 7/1/12

Certification of Process

Reviewed by: Student Affairs, Academic Senate Committee on Educational Policy, Academic Senate, Associated Students, Academic Affairs Council, Provost, Policy Facilitation Team

Amended Summer 2012 for compliance w/ EO 1074 without campus review.