

**Office of the President  
California State University, Chico**



**Executive Memorandum 20-013**

**May 18, 2020**

**From:** Gayle E. Hutchinson, President

**Subject:** Student Complaint Policy, Supersedes EM 05-010

Upon the recommendation of the Academic Senate and the concurrence of the Provost, I approve the Student Complaint Policy, effective immediately.

<b>Policy Title:</b>	EM 20-013 Student Complaint Policy
<b>Contact:</b>	Student Conduct, Rights, and Responsibilities
<b>Supersedes:</b>	EM 05-010, Student Grievance Policy
<b>Revision:</b>	
<b>Enabling Legislation or Executive Order:</b>	

**Student Complaint Policy**

The purpose of this policy is to set forth the guidelines and standards for student complaints NOT involving a grade appeal, discrimination, harassment and/or retaliation. The policy describes procedures that are to be used for resolving student complaints arising from a student's claim that a member of the faculty, staff, or administration has in some material way failed to meet their official obligations as agents of the University, thus resulting in an unjust or adverse impact on the student. It has been established with the intent that complaints be addressed in a prompt, fair, and timely manner. This policy reflects the University's commitment to the educational ideals of California State University, Chico (CSU, Chico).

**SCOPE**

This policy applies to all students currently enrolled at CSU, Chico or previously enrolled at the time the complaint arose. Only those claims arising from official actions taken by faculty, staff, or administrators on behalf of CSU, Chico can be considered legitimate.

## **POLICY**

### **I. Limits of the Complaint**

Upon receipt of the Notice of Complaint, the Director shall consider the following in relation to the limits of the Complaint:

1. The complaint is not a resubmission of a previously submitted or decided complaint;
2. The complaint does not seek disciplinary action;
3. The complaint is not a grade appeal;
4. The complaint does not relate to discrimination, harassment and/or retaliation based on any protected status;

If the Director 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 or Associate Vice President.

If the Director determines the complaint does not interfere with any of the limits described above, the student will be notified in writing that the Department and College Level Review may proceed.

### **II. Department and/or College Level Review**

- a. Within ten instructional days of the commencement of the semester immediately subsequent to the semester in which the action giving rise to the complaint occurred, the student must file a Notice of Complaint with Student Conduct, Rights, and Responsibilities (SCRR). Upon receipt of the Notice of Complaint, the Director will review the complaint to determine if it falls within the limits specified in Section II of this policy. If the Director determines the complaint can move forward, SCRR will, within five instructional days, notify the respondent of the complaint, and inform the student that it has done so. This notification serves as the commencement of the timeline for the Department and College Level Review, described in detail below.
  1. Within fifteen instructional days of submission of the Notice of Complaint, the student shall contact all necessary parties beginning with the respondent and attempt to bring resolution to the complaint. If resolution is not accomplished in meeting with the respondent, the student shall seek assistance from the appropriate supervisory personnel (i.e. Department Chair, College Dean or designee, or manager). However, if by the end of the 15<sup>th</sup> instructional day following the submission of the Notice of Complaint, the student is unable to reach resolution of the complaint at the department and college level, the student may submit a Request for a Formal Student Complaint Hearing to SCRR, which initiates the Formal Complaint Hearing Process, as described in Section III of this policy. The student must submit such a request within two instructional days of failing to resolve the complaint at the college level.

At the time of any and all appointments at the department and college level, the student shall be prepared to submit any and all evidence in support of their complaint.

If the respondent is no longer working at CSU, Chico during the semester the Notice of Complaint is submitted, the student shall attempt to initially resolve the complaint with the respondent's immediate supervisor. In this instance, the immediate supervisor shall hold the authority to implement the remedy sought by the student.

### **III. The Formal Student Complaint Hearing Process**

#### **a. Pre-Hearing Proceedings**

Upon receipt of the Request for a Formal Student Complaint Hearing, the Director of SCRR will transmit copies to the respondent and appropriate supervisory personnel. At any point in the Formal Student Complaint Hearing Process, the student may withdraw their complaint.

Within five instructional days of receiving the Request for a Formal Student Complaint Hearing, the appropriate supervisory personnel must notify the Director in writing whether the Department and/or College Level Review Process was fulfilled.

Within five instructional days of receiving the Request for a Formal Student Complaint Hearing, the respondent will provide the Director with a written response to the complaint and subsequent request for a hearing. If a written response is not received within five instructional days, the Director shall notify the College Dean or appropriate supervisory personnel. The Formal Student Complaint Hearing Process may continue with no written response from the respondent.

After receiving notification from the College Dean or appropriate supervisory personnel that all requirements for the Department and/or College Level Review Process were fulfilled, and after receiving a written response, if any, from the respondent, the Director shall, within five instructional days, forward all materials to the facilitator.

Upon receipt of all materials by the facilitator, an empaneling session will be scheduled by the Director and shall consist of the student, respondent, the facilitator, the Director, and support staff from SCRR. The empaneling session shall accomplish the following four matters:

- a. The facilitator, in conjunction with all parties, will select a hearing date.
- b. The facilitator will inform the student and respondent of their right to have a representative or support person accompany them to the hearing. The name of any representatives must be provided to the facilitator at this empaneling session and may not be an attorney.

- c. If witnesses are to be called during the hearing, the student and respondent must provide the names of any witnesses and their signed statements of their willingness to testify at the hearing, along with a brief statement of what their testimony will consist of.

The facilitator will inform the parties that every effort should be made to ensure the witnesses appear in person at the hearing. The facilitator may also approve an electronic appearance. However, if the witness cannot be present, written evidence must be submitted as a signed statement. Failure to sign the above statement will render it inadmissible.

Witnesses presenting evidence in person at the hearing must submit to the facilitator, at least five instructional days prior to the hearing, any written evidence they may be submitting.

- d. The Formal Student Complaint Hearing Committee shall be selected by the facilitator, the Director, respondent, and student. Each party to the appeal is permitted to exercise challenges for cause to the proposed committee membership and the facilitator shall grant or deny the challenge. The following persons cannot serve on the Student Complaint Hearing Committee:
  1. Friends of either party
  2. Persons involved with the dispute
  3. Any person who is serving as an advocate for faculty, staff, students, or administration (i.e. Ombuds, CFA Representative)

**b. Formal Student Complaint Hearing**

1. Formal Student Complaint Hearings are closed, and limited to the student, the respondent and their respective representatives if any, witnesses while providing testimony, the facilitator, the Hearing Committee, and support staff from SCRR. The content of the proceedings and committee recommendations resulting therefrom are confidential, and shall not be made public by any hearing participant.
2. The Formal Student Complaint Hearing Committee consists of four members, two faculty or staff and two students. In order for a Formal Student Complaint Hearing to proceed, a quorum consisting of two faculty or staff members and one student must be present. Three of the four members of the committee constitute a quorum. Selection of the Hearing Committee is discussed in Section V of this policy.
3. No less than two instructional days prior to the hearing, committee members will be provided with all necessary written material, including the Notice of Complaint and Request for a Formal Student Complaint Hearing.

4. At the hearing, the facilitator chairs the hearing and makes rulings on procedural matters. The facilitator shall be responsible for conducting the hearing in such a manner that observes the rights of the student and respondent. Each party shall have an opportunity to present their case, including the presentation of witnesses and evidence. As this is an administrative process, the hearing shall not be conducted according to technical legal rules relating to evidence and witnesses or rigid procedural guidelines. The facilitator shall admit evidence on which reasonable persons are accustomed to rely in the conduct of serious affairs, but shall exclude evidence that is irrelevant, inappropriate, or unduly repetitious.
5. In the hearing, the burden of proof is on the student, and they must show they have been adversely affected by the action taken by the respondent.

The student must demonstrate with reasonable certainty that an official action was taken, which was either unreasonable or not specifically authorized.

If the action follows a written policy or syllabus, the student must demonstrate that the policy or syllabus constitutes a material abuse of discretion or was not generally or specifically authorized.

If the action is not related to any written policy, the student must demonstrate that the action constituted a material abuse of discretion or was not generally or specifically authorized.

No one may seek to establish university policy through the complaint process.

The student must also show that the remedy sought will not effectively result in either (1) special favoritism toward the student and/or (2) prejudice against others.

### **c. Committee Deliberation**

The facilitator will dismiss the student and respondent following the presentation of their cases. Deliberation then occurs among committee members only, who must consider the case based solely on the evidence admitted. The facilitator must be present for consultation. Committee members may seek procedural advice only from the facilitator, who must not allow unreasonable coercion of any member of the committee by another member.

After deliberation, the committee will, determine findings and by secret ballot, take a vote regarding the resolution of the complaint. The vote may authorize the implementation of the remedy sought by the student. In the case of a tie vote, the facilitator then casts a vote.

Within ten instructional days, a report of the hearing, including the evidence, the findings, the vote, and recommendation of the committee will be prepared by the facilitator and submitted to the Provost or appropriate Vice President.

**d. Decision of the Provost or Appropriate Vice President**

Within ten instructional days from receipt of the report, the Provost or appropriate Vice President shall make a written decision on the recommendation of the hearing committee and will notify the Director of SCRR. This decision is final and there is no further right to appeal. The Director will immediately notify the student and the respondent of the final decision in writing and the matter shall be considered closed. If the remedy sought by the student was recommended by the committee and upheld by the Provost or appropriate Vice President, it will be included in the written report.

**IV. Formal Complaint Hearing Committee and Facilitator Selection Process**

**a. Formal Complaint Hearing Committee Pool**

The Formal Complaint Hearing Committee Pool (the Pool) will consist of forty-two members; a total of fourteen full-time tenured or FERP faculty that includes two representatives from each college; fourteen full time staff members, and fourteen students selected from the most recent five percent random sample who have completed twenty-four units at CSU, Chico and who are in good academic and disciplinary standing. The Pool shall be selected at the beginning at the beginning of each academic year, and members shall be notified by the Director of their responsibilities in the event they are selected to serve at a hearing. The Formal Complaint Hearing Committee will be a permanent committee of the Academic Senate.

**V. Maintenance of Records**

SCRR shall be responsible for maintaining all records and materials developed in the course of the Formal Complaint Process, including the hearing and final decision of the Provost or appropriate Vice President. These files are confidential and shall be kept for a period of time in accordance with applicable records and retention policies.

Each fall, the Director shall report the number and disposition of appeals heard in the previous academic year to the President of California State University, Chico and the Academic Senate.

**VI. Annual Reporting**

Each fall, the Director 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 complaints heard and the disposition of those complaints, 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.

## **VII. Continuous Renewal**

This policy shall be reviewed in ten years from its effective date to determine its ongoing efficacy. It may be revised prior to that time as needed.

### **RESPONSIBILITIES**

In conjunction with the Divisions of Academic Affairs, Student Affairs, and Business and Finance, Student Conduct, Rights, and Responsibilities maintains responsibility for the implementation of this policy.

### **APPENDICES**

[EM 08-040](#), Code of Student Rights and Responsibilities