

Academic Affairs

AP 4231 GRADE CHANGES**References:**

Education Code Section 76224;

Title 5 Section 55025

I. Final Grade Changes by Instructors

The instructor of the course shall determine the grade to be awarded to each student. Instructors may choose to change a student's grade by submitting a Grade Change Form to Enrollment Services stating the reason for the change. No grade change will be made more than two years after the final grade was issued.

II. Final Grade Dispute**A. Scope of Review**

This procedure applies to student challenges of final course grades only.

B. Standard Burden of Proof

The determination of the student's grade by the instructor is final in the absence of mistake, fraud, bad faith, or incompetency. Students may obtain a change to a final course grade without the instructor's agreement only when the student can provide proof that the final course grade reflects mistake, fraud, bad faith, or incompetency.

1. "Mistake" may include, but is not limited to, errors made by an instructor in calculating a student's grade and clerical errors.
2. "Fraud" may include, but is not limited to, intentional inaccurate recording or the change of a grade by any person who gains access to grade records without authorization.
3. "Bad Faith" exists where there is fraud or the conscious doing of a wrong with a dishonest or interested motive. Bad Faith is not simply bad judgement, or judgment that others may view as harsh.
4. "Incompetence" is the unintentional dereliction of one's duties resulting in gross negligence.

Without such proof, only the instructor who assigned the final grade can choose to change that final grade. No individual or group, whether acting on a grievance or in some other manner, has the authority to change a grade determined by an instructor unless persuasive evidence is presented by the student in accordance with the provisions as outlined in the law and this procedure. Accordingly, in determining whether to initiate a grievance involving grades, students should consider whether they believe there will be persuasive evidence of mistake, fraud, bad faith, or incompetency. Students may seek resolution of their dispute as outlined below. Students must initiate the dispute within two years of the final grade being submitted to Enrollment Services

The removal or change of an incorrect grade from a student's record shall only be done pursuant to this process.

Provisions shall be made to allow another faculty member to substitute for the instructor if the student has filed a discrimination complaint, if the instructor is not available, or where the District determines that it is possible that there may have been gross misconduct by the original instructor.

III. Final Grade Dispute Procedure - Step 1: Meeting with Instructor

The student shall attempt to resolve the dispute informally by meeting with the instructor who issued the final course grade in dispute, or another faculty member (only if the instructor is on sabbatical or other leave). The intent of Step 1 of this Grade Dispute Procedure is to strongly encourage and support all possible attempts to resolve the dispute with the instructor.

Meeting with the instructor is only excused when the student has filed a discrimination complaint that alleges the grade was affected by improper discrimination (including harassment) or retaliation for filing a discrimination complaint under the District's nondiscrimination process or when the student reports gross misconduct by the instructor and the District determines that it is possible that gross misconduct occurred.

Students can direct additional questions related to this process to the Dean of Enrollment Services and depending upon the student's questions, the student may be referred to the Senior Vice President of Student Learning & Student Services (SVPSLSS) for further assistance.

- A. The student shall obtain and be responsible for completing the Final Grade Dispute Petition. The Petition shall include the following information:
 1. A clear and concise statement of the dispute that must include details of the specific nature of the alleged mistake, fraud, bad faith, or incompetency.
 2. The name of the instructor, course title, course record number, and semester of the class for which the grade is being disputed.
 3. Identification of the resolution, corrective action, or remedy being sought.
 4. Detailed summary of the actions already taken to resolve the issue, including dates and times for meetings as recorded on the Final Grade Dispute Petition.
 5. Copies of all documents, assignments, or related materials indicating evidence of the alleged mistake, fraud, bad faith, or incompetency.
- B. Unless this procedure excuses an initial meeting with the instructor, the student shall present the Final Grade Dispute Petition to the instructor of record for the class in question within two years of the final grade being submitted. The instructor has ten (10) business days to respond to and meet with the student after being contacted by the student only when classes are in session during the fall and spring semesters. It is the student's responsibility to obtain the instructor's signature and date of the meeting, where indicated, on the Final Grade Dispute Petition.

IV. Final Grade Dispute Procedure—Step 2: Petition Review by Area Dean

- A. If the student has not resolved his/her dispute with the instructor, the student may present his/her Final Grade Dispute Petition to the area dean. The area dean has ten (10) business days to respond to

and meet with the student after being contacted by the student. It is the student's responsibility to obtain the area dean's signature and date of the meeting, where indicated, on the Final Grade Dispute Petition.

- B. Deans will review the Formal Grade Dispute however, deans do not have the authority to change the grade that was issued by the instructor. Rather, the dean's role is to hear the dispute as presented by the student and the instructor in order to determine whether there is sufficient, reliable evidence to warrant a formal hearing.
 - 1. The area dean will meet with the student and with the instructor separately and will then review all relevant documents related to the dispute.
 - 2. Within five (5) business days, beginning with the first business day after the area dean's consultation with the instructor, he or she shall determine whether the evidence is sufficiently reliable and material to the claim to warrant further inquiry, and provide the required notice, below.
 - a. If the area dean determines that the evidence presents a reasonable possibility that the disputed final course grade is the result of mistake, fraud, bad faith, or incompetency, the dean will notify the student by email that he or she may pursue Step 3 of the Final Grade Dispute Procedure outlined in Section III and on the Final Grade Dispute Petition. The notice will remind the student that he or she has five (5) business days from the date of this notice to submit a request for a formal hearing with the College Petition Committee which convenes to hear student appeals only when classes are in session during the fall and spring semesters.
 - b. If the area dean determines that there is insufficient evidence of mistake, fraud, bad faith, or incompetency to warrant further inquiry, the instructor's decision is final and the Final Grade Dispute Procedure will end at step 2. The area dean will inform the student, instructor, and department chairperson in writing of the finality of the instructor's grade decision.
- C. In cases where the instructor of record for the class in question is on sabbatical or other leave, every effort shall be made by the area dean to contact the instructor. If after two attempts within a two week period, the instructor is still unavailable, the area dean, in consultation with the department chair must appoint another faculty member with the equivalent expertise to act on the instructor's behalf as specified in Title 5 Section 55025. In the event there is no other faculty member with the equivalent expertise, the area dean must seek an outside consultant with the required expertise in the subject area. Additional extended time may be required.
- D. If the student fails to meet any of the deadlines described above in subdivisions A, B, or C, without good cause or prior permission of the area dean, the student is deemed to have waived any challenge to the grade and the final grade issued by the instructor stands.

V. Final Grade Dispute Procedure – Step 3: Formal Hearing

A. Maintenance of Records:

All documentation from Steps 1, 2, and 3 of the Final Grade Dispute Procedures will be maintained in Enrollment Services to preserve the confidentiality of all records related to the process.

B. Request for Hearing:

The student has five (5) business days, after receiving notice from the area dean that he or she may pursue the Formal Grade Dispute Procedure, to continue the process. The student continues the process by completing a Request for Hearing Form and submitting it to the area dean. The dean shall forward the Request for Hearing to the College Petitions Committee, along with a summary that clearly states his or her basis or bases for concluding that there is sufficient, reliable evidence of mistake, fraud, bad faith and/or incompetence to warrant a hearing.

C. The College Petitions Committee

Formal grade dispute hearings are heard by the College Petitions Committee, which recommends a decision to the Superintendent/President. The College Petitions Committee is comprised of the Dean of Enrollment Services, four (4) faculty, and one (1) Enrollment Services Classified staff. The College Petitions Committee convenes to hear student appeals only when classes are in session during the fall and spring semesters.

The student or instructor may challenge the composition of the College Petitions Committee only on the basis that a member has a conflict of interest. Any such challenge must be presented to the Office of the Superintendent/President in writing. If the Superintendent/President determines that a member has a conflict of interest, the Superintendent/President will excuse that member from the case and have a different member assigned. For the purposes of this Procedure, a conflict of interest exists where a committee member has any of the following interests in relation to the student or instructor involved in the dispute:

1. Spouse or domestic partner;
2. Close relative (parent, grandparent, child, grandchild, sibling, aunt, uncle, niece, nephew, or cousin);
3. A financial interest in the income of the student or instructor;
4. The member advocated on behalf of and/or assisted the student or instructor in the informal process;
5. The member has a bias for or against the student or instructor that precludes a neutral review of the evidence;
6. A reasonable person is likely to perceive that the member has a conflict of interest as described in subsections 1-5.

D. Forwarding the Record

Upon receipt of the request for a hearing from the student, the area dean shall forward the request to the College Petitions Committee, along with the Final Grade Dispute Petition and all evidence relied upon by the area dean to conclude that there was sufficient evidence to authorize a formal appeal.

VI. Formal Hearing Procedure

The formal hearing is intended to resolve the dispute based on the merits and facts of the case. The hearing is not a legal proceeding and will be closed to the public.

- A. Within fifteen (15) business days of receiving the Final Grade Dispute Petition with all supporting documents from the student and the area dean, the College Petitions Committee will convene to review and evaluate all submitted documents.
- B. The Committee may make a determination based on the documentary evidence without interviewing the parties to the dispute. However, when necessary, the area dean, the student, and the instructor, or another faculty member, if the instructor is on sabbatical or other leave, may be asked to participate in the hearing process. Further, a request by the student or the instructor to address the Committee shall be granted. A request for UPM representation shall be granted to any instructor who participates in the hearing process.
- C. If the Committee concludes that additional information is needed from the instructor, the Dean of Enrollment Services will make a request within five (5) business days to the area dean to:
 - 1. Obtain and provide additional information from the instructor and provide a copy of that request to the College Petitions Committee. The instructor will then have five (5) business days from receipt of the area dean's request to respond.
 - 2. Notify the College Petitions Committee and student by email that additional information has been requested from the instructor and the specified timeline to resolve the petition requires an extension.
 - 3. Request the SVPSLSS obtain the requested information from the instructor within five (5) business days, if the instructor has not responded to the initial request.
 - 4. If the instructor still has not responded to the SVPSLSS request, the SVPSLSS will report the situation back to the College Petitions Committee. The Committee will make a determination, based on the available evidence, whether to uphold the grade or recommend a grade change to the Superintendent/President. Where there is insufficient evidence due to willful refusal by the instructor to produce requested information, the College Petitions Committee may make appropriate inferences from that conduct. However, the mere refusal to cooperate is not a sufficient basis on which to recommend a grade change.
- D. When additional information is needed from the student, the College Petitions Committee will notify the student by email of the documents needed and the student will have five (5) business days from receipt of the notice to respond. A failure to respond without good cause will be deemed a withdrawal of the grade challenge.
- E. If the student fails to meet any of the deadlines described above, in the formal hearing process, without good cause as determined by the College Petitions Committee, the student is deemed to have waived any challenge to the grade and the final grade issued by the instructor stands.

Upon conclusion of the formal hearing, the College Petitions Committee shall make a decision to uphold the final grade, or make a recommendation to the Superintendent/President to change the final grade. A recommendation to change the final grade must be based on a preponderance of specific and credible evidence that the grade was the result of mistake, fraud, bad faith and/or incompetence.

1. If the College Petitions Committee decides to uphold the final grade, the College Petitions Committee will have ten (10) business days to inform the student in writing of their decision. The decision of the College Petitions Committee is final and will represent the final stage of due process.
2. If the College Petitions Committee decision is to recommend a change in the final grade, within ten (10) business days of making that decision, the College Petitions Committee will provide a comprehensive summary of the proceedings to the Superintendent/President who will make the final decision within ten (10) business days of receipt of the Committee's recommendation. The comprehensive summary must state the basis or bases for the recommendation and point to the specific evidence relied on to conclude that the grade was the result of mistake, fraud, bad faith and/or incompetence.

VII. Final Grade Dispute Procedure – Step 4: Review of Recommendation by Superintendent/President

- A. In reviewing the recommendation of the Committee, the Superintendent/President shall determine whether the recommendation was reasonable based on the evidence.
- B. If the Superintendent/President's decision is to adopt the recommendation of the College Petitions Committee to change the grade, then he/she shall give written notice of the change to the SVPSLSS, the area dean, the College Petitions Committee, the student and the instructor. The notice must state the basis or bases for the decision and point to the specific evidence relied on to conclude that the grade was the result of mistake, fraud, bad faith and/or incompetence. The Superintendent/President shall also direct the Dean of Enrollment Services in writing to change the grade. Whenever a grade is changed as a result of this process, corrected transcripts will be sent to any known educational institution to which the student has transferred.
 - a. If the Superintendent/President's decision is to reject the recommendation of the Committee, and uphold the final grade, the Superintendent/President will give written notice of that decision to the (SVPSLSS), Dean of Enrollment Services, the area dean, the College Petitions Committee, the student and the instructor.
 - b. The decision of the Superintendent/President is final and represents the final stage of due process.

Office of Primary Responsibility:

Office of Student Learning

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(Replaces portions of former College of Marin Procedure 4.0003 DP.10)

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