

ADMINISTRATIVE PROCEDURE 5531
ALLIED HEALTH: STUDENT APPEAL OF DISMISSAL FOR CLINICAL PERFORMANCE

The procedure is applicable to Allied Health Programs such as Associate Degree Nursing, Radiologic Science, and Dental Assisting.

I. Dismissal Procedure

- A. The clinical laboratory Instructor (Instructor) of the Peralta Community College District's (District) Allied Health Programs (Program), has the responsibility and authority to evaluate, assess and grade the academic performance of a student consistent with clinical standards defined in the Program.
- B. The Instructor has the responsibility and *authority to remove* a student from the clinical laboratory class and dismiss a student from the Program for cause. For purposes of this procedure, "cause" is defined as where, in the Instructor's professional judgment, the Instructor has determined that the student's clinical performance falls below the acceptable standard of care for the patient as outlined in the Program objectives and evaluation requirements and poses a substantial danger to the health and welfare of the patient.
 - 1. An Instructor may immediately *remove* a student under this procedure when the student's performance poses an immediate and substantial danger to the health and welfare of the patient and where pre-removal written notice is impracticable. In that situation, and where practicable, the Instructor should provide the student with an oral explanation of the reasons for the removal and complete the written notice within two days.
 - 2. In the situation where the Instructor concludes that cause exists for removal and dismissal from the Program, where prior counseling has not led to improvement in the student's clinical performance, and where there is substantial but not immediate danger to the patient, the Instructor may *remove* the student upon providing the student with written notice of intent to dismiss.
 - 3. These procedures are not to be used when a student's clinical performance is unsatisfactory but does not pose a substantial danger to the health and welfare of patients.
 - 4. When the Instructor removes the student without *advance* written notice of intent to dismiss, the Office of Instruction shall provide the student with a written notice within three days of removal.

II. The Written Notice of Intent to Dismiss and Request for Hearing

- A. The written notice of intent to dismiss shall set forth the facts giving rise to the decision to remove the student, the reasons for the dismissal and summarize any prior counseling given to the student. The notice shall be hand delivered to the student or mailed by certified mail, return receipt requested.
- B. Upon receipt of the notice of intent to dismiss, the student may request an immediate hearing under Section III of this administrative procedure if such request is made in writing within three days of receipt of the notice. Alternatively, the student may elect to appeal the removal and intent to dismiss through the District's "Student Academic Grievance Hearing Procedure," as provided in Section III of the procedures of this Policy.
- C. A student who requests an immediate hearing under Section II of this procedure will be allowed to attend all classes except clinical laboratory classes until a finding is made by the Allied Health Student Grievance Committee. If the Committee's finding recommends that the Instructor's

decision be upheld, and this finding is accepted by the Dean of Student Services or appropriate administrator, the student may continue the appeals procedures under this Policy but shall not be allowed to attend further classes. If the Committee finds that the Instructor's decision was without cause as defined above or based on mistake, fraud, bad faith or incompetence, and this finding is accepted by the Dean of Student Services or appropriate administrator, the student may continue to attend classes except for clinical laboratory classes, pending any appeal made by the Instructor.

- D. A student who successfully appeals the removal and dismissal decision shall be reinstated into the Program and his/her academic record will be expunged of references to the decision. The College shall provide the student with assistance in making up any clinical training lost during the appeals process.
- E. A student who is dismissed from the Program may apply for re-admission pursuant to department policy which may require evidence of remediation.

III. Procedure for Student Appeal of Dismissal for Clinical Performance

A. Definitions

- 1. "Days" shall mean working days of the District.
- 2. Where the procedure refers to action or participation by a District Administrator, such as the Dean of Student Services, that reference also includes any person appointed as designee.
- 3. "Cause" is defined above.
- 4. "Mistake," "fraud," "bad faith," or "incompetence" shall be as interpreted under Education Code 76224.

B. Student Grievance Hearing

1. Student Grievance Hearing Rights

A student who has been removed by an Instructor for cause under this procedure has the right to an Allied Health Student Grievance Hearing under the following conditions:

- a. The student requests an immediate hearing within three (3) days of receipt of the notice of intent to dismiss;
- b. The request is submitted to the Dean of Student Services; and
- c. The student submits an approved complaint form as described in the District's "Student Grievance Procedure" within three (3) days of receipt of the notice of intent to dismiss.

2. Hearing

- a. The immediate hearing will be scheduled within seven (7) days of receipt of the formal complaint and request for an immediate hearing. The student and Instructor shall be notified no less than three (3) days prior to the hearing of the date scheduled for the hearing. If the student requests that the hearing be rescheduled, the student waives his/her right to have an immediate hearing within seven (7) days.
- c. The Allied Health Student Grievance Committee (Committee) shall be composed of the following:
 - i) The Dean of Instruction, who shall chair the Committee
 - ii) One faculty member from the Program who is not a party to the grievance or another faculty member from a related program may be substituted if necessary (appointed jointly by the PFT and the Academic Senate);
 - iii) One faculty member from a related health program not involved in the grievance (appointed jointly by the PFT and the Academic Senate);

- iv) One administrator of the College who is not the Dean of Student Services (appointed by the College President);
 - v) One student of a Program not involved in the grievance (appointed by the College President).
- c. The "Guidelines and Procedures: for the conduct of the hearing as stated in the "Student Grievance Procedure" shall serve as guidelines for the hearing conducted in accordance with this section, except as provided herein.
- d. The Committee shall conduct the hearing and make a recommendation to the Dean of Student Services based on the evidence and testimony given during the hearing. At least three (3) members of the Committee must agree on a recommendation to the Dean of Student Services. The Committee shall issue a written report, including a summary of the evidence, summary of the positions of the parties, findings of fact, conclusions on whether the dismissal was for cause or the Instructor's evaluation was based on fraud, mistake, bad faith, or incompetence. The Committee shall make a recommendation to the Dean of Student Services on whether the student's dismissal should be reversed or upheld. If applicable, the members of the Committee who disagree with the majority report of the Committee may attach a minority report to the written report. The Committee's written report shall be issued within two day after the hearing is completed and the evidence is submitted by the parties.
3. Dean of Student Services

The Dean of Student Services may accept, reject, or return the recommendation to the Committee for further action. The Dean of Student Services shall notify the student, Instructor, and Committee of his/her decision within one (1) day after receipt of the Committee's report. The Dean of Student Services must make his/her decision based upon the findings of fact of the Committee.

4. Appeal of the Decision of the Dean of Student Services

The "Appeal Process" described in the "Student Grievance Procedure" shall be used to appeal the decision by the Dean of Student Services, as appropriate and applicable.

IV. Student Academic Grievance Hearing Procedure

A. Student Rights

A student who has been removed from the clinical laboratory class for cause under this procedure may, alternatively, file a formal grievance alleging mistake, fraud, bad faith, or incompetence in the evaluation of the student's performance under the District's "Student Grievance Procedure," which provides for academic grievance. Use of this procedure does not entitle the student to an immediate hearing as described above.

B. Procedure

The provision of the "Student Grievance Procedure" shall apply except that the "College Grievance Committee" shall be substituted by the Allied Health Student Grievance Committee as described above.

Previously was Board Policy 4.43B which was Board approved December 15, 1992 and revised May 25, 1993.

Approved by the Chancellor: February 19, 2013