



## Pima County Community College District Administrative Procedure

<i>AP Title:</i>	<b>Complaint Procedure for Students with Disabilities</b>
<i>AP Number:</i>	AP 3.46.06
<i>Adoption Date:</i>	1/7/08
<i>Schedule for Review &amp; Update:</i>	Every year
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<i>Sponsoring Unit/Department:</i>	Office of the Provost
<i>Policy Title(s) &amp; No(s).</i>	Disabled Student Resources, BP 3.46
<i>Legal Reference:</i>	Title II and III of the Americans with Disabilities Act, 42 U.S.C. §12131 et seq., and its implementing regulation at 28 C.F.R. Part 35 (ADA); and Rehabilitation Act of 1973, 29 U.S.C. §794, and its implementing regulation at 34 C.F.R. Part 104 (Section 504)
<i>Cross Reference:</i>	

### **PURPOSE**

The purpose of this Administrative Procedure (AP) is to provide a complaint procedure for students with disabilities protected under the Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act (Section 504).

Under this procedure, a student may file a complaint regarding any determination that has been made by the College, or its employees or agents, concerning a student's disability, including the following:

1. Whether a student is a student with a disability
2. Whether the College has failed to provide an academic adjustment, auxiliary

- aid or service, or other accommodation
3. Whether the College has failed to provide an academic adjustment, auxiliary aid and service or other accommodation in timely manner
  4. Whether a student is being discriminated against in violation of the ADA and/or Section 504
  5. Whether a student is being subjected to unlawful retaliation in violation of the ADA and/or Section 504

Concerns and complaints are to be resolved promptly. The time frames set out below for the College to make decisions are maximum time frames and may be extended only for good cause, such as (but not limited to) when classes are not in session or upon mutual agreement by the student filing the complaint and the Director of Access and Disability Resources.

For purposes of this AP, a “business day” is defined as between 8:00 a.m. and 5:00 p.m., Mountain Standard Time, on a day when the College conducts ordinary operations, excluding the following: Saturdays and Sundays, any officially recognized College holidays, and any other day when the College is officially closed for any reason.

## **SECTION 1: Informal Resolution of Complaints**

The College encourages informal resolution of student concerns and complaints. If a student has a concern or complaint regarding any of the matters set forth in the section above, the student must first attempt to resolve the problem by bringing the matter to the attention of Access and Disability Resources (“ADR”), specifically with the student’s ADR Specialist. To be timely, the student must initiate this informal discussion with his or her ADR Specialist within twenty (20) business days of the alleged act that gives rise to the concern or complaint. If within five (5) business days of the student’s informal discussion with his or her ADR Specialist the student’s concern or complaint cannot be informally resolved to the satisfaction of the student, the student has the right to file a written complaint under the formal procedure set forth below.

In the following situations, a student may proceed directly to the formal resolution of complaints procedure set out below without going through the informal resolution process:

- When a student does not have an assigned ADR Specialist
- When there has been a decision that an academic adjustment or other accommodation would (1) fundamentally alter the nature of a program,

service or activity; (2) result in undue financial or administrative burdens; or (3) pose a direct threat to the student with a disability or others

## **SECTION 2: Formal Resolution of Complaints**

A student can file a formal complaint by contacting the College's ADR Director, or by contacting the College's Office of Dispute Resolution (ODR), and filing a written complaint. The complaint may be in an email, letter or memorandum. To be timely, the student must submit a written complaint to the ADR Director, or to the Office of Dispute Resolution, within thirty (30) business days of the alleged act that gives rise to the complaint. A complaint must be dated, and must describe the action, decision, or occurrence that forms the basis of the complaint, as well as the solution/outcome that the student seeks. Students are encouraged, although not required, to indicate in writing if their emails, letters, or memoranda are intended to be received as formal written complaint.

If the ADR Director has had significant involvement in the matter at issue in the complaint or is otherwise unable to resolve the complaint, the College administrator with immediate administrative oversight responsibility for ADR and the ADR Director (the "Current ADR Administrator") matter designate another College employee to investigate the complaint and issue a decision (the "designee").

In a prompt manner, the ADR Director or designee, in consultation with the Office of Dispute Resolution shall review the complaint, conduct any necessary fact-finding and issue an investigative report summarizing the relevant facts. The ADR Director or designee shall promptly (generally within ten (10) business days of the completion of the investigation) issue a written decision on the complaint and provide a copy of the decision to the student and the student's assigned ADR Specialist. Any written decision adverse to the student shall include a notification of the student's right to appeal.

Any College employee who is specifically the subject of a complaint shall be informed of the complaint and shall be given an opportunity to give his or her version of events. As a result of an investigation, the ADR Director or the College's ADA/504 Coordinator may recommend discipline of an employee. If there is a recommendation for discipline, the matter shall be referred to the appropriate administrator responsible for employee discipline matters and the College's Office of Human Resource, and the process set out in the College's applicable discipline procedure for personnel shall be followed before any discipline is imposed.

**SECTION 3: Appeal Decision of the ADR Director or ADA/504 Coordinator**

A student may appeal the decision of the ADR Director to the Current ADR Administrator within five (5) business days of the receipt of the decision. In a prompt manner (within five (5) business days), the Current ADR Administrator (or qualified designee with authority over the parties) shall review and issue a decision on the appeal. A copy of the appeal decision shall be provided to the student, the student's assigned ADR Specialist, the Office of Dispute Resolution (when applicable), and the ADR Director. The Current ADR Administrator's resolution shall be the final decision on the complaint under this AP.

If the Current ADR Administrator has had significant involvement in a matter prior to an appeal, he or she shall request referral the appeal to another qualified administrator who (1) is not supervised by the Current ADR Administrator, and (2) is at the College-administrative level of Vice President or above.

**SECTION 4: Confidentiality**

All documentation related to a student's complaint brought pursuant to this policy will be forwarded to and maintained by the ADR Director.

Every effort will be made by the College to protect the confidentiality of the parties under this procedure. Records will be maintained in a confidential manner to the extent reasonably possible; provided, however, that the confidentiality requirement shall not supersede the College's legal obligation to investigate and resolve issues of discrimination.

**SECTION 5: Retaliation**

Retaliation against a student who has filed a complaint or against any witness in an investigation is strictly prohibited. Any retaliatory action by instructors, academic professionals, administrators, or other employees against a student who has made a complaint or a witness is prohibited and may be grounds for disciplinary action.

**SECTION 6: Knowingly Providing False Information**

Any student or other individual who knowingly provides false or misleading information in relation to the filing or investigation of a complaint will be subject to appropriate discipline.

**SECTION 7: External Complaint Procedure**

The College encourages students to use this internal complaint procedure. Individuals also have the right to file civil rights complaints with appropriate external government agencies, in addition to or instead of filing an internal complaint. No retaliation will be taken against a person for filing a complaint with an external agency.

**SECTION 8: Discrimination by Another Student**

If a student believes that he or she has been discriminated against by another student in violation of the ADA or Section 504, the student should bring the matter to the attention of the ADR Director. The matter will be reviewed by the ADR Director and appropriate action will be taken, including a disciplinary referral for any student who is reasonably believed to have engaged in discriminatory conduct.