

# Section 6 - Appeals

## Requests for Appeal

Requests for appeals must be submitted in writing to the Associate Dean of Students or designee within five (5) business days of receiving the resolution/outcomes notification, barring exigent circumstances as determined by the Associate Dean of Students or designee. The Associate Dean of Students will record the request for appeal and send the appeal request and all applicable case materials to the Dean of Students who serves as the appeal officer.

The College/University's presumed position is that all sanctions will be implemented during the appellate process. The Dean of Students or designee may consider, upon request in writing, to stay or modify a sanction during the appellate process. Any stay or modification should be exercised only under exigent circumstances.

The Dean of Students or designee will review all requests to determine if the requests adequately meet the grounds for appeal. The appeal must meet one or more of the grounds below:

- **Procedural Error:** A procedural error or omission occurred that significantly impacted the outcome of the hearing (e.g. substantiated bias, material deviation from established procedures, etc.).
  - Any challenge for bias must include: a) what the bias was, b) how the bias manifested itself, and c) how the bias significantly impacted the outcome. A mere allegation or determination of bias will not be sufficient to meet this ground for appeal.
- **New Evidence:** New evidence is information that was unknown or unavailable during the original hearing or investigation that could substantially impact the original finding or sanction. A summary of this new evidence, how it was previously unknown or unavailable, and its potential impact must be included.
  - If a person or RSO/GLO representative refused to testify or participate in the investigation and now wishes to submit their testimony as new evidence at the appellate level, that testimony will not be considered "new evidence" under this ground. The Dean of Students or designee serving as the reviewer of requests for appeal may determine if the matter will be sent back for further investigation based on this request for appeal.
- **Appeal of the Sanction:** The sanction(s) imposed is clearly outside the parameters for the violation(s) or are of such nature that the RSO/GLO could not reasonably complete them within the allotted timeframe.

The burden is on the appealing RSO/GLO to show the grounds are met using the preponderance of the evidence standard.

If there is another party involved in the matter (e.g., in matters where the incident involves Title IX or other civil rights discrimination), the Dean of Students or designee may share all or part of the appeal with the party to allow them to respond or submit their own request for appellate consideration. They will be required to respond within three (3) business days, barring exigent circumstances as determined by the Dean of Students or designee.

If there is a challenge to any member of the process (e.g. a challenge of bias by an investigator or hearing officer), the Dean of Students or designee may share all or part of the appeal with party in question to allow them to respond. They will be required to respond within three (3) business days, barring exigent circumstances as determined by the Dean of Students or designee. If any new grounds for appeal are raised in any response, the Dean of Students or designee will determine whether to allow a short time for the RSO/GLO to submit a response.

The Dean of Students or designee will issue their decision to allow the appeal to proceed in whole or in part or to deny the appeal within five (5) business days of receipt of all information and responses, barring exigent circumstances.

Once it is determined that the appeal can move forward, the Dean of Students or designee will issue their appeal decision within five (5) business days of receipt of all information and responses, barring exigent circumstances. In instances where the Dean of Students or designee needs additional time, the RSO/GLO representative will be notified within the allotted time for issuing a decision.

### **General Appellate Considerations**

The original finding and outcome(s) are presumed to have been decided reasonably and appropriately. Appeals are not intended to be full re-hearings of the original allegation(s). In most cases, appeals are confined to a review strictly limited to the matters being appealed. In cases where there are other parties involved, if the Dean of Students or designee during the review phase or during the appellate phase, wishes to meet with a party or RSO/GLO representative, the other party will be notified and granted the same opportunity.

### **Appeal Conclusions**

- An appeal that affirms the finding of the Formal Resolution process is final.
- An appeal that affirms the outcomes is final.
- An appeal that is granted for the appellant (or other party, when appropriate) based on new evidence should be remanded to the Associate Dean of Students or designee for reconsideration, for rehearing, or for further investigation.
- An appeal granted for the appellant (or other party, when appropriate) based on other grounds should be remanded to the Associate Dean of Students with instructions to further investigate, clarify findings, or remedy errors.
- When an appeal is granted for the appellant (or other party, when appropriate) based on inappropriate outcome(s), the Dean of Students may alter the outcome or remand with recommendations, to the Associate Dean of Students to modify the outcome(s). Such outcome determination shall be final.
- Once an appeal is decided, the decision is final; further appeals are not permitted.