

Appeals

Purpose

Students found responsible for a violation of the Code may appeal. An appeal from any decision, either conference, administrative hearing or College Conduct Board, must be made in writing within five business days following the date the hearing outcome letter is sent to the student electronic mail account. Students may file one (1) appeal per case. In the event multiple students are involved in one case, each student pursuing an appeal must do so individually. Submitting an appeal does not guarantee a meeting with the administrator responsible for deciding the appeal outcome. For that reason, it is important all information for consideration be made clear in the written appeal.

Under Title IX of the Education Amendments of 1972 and the Violence Against Women's Act, the complainant in cases of sexual violence have the identical rights as the charged student which includes the right to appeal.

Format of Appeal

To assist with the filing of an appeal, an appeal cover sheet has been created and must accompany the written appeal.

An appeal shall be written and contain the student's name, the date of the decision or action, and the reason(s) for the appeal. The appeal letter must specify in detail one or more of the following bases for appeal:

- Student's/student organization's rights were violated as a result of failure of due process (specify right believed to have been violated),
- Significant new evidence is available that could change the outcome.

Office Responsible for Appeal Review

Appeals must be submitted to the Vice President for Academic and Student Affairs. The Vice President or designee will be responsible for the review and timely response to all appeals submitted.

The appeal decision is final.

Suspension of Original Sanction Pending Appeal Review

A properly-filed notice of appeal suspends the imposition of sanctions until the appeal is decided, unless, in the discretion of the Vice President for Academic and Student Affairs or designee, the continued presence of the student on the campus poses a serious threat to themselves or to others, property, or to the normal operation of the College.

Appeal Review Process

The appellate officer will review the written letter of appeal from the student and determine if one of the bases for appeal is present. If it is, a review of the appeal will be granted. The appellate officer shall review:

- The response from the hearing officer/body, and
- Materials presented at the original hearing.

Appeals shall be decided upon the record of the original proceedings and upon the written responses submitted by the parties. Decisions of the conduct bodies will be given great deference by the appellate decision maker. After reviewing these materials, the appellate officer may decide to do one of the following:

- Affirm the finding and the sanction imposed;
- If specified errors occurred, remand to the original decision makers to address the error, change the procedures, consider new evidence that could not have been discovered by a properly diligent accused before or during the original hearing, substitute new adjudicators, or otherwise repair the grounds that gave rise to the appeal;
- Affirm the finding and reduce, but not eliminate or increase the sanction if found to be grossly disproportionate to the offense; or
- Cases may only be dismissed if the finding is held to be arbitrary and capricious.

A crucial point in the appeals process is the shifting of the burden of proof. At the initial hearing, the burden of proof lies with the complainant. Once there is a finding of responsibility, the burden shifts to the petitioner. The decision on the appeal will generally be made within ten (10) business days of receipt of the appeal, but may take longer during College recesses or in the event of complex cases.