

APPEALS IN CIVIL RIGHTS INVESTIGATIONS

WHO CAN APPEAL AND TIMELINE FOR APPEAL

- Either party can petition for an appeal regardless of finding/sanctions
- Timeline for appeals
 - The appeal must be submitted within 5 business days of the investigative/hearing decision notification to be considered
 - Petition for appeal is reviewed for standing within three business days
 - Appeal is sent to other party(ies)/investigators for response. Other party(ies)/investigators have three business days to respond
 - The appellate panel has 15 business days from receipt of the appeal to render a decision. Extensions can be granted.

GROUNDS FOR AN APPEAL

- Timely
- A procedural irregularity affecting the outcome of matter.
- To consider new evidence, unavailable during the original hearing or investigation, which could substantially impact the decision in the matter. A summary of this new evidence and its potential impact must be included.
- Investigation/hearing panel personnel had a conflict of interest or bias affecting the outcome of the matter.

INFORMATION AVAILABLE TO THE PARTIES

- Investigation report
- Hearing report (if there is a hearing)
- Relevant evidence
- Related evidence

SANCTIONS

- Sanctions remain in effect during the appeal process
- Termination and employment transfer will be treated as suspension while the appeal is in process
- Expulsion and dismissal will be treated as suspension while the appeal is in process
- Sanctions are not appealable

APPEAL PROCESS

- Appeal is submitted entirely in writing
- Appeal is reviewed for grounds/standing by a member of our team
- If standing/grounds are approved, the appeal is sent to the other party(ies)/investigators for a response
- The response from the other party is shared with the initial appellate party
- All responses are sent to the appellate panel made of up of one to three members of our team

PETITION TO APPEAL

- If you are the person who reviews for standing consider the following
 - New Information
 - Is the new information actually new or was it withheld
 - If the new information is true, would it actually change the outcome of the decision maker
 - Procedural irregularity
 - Is the procedural irregularity substantial enough to change the outcome
 - Bias
 - Is there actual evidence of bias
 - How does the evidence of bias impact the outcome of the case
- Usually are generous with granting a review by an appellate body

APPEAL REVIEW PROCESS

- Deferential to the original hearing body
- Not an opportunity for appeals officers to substitute their judgment for that of the original hearing body
- Not a de novo review of the original complaint
- Appellate panel can only make the following decisions:
 - Remand case to the original hearing panel
 - Remand case to a new hearing panel
 - Remand case back to the original investigators
 - Remand case to a new set of investigators
 - Make no change to the decision or sanction

APPELLATE REVIEW PROCESS

- Appeal panel will receive
 - The investigative report
 - The hearing report (if there is one)
 - All related and relevant evidentiary documents
 - All appeal documents
- The appeal panel may
 - Make the decision off of the written materials
 - Ask questions in person or in written format of the parties, witnesses, or the investigators

APPELLATE REVIEW PROCESS

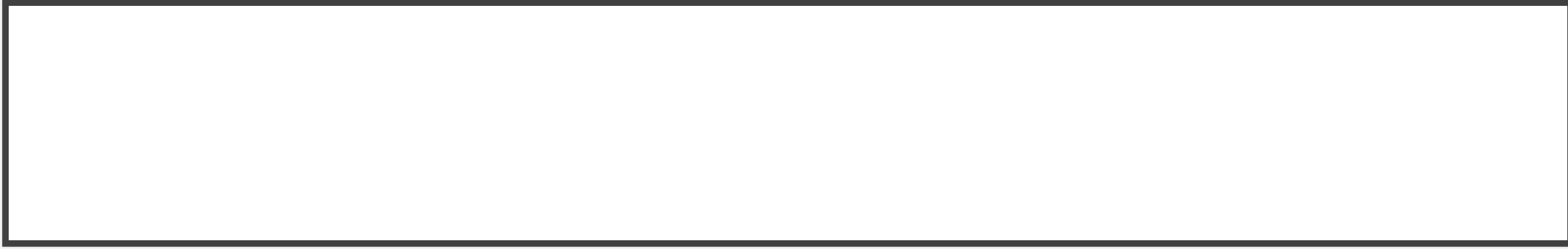
- Communication
 - The appeal panel can
 - Communicate directly with the parties and others they wish to discuss
 - Communicate through the Title IX Coordinator or their designee
 - Identify a communication member to lead all communication
- Have a process to review the appropriate material
 - Do not have to review all materials but may
 - Should review materials relevant to the appeal
 - Should review the investigation/hearing reports
- Must meet as a group to discuss and come to a decision

WHAT TO CONSIDER IN THE REVIEW PROCESS?

- New information
 - How does the new information impact the understanding of the incident
 - Is the new information actually new
- Procedural irregularity
 - Did this impact the decision making in a way it needs to be reconsidered
 - Is the decision reasonable without the procedural irregularity
- Bias
 - Is the bias about not liking the outcome of the decision?
 - Did the alleged bias materially impact the decision?
 - Is there evidence to support the bias?
- Overarching question: Is the decision the decision makers came to a reasonable one?

APPELLATE DECISION

- Submitted in writing to the parties/investigators
- Remanded or a final decision
- If it is remanded, it goes back to the appropriate stage
- If it is final, there are no additional steps available
- Appellate panel or Title IX Coordinator can send out the final decision



Questions