

# Section XVI: Appeal of a Disciplinary hearing Decision

## 1. **Criteria for an Appeal**

A finding of responsibility for violations of the Code and/or the sanctions imposed may be appealed. However, an appeal will result in a reversal or modification of a decision only if one of the following criteria is met. It should be noted that an appeal is not an opportunity to have a new hearing on the matter. As described below, an appeal can only be used to reverse an error or to consider important information that was not available at the hearing.

### a. **Process**

- i. An important procedure leading up to or during the original hearing was ignored or so flawed that the hearing was not fair and impartial.

### b. **Substantive Error**

- i. There was an error in identifying or interpreting the controlling and relevant University policy or standard of conduct and this substantially affected the hearing and resulted in the Accused Student(s) being denied a fair hearing outcome.

### c. **New Evidence**

- i. Relevant new evidence has surfaced that could have materially affected the decision or finding of the board or hearing officer. This evidence must be produced and substantiated or documented and it is required that proof be provided that this information was not available at the time of the hearing.

### d. **Disproportionate Sanction**

- i. The sanction levied is manifestly unjust because it is overtly disproportionate to the offense.

## 2. **Process for Filing an Appeal of Disciplinary Action**

An Appeal of Disciplinary Action form must be submitted to ODSSS by the student found "Responsible" within five (5) working days of receipt of the letter of notice of hearing outcome. The form should be typewritten or printed very legibly, with an attached statement not more than five double-spaced pages in length. The statement must clearly specify the grounds on which the appeal is being made and have attached any supporting documentation. Each case may be appealed only once.

## 3. **Appeal Review Process**

The written appeal must be submitted to ODSSS. ODSSS will forward the appeal to the Chair of the appropriate Appeal Board. The Chair shall have the authority to determine if the appeal could reasonably be expected to meet at least one of the four stated criteria. If the Chair so rules, he/she will set up an appeal hearing and notify the parties of its date, time, and location. If ODSSS determines that an Appeal Board cannot be convened, (e.g., between semesters or at the end of a semester or lack of quorum), it will appoint an Administrative Appeal Officer to review the matter, determine if a hearing is warranted, schedule a hearing, and notify the student.

## 4. **Appeal Hearing**

Appeal hearings will be limited to a presentation of evidence by the appellant that directly addresses the grounds for an appeal. The Chair of the University-Wide Judicial Board may be asked to attend, but no witnesses may be called. Appeal hearings will follow a standardized format.

## 5. **Remedies on Appeal**

The following actions may be taken by a majority vote of the Appeal Board members present and constituting a quorum, or by the Administrative Appeals Officer, transmitting a recommendation to the Dean of Special Student Services:

- a. Affirm the findings of the original Board or Hearing Officer.
- b. Affirm the findings, but change the sanction(s) levied.
- c. Overturn the finding of the original Board or Hearing Officer and remand to the original Board for a new hearing.

**6. Notification of Finding**

The results of an appeal review will be sent by the Chair, who will forward the recommendation to ODSSS within twenty (20) working days of the Board's decision. Within five (5) working days, ODSSS will inform the student who initiated the appeal and the Complainant of the Board's decision. For cause, the Dean may grant the Chair an extension. If the case is remanded for a new hearing, ODSSS will contact the student about that new hearing. At the discretion of the Dean for Special Student Services, a different University-Wide Disciplinary Hearing Board may be asked to hear the case.

**7. Limitations**

- a. Each case may be appealed only once. Therefore the finding of the designated Appeal Board is final and binding.
- b. Only the Accused Student may file an appeal.
- c. Appeals filed after the stated deadline will not be considered, except in compelling circumstances as determined by the Dean for Special Student Services.

**8. Stay of Sanction(s) During the Appeal Process**

The Dean for Special Student Services will determine if the sanction(s) imposed on an appellant will stay pending the appeal process.