

Sample Appeals Practices & Language Examples

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SAMPLE LANGUAGE:

Either party may submit an appeal of the Director's decision to the Dean of Students within five (5) University business days. Once an appeal is received, the other party will be notified and provided with an opportunity to review the submitted appeal and submit a written response within three (3) University business days. Deadlines may be extended at the discretion of the Director under exceptional circumstances. A deadline extension request must be submitted in writing. The Director will also provide a written response after reviewing all submissions from the involved parties. Upon receipt of all documents, the Dean of Students will conduct an efficient and narrow review of the file limited to the grounds identified by the initiator of the review. Appeals may be filed on one or more of the following grounds:

- I. A procedural or substantive error occurred that significantly affected the outcome of the case.
- II. There is new, relevant information that was not available at the time of the investigation that, if available, could have significantly affected the outcome of the case. This does not include statements from a Complainant or Respondent who chose not to participate in the investigation. A great degree of deference is given to the original decision.

The presumption is that the investigation and decision processes were appropriately conducted and the burden is on the individual requesting the appeal to prove that the appeal has merit. Appellate reviews are reviews of the record only. There are no additional meetings with the involved parties unless there are exceptional circumstances as determined by the Title IX Coordinator, in which case the Dean of Students must offer both the Complainant and the Respondent the same opportunity to discuss the case.

Upon review of the record, the Dean of Students may respond as follows:

- I. Determine the appeal lacks standing and is dismissed, in which case the original decision stands;
- II. Determine that the appeal has standing and remand the case back to the original investigator to consider new information or reevaluate previous information; or'
- III. Determine that the appeal has standing and remand the case to a new investigator with specific corrective instructions.

The Dean of Students' decision is considered the final University decision and will be communicated simultaneously in writing to both the Complainant and Respondent. The Dean of Students will strive to review and respond to the appeal within 10 University business days of receipt of all documentation. In circumstances in which there is a conflict of interest or perception of bias on behalf of the Dean of Students, or in cases in which the Dean of Students is otherwise unable to perform these duties, appeal decisions will be made by the Associate Vice President for Academic Affairs.

SAMPLE LANGUAGE:

Appeals

Both parties have the right to appeal the finding within five (5) business days upon receipt of the written notice. Disagreement with the finding and/or with the sanctions does not, by itself, represent grounds for appeals. Legitimate grounds for an appeal are confined to those instances in which there was a demonstrable procedural error and/ or new evidence, not previously available, becomes available.

- If the Respondent is a student: The written appeal shall be submitted to the Vice President for Academic Affairs.*
- If the Respondent is a staff member, volunteer, or third party: The written appeal shall be submitted to the Vice President for Student Affairs.*
- If the Respondent is a faculty member: The written appeal shall be submitted to the Director of Human Resources.*

If an appeal is granted by the appeal officer as noted above, the appeal officer will notify the Title IX and Deputy Coordinators of the error or new evidence, and they will reconsider the case and render a new decision according to the evidence based upon the preponderance of evidence standard.

Submitted by Chandra Essex, Director of Student Support & Compliance/Title IX Coordinator
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SAMPLE LANGUAGE:

Appeal Procedure

Once the College has responded to a report of sex/gender based harassment, discrimination or sexual misconduct, either party has the ability to petition for appeal by written request to the Title IX Coordinator within five business days of the date of the decision. The written request for appeal must be based on at least one of the following reasons listed below and must include justification for that reason:

1. A procedural error or omission occurred that significantly impacted the outcome of the hearing (i.e. substantiated bias, material deviation from established procedures, etc.).
2. The sanction(s) imposed are substantially disproportionate to the severity of the violation or fall outside the range of sanctions Hastings College has designated for this violation.
3. To consider new evidence, unknown or unavailable during the original hearing or investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included in the appeal.

The Title IX Coordinator will review the petition for appeal and determine if at least one of the reasons stated above are met, to decide if the appeal will be granted or denied. In the case that the appeal is denied because none of the reasons have been met, then the original findings and sanctions stand.

In the case where reason #1 or #2 have been met and the appeal is granted, the Title IX Coordinator will forward the appeal to the College President, or their designee, for a finding and decision.

In the case where reason #3 is met and the appeal is granted, the appeal will first be remanded to the original investigator(s) of the incident for investigation of new evidence. New evidence will then be forwarded to the original sanctioning individual(s) for reconsideration. The sanctioning individual(s) will then forward a recommendation to the College President, or their designee, to render a finding.

The College President, or their designee, will review all written documentation of the case or record of the original hearing, and pertinent documentation regarding the reasons for appeal, as the appeal process is not intended to be a rehearing of the case. The College President, or their designee, will render a written decision of the appeal outcome.

In the event that the President recuses himself or herself from serving as the appeals officer on a particular case, or in the event that the President cannot serve in this capacity, the Provost or the Provost's designee will serve as the Appeals officer.

When either party requests an appeal, the other party (parties) will be notified and given the opportunity to respond in writing to the appeal. The appeal will also be shared with investigators and they will have an opportunity to respond in writing to the appeal. All parties will be informed of whether the petition for appeal is granted or denied, and the results of the appeal decision.

All findings of an appeal are final and binding, and no further appeals are permitted.

All sanctions imposed by the College administrator will be in effect during the appeal process.

Submitted by Tiffin University

SAMPLE LANGUAGE:

Reporting parties and/or responding parties have the right to appeal the decision if:

1. A procedural error occurred that significantly impacted the outcome (e.g. substantiated bias, material deviation from established procedures, etc.)
2. The appellant has substantive and relevant new information that was not available at the time of investigation and that may change the outcome of the decision. In this case, the Title IX Coordinator will review with the Title IX Investigators and render recommendation (if applicable).

Disagreement with the investigation findings or determination is not, by itself, a ground for appeal.