

Appeals Board Training

January 2026, Christy Martin, Ed.D.



Agenda:

- Purpose
- Applicable Policies
- Prohibited Behaviors
- Jurisdiction
- Grounds for appeal
- Issues of relevance
- Avoiding pre-judgement of facts, conflict of interest, and bias
- Procedure

Purpose of Appeals

- **To address error in the process.**
 - Limited and specific.
 - Not meant as a do-over button.

Applicable Policies

- Sex-Based Harassment & Discrimination
- Discriminatory Harassment & Misconduct
- Other Policies (Academic Misconduct, Hazing, Alcohol & Other Drug, Honor Principle)

Title IX

"No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any educational program or activity receiving Federal financial assistance."

Title IX of the Education Amendments of 1972 (20 U.S.C. §1681 & 34 C.F.R. Part 106)

Sexual harassment is a form of sex discrimination

Sex-Based Harassment & Discrimination

TITLE IX PROHIBITED BEHAVIORS

- Sex-Based Discrimination
- Sexual Harassment
 - Quid Pro Quo
 - Hostile Environment Harassment
 - Sexual Assault
 - Dating Violence
 - Domestic Violence
 - Stalking
- Retaliation

Sex-Based Harassment & Discrimination

NON-TITLE IX PROHIBITED BEHAVIORS

- Sex-Based Discrimination
- Hostile Environment Harassment
- Sexual Assault
- Dating Violence
- Domestic Violence
- Stalking
- Sex-Based Violence
- Non-Consensual Sexual Contact
- Sexual Exploitation
- Relationship Abuse
- Retaliation

Discriminatory Harassment & Misconduct

- Discrimination
- Discriminatory Harassment
- Romantic or Sexual Relationships between employees and students
- Violence
- Bullying
- Stalking
- Retaliation

Other Institutional Policies

- Honor Principle
- Alcohol and Other Drug Policy
- Hazing Policy

Conditions/ Jurisdiction

Title IX:

- In the U.S.
- In Reed Programs, Activities, or on campus
- Control over Respondent
- Complainant was participating or attempting to participate at the time they filed the complaint.

Other:

- Extended jurisdiction:
 - Substantial college interest
 - Complainant was participating or attempting to participate at the time the alleged violation took place.

Note: Refer to the specific policy to check jurisdiction criteria.

Appeals

- Identifying the nature and scope of the issues
- Analyzing the appeal(s) and response(s) according to the grounds for appeal
- Determining the appeal outcome

Sex-Based H&D Appeal Grounds

- Procedural irregularity that affected the outcome of the matter;
- Newly discovered evidence that could affect the outcome of the matter; and/or
- Conflict of interest or bias by the Title IX Coordinator, deputy Coordinator, investigator, Hearing Officer, or other decision-makers that affected the outcome of the matter.
- The sanctions are believed to be excessively lenient or severe.

J-Board Appeal Grounds

- The sanctions are believed to be excessively lenient or severe.
- There was a procedural error that significantly affected the outcome of the hearing.
- New or newly discovered evidence is of a character that it could have significantly affected the outcome of the hearing or the decision of the Vice President for Student Life or of their designee.

Appeal Grounds

- **Procedural Irregularity**

- Was there an error in process?
 - e.g., I was found responsible for a policy violation for which I was not provided prior notice;

my advisor was not allowed to ask questions of witnesses during the hearing;

the determination was based on a clear and convincing standard of evidence

Appeal Grounds

- **Procedural Irregularity**

- Note: It's limited to the processes that are provided
 - e.g., the procedure provides for 10 business days to respond to investigative information;

the procedure does not provide for advisors to participate in investigative meetings on behalf of a party

Sexual Misconduct Appeal Grounds

- **Procedural Irregularity**

- Note the difference between the process allowing for something vs. requiring something.

- e.g., “If either the Complainant or Respondent does not have an Advisor for the live hearing, an Advisor of the College’s choosing will be assigned at no cost to the Party.”

“The live hearing may be conducted virtually or with all Parties physically present in the same location.”

“The President will appoint an appeals board that shall consist of at least two vice presidents/deans”

“The Hearing Officer reserves the right to remove an Advisor who treats a Party or Witness in an abusive, intimidating, harassing, or disrespectful manner.”

Sexual Misconduct Appeal Grounds

- Procedural irregularity
 - If there was a procedural error, could it affect the outcome?

Sexual Misconduct Appeal Grounds

- **New evidence**
 - What constitutes “new” evidence?
 - What reasons are offered for it not having been previously provided or available?
 - If it is new, could it affect the outcome?

Sexual Misconduct Appeal Grounds

- **Conflict of interest or bias**
 - Was there conflict of interest or bias?
 - The Deputy Title IX Coordinator had a conflict of interest because...
 - The investigator was biased against me because...
 - The hearing officer was biased against complainants in general because...
 - If yes, did it affect the outcome?

Sexual Misconduct Appeal Grounds

- **Error in Sanction Severity**
 - Excessive vs Appropriate
 - Mitigating and Aggravating factors
 - Nature of the case
 - Fact pattern
 - Respondent's previous conduct history

Appeal Decision Points

- When an appeal is received, ask:
 - Is it timely?
 - Does it meet one or more of the criteria?
(in substance, if not in name)
 - Parties bear responsibility for providing support for their assertions
(It can't just be an unsupported theory or assertion.)

Appeal Decision Points pt.2

The approved criteria for a specific appeal frame the scope of the board's review.

- Example: sanction severity does not support a review of determinations of policy violations)
- Scope should guide the appeal *action*. What needs to be addressed? How? By whom?

Relevancy Decisions

- Relevancy can show up in grounds for appeal as a procedural error or bias issue.
- There are various actors involved in procedures who make relevancy decisions.

Relevancy Decisions

- Investigators in their Investigation Report.
- Hearing officers in the hearings (regarding evidence and the permission of cross-examination questions).
- Sanction Decision-makers as they determine appropriate sanctions.

Relevancy Decisions

- Information is relevant if it may help prove or disprove an allegation.
- Title IX regulations deem one category of info automatically not relevant:
Complainant's sexual predisposition or prior sexual behavior

Relevancy Decisions

Two exceptions to the restriction on
Complainant's sexual predisposition/behavior:

- Offered to prove that someone other than the Respondent committed act
- Offered to prove consent

Relevancy in Appeals

If an issue of relevancy is brought up in an appeal...

- Determine whether the grounds for appeal are met.
 - Was it so significantly unreasonable that it became a procedural error?
 - Was it a logistical procedural error?
 - Is there evidence that bias led to it?
 - Could it have impacted the outcome?
- Determine the appropriate way to address the specific issue.

Prejudgment & Bias

Appeals Boards must be neutral.

- Suspend judgment until you've considered ALL the information. *Stay curious.*
- Ensure you're free of bias.
 - General and specific regarding an individual.
 - Ensure you're free of Conflicts of interest.
 - Recuse yourself if needed.

Appeals Procedure: Sex-Based H & D

Complaint Outcome →

7 business-day Appeal Window

Appeal Received

Notice to all parties

7 business-day Party response window

Deliberation

Appeal Denied
(final)

Appeal Accepted

Decision Notice to all parties
(final)

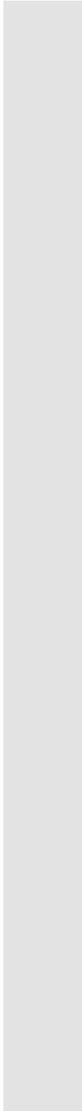
Collect info

Decision

Decision Notice to all parties
(final)

Appeals Training Summary

- Appeals address process errors.
- Appeals Board scope is narrowed to the error issue at hand.
- Appeals Board determines the best way to fix the error.
 - Sometimes they'll address it themselves,
 - Sometimes refer elsewhere.



Questions & Discussion