



Appeals Officer Training

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EHC
Campus and Workplace Solutions

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Appeals

- **Parties may appeal:**
 - Determination regarding responsibility and
 - Dismissal of a formal complaint or an allegation thereof

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Appeal grounds

- 1 Procedural irregularity that affected the outcome
- 2 New evidence that was not reasonably available at the time of determination regarding responsibility or dismissal was made, that would affect the outcome of the matter
- 3 The Title IX Coordinator, investigator, or decision-maker had a conflict of interest or bias for or against parties generally or the individual party that affected the outcome of the matter
- 4 Other bases determined by the school, provided offered to both parties

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Appeals: Section 106.45 (b)(8)

- Notify other party in writing when an appeal is filed and implement appeal procedures equally for the parties.
- Decision-maker cannot be the same person as the decision-maker at the hearing or the decision-maker who dismissed matter, the investigator, or the Title IX Coordinator
- Appeal officer must be trained and not have bias or conflicts
- Provide parties a reasonable, equal opportunity to submit a written statement in support of, or challenging, the outcome.
- Issue a written-decision describing the result of the appeal and the rationale for the result.
- Provide the written decision simultaneously to both parties.

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Process

- Follow policy
- Send letters to parties
- Pay attention to any timing requirements

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Read Request for Appeal

Know the Process

Read Parties' Arguments

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1) Procedural Irregularity

- 1 Do they identify the step of the process at issue?
- 2 Do they identify how it was violated?
- 3 Do they identify how it affected the outcome?
- 4 Review “travel of the case” and the procedural steps taken*

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Analysis

Procedural Irregularity

Did this happen?
If yes, then what was it?
If yes, then go to next step.

Affected the Outcome

Was the outcome affected by the irregularity?
What was affected? How?

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2) New Evidence

DO THEY IDENTIFY:

- 1 New evidence
- 2 That was not *reasonably* available at the time of determination regarding responsibility or dismissal was made
- 3 That would affect the outcome of the matter

What Happens if They Do not Provide the Information?

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Analysis

New Evidence

Do they provide this? Is it relevant?
If yes, then next step.

Not reasonably available at the time

Look at record, look at when evidence was available.
If yes, then next step

Affect outcome

Would the evidence affect the outcome of the matter?
If so, what was it and how?

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3) Conflict of Interest

- 1 The Title IX Coordinator, investigator, or decision-maker
- 2 had a conflict of interest or bias
 - for or against parties generally
 - or against the individual party
- 3 that affected the outcome of the matter

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Conflict and Bias

Conflict

- Forces in opposition but in static applications implies an irreconcilability as of duties or desires
- A situation in which there are opposing demands or ideas and a choice has to be made between them

Bias

- an unfair personal opinion that influences your judgment
- the fact of allowing personal opinions to influence your judgment in an unfair way

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Analysis

Was it TIX, Investigator, Decision-Maker?

Yes? Go to next step.
No? Appeal denied.

Conflict of Interest?

Did appellant provide information to demonstrate a conflict or bias?
Is it reasonable?
Do you need any further information?


Did the conflict or bias affect the outcome?

If yes, what was it and how?

Appellant needs to provide the information to get to starting line.

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Exercise



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Write the Decision. Be Orderly. Be neutral.

- 1 Result of the appeal and
- 2 The rationale for the result.

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Exercise



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Thank you!



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