Appeals

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

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

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.

Process

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

Read Request for Appeal

Know the Process

Read Parties' Arguments
1) Procedural Irregularity

- Do they identify the step of the process at issue?
- Do they identify how it was violated?
- Do they identify how it affected the outcome?
- Review “trials of the case” and the procedural steps taken.

2) New Evidence

**DO THEY IDENTIFY:**

- 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

Analysis

<table>
<thead>
<tr>
<th>Procedural Irregularity</th>
<th>Affected the Outcome</th>
</tr>
</thead>
<tbody>
<tr>
<td>Did this happen?</td>
<td>Was the outcome affected by this irregularity?</td>
</tr>
<tr>
<td>If yes, then what was it?</td>
<td>What was affected? How?</td>
</tr>
<tr>
<td>If yes, then go to next step.</td>
<td></td>
</tr>
</tbody>
</table>

Exercise

What Happens if They Do not Provide the Information?
3) Conflict of Interest

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

Conflict and Bias

<table>
<thead>
<tr>
<th>Conflict</th>
<th>Bias</th>
</tr>
</thead>
<tbody>
<tr>
<td>Person or organization that has a conflict of interest or bias</td>
<td></td>
</tr>
<tr>
<td>A situation in which there are opposing demands or ideas and a choice has to be made between them</td>
<td></td>
</tr>
<tr>
<td>Any conflict you or a person who works for you has that influences your judgment</td>
<td></td>
</tr>
<tr>
<td>The fact of allowing personal opinions to influence your judgment in an unfair way</td>
<td></td>
</tr>
</tbody>
</table>

Exercise

Write the Decision. Be Orderly. Be neutral.

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