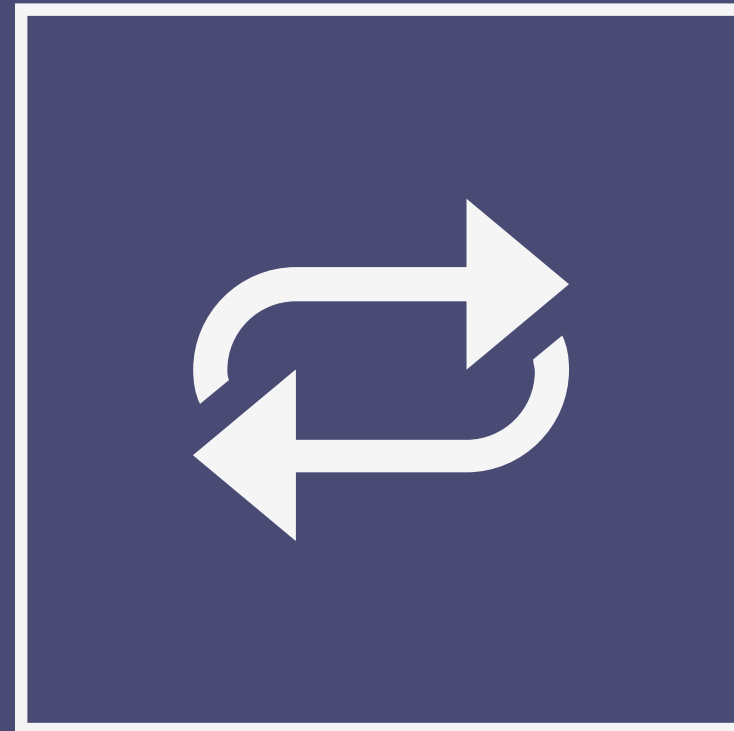


# The Appeal Process

# IN THIS CHAPTER



THE APPEAL  
PROCESS

# Appealing a Decision

- Title IX Regulations stipulate that a school must provide an appeal from a determination regarding responsibility
- The appeal process is available to both the Complainant and Respondent
- The Appellate Decision-Maker cannot be the Decision-Maker that made the determination, the Title IX Coordinator, or the Title IX Investigator for the case

# Appealing a Decision

- Parties must be notified in writing when an appeal is filed
- Appeal procedures must be implemented equally for both Complainant and Respondent
  - Consult school policy for specific procedure
- Parties must have a reasonable opportunity to submit a written statement supporting or challenging the determination
- Parties must be issued a written decision describing the result of the appeal and the rationale, drafted by the Appellate Decision-Maker
  - This must occur simultaneously

# Bases of Appeal Required Under Title IX

Procedural irregularity that affected the outcome of the matter. §106.45(b)(8)

Respondent was only given four days to inspect evidence and provide a written response when the Title IX Regulations stipulate parties have ten days.

Complainant was not allowed to cross-examine one of the Respondent's witnesses who was present during the hearing due to "time constraints"

The Respondent was not allowed an Advisor in the pre-hearing meeting.

# Bases of Appeal Required Under Title IX

New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter. §106.45(b)(8)

A previously unknown Witness came forward with information regarding the incident after hearing about the incident from a friend.

A Respondent was able to recover an email containing a conversation with the Complainant he previously believed to be deleted.

# Bases of Appeal Required Under Title IX

The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

§106.45(b)(8)

Respondent discovered the Decision-Maker has made several public statements on social media about their unwavering support for sexual assault survivors and their extreme distrust of males.

Complainant learned the Title IX Investigator is an involved athletic booster for the football team which the Respondent plays on.

# Optional Bases of Appeal

Schools may provide other bases of appeal as long as they apply equally to both parties.

- Review your school policy to see if other bases are outlined
- Example- Sanction is inadequate or excessive.

Complainant appeals, citing a sanction of a mandatory counseling issued to the Respondent for stalking was not severe enough.

Respondent appeals, stating a sanction of termination of employment was excessive for his offense of sexual harassment as a previous co-worker received a written warning for a similar offense.

# Appeal Outcomes

If a request for appeal is denied, the original determination stands and the Title IX grievance process concludes.

- This does not mean Parties will not seek action or resolution outside of Title IX (*i.e.- filing a complaint with the Office for Civil Rights, pursuing other disciplinary processes, legal action*)

Additionally, if the Parties do not submit their appeal within the timeframe specified in policy, the original determination will stand and the Title IX grievance process concludes.

# Appeal Outcomes

If a request for appeal is accepted, the Appellate Decision-Maker will review and consider the information. At the conclusion of their review, the following are possible:

## Appellate Decision-Maker upholds original determination

- Title IX grievance process ends

## Appellate Decision-Maker determines the appeal was valid under one of the bases listed in school's policy

- New investigation may take place
- New hearing may take place
- If policy allows sanctions to be appealed, a new sanction may be determined