

# APPEAL PROCESS

The purpose of an appeal is to review the procedures and findings of the hearing authority of original jurisdiction and to determine if there is a basis for appeal in a conduct hearing or decision. Students found in violation of the Student Code of Conduct as well as the alleged victim in cases involving sexual misconduct, have the right to appeal decisions of the Hearing Panel or Hearing Officer, provided specific relevant grounds for appeal can be cited. Students who accept responsibility for violations of the Student Code of Conduct waive their right to a hearing and to an appeal.

The Vice President of Student Affairs and/or the University President may, at their discretion, review any student discipline case and take such action as they deem appropriate with respect thereto.

## Grounds for Appeal

A student, the alleged victim in cases involving sexual misconduct, may appeal a conduct decision on one or more of the following grounds:

- New information or other relevant facts, sufficient to alter the decision, is available or was not brought out in the original hearing because such information was not known or knowable to the person appealing during the time of the hearing.
- Procedural error within the hearing process that may have substantially impacted the fairness of the hearing, including, but not limited to, whether any hearing questions were improperly excluded.
- Evidence of prejudicial treatment or bias by the original hearing authority.
- Finding and/or sanction was inconsistent with the weight of the information presented.

## Appeal Decisions

The appeal authority may:

- Affirm the original decision and deny the appeal.
- Affirm the findings of responsibility and modify the sanction. The appeal authority may, at its discretion, change, increase or reduce the sanction imposed. If the sanction is modified, the appeal authority must state in writing the justification for the modification.
- Refer the case for rehearing before another hearing authority.
- Refer the case to the original hearing authority for reconsideration of specific points deemed important by the appeal authority.
- Reverse the finding of "In Violation" and affirm the appeal. If the original finding is modified, the appeal authority must state in writing the justification for the reversal.

## Filing an Appeal

All appeals must be submitted online via the electronic appeal form located within the students Official Notice of Sanction, *within five (5) business days* after the written findings and decision is communicated to the student, as indicated in a student's original disciplinary decision letter. All responses to appeals will be communicated in writing.

## Appeals Not Involving Housing or University Suspension or Expulsion

The Dean of Students will constitute the first and final point of appeal in all disciplinary decisions not involving Housing Suspension or Expulsion or University Suspension or Expulsion.

The Dean of Students will communicate his or her decision to the student within seven (7) business days after an appeal is filed.

Note: The Dean of Students may decline to act in the appeal process and refer to another authority if, because of personal involvement or knowledge of the case, he/she feels unable to render an impartial decision.

## Appeal of Housing or University Suspension or Expulsion

The Vice President of Student Affairs will review all appeals involving Housing or University Suspension or Expulsion.

The Vice President of Student Affairs will communicate his or her decision to the student within seven (7) business days after an appeal is filed.

Note: The Vice President of Student Affairs may decline to act in the appeal process if, because of personal involvement or knowledge of the case, he/she feels unable to render an impartial decision. In such cases, the Assistant Vice President of Student Affairs or his or her designee will hear the appeal.

## Appeal to University President

Students who have appealed a university suspension or expulsion to the Vice President of Student Affairs and feel that further action is warranted following a decision may appeal to the President of the University.

The appeal must be submitted in writing to the Office of Community Standards (<https://catalog.clayton.edu/student-handbook/student-resources-services/student-support-services/office-community-standards/>) within five (5) business days after the Vice President of Student Affairs' decision is communicated to the student. Students appealing decisions involving suspension or expulsion may have their movements on campus restricted to academic endeavors or other restrictions deemed appropriate during the period of appeal.

Otherwise, no sanction will be enforced until a final decision is reached.

The President may appoint an Appeals Committee to review the case. The Committee will be composed of three members selected from the faculty and administrative staff. After reviewing the case, the committee will make recommendations to the President. The President will review the recommendations submitted by the Committee and render a decision.

The President will communicate his or her decision to the student within fifteen (15) business days after an appeal is filed. This is the final appeal at the institutional level. Therefore, any sanction imposed will be in effect immediately.

If applicable, the President will communicate to the student the process for appealing the decision to the Board of Regents.

## **Appeal to Board of Regents**

In cases involving University Suspension or Expulsion, and when all institutional appellate procedures have been exhausted, the student or the alleged victim in cases involving sexual misconduct may appeal to the Board of Regents under conditions described in the Board of Regents Policy Manual 4.6.5.6 , and Board of Regents Policy Manual 6.26, per the following are excerpts:

“...An application may be reviewed if (1) the record suggests that a miscarriage of justice might reasonably occur if the application is not reviewed; or, (2) the record suggests that the institutional decision, if not reviewed, might reasonably have detrimental and system-wide significance...”

“...Each application for review shall be submitted in writing to the University System Office (USO) of Legal Affairs within twenty (20) calendar days following the final institutional decision. Review of a decision is not a matter of right but is within the sound discretion of the USO Legal Affairs...”

“...The decisions of the USO Legal Affairs and the Committee shall be final and binding for all purposes...”

## **Recusal/Challenge for Bias**

Any party may challenge the participation of any institution official, employee or student panel member in the process on the grounds of personal bias by submitting a written statement to the institution's designee (the Assistant Vice President for Student Affairs, or alternatively, the Assistant Vice President for Academic Planning and Assessment) setting forth the basis for the challenge. The written challenge will be submitted within a reasonable time after the individual reasonably will have known of the existence of the bias. The institution's designee will determine whether to sustain or deny the challenge, and if sustained, the replacement to be appointed.