

### **H.1.2.2 (Procedure) Civil Rights Complaints Appeal Procedure**

Responsible Department: Title IX/VII/ADA/504 Coordinator

Based on Board Policy: [H.1.2](#) - Civil Rights Discrimination, Harassment and Retaliation

Approved: 10-28-14

Last Amended: 9-27-16

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#### **Purpose**

When a Notice of Resolution (decision) has been issued to resolve a Civil Rights Complaint through the established Civil Rights Complaint Procedure ([H.1.2.1](#)), either party may Appeal the decision. This procedure is established for students, employees, including staff, administrators and faculty members and any other members of the community who were a party to a Civil Rights Complaint Resolution decision (either complainant or respondent/accused) who wish to appeal.

This procedure is not intended for appeals of student sanctions or employee discipline issued subsequent to a Civil Rights Complaint Resolution decision. See Appealing Student Sanctions or Employee Disciplinary Action below.

Any party (complainant or respondent/accused) may appeal, but appeals are limited to the following:

- A procedural error or omission occurred that significantly impacted the outcome of the original civil rights complaint resolution process (e.g. substantiated bias, material deviation from established procedures, etc.).
- To consider new evidence, unknown or unavailable during the original civil rights complaint resolution process that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included in the written notice of appeal.

#### **Filing an Appeal**

An appeal of a Civil Rights Complaint Notice of Resolution (decision) that was issued under Procedure [H.1.2.1](#) must be submitted in writing to the Title IX/VII/ADA/504 Coordinator within five (5) business days of the delivery of the written Complaint Notice of Resolution (Decision) or within five (5) business days of the issuance of employee discipline or student sanctions, whichever is later.

An Appeal form is posted at [www.alamo.edu/TitleIXCoordinator/](http://www.alamo.edu/TitleIXCoordinator/). The form may be submitted online through the website or to:

#### **Title IX/VII/ADA/504 Coordinator**

Name: Linda Boyer-Owens

Position: Associate Vice Chancellor Human Resources and  
Organizational Development

Address: 201 W. Sheridan, San Antonio, Texas 78204-1429

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#### **Civil Rights Appeal Hearing Panel**

A three-member Civil Rights Appeal Hearing Panel (none of whom were involved in the complaint resolution process previously) will be designated by the Title IX/ ADA/504 Coordinator from the pool of trained Title IX/VII/ADA/504 Investigators. One of the Panel Members will be designated as the Panel Chair.

If a student appeals any sanctions imposed as a result of the civil rights complaint resolution process, the appeal process in the Student Code of Conduct will be followed.

#### **Civil Rights Appeal Process**

A Civil Rights Appeal Procedure Diagram is attached to this procedure (see Attachment A.) The primary steps in the process are:

1. Complainant or Respondent (accused) in a Civil Rights Complaint Resolution decision submits a timely written appeal of the decision to the Title IX/VII/ADA/504 Coordinator (see Filing an Appeal, above).
2. Title IX/VII/ADA/504 Coordinator appoints a trained Hearing Panel and Hearing Panel Chair. A Deputy Coordinator will be designated to coordinate the Appeal Process. If the appeal is by a student, the Title IX/VII/ADA/504 Coordinator refers the appeal to the proper college administrator for processing hearing under the Student Code of Conduct.
3. The Deputy Coordinator will issue a written acknowledgment of the Appeal and Notice of Hearing to all parties to the original Civil Rights Complaint Resolution decision at least five (5) business days before the hearing but not later than three (3) weeks following receipt of the written appeal. The written notification shall state the findings. The notice of hearing shall state the time, date, and location of the hearing. If any party does not appear at the scheduled hearing, the hearing will be conducted in the party's absence. The Notice of Hearing shall provide the deadlines for submission of Witness Lists and exhibits to the Deputy Coordinator for compelling, substantiated reasons, the Appeal Hearing Panel may re-schedule the hearing. The Notice of Hearing shall also notify the appealing party of the following:
  - a. The appeal hearing is a confidential, internal administrative proceeding.

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- b. Parties to the appeal hearing may appear by themselves or with an adviser. The name of any advisor must be provided to the Deputy Coordinator at least 48 hours prior to the scheduled commencement of the hearing.
  - c. Both parties may call (present) witnesses at the hearing. Both parties must notify the Deputy Coordinator in writing of the identity of any persons who will be called as witnesses at least 48 hours prior to the scheduled commencement of the hearing. The parties are responsible for getting their witnesses to appear at the hearing.
  - d. Each party may present their case, offer evidence, examine witnesses, and argue on their own behalf at the hearing.
  - e. All parties may question all witnesses.
  - f. The Appeal Hearing Panel may pose questions to the parties and the witnesses.
  - g. All parties to the Appeal will submit Witness Lists and exhibits to the Deputy Coordinator at least two (2) business days prior to the scheduled Appeal Hearing. The Deputy Coordinator will immediately provide copies of all witness lists and all exhibits to all parties.
4. The Appeal Hearing will be conducted before the Hearing Panel. All evidence and witnesses will be presented.
  5. The Appeal Hearing Panel Chair will lead the Panel in deliberation continuously during normal business hours until a decision is reached on the appeal.
  6. The Hearing Panel Chair will issue a written decision to the Deputy Coordinator. The decision may include a finding to overturn a sanction or employee discipline that the appeal decision renders inappropriate. The decision may also include a recommendation for further discipline or sanction considerations by the Administrator to support the appeal decision.
  7. The Deputy Coordinator will provide a written Appeal Determination to all parties and Administrator(s) for the student and/or employee parties. The decision is final, and no further appeals are permitted.
  8. The Administrator(s) will take action to promptly amend prior disciplinary actions or sanctions as necessary to reflect the results of the Appeal Determination.

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#### **Decisions on Appeal**

The Civil Rights Appeal Hearing Panel will review the appeal request(s). The original finding and sanction/responsive actions will stand if the appeal is not timely or is not based on the grounds listed above, and such a decision is final. The original finding and sanction are presumed to have been decided reasonably and appropriately.

- Appeals decisions by the Civil Rights Appeal Hearing Panel are to be deferential to the original decision, making changes to the finding only where there is clear error and to the sanction/responsive action only if there is a compelling justification to do so;
- Appeals are not intended to be full re-hearings of the complaint. In most cases, appeals are confined to a review of the written documentation or record of the original hearing, and pertinent documentation regarding the grounds for appeal. Appeals granted based on new evidence should normally be remanded to the original hearing panel for reconsideration.
- Sanctions and disciplinary action imposed are implemented immediately and remain in place during an appeal unless the Title IX/VII/ADA/504 Coordinator or designee stays their implementation in extraordinary circumstances, pending the outcome of the appeal;
- Once an appeal is decided, the outcome is final: further appeals are not permitted.

#### **Sanction and Progressive Discipline Actions Resulting from or Amended by an Appeal**

The responsible Administrator notified of the Appeal Determination or designee, will complete the process to issue appropriate Student Sanctions or Employee Discipline appropriate to the Appeal Determination or, if necessary, modify or remove the Sanctions or Discipline issued in response to the original Complaint Determination.

All respondents are expected to comply with conduct sanctions/responsive/corrective actions within the time frame specified by the Title IX/VII/ADA/504 Coordinator. Failure to follow through on conduct sanctions/responsive/corrective actions by the date specified, whether by refusal, neglect or any other reason, may result in additional sanctions/responsive/corrective actions and/or suspension, expulsion and/or termination from the Alamo Colleges and may be noted on a student's official transcript. A suspension will only be lifted when compliance is achieved to the satisfaction of the Title IX/ADA/504 Coordinator.

#### **Appealing Student Sanctions and Employee Disciplinary Actions**

This procedure is not intended for appeals of a student sanctions or employee discipline issued subsequent to a Civil Rights Complaint Resolution decision.

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- Student Sanctions issued by College Administration in response original Civil Rights Complaint Resolution decision are issued under the Student Code of Conduct. Any appeal of student sanctions must be made and processed under the provisions of [F.4.2.2](#) (Procedure) Non-Academic Misconduct Disciplinary Process, not under this Civil Rights Appeal Procedure.
- Progressive Discipline issued by Administration to employees in response a Civil Rights Complaint Resolution decision are issued under the Progressive Discipline Policy. Any appeal of employee progressive discipline must be made and processed under the provisions of the [D.3.3.1](#) (Procedure) Employee Complaints, not this Appeal Process for Civil Rights Complaint Determinations.