

# APPEALS

2020 Title IX Final Rule



# LEARNING OBJECTIVES

Learners taking this course will be able to:

1. Identify the three mandated grounds parties can use to appeal an outcome of a Title IX grievance process.
2. Describe the basic elements of an appeal, and how they are utilized on college campuses.
3. Determine whether an appeal should be granted or denied and describe their reasoning.



# APPEALS PROCESS

## 3 MANDATED GROUNDS

1

**PROCEDURAL IRREGULARITY** that affected the outcome of the matter (i.e. a failure to follow the institution's own procedures);

2

**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;

3

The Title IX Coordinator, investigator(s), or decision-maker(s) had a **CONFLICT OF INTEREST OR BIAS** for or against an individual party, or for or against complainants or respondents in general, that affected the outcome of the matter

*An opportunity for a student to bring forward specific concerns that may have impacted the result of the original hearing (as defined in your institution's code of conduct) (Kalagher, S.S. & Curran, R. D., 2020)*



**WHAT IS AN APPEAL?**

# APPEAL CONSIDERATIONS

- Appeals are not mulligans or do-overs
- No second-guessing or micro-management of hearings
- Cannot deviate from procedures
- All parties must be notified of appeals
- All new panel to hear appeals
- Conflicts of interest and/or bias prohibited
- Additional grounds for appeal may be considered, but only if publicly available & applicable to all



## APPEALS CAN TAKE PLACE ANY TIME A DECISION IS MADE.

This includes, but may not be limited to:

- Supportive measures (any kind)
- Emergency removals
- Relevance determinations
- Evidence or question exclusions
- Adjustments made throughout the process
- Decisions/determinations
- Dismissals of complaint

**YOUR INSTITUTION REQUIRES A MECHANISM TO HEAR CHALLENGES.**

A man with dark hair, wearing a grey suit jacket over a striped shirt, is holding a large white rectangular sign. The sign has the text 'WHEN CAN A PARTY APPEAL?' written on it. 'WHEN' is in blue, underlined, and 'CAN A PARTY APPEAL?' is in orange.

**WHEN CAN A  
PARTY APPEAL?**



Appeal decisions must be **in writing**.

Parties notified simultaneously through official communication.

The decision must include, at minimum:

- The grounds for appeal, or grounds considered;
- The rationale for granting or denying the appeal; &
- If the appeal is granted, what are the next steps for remedy and why?

What is a remedy?

- Example: increase or decrease the severity of sanction for the respondent

