

Appendix B: Chancellor's Appeal Committee Procedures

**Chancellor's Appeal Committee
Procedures for Appeals Under the Student Conduct Code**

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A. Introduction

The Chancellor's Appeal Committee is a standing advisory panel assisting the Chancellor in implementing, on the Rochester Campus, the Board of Regents Policy: *Student Conduct Code*. It hears student appeals from original disciplinary hearing decisions. Appeal Panel recommendations are forwarded to the Chancellor who makes the final University decision on discipline under the *Student Conduct Code*.

B. Chancellor's Appeal Committee and Appeal Panels

The Chancellor's Appeal Committee is appointed by the Chancellor from names recommended by the Assistant Vice Chancellor of Student Affairs. Membership includes three faculty/professional-academic employees and two undergraduate or graduate students. A Secretary is appointed by the Chancellor's office and serves ex-officio without a vote.

An Appeal Panel of three committee members—two faculty/professional-academic employees and one student—will be constituted by the Secretary to hear an appeal. One of the faculty/professional-academic members will be designated as Appeal Panel Chair by the Secretary.

An Appeal Panel member who has a direct interest in the dispute or a conflict of interest should voluntarily decline to serve on the panel. Either party may challenge a panel member on these grounds and ask the non-challenged panel members to vote, after hearing arguments, on whether the challenged panel member should withdraw from the panel. The Secretary will designate replacement panel members as needed.

C. Parties and Advocates

The parties to an appeal are the student appellant and a University respondent from the original hearing panel.

The parties may be accompanied at the appeal hearing by an advocate of their choice. Neither advocate may participate directly in proceedings, rather may only address the party which selected them in such a manner as to not disrupt the proceedings. Advocate names must be submitted to the Secretary promptly and no later than five weekdays prior to a hearing. Parties must give immediate notice to the Secretary if a replacement advocate is selected.

D. Submitting an Appeal

To appeal an original disciplinary decision, a student appellant must submit a written appeal to the Secretary within ten weekdays of the student appellant's receipt of the original disciplinary decision [Address: Chancellor's Appeal Committee Secretary, Suite 300, 111 South Broadway, Rochester, MN 55904].

The grounds for appeal include an original decision made in the absence of important information now available, lack of fairness in the process (such as lack of notice, opportunity to be heard, and/or opportunity to question), inconsistency between the sanction and the severity of the offense, inconsistency between the original decision and the information presented at the hearing, and/or a decision that conflicts with the interests of other affected University

constituents. The appeal shall state clearly the facts that support the claim that serious error occurred in the original proceeding, as well as relief requested from the Appeal Panel.

The Secretary will notify the Appeal Panel Chair of the appeal, and the University respondent and the student appellant of these procedures and of the committee members assigned to the Appeal Panel.

E. Scheduling

The Secretary will be responsible for scheduling the hearing, taking into account the parties' schedules as appropriate. If either party fails to appear as scheduled or to offer an acceptable hearing time, the Appeal Panel Chair will have discretion to determine a date and time, and require the presence of all concerned.

The Appeal Panel will strive to complete a hearing within three weeks of its receipt of a student's appeal, not including periods when the University is not in session.

F. Panel Hearing Procedures

1) Decorum

The Appeal Panel Chair is responsible for maintaining an orderly, fair, and respectful hearing. The Appeal Panel Chair has broad discretion in responding to disruptive or harassing behaviors. Appeal hearings are closed to the public.

2) Record of Original Proceeding

The record of the original proceeding will be forwarded to the Secretary and made available to the panel members. The record will include all documents submitted at the original proceeding and any tape recording made of the original proceeding. The parties will have the right to receive copies of these materials upon request, consistent with University policy.

3) Attendance

If a party does not appear in person at the hearing, the Appeal Panel Chair may reschedule the hearing, excuse the absence and proceed using written documents already received, or recommend to the Chancellor dismissing the appeal or granting the relief requested in the appeal. If the appeal is dismissed, the decision of the original body will stand. A party whose absence has been approved may, with the permission of the Appeal Panel Chair, provide the Panel with a written statement.

4) Case Presentation

The Appeal Panel does not re-hear all of the factual information presented in the original proceeding but reviews the parts of the record that the parties bring to its attention or that it feels are relevant.

The parties present oral statements to the Panel explaining their respective arguments about the original proceeding, and referring the Panel to portions of the record that support their view. These presentations should be clear and economical. The Appeal

Panel Chair and the Panel have discretion to permit, upon timely request by a party and notice to the other party, new witnesses and documents proposed by a party if they would materially assist the Panel in reaching its recommendations. Witnesses may present information by written statement. If permitted, each party is responsible for arranging for the attendance of witnesses at the appeal hearing, with assistance from the Appeal Panel Chair, if necessary.

5) Proof

To prevail on an appeal, a student appellant must prove that it is more likely than not that a serious error occurred in the original proceeding and that the error resulted in unfairness. Serious error may include a decision made without important information, lack of fairness in the process (such as lack of notice, opportunity to be heard, and/or opportunity to question), inconsistency between the sanction and the severity of the offense, inconsistency between the original decision and the information presented at the hearing, and/or a decision that conflicts with the interests of other affected University constituents.

6) Record of the Appeal Hearing

The Secretary shall make a tape recording of each appeal hearing. A copy of the documents pertinent to the appeal and the tape recording of the hearing shall be maintained by the Office of Student Affairs for central record-keeping.

G. Panel Deliberations and Recommendations

The Appeal Panel's recommendations are based on the record of the original proceeding and the arguments and information presented to it by the parties at the appeal hearing. Each panel member, including the Appeal Panel Chair, will vote. A majority vote of panel members is required to support a recommendation.

Panel recommendations may include, but are not limited to, dismissing the case, amending or reversing the original decision, or returning the case for a hearing to the original body.

The Panel's recommendations will be communicated to the Chancellor no later than one week following the hearing. No one participating in the deliberations will give any party verbal information about the decision or the deliberations.

If there is not a majority vote in support of a recommendation, the Appeal Panel will provide a report to the Chancellor summarizing the conclusions of the panel members.

H. Chancellor's Decision

The Chancellor has broad discretion to accept, modify, or reject the panel recommendations. The Chancellor makes the final University decision regarding discipline under the Board of Regents Policy: *Student Conduct Code*. The Chancellor's final decision, along with the decision from the Appeal Panel, will be provided in writing, to the parties and the Appeal Panel Chair. The Chancellor will strive to issue a final decision within two weeks of receipt of the Panel's recommendations.

Appendix B I

Chancellor's Appeal Panel Order of Proceedings

1. Call to order by the Appeal Panel Chair.
2. Announcements and opening remarks by the Appeal Panel Chair, including such items as:
 - a. Identification of the parties attending the hearing.
 - b. Notice that the hearing is being tape recorded.
 - c. Review the standard of proof.
3. Witnesses, if any, are asked to leave the hearing room until recalled by the Appeal Panel Chair.
4. Opening the hearing by the Appeal Panel Chair, including such items as:
 - a. Presentation of the request for appeal.
 - b. Materials reviewed by panel in preparation for the hearing.
 - c. Poll the panel for bias, prejudice or preformed judgment.
 - d. Allow both parties to challenge any of the panel members
 - e. Announcement of the seating of the voting members (quorum required).
 - f. Entertaining of motions by the parties.
5. Presentation of Appeal
 - a. Appellant presents ground(s) for appeal and statement of relief sought.
 - b. Questions to appellant from respondent.
 - c. Questions to appellant from panel.
 - d. If appellant (or advocate) not present, panel reviews written appeal.
6. Presentation of response
 - a. Respondent presents rebuttal to appeal
 - b. Questions to respondent from appellant.
 - c. Questions to respondent from panel.
7. Questions to member(s) of original hearing body, if present.
8. Closing statements
 - a. By respondent.
 - b. By appellant.
9. Hearing is closed by the Appeal Panel Chair.
10. Panel retires to deliberate (closed meeting, not tape recorded).

- a. Panel determines sufficiency or insufficiency of ground(s) for appeal.
 - b. Panel's recommendation forwarded to the Chancellor.
11. Chancellor's decision forwarded to parties, original hearing body, and any unit(s) having direct interest in the outcome of the appeal.