

Senate Committee on Student Discipline: Appeal Process Training

Justin M. Brown
September 14, 2020

I ILLINOIS



Appeals

- Appeals are NOT a second bite at the apple for the appellant.
- Appeals ARE assessments of the subcommittee's performance (as well as that of OSCR staff).
 - Were procedures followed? Was the hearing conducted fairly?
 - Were the sanctions appropriate?
 - Has some important new information emerged that the subcommittee didn't have?



Ground 1: Procedural Error

“Procedural irregularity that affected the outcome of the matter.”

Ground 2: New Information

“New evidence that was not reasonably available at the time the determination regarding responsibility was made, that could affect the outcome of the matter.”

Ground 3: Bias

“The CC or Panel members had a conflict of interest or bias that affected the outcome of the matter.”

Ground 4: Inappropriate Sanctions

“Any sanctions imposed by the CC or Panel were not appropriate for the violation(s) for which the respondent was found responsible.”

Sanctioning Guidance

- Did the subcommittee err by following guidance?
- Did the subcommittee err by deviating?

The question is NOT whether you would have imposed the same sanction(s), but whether the subcommittee was out of line in imposing the one(s) that it did.



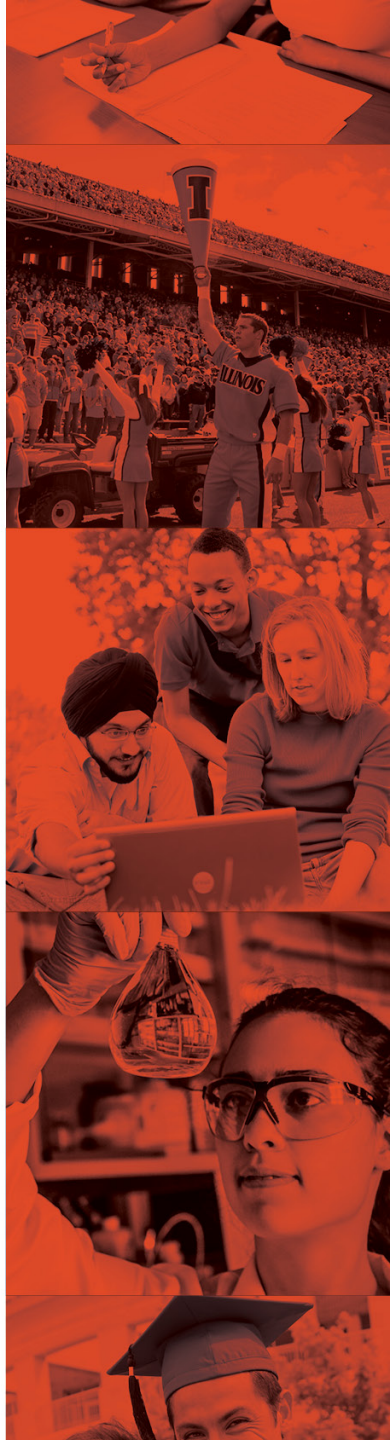
Appellant Expectations

- Deadline: five business days from the sanction letter
- Notice of Appeal
 - Identify specific grounds
 - Identify relief requested
 - Provide rationale for the above
- Subcommittee actions are held in abeyance until the appeal process is concluded (with the possible exception of some behavioral expectations, e.g., no contact directives).



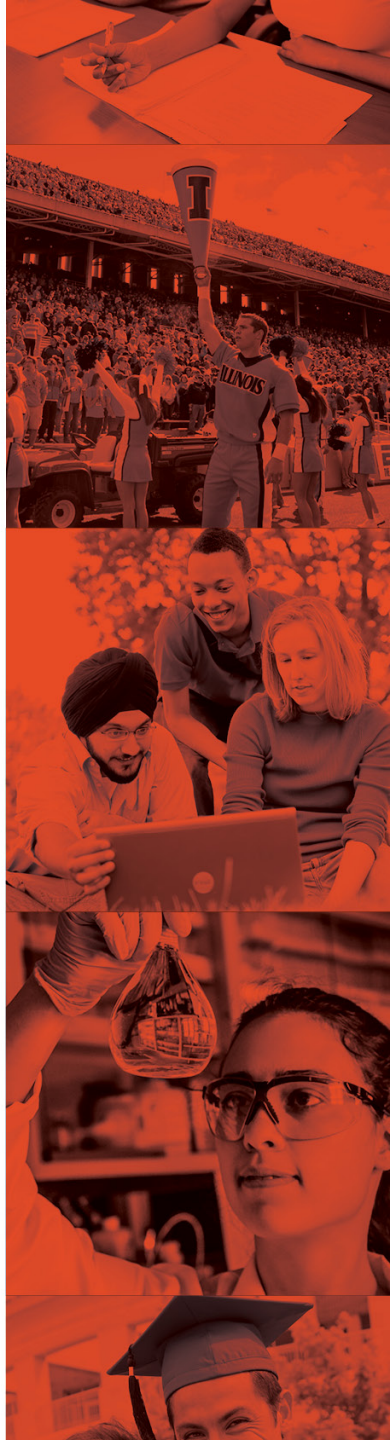
Appeal Hearings (In-Person)

- Before the Hearing
 - Review all relevant materials, including the recording of the original hearing. (Box)
 - Quorum: at least three voting members
 - Ask questions of the chair or and/or advisor.
 - Address any procedural issues or concerns.
- Beginning of Hearing
 - Introduce yourself by name and role (chair, student voting member, faculty voting member)
 - Challenges to objectivity
 - Identify others present (case coordinator, advisor, etc.)
 - Overview of hearing process



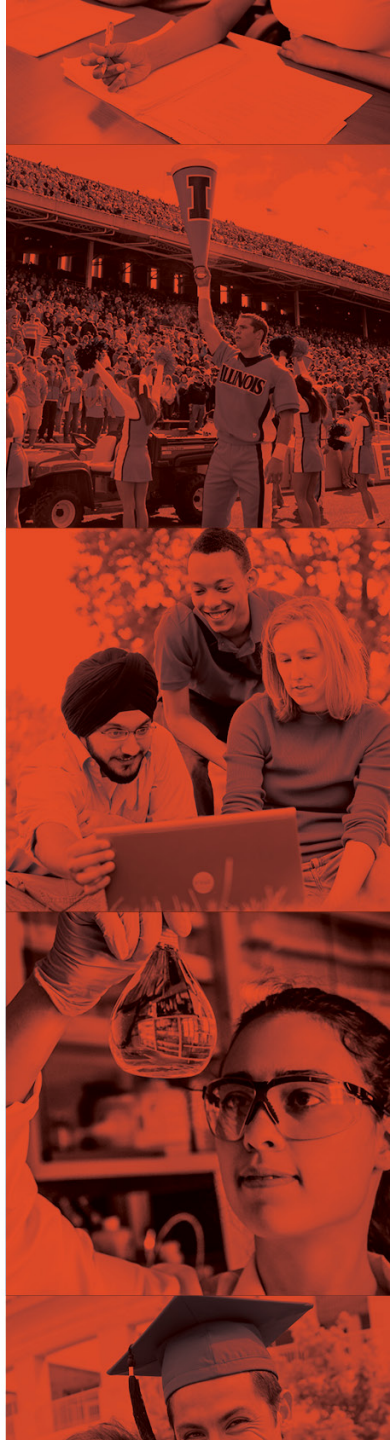
Appeal Hearings (In-Person)

- During the Hearing
 - Appellant's appeal rationale (10 minutes max)
 - Appeal Committee questions the appellant
 - Panel Chair's rationale and comments
 - Case Coordinator's comments
 - Appeal Committee questions the Panel Chair and the DO
 - Open questioning period under the direction of the Chair
 - Appellant's Final Statement (The appellant should always have the last word.)



Appeal Hearings (In-Person)

- Deliberation
 - Determine if any of the grounds for appeal have been met.
 - Determine if any changes should be made to the original decision.
 - Changes require a simple majority. Otherwise, the original decision is affirmed.
- Communication of Decision
 - Appellant returns to hearing to hear the decision; and/or
 - A detailed letter is then emailed to the appellant.

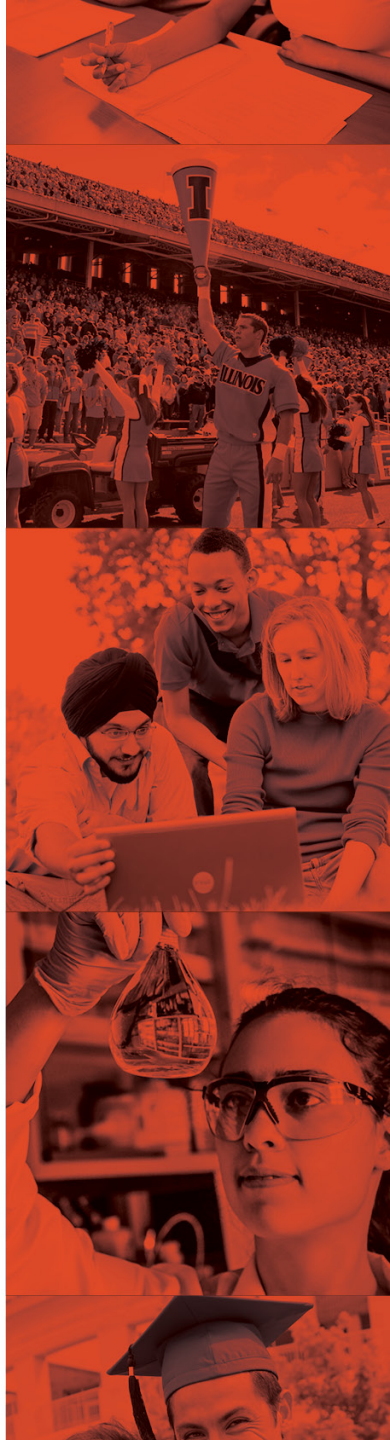


SCSD Review of Title IX Decisions

- Two decisions are subject to appeal: the decision of the investigator to dismiss a formal complaint (or any allegations therein) AND the decision of the Panel
- Three members only (at least one faculty member and one student)
- There is no formal hearing, only a review of the materials and a meeting with an OSCR advisor.
- The decision is communicated to the parties by OSCR staff.

Possible Actions

- **Affirm the decision**, at which time the matter will be considered final and binding upon all involved.
- **Modify the decision**, at which time the matter will be considered final and binding upon all involved.
- **Remand the case** to the original hearing body (with instruction) or to a new hearing body (with or without instruction) for a new decision.
- **Modify any sanctions or restrictions imposed**, at which time the matter will be considered final and binding upon all involved.



Questions?

