General Guidelines

1. The Reporting Party or Responding Party may submit an appeal using the appropriate Title IX Request for Appeal form (hereafter “RFA”) to the Appeal Administrator through the Title IX Coordinator. Written appeals may also be delivered to the Title IX Coordinator through email. (see procedures for appeals below).

   a. For Students, the online form/delivered document will be sent to the Title IX Coordinator who will forward the form to the Vice President of Student Life or designee who will address the appeal (form located on the Portal at Resources Tab > Title IX Compliance > Click Here).

   b. For Employees, the online form/delivered document will be sent to the Title IX Coordinator who will forward the form to the Executive Vice President or designee who will address the appeal (form located on the Portal at Resources Tab > Title IX Compliance > Click Here).

2. Any party to a complaint may only file one appeal per incident, exigent circumstances notwithstanding.

3. Sanctions instituted by the Title IX Investigators are to be implemented at an appropriate date and time at the discretion of the Title IX Coordinator.

4. The presumptive stance of the Appeal Administrator is that the Title IX Investigators and Coordinators were correct in their finding. The burden is on the appellant to show that an error occurred as outlined below in the Grounds for Appeal.

5. Appeals are not intended to be re-interviews of the allegation(s). In most cases, appeals are confined to a review of the written documentation or record of the original investigation, and pertinent documentation regarding the grounds for appeal. Interviewing of or testimony by the parties is not appropriate exigent circumstances notwithstanding.

6. The Appeal Administrator may, at his/her discretion, request information regarding procedure from the Investigator or Title IX Coordinator. Ideally, this information would not be necessary, as it should be included in the written requests and/or responses.

Grounds for Appeal

1. A procedural error or omission occurred that significantly impacted the outcome of the process (e.g., substantiated bias, material deviation from established procedures).

2. To consider new evidence, unavailable during the original investigation, that could substantially impact the original finding or sanction. A summary of this new evidence and its potential impact must be included.

   NOTE: When a party fails to provide a statement under advice of counsel/advisor during an investigation, and subsequent to the interview/hearing decides to provide a statement, it will not be considered “new evidence” for the purposes of this ground. Additionally, subsequent findings of a criminal or civil court (e.g. dismissals, plea bargains, settlements) alone do not constitute sufficient grounds for appeal, but may be considered if new evidence was the grounds for said finding.

3. The sanctions fall outside the range of sanctions the University has designated for the offense. As the Title IX Coordinator reviews all sanctions, this ground for appeal is only appropriate when this review has not taken place.
Procedures for Appeals:

1. A written RFA can be submitted on the Title IX Appeal Form or using the Appeal Form as an outline, can be submitted directly to the Title IX Coordinator. The RFA must be submitted within 3 business days of notification of the findings of the investigation and include all evidence substantiating the appeal. The appeal form can be found on the Portal as follows:

   Log onto the Portal: Resources Tab > Title IX Compliance > Click Here > Appeal Form

2. All outcomes are assumed received by all parties three business (3) days after sent via e-mail.

3. Any RFA not filed in a timely fashion will be denied. No exceptions to this timeline are permissible without the express permission of the Appeal Administrator.

4. The Appeal Administrator or designee, who was not involved in the investigation, will address all RFA’s to insure the request has standing.

5. The Appeal Administrator, reviewing the request, may consider credibility, plausibility, and weight in his/her assessment of the request.

6. Any RFA will be shared with all parties (Reporting Party, Responding Party, & Title IX Staff) who may respond in writing to the Appeal Administrator.

   • All responses must be submitted to the Appeal Administrator within three (3) business days of the notification that an appeal has been filed and all responses will be shared with all parties.

Appeals Under Consideration

1. The Appeal Administrator, after considering the original appeal and all associated responses, will make a decision on the appeal and communicate one of the following determinations within three (3) business days of receiving the final response exigent circumstances notwithstanding. The decisions are limited to the following:

   a. Affirming the decision of the original investigation.

   b. In cases where it is determined that the procedural error did significantly impact the finding or sanction, the Appeal Administrator will require one of the following two remedies:

      • Remand the case back to the original coordinators or investigators with instruction to repair the procedural error.

      • Remand the case back to be reinvestigated by new investigators and/or new coordinator. This is typically done in cases where the procedural error is so profound as to render the original investigation too biased or influenced.

2. In cases where it is determined that the new evidence, unavailable during the original investigation, is now available and could substantially impact the original finding or sanctions, the Appeal Administrator will remand the case back to the original investigators with instruction to consider the new evidence.

   • In this cases, the original investigators will convene solely to consider the new evidence.

   • In rare cases and consultation with the Dean of Students/Title IX Coordinator, the Appeal Administrator may decide to alter the finding or sanction based on the new evidence. This will only be done in cases where reconvening the investigation process would put an undue burden on the parties (e.g., the investigators not available).

This is a publication of the Title IX Office of Concordia University and intended for use by Concordia University students and employees. Revisions to this document may be made at appropriate times.