

F. Appeal Procedures

1. University Review Board

a. Composition

(1) A Review Panel shall consist of three voting members: one student, one faculty member, and one nonfaculty employee.

(2) The members of the Review Panel, for any one appeal, shall be selected in the same manner as the members of a Hearing Panel from the University Hearing Board and University Review Board pool. But no person who served on the Hearing Panel shall sit on the Review Panel in the same case.

b. Panel Procedures

(1) Right to Appeal

(a) An accused against whom a penalty has been imposed or a remedy assessed by a Hearing Panel shall have the right to appeal the decision to the Review Panel.

(b) Any complainant, other than the University community as defined in Article III.A.2 of Title Two, shall have the right to appeal a Hearing Panel decision to the Review Panel if remedies were sought or if other laws or regulations require allowing such appeal.

(c) The President shall have the right to appeal the penalty imposed by a Hearing Panel, which the President may do by directing the Judicial Administrator to conduct such appeal.

(2) Appeals may be grounded only upon the complainant's belief that the remedy awarded the complainant is not commensurate with the injury, *upon the President's belief that the penalty is not commensurate with the violation*, or upon the accused's belief that:

(a) the Hearing Panel violated the fair application of the procedures established by the Board of Trustees, the University Assembly, or the University Hearing Board, and such violation may have had a prejudicial effect upon the outcome of the hearing;

(b) the Hearing Panel committed a prejudicial error in interpreting this Code or rendered a decision clearly against the

evidence;

(c) new evidence was discovered after the hearing and could not have readily been discovered before the hearing, and such evidence might have had an effect upon the outcome of the hearing; or

(d) the penalty and/or remedy imposed upon the accused is unjust.

(3) Notification of Appeal

(a) The appellant shall file written notice of appeal with the Judicial Administrator within ten business days of the appellant's receipt of the notice of the decision. The Judicial Administrator shall refer the notice of appeal to the Review Board Chair without delay.

(b) The appellant and the respondent (if there is one other than the Judicial Administrator) shall be notified by the Judicial Administrator of the time of the appeal's hearing no later than seven business days after the notice of appeal is filed, and no fewer than seven business days in advance of the appeal's hearing.

(4) The Review Board Chair shall have the right to convene the Review Panel and shall conduct the appeal in a manner similar to a Hearing Panel proceeding. The Review Panel shall meet to hear an appeal within 21 calendar days after the notice of appeal is filed, unless a postponement is granted by the Review Board Chair for good cause shown.

(5) Decision of the Review Panel shall be rendered by a majority vote of the members present, and the majority of the members, in addition to the nonvoting Review Board Chair, shall constitute a quorum for any hearing of the appeal.

(6) The Review Panel shall determine whether its hearings shall be conducted in public or in private. However, all deliberations of the Review Panel shall be private.

(7) Disposition of Appeal

(a) Any decision of the Review Panel shall be based solely on the record and, in appropriate cases, upon a showing of new evidence relevant to the grounds for appeal. All decisions shall be in writing, including a rationale and dissenting opinions. Findings of

fact shall not be set aside unless clearly erroneous, and harmless errors shall be ignored.

(b) The decision shall be affirmance unless the Review Panel sustains one of the above-specified grounds for appeal, in which case the Review Panel can:

(i) reverse a finding of violation;

(ii) ~~reduce~~ *alter* a penalty or modify a remedy, if necessary and appropriate in the interests of justice;

(iii) remand a case to the Hearing Panel from which it originated for a new hearing; or

(iv) remand a case to a newly composed Hearing Panel if there were procedural violations.

(c) ~~The Review Panel shall not increase a penalty.~~ If the Review Panel calls for new evidence, it shall remand the case to the Hearing Panel from which it originated for a new hearing.

2. No final decision of this judicial system shall be reviewed by any other authority within the University.