

WAC 504-26-420 Appeals. (1) Time for appeals. Conduct hearing decisions become final on the 21st calendar day after the date the decision is sent to the parties, unless an appeal is submitted within 20 calendar days of the date the decision is sent to the parties.

(2) Effect of appeal - Stay. Except in extraordinary circumstances, which must be explained in writing in the decision maker's initial order, the implementation of an initial order assigning sanctions must be stayed pending the time for filing an appeal and the issuance of the university's final order.

(3) Appeals. Upon receipt of a timely appeal, CCS provides the other parties, if applicable, with a copy of the appeal and an opportunity to respond within 10 calendar days.

(a) Brief adjudication scope of review. Except as required to explain the basis of new information, appeal of a brief adjudication decision is limited to a review of the record for one or more of the following purposes:

(i) To determine whether the conduct hearing was conducted fairly in light of the charges and information presented, and in conformity with prescribed procedures; deviations from designated procedures are not a basis for sustaining an appeal unless procedural error affected the outcome of the matter;

(ii) To determine whether the decision reached was based on substantial information, i.e., whether there were facts in the case that, if believed by the fact finder, were sufficient to establish that a violation of the standards of conduct occurred;

(iii) To determine whether the sanction(s) assigned were appropriate for the violation of the standards of conduct that the respondent was found to have committed;

(iv) To consider new information, sufficient to alter a decision, or other relevant facts not brought out in the original brief adjudication, because such information and/or facts were not known to the person appealing at the time of the original brief adjudication;

(v) To consider whether or not the university had jurisdiction per WAC 504-26-015 to address the situation through the community standards process; or

(vi) To consider whether the investigator(s) or decision maker(s) had a conflict of interest or bias for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

(b) Full adjudicative proceeding scope of review. In addition to the criteria listed in (a) of this subsection, the appeals board members for full adjudicative proceeding appeals must make a separate and independent decision in the matter and personally consider the whole record.

The appeals board must have and exercise all the decision-making power that the decision maker had, except that the appeals board must give due regard to the decision maker's opportunity to observe the witnesses, if applicable.

(4) University's right to initiate appeal. The university president or designee, at their own initiative, may request that the appeals board review any initial order.

(5) Appeals board decisions.

(a) Actions. After reviewing the record and any information provided by the parties, the appeals board may take the following actions:

(i) Affirm, reverse, or modify the initial decision, or any part of the decision;

(ii) Affirm, reverse, or modify the sanctions and/or remedies assigned by the decision maker, or any part of the sanctions and/or remedies; or

(iii) Set aside the findings, sanctions, remedies, or any part of the findings, sanctions, remedies and remand the matter back to the decision maker with instructions for further proceedings.

(b) Content of decision. The decision includes the outcome, any sanction and/or remedy, and a brief statement of the reasons for the decision. The letter must advise the parties that judicial review may be available. For appeals of full adjudicative proceedings, the decision includes, or incorporates by reference to the presiding officer's decision, all matters as set forth in WAC 504-26-403(8).

(c) Service and effective date of decision. For appeals of brief adjudicative proceedings, the appeals board's decision must be sent simultaneously to the parties within 20 calendar days of receipt of the appeal. For appeals of full adjudicative proceedings, the appeals board's decision must be sent simultaneously to the parties within 30 calendar days of receipt of the appeal, unless the appeals board notifies the parties in writing that additional time (up to 90 calendar days) is needed. The appeals board's decision is the final order of the university, except in the case of remand, and is effective when sent.

(6) Reconsideration of final orders. Within 10 calendar days of service of a final order, any party may submit a request for reconsideration. The request must be in writing, directed to the appeals board, and must state the reasons for the request. The request for reconsideration does not stay the effective date of the final order. However, the time for filing a petition for judicial review does not commence until the date the appeals board responds to the request for reconsideration or 21 calendar days after the request has been submitted, whichever is sooner. If the appeals board does not respond to the request for reconsideration within 21 calendar days, the request is deemed to have been denied.

(7) Stay. A party may request that the university delay the date that the final order becomes effective by requesting a stay in writing to the appeals board within 10 calendar days of the date the order was served.

[Statutory Authority: RCW 28B.30.150. WSR 24-23-093, s 504-26-420, filed 11/19/24, effective 12/20/24; WSR 22-23-142, § 504-26-420, filed 11/21/22, effective 1/1/23; WSR 21-07-057, § 504-26-420, filed 3/15/21, effective 4/15/21; WSR 18-23-083, § 504-26-420, filed 11/19/18, effective 12/20/18.]