

WAC 148-120-940 Appeals. (1) All parties have the right to appeal from the decision maker's determination regarding responsibility or from the agency's dismissal of any allegations contained in a formal complaint. The right to appeal is in addition to the complainant's right to appeal under state requirements and the respondent's potential appeal rights under the agency's student code of conduct.

(2) Appeals must be in writing and filed with the executive director's office within 21 calendar days of service of the decision maker's written decision. Appeals must identify the specific findings of fact and/or conclusions in the written decision or notice of dismissal that the appealing party is challenging and must contain argument as to why the appeal should be granted. Failure to file a timely appeal constitutes a waiver of the right to appeal and the written decision or notice of dismissal shall be deemed final.

(3) A party may appeal the decision maker's determination regarding responsibility on the following bases:

(a) Procedural irregularity affecting the outcome of the matter;

(b) New evidence that was not reasonably available at the time the determination regarding responsibility was made that could affect the outcome of the matter;

(c) The Title IX coordinator, investigator(s), or decision maker(s) had a conflict of interest or bias for or against complainants or respondents generally or individually that affected the outcome of the matter; or

(d) Additional bases as determined by the agency.

(4) Upon receiving a timely appeal, the executive director's office will serve a copy of the appeal on all parties, who will have 10 calendar days from the date of service to submit written responses to the executive director's office addressing issues raised in the appeal. Failure to file a timely response constitutes a waiver of the right to participate in the appeal. Upon receipt of written responses, the executive director's office shall serve copies of the responses to the other parties.

(5) Parties receiving a copy of the responses shall have five calendar days in which to submit a written reply addressing issues raised in the responses to the executive director's office.

(6) The appeal decision maker must not be the same decision maker who reached the determination regarding responsibility or dismissal, the investigator, or the Title IX coordinator.

(7) The appeal decision maker, based on their review of the parties' submissions and the hearing or investigative record, will determine whether the grounds for appeal have merit, provide the rationale for this conclusion, and state whether a dismissal is affirmed or denied, or if the disciplinary sanctions and conditions imposed in the written decision are affirmed, vacated, or amended, and, if amended, set forth the new disciplinary sanctions and conditions. The appeal decision maker must issue a written decision describing the result of the appeal and the rationale for the result. The written decision will include notice of the complainant's right to file a complaint with the office of the superintendent of public instruction under WAC 392-190-075.

(8) The executive director's office shall serve the appeal decision on the parties simultaneously.

(9) All administrative decisions reached through this process may be judicially appealed pursuant to the applicable provisions of chapter 34.05 RCW including, but not limited to, the timelines set forth in RCW 34.05.542.

[Statutory Authority: Chapter 34.05 RCW, RCW 72.42.041(2), 72.40.0191(12), 72.40.0191(17), and Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq. WSR 25-22-092, s 148-120-940, filed 11/4/25, effective 12/5/25.]