

UNIVERSITY JUDICIARY COMMITTEE PROCEDURES FOR FIRST YEAR JUDICIARY COMMITTEE APPEALS

I. Appeals from Decisions of the First Year University Judiciary Committee

A. Grounds for Appeal

Every student or student group found guilty by the FYJC of violating the University Standards of Conduct has the right to request an appeal to the UJC when they believe and alleges that one or more of the following is true:

1. Because of a procedural error during the trial/hearing, the party requesting the appeal, hereafter “the Appellant,” was not afforded basic procedural protections guaranteed by Article IV of the UJC Constitution, and such error had a substantial prejudicial impact on the outcome of the trial/hearing;
2. Evidence not discovered before the conclusion of the Appellant’s trial/hearing and not reasonably capable of discovery before the conclusion of the Appellant’s trial/hearing would show that the decision reached by the subordinate body was erroneous; or
3. The sanction imposed by the subordinate body was unduly harsh, clearly excessive, or grossly inappropriate to the offense.

B. The Request for Appeal: Method of Filing, Form and Deadline

An appellant must submit a written request for an appeal (the “Request for Appeal”) to the chair of the UJC within fourteen (14) calendar days of the FYJC Trial date (subject to extension, for good cause shown, in the sole reasonable discretion of the UJC chair). The Request for Appeal shall be in the form of a statement, signed by the Appellant, which explicitly cites the relevant ground(s) for appeal listed in Article I(A) above; identifies the specific procedural or substantive decision by the FYJC to be challenged; and, in the case of appeals based on “new evidence,” describes the new evidence to be presented and why such evidence was not reasonably discoverable prior to the conclusion of the UJC trial.

C. The Appeal Process

Each Request for Appeal shall be reviewed by a panel convened by the UJC chair consisting of the Chair and two UJC representatives. Such Appellate Review Panel customarily resolves the Request for Appeal without holding a hearing or other formal proceeding. In specific cases, as described in Section D(4) below, the UJC Chair may convene an Appellate Hearing to consider the Request for Appeal.

The Appellant is entitled to the following:

1. To choose counsel from the current University student body (“student counsel”) to assist in the preparation and presentation of the Appeal Request and case, although they are encouraged to seek the input of their UJC Counselor;
2. To be given reasonable and timely access to copies of all records, documents, exhibits, audio recordings, correspondence, and other evidence introduced at the trial/hearing to facilitate the preparation and presentation of the appeal;
3. If an Appellate Hearing is held, to have the reasonable opportunity to be present or present with student counsel at all proceedings in which a UJC Appellate Hearing Panel receives evidence, testimony, or other arguments relevant to the appeal.
4. To elect to have all personally identifiable information (that is not otherwise in the public domain and which is privileged by law or University policy) relevant to the appeal kept confidential to the extent required by applicable law or University policy.

D. Initial Review of the Request for Appeal

1. The Chair of the UJC shall acknowledge receipt of the Request for Appeal and copy the acknowledgement to the original complainant(s) in the FYJC case and the Vice President for Student Affairs.
 - a. Copies of all records, documents, exhibits, audio recordings, correspondence, and other evidence used in the trial/hearing of the Appellant's case shall be provided to the Chair of the UJC in a timely fashion.
 - c. The Counselors involved in the case may, if they wish, provide the Chair of the UJC with statements of their position with respect to the Request for Appeal. Any such statement should be delivered to the Chair of the UJC no later than five calendar days following the filing of the Request for Appeal with the UJC.
2. The Chair of the UJC shall convene an Appellate Review Panel to review the Request for Appeal within 14 calendar days of receipt.
3. The Appellate Review Panel shall examine the Request for Appeal, the relevant materials from the subordinate body, as well as the statements of position filed by the parties, if any, to determine whether a decision can be reached as to whether one or more of the grounds for appeal has validity. If more than one ground for appeal is cited in the Request for Appeal, then each of the alleged grounds will be considered separately.
4. The Appellate Review Panel, in its sole reasonable discretion, may reach a decision as to the validity of the appeal based on its review of the Request for Appeal, the case materials, and the written submission of the parties, if any. If the Appellate Review Panel is unable to reach a decision as to the validity of the appeal based on its review of the Request for Appeal, the case materials and the written submission of the parties, if any, the Appellate Review Panel may:

a. Request the Appellant, the original complainant(s), and/or any other relevant person or entity to submit additional information or such other response as will enable the Panel to reach a decision on the Appeal or of the necessity to convene an Appellate Hearing; and/or

b. Convene an Appellate Hearing, the procedure for which shall be as set forth in Appendix A

E. The Appellate Hearing

At an Appellate Hearing, if one is convened, the Appellant may:

1. Have an opportunity to present oral and written arguments, witnesses, and, in the case of an appeal based on “new evidence,” evidence relevant to the grounds for appeal (subject to the procedures set forth in Appendix A)

2. Seek the assistance of any registered, degree-seeking University student in the presentation of their case, although it is recommended they seek the counselors involved in the original case;

3. Elect to have all personally-identifiable information (that is not otherwise in the public domain and which is privileged by law or University policy) relevant to the Appellate Hearing kept confidential to the extent required by applicable law or University policy; the exercise of this election shall not be affected by the Appellant’s previous decision to waive or maintain confidentiality; and

4. Elect to have the Appellate Hearing conducted publicly or privately in accordance with guidelines established by the UJC and the confidentiality policies of the UJC and the University. The exercise of this election shall not be affected by the Appellant’s previous decision to have the original proceedings held publicly or privately or the Appellant’s previous decision to waive or maintain confidentiality.

F. Decision of the Appellate Panel

1. If the Appellate Review or Appellate Hearing Panel (hereafter, as applicable, the “Panel”) determines that the Appellant has demonstrated that it is more likely than not that the grounds described in I (A)(1) or I (A)(2) have validity, the Panel may remand the case to the FYJC for a new trial or reverse or modify the decision below. If the case is remanded, the Panel may establish stipulations and guidelines for the procedural treatment of the case during the second FYJC Trial.

2. If the Panel determines that the Appellant has demonstrated that it is more likely than not that the ground described in I (A)(3) has validity, the Panel may, in its sole reasonable discretion:

a. Remand the case to the FYJC, with recommendations for revision of the sanction; or

b. Directly modify the sanction.

3. If the Panel determines that the Appellant has not demonstrated that it is more likely than not that there is any valid ground for the appeal, the appealed decision will be upheld. Notwithstanding

the foregoing, the Panel may, in its sole reasonable discretion, modify the terms or conditions of the sanctions if necessary to avoid hardship or impracticability.

4. The Chair of the UJC shall provide written notification and explanation of the Panel's decision to the Appellant, the complainant(s) in a FYJC case, and the Vice President for Student Affairs.

II. Records of Appeals

1. The Chair of the UJC shall be responsible for maintaining an accurate record of all evidence, argument, correspondence, and documents relevant to all cases coming before the UJC.

2. All records shall be retained following retention policies of the UJC.

3. The decision of the UJC is final and there shall be no right of appeal from any decision, except that, in cases in which the sanction of suspension or expulsion is imposed by the FYJC, the decision of the UJC to uphold such a sanction may be appealed by the Appellant to the Judicial Review Board within fourteen (14) days from the date on which the UJC issues its written decision.

Appendix A

The Appellate Hearing

1. If the Appellate Review Panel decides to hold an Appellate Hearing, the Vice Chair for Trials of the UJC shall notify the Appellant, and the original complainant(s) of the scheduled time and location of the Appellate Hearing, the hearing format and procedures, and the rights and responsibilities of participants. The scheduled date of the Appellate Hearing shall be no more than thirty (30) calendar days from the date on which the Appellate Review Panel reaches its decision to conduct an Appellate Hearing, unless the UJC chair decides otherwise for good cause shown, in their sole reasonable discretion.
2. The Appellate Hearing Panel shall consist of the Chair of the UJC and two (2) representatives.
3. The Appellate Hearing Panel shall adopt, as conclusive, the factual findings of the FYJC Trial Chair, unless the Appellate Hearing Panel determines that the introduction of new evidence is directly relevant to the grounds for appeal presented in the Request for Appeal, or that the introduction of such evidence is in the best interest of the prompt and fair resolution of the appeal.
4. The Appellate shall have the burden of demonstrating that it is more likely than not that one or more of the legitimate grounds for appeal set forth in the Request for Appeal is valid.
5. The Appellate Hearing format is flexible to accommodate the interest of equity and fairness, but will take the following general format:
 - a. The Appellant, followed by the Respondent, shall have an opportunity to present general opening statements. The complainant(s) may elect to submit a written statement for consideration by the Appellate Hearing Panel, for which purpose such party may consult pertinent records, tapes, and other materials from the applicable FYJC trial.

- b. If the Appellate Hearing Panel determines that the presentation of evidence and/or witnesses is directly relevant to the grounds for appeal or is in the best interest of the prompt and fair resolution of the appeal, the Appellant, followed by the Respondent, shall have an opportunity to present relevant witnesses, evidence, and other materials stemming from the original FYJC Trial.
- c. The Appeal Hearing Panel may decide to solicit testimony or evidence from witnesses or other persons not named by the parties. The Chair of the JRB must notify the parties and permit them to be present whenever solicited evidence or testimony is being presented.
- d. Parties may at any time object to the admissibility of the evidence being presented on the grounds that is highly prejudicial, plainly redundant, or clearly irrelevant. The Chair may either rule directly on the admissibility of evidence or testimony or may call the panelists into recess to discuss the matter.
- e. Subject to the discretion of the Chair, who may modify, limit, or refuse to permit questions, the Appellate Hearing Panelists may question any hearing participant at any point during the hearing.
- f. All University students submitting testimony or evidence will be advised of the applicability of the Honor Code, and all participants who are not University students shall be asked to affirm that they will deliver truthful testimony.
- g. Private attorneys will be allowed to be present at the hearing on behalf of the parties. They may consult with their respective parties during the proceeding but may not address the Panel or otherwise participate in the proceeding.
- h. The Appellate Hearing Panel may continue its proceedings over a period of up to fourteen (14) calendar days. The presentation of evidence and arguments must conclude within fourteen (14) calendar days of the commencement of the Appellate Hearing proceedings unless the Chair determines, under reasonable discretion, that an extension is appropriate.
- i. After the presentation of evidence, or after the Chair concludes the hearing, the parties shall be permitted to present closing arguments.
- j. Following the opportunity for closing arguments, the Appellate Hearing panelists shall recess for deliberations. All discussions held in deliberations shall be kept strictly confidential, except for any information which becomes public knowledge, or where disclosure may be authorized by law, University policy, or in connection with the authorized discharge of duties for the University. If necessary and appropriate, the Appellate Hearing Panel may continue its discussions over a period of not more than seven calendar days, at which time the Appellate Hearing Panel must deliver a decision. The Chair may extend these discussions past seven calendar days for good cause.