

UNIVERSITY JUDICIAL REVIEW BOARD PROCEDURES FOR APPEALS

I. Structure and Authority of the University Judicial Review Board

A. Purpose

The purpose of the University Judicial Review Board (the "JRB") is to ensure fairness in student disciplinary proceedings consistent with due process of law.

Specifically, the JRB is the University Committee charged with reviewing:

1. Appealed decisions of the University Judiciary Committee (the "UJC") when acting within its original jurisdiction; and
2. Decisions of the UJC referred for review by the Vice President and Chief Student Affairs Officer (the "Vice President"); and
3. Appealed decisions of other University bodies if an appeal to the JRB is incorporated within their operating procedures. In such appeals, the procedures shall follow, to the extent practicable, the procedures described below for appeals from the UJC, unless another procedure is specified, and the following procedures shall be read to include such other University bodies if and when their respective operating procedures are modified to incorporate a right of appeal to the JRB.

The party filing an appeal under these procedures, whether from a UJC Trial or the proceedings of any other University body, if applicable, shall be referred to herein as the "Appellant."

These procedures do not constitute a contract between the University and University students or student groups, past or present.

B. Composition

The JRB shall have at least fifteen (15) members, as prescribed below:

1. The Chair of the JRB

- a. There shall be one Chair of the JRB. The Chair of the JRB shall be appointed by the Vice President, for such term as the Vice President shall determine. If for any reason the office of Chair becomes vacant, the Vice President shall appoint a replacement.

b. The Chair of the JRB shall be responsible for all administrative and adjudicative functions of the JRB, including chairing all Appellate Review Panels (as defined below), all Appellate Hearings (as defined below), and all Referral Proceedings (as defined below); coordinating the official activities of the JRB; and serving as the public spokesperson for the JRB.

c. If the Chair of the JRB is for any reason unable to fulfill a specific function of the office of the Chair, the Chair may designate another member of the JRB to discharge said duties on the Chair's behalf.

2. Members of the JRB: Faculty, Staff and Students

In addition to the Chair, the members of the JRB shall include at least five members from the University faculty or staff and at least five members who are registered, degree-seeking University students. Each JRB member shall be appointed by the Vice President, for such term or terms as the Vice President shall determine. In the event of any membership vacancy, the Vice President shall appoint a replacement. If for any reason, due to the University calendar or any other special circumstance, no student member is available to consider an appeal to the JRB, the Vice President may appoint a replacement or alternate for consideration of such appeal.

3. Familiarity with Procedures

The Chair shall ensure that all JRB members are thoroughly acquainted with these Procedures for Appeals, as well as generally familiar with the procedures and policies of the UJC. In appeals from decisions of other University bodies, the Chair shall ensure that all members of the applicable Panel (as hereinafter defined) are familiar with the procedures and policies of such other University bodies.

II. Appeals from Decisions of the UJC

A. Grounds for Appeal from a UJC Trial

Every student or student group found guilty by the UJC, acting within its original jurisdiction, of violating the University Standards of Conduct may file a Request for Appeal with the JRB. The method, form and deadline for filing a Request for Appeal from a UJC Trial are set forth, in detail, in Section B, below. The grounds for appeal from a UJC Trial are as follows:

1. A procedural error occurred in the course of the UJC Trial, causing the Appellant to be deprived of the procedural protections afforded by Article IV of the UJC Constitution, and such error very likely affected the outcome of the UJC Trial; or

2. The Appellant has obtained new evidence, the existence of which would very likely have affected the outcome of the UJC Trial. For purposes hereof, "new evidence" means evidence of which the Appellant was unaware, and could not reasonably have been aware through the exercise of reasonable diligence, prior to the conclusion of the UJC Trial; or

3. The sanction imposed by the UJC was unduly harsh, clearly excessive, or grossly inappropriate to the relevant offense.

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

An Appellant must submit a written request for an appeal (the "Request for Appeal") to the University office of the Chair of the JRB, by hand-delivery or electronic mail, within fourteen (14) calendar days of the UJC Trial date (subject to extension, for good cause shown, in the sole reasonable discretion of the Chair of the JRB). 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 II(A), above; identifies the specific procedural or substantive decision by the UJC to be challenged; describes, in detail, the basis for such challenge; 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 Chair of the JRB, and consisting of the Chair and two other members of the JRB selected by the Chair, including, to the extent practicable, at least one student member of the JRB (the "Appellate Review Panel"). Such Appellate Review Panel customarily resolves the Request for Appeal without the appearance of the Appellant, and without holding a hearing or other formal proceeding. Accordingly, in most cases, the written Request for Appeal is the Appellant's only opportunity to present to the JRB his or her grounds for appeal and any other arguments or evidence in support of the appeal. In rare cases, as more fully described in Section D(4), below, the Chair of the JRB may convene an Appellate Hearing to consider the Request for Appeal.

In preparing his or her Request for Appeal, the Appellant may:

1. Seek the assistance of any individual or individuals, although the Appellant is encouraged to seek the input of his or her UJC Counselor;

2. Have reasonable and timely access to copies of all records, documents, exhibits, audio recordings, correspondence, and other evidence introduced at the UJC Trial; and

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 Request for Appeal 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.

D. Initial Review of the Request for Appeal

1. The Chair shall acknowledge receipt of the Request for Appeal and shall provide a copy of the Request for Appeal, together with his or her acknowledgement thereof, to the UJC Chair, the original complainant(s), and the Vice President.

a. The UJC Chair shall provide to the Chair of the JRB, in a timely manner, copies of all records, documents, exhibits, audio recordings, correspondence, and other evidence admitted at the applicable UJC Trial.

b. The Vice President shall not begin his or her review of any finding of guilt in a UJC Trial until the fourteen- (14-) day deadline for filing a Request for Appeal has passed. If a Request for Appeal to the JRB is filed within such fourteen- (14-) day period, the Vice President shall take no further action unless and until the case is remanded by the JRB and the UJC issues a subsequent decision.

c. The UJC Chair, together with the original complainant(s), and/or the Vice President may, if they wish, provide to the Chair of the JRB written statements of their respective positions regarding the Request for Appeal. Any such statements should be delivered to the Chair of the JRB no later than seven calendar days following the filing of the Request for Appeal with the JRB (subject to extension, for good cause shown, in the sole reasonable discretion of the Chair of the JRB).

2. The Chair of the JRB shall convene an Appellate Review Panel to review the Request for Appeal, together with relevant case materials and statements, if any, within a reasonable time following his or her receipt of such Request for Appeal and such case materials and statements.

3. The Appellate Review Panel shall examine the Request for Appeal, together with relevant case materials and statements, if any, to determine whether a decision can be reached as to whether one or more of the grounds for appeal is valid. If more than one ground for appeal is cited in the Request for Appeal, then the validity of each of the alleged grounds will be considered separately.

4. The Appellate Review Panel, in its sole reasonable discretion, may decide whether or not any of the grounds for appeal is valid, based on its review of the Request for Appeal, the case materials, and the written submissions of the parties, if any. In rare cases, where the Appellate Review Panel is unable to

reach a decision as to validity 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), the UJC Chair, and/or any other relevant person or entity to submit additional information or such other response as will enable the Appellate Review Panel to reach a decision on the Request for Appeal or on the necessity to convene an Appellate Hearing; and/or
- b. Convene an Appellate Hearing, the procedures for which shall be as set forth in Appendix A attached hereto.

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 his or her 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 JRB 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.

E. Decision of the Appellate Review Panel or the Appellate Hearing Panel

1. If the Appellate Review Panel or the Appellate Hearing Panel (hereafter, as applicable, the "Panel"), determines that the Appellant has demonstrated that it is more likely than not that one or more of the grounds for appeal described in Article II(A)(1) or II(A)(2) is valid, the Panel may remand the case for a new UJC Trial, or, in its sole reasonable discretion, 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 UJC Trial.

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

a. Remand the case to the UJC, 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 sanction if necessary to avoid hardship or impracticability.

4. If the Request for Appeal relates to a second UJC Trial, the Panel will not remand the case to the UJC, but rather, in the interest of the prompt and equitable resolution of the Request for Appeal, the Panel will decide, in its sole reasonable discretion, to reverse, affirm, or modify, in whole or in part, the appealed decision of the UJC.

5. The Chair of the JRB shall provide written notification and explanation of the Panel's decision to the Appellant, the UJC Chair, the complainant(s) in a UJC case, and the Vice President.

6. The members of the Appellate Review Panel or the Appellate Hearing Panel, as applicable, may submit written dissenting and concurring opinions into the record of the disposition of the Request for Appeal or the formal record of the Appellate Hearing, as applicable.

III. Review of UJC Decisions Referred by the Vice President

A. Referral by the Vice President

1. All decisions of the UJC that are not appealed to the JRB in accordance with these procedures shall be automatically reviewed by the Vice President, who may affirm the decision of the UJC or, if he or she feels that such decision is not in the best interests of the University:

a. Remand the case back to the UJC for review, reconsideration, or retrial; or

b. Refer the case directly to the JRB for review in accordance with these procedures.

2. If the Vice President elects to refer such case directly to the JRB, he or she shall send a written notice of referral (the "Referral Notice") to the Chair of the JRB.

B. Within fourteen (14) calendar days of his or her receipt of a Referral Notice from the Vice President, the Chair of the JRB shall send written notice of the referral to the Chair of the UJC, the complainant(s) in the UJC case, and the applicable student or student group. Said notice shall include a copy of the Vice President's Referral Notice and a copy of these JRB Procedures.

C. The Chair of the UJC shall provide to the Chair of the JRB, in a timely manner, copies of all records, documents, exhibits, audio recordings, correspondence, and other evidence admitted at the applicable UJC Trial.

D. The procedure for considering cases referred directly to the JRB by the Vice President shall be, to the extent practicable, the same as that described for cases appealed by any student or student group through a Request for Appeal, with the Chair of the JRB having the sole discretion to make such modifications in such procedures as he or she deems reasonable and appropriate under the circumstances.

IV. Records of Appeals

1. The Chair of the JRB (or his or her designee) shall be responsible for maintaining an accurate record of all evidence, correspondence, and documents relating to all cases coming before the JRB.

2. The JRB shall retain records of appeals in accordance with the retention policies of the UJC.

3. The Chair of the JRB (or his or her designee) shall return any original materials received from the UJC to the UJC Chair.

4. There shall be no right of appeal from any decision of the JRB, except that, in cases in which the sanction of expulsion is imposed by the UJC, the decision of the JRB to uphold such sanction may be appealed by the applicable student to the University's Board of Visitors within fourteen (14) days from the date on which the JRB issues its written decision.

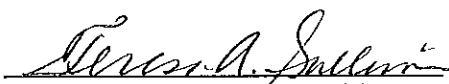
V. Effect of Failure to Comply with Technical Requirements

Failure to observe the time limits or other technical procedural requirements in these procedures shall not constitute an abridgement of rights so long as fairness consistent with constitutional due process is respected and observed.

VI. Amendments

These procedures may be amended at any time, in writing, by the President of the University (the "President") or, at the President's discretion, by the Vice President. Such amendments shall apply to any appeals/referrals made to the JRB on or after the date of such amendment(s).

Adopted:


Teresa A. Sullivan, President

11/21/16
Date

Appendix A

The Appellate Hearing

1. If the Appellate Review Panel decides to hold an Appellate Hearing, the Chair of the JRB shall notify the Appellant, the UJC Chair, the original complainant(s), and the Vice President, 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 not less than ten (10) nor 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 JRB Chair decides otherwise for good cause shown, in his or her sole reasonable discretion.
2. The Appellate Hearing Panel shall consist of the Chair of the JRB and the members of the Appellate Review Panel, except for replacements designated by the Chair, in his or her sole reasonable discretion.
3. The Appellate Hearing Panel shall adopt, as conclusive, the factual findings of the UJC 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 Appellant 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. Although the Appellate Hearing format will be flexible to accommodate the interests of equity and fairness, it will take the following general form:
 - a. The Appellant (or a registered, degree-seeking University student selected by the Appellant to assist in his or her presentation at the Appellate Hearing; for purposes of this Appendix A, the Appellant and/or such assisting student shall be referred to, collectively, as the "Appellant"), followed by the representative of the UJC (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 UJC Trial. In addition, the Appellate Hearing Panel may, at its discretion and with notice to the parties, permit the original complainant(s) to appear at the Appellate Hearing as co-Respondent(s). If the complainant(s) elects not to address the Appellate Hearing Panel, however, this decision will not affect the Appellate Hearing Panel's decision process.

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 UJC Trial. Witnesses shall be presented through direct examination by the Appellant or the Respondent, as applicable. After direct examination, the parties may suggest, in writing, questions to be asked of the witnesses by the Chair, which questions may be asked (or not asked, or asked in modified form) in the sole reasonable discretion of the Chair.

c. The Appellate Hearing Panel may decide to solicit testimony or evidence from witnesses or other persons not named by the parties. In such cases, the Chair of the JRB shall notify the Appellant and the Respondent and shall permit them to be present whenever solicited evidence or testimony is being presented.

d. The 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 members of the Appellate Hearing Panel into recess to discuss the matter. The ultimate decision on admissibility shall be in the sole reasonable discretion of the Chair of the JRB.

e. Subject to the discretion of the Chair, who may modify, limit or refuse to permit questions, the members of the Appellate Hearing Panel may question any Appellate Hearing participant at any point during the Appellate Hearing.

f. All University students submitting testimony or evidence will be advised of the applicability of the University of Virginia Honor Code, and all participants who are not University students shall be asked to affirm that they will deliver truthful testimony.

g. Private attorneys may be present at the Appellate Hearing for purposes of consulting with their respective parties, but such private attorneys may not address the Appellate Hearing Panel or otherwise participate in the Appellate Hearing.

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, in his or her sole reasonable discretion, that an extension is appropriate.

i. After the presentation of evidence, or after the Chair concludes the Appellate Hearing, the parties may present closing arguments.

j. Following the opportunity for closing arguments, the members of the Appellate Hearing Panel 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, subject to extension in the sole, reasonable discretion of the Chair, at which time the Appellate Hearing Panel shall deliver a decision.