



Southern
Illinois University
Carbondale

**The Appeals Process
For
Acts of Social Misconduct**

*A Guide to Section VIII of the
Student Conduct Code*

**Office of the Vice Chancellor
for Student Affairs**

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PURPOSE

The purpose of this supplement is to educate students at Southern Illinois University Carbondale (SIUC) about the Appeals Process for disciplinary decisions relative to Acts of Social Misconduct. This guide is divided into three main sections:

1. Description of the Appeals Process;
2. Frequently Asked Questions; and
3. Glossary of Terms.

These sections explain the appeals process outcome options, limitations (e.g., grounds for appeal), and students' responsibilities. Questions pertaining to either Academic Dishonesty sanctions or the Chancellor's Advisory Review Board may be directed to either the Office of the Provost or General Counsel (who advises the Advisory Review Board).

Although not required by law, SIUC's educational mission includes allowing students two levels of appeal. This demonstrates additional fairness by the University when a non-biased person or Board reviews his or her case, and allows for the correction of procedural errors.

The ultimate goal of the University is for every student to be transformed, not only through the learning process, but also by embracing integrity in and outside of the classroom. When SIUC graduates display professional attitudes and leadership skills that solidify their place in society as leaders, our goals have been achieved.

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Social Misconduct and Academic Dishonesty

Students of Southern Illinois University Carbondale may appeal some disciplinary determinations or sanctions involving Social Misconduct or Academic Dishonesty according to provisions set forth in the University's Student Conduct Code (c.f., *SIUC SCC*, § VIII.A.-VIII.D.). During the appeals process, the burden of proof shifts from the University to the sanctioned student. This means the student must prove that either the misconduct did not occur, or that the student was not responsible for such misconduct. Essentially, appeals are not rehearings of original facts; they are procedural safeguards to ensure fundamental fairness in the University's disciplinary process.

Sanctioned students may appeal disciplinary outcomes to either: (a) the Vice Chancellor for Student Affairs or his/her designee, who serves as the Appellate Officer for cases of Social Misconduct; or (b) the Vice Chancellor for Academic Affairs or Provost or his/her designee, who serves as the Appellate Officer for cases of Academic Dishonesty. The Vice Chancellor for Student Affairs is the University's first level of review in the appeals process. The second level of review is the Chancellor's Advisory Review Board who advises the Chancellor.

Disciplinary Sanctions

Sanctions subject to the appeals process include: Disciplinary Probation, Disciplinary Suspension, and Disciplinary Expulsion (c.f., *SIUC SCC*, § VI.F.-VI.I.1-3.). Disciplinary Reprimands and Educational Conditions of Sanction are not subject to appeals (c.f., *SIUC SCC*, § VI.D., and VII.). Only the finding of responsibility may be appealed regarding Disciplinary Censures, but not the severity of this sanction or any conditions attached because neither Censures nor Conditions of Sanctions remove students from good disciplinary standing.

Filing a Petition for Appeal

Sanctioned students may submit petitions for appeals, in writing, to the Appellate Officer within seven (7) business days after receiving a notification of sanction following either a Formal Hearing or a *Notice of Disciplinary Action*. Failure to request an appeal in a timely manner constitutes a waiver of appeal. The disciplinary sanction shall be implemented when the student has waived the option to appeal or when the appeal process has expired.

When the Appellate Officer has reviewed an appeal petition, a disciplinary action, and rendered an outcome, any outstanding sanction shall take effect at such date. This applies only to sanctions less severe than Disciplinary Suspension (i.e., Reprimands, Censures, or Probation). Hence, the Appellate Officer's decision is final at the campus level.

Grounds for Appeals

Petitions for appeals are limited to any of the following four (4) grounds:

1. There was a procedural error which substantially affected the outcome of the hearing;
2. There is no evidence in the record to support a finding of violation of this Code;
3. There is new or newly discovered evidence which may substantially affect the outcome of the hearing; or
4. The sanction is excessively severe.

Appellate Officer's Review Options

When the Appellate Officer determines an appeal petition to be meritorious and grants an Appeal Review Session, the following options may be outcomes of such session:

1. Uphold the original decision or decrease the sanction upon consideration of the nature of the case and the totality of the student's conduct history;
2. Deny the appeal petition because it is either incomplete or lacks merit. Denial of appeals also applies when the student admits responsibility for the misconduct (the student must comply with the original sanctions);
3. Modify or add an appropriate educational condition of sanction that directly addresses the nature of the misconduct under review;
4. Dismiss original charges and/or issued sanctions; or
5. Remand the case to a different hearing agent when the question of responsibility has been answered (the sanctioned student may appeal again to the Appellate Officer); and when the question of responsibility was not the reason for remanding the case (e.g., contention of new evidence), or if the question of responsibility has been answered at the second judicial hearing, and the record is similar to the original hearing. In such a case, the sanctioned student may only appeal to the second level, the Chancellor's Advisory Review Board. (**Rationale:** The original judicial hearing is nullified when the case is remanded to discern responsibility, but it is not nullified when responsibility was proven at the original judicial hearing and reiterated at the second hearing.)

Appellate Petitions Not Granted

Examples of student arguments that do not constitute grounds for petitioning appeals are as follows: When the student claims he or she

1. Never received a *Charge and Notification Letter* sent to the last known address on University records;
2. Never received advanced notice of a *Formal Administrative Hearing Letter* sent to the last known address on University records;
3. Never received a *Notice of Disciplinary Action Letter* sent to the last known address on University records;
4. Was not able to explain his or her side of the story when the record shows the hearing agent either challenged the student to remain civil or to stop trying to make a point repetitively;
5. Failed to adhere to University protocols during disciplinary proceedings;
6. Failed to file an appeal petition by the deadline (usually provided on the top of the appeal form);
7. Failed to submit a letter that justified the ground(s) for the appeal petition;
8. Failed to appear at a scheduled Appeal Review Session as notified, in which case the Appellate Officer will dismiss the appeal petition;
9. Was not able or allowed to reschedule the original hearing to present a rebuttal of allegations and/or documentation during the hearing when the record shows the notice for such hearing was sent in advance of the hearing, providing ample time for the student to prepare his or her rebuttal of charges;
10. Failed to provide additional testimonies of witnesses who were present when the alleged incident occurred (character witnesses' testimonies are inadmissible) at the original hearing. The University invites witnesses listed in the documented incident, but cannot subpoena them to appear against their will;

11. Failed to provide supporting documentation to substantiate the students' arguments either at the original hearing or at the Appeal Review Session before the Appellate Officer;
12. Admitted responsibility for any/all violations assessed under the Student Conduct Code, Residence Halls Guide Book, or any other applicable policy pertaining to regulation of student misconduct;
13. Was redirected by the original hearing officer to keep civility through the hearing process or prevented him or her from badgering attending witnesses;
14. Claimed any kind of discrimination to dispute a hearing outcome when the record does not show evidence of such claim;
15. Failed to attend the original hearing, and it was conducted in the student's absence (*In Absentia*);
16. Claimed that a court of law did not find enough evidence to impose a consequence to a behavior that simultaneously violated municipal, state, or federal law;
17. Claimed double-jeopardy when he or she faced "criminal" charges under the court system concurrent with University proceedings designed to ascertain whether the student's conduct violated the University's expectations of conduct and its educational mission;
18. Disagreed with the University's disciplinary system, expectations of conduct, or any/all imposed conditions of sanction which are not subject to appeal; and
19. Deviated from designated University regulations used during disciplinary proceedings, or failed to behave in a civil manner during either the original hearing or the Appeal Review Session.

Student Responsibilities

It is important to emphasize that neither the Vice Chancellor for Student Affairs, nor his or her designated Appellate Officer may increase the disciplinary sanction of the original hearing agent; rather, the appeals process is a procedural safeguard to ensure fundamental fairness of the disciplinary system at Southern Illinois University Carbondale.

Essentially, appeals are not meant to be rehearings of cases but reviews of disciplinary proceedings during which the burden of proof shifts to the sanctioned student. Consequently, the student is responsible for the following:

- a. Justifying the petition based on any or all four grounds for appeals subject to the same burden of proof (i.e., preponderance of the evidence), and
- b. Submitting with the application for appeal any and all applicable documents to support the validity of their arguments/merits for appeals. It is the sanctioned student's responsibility to present a complete application for appeal. The Appellate Officer may grant an Appeal Review Session only upon a determination of merit of the student's arguments. The Student Conduct Code may be found by visiting:

<http://www.siuc.edu/~policies/policies/conduct.html>

Frequently Asked Questions

Q: What is an appeal?

A: An appeal is an Administrative Review of a disciplinary decision regarding Acts of Social Misconduct. In an appeal, the burden of proof shifts to the sanctioned student. Disciplinary decisions focus on facts. Appeals focus on the process or grounds for the appeal.

Q: What is a burden of proof?

A: A burden of proof is the level of evidence necessary to make a determination of responsibility. The burden of proof for misconduct

is the “preponderance of the evidence.” This literally means that it is more likely than not that something occurred. For example, during a hearing the burden of proof is on the University to show that the misconduct happened. However, during the appeals process, the student must show the misconduct did not happen.

Q: What can I appeal?

A: Only the finding of responsibility pertaining to Disciplinary Censures may be appealed, not the sanction itself because it does not remove the student from good disciplinary standing with the University. Disciplinary Probation does remove the student from good disciplinary standing with the University, and it is appealable. Disciplinary Suspension removes the student from the University for a stated period of time (not to exceed three years), whereas Disciplinary Expulsion removes the student from the University permanently. These sanctions are appealable. Conditions of sanction are not appealable.

Q: How do I file an appeal?

A: Upon receiving a disciplinary decision, the student is informed of his or her option to appeal such decision. If the student chooses to appeal the decision, the hearing officer explains the appeals process and provides the student with an Application for Appeal that also explains the appeals process. Sanctioned students are encouraged to schedule an appointment with Student Judicial Affairs for further clarification about the appeals process when they receive a Notice of Disciplinary Action Letter.

Q: Is there anyone at the University who can help me with my appeal?

A: Usually, sanctioned students find helpful advice from the Ombudsman’s Office located in C 302 Woody Hall. This office will help students prepare an application for appeal, but will not write the appeal for the sanctioned student.

Q: To whom do I appeal?

A: An appeal petition letter must be addressed to the Vice Chancellor for Student Affairs or his/her designee for Acts of Social Misconduct, or to

the Vice Chancellor for Academic Affairs or his/her designee for Acts of Academic Dishonesty.

Q: Where do I submit my appeal?

A: Appeal petitions with all supporting documentation (e.g., notarized written statements) should be turned in at Student Judicial Affairs located in A 302 Woody Hall. This office will make sure the student's entire file is taken to the appropriate Appellate Officer.

Q: How can I appeal a specific decision?

A: There are only four grounds for appeal:

1. There was a procedural error which substantially affected the outcome of the hearing;
2. There is no evidence in the record to support a finding of violation of this code;
3. There is new or newly discovered evidence which may substantially affect the outcome of the hearing; or
4. The sanction is excessively severe (*Note:* the full disciplinary history of the student is considered cumulatively in determining each disciplinary sanction).

Q: How long do I have to file an appeal?

A: According to University practice, sanctioned students who wish to appeal disciplinary decisions usually have seven (7) business days from the day the decision is made or upon receiving a Notice of Disciplinary Action Letter. To eliminate errors or confusion, every Appeal Form states the appeal deadline date.

Q: Will I be granted an appeal?

A: Not necessarily. Upon receiving an Appeal Petition, the Appellate Officer will determine the following: (a) whether the appeal has merit, (b) whether the arguments presented have validity, or (c) whether the appeal was submitted by the given date. The Appellate Officer has discretion to deny or grant an Appeal Review Session.

Q: What happens during the Appeal Review Session?

A: If the Appellate Officer grants an Appeal Review Session to a sanctioned student, the student will receive a letter stating the date, location, and time that the Appeal Review Session will take place. During the Appeal Review Session, the Appellate Officer will not rehear the case (i.e., go back to address facts of the case or allegations against the student). Rather, the Appellate Officer will focus only on reviewing the ground(s) upon which the Appeal Review Session was granted and to determine whether the student has proven the applicable ground(s) for appeal.

Q: If granted, can I bring an Advisor to the Appeal Review Session?

A: Yes. Sanctioned students may bring an Advisor to the Appeal Review Session. However, the Advisor does not actively participate during the Appeal Review Session. The Advisor may confer with the student, but is not allowed to speak on his or her behalf.

Q: What are possible outcomes of appeals?

A: The Appellate Officer has the following options after reviewing a student's appeal:

1. Uphold the original sanction/decision;
2. Modify the original sanction/decision;
3. Remand the case (to a different hearing officer) when the question of responsibility is not clearly answered; or
4. Dismiss the case if there was no jurisdiction to hear the case.

Q: What if my suspension or expulsion is upheld at the Vice Chancellor's level?

A: Only Disciplinary Suspensions and Expulsions that are upheld at the Vice Chancellor's level may be appealed to the Chancellor's Advisory Review Board. If such decision is made and the student makes clear his or her wishes to appeal, the Appellate Officer will provide the guidelines for appeal to the Chancellor's level.

Q: How and to whom do I appeal at the Chancellor's level?

A: The sanctioned student has seven (7) days to file an appeal to the Chancellor's Advisory Review Board. The completed petition must be filed in person at Student Judicial Affairs, located in A 302 Woody Hall. This office will ensure that the student's entire disciplinary file (including the prior appeals outcome) reaches the Chancellor's Advisory Review Board, whose chair will convene members of the Board to determine if the petition has merit relative to any of the four grounds cited in the appeal petition. This Board will determine whether to grant or deny the appeal. Outcomes of the appeal are similar to the Vice Chancellor's level. The Board makes recommendations to the Chancellor. The Chancellor's decision is final.

Q: What happens if I am granted an appeal at either of the two levels and I do not show up?

A: Disciplinary hearings provide due process to students. The Student Conduct Code indicates that if the student does not attend a scheduled hearing, it will be held "*In Absentia*" or in the absence of the student. Appeals, on the other hand, are neither part of due process, nor are they required by law. Hence, there are no "*In Absentia*" appeals. If the student fails to attend a scheduled appeal, the petition is dismissed. The Appellate Officer notifies the student of such decision.

Glossary of Terms

Academic Dishonesty - Any conduct against academic integrity, and scholarship.

Advisor - Any person selected by the student whether faculty, staff, student, or non-university individual to advise the sanctioned student.

Appeal - An administrative review of a disciplinary decision regarding Acts of Social Misconduct. An appeal is not a rehearing but a procedural safeguard.

Appellate Officer - The Vice Chancellor for Student Affairs or his/her designee who evaluates the grounds for appeal for Acts of Social Misconduct cases.

Appeal Review Session - A formal review of the ground(s) for appeal, the presentation of convincing arguments, and any evidence provided based on the student's appeal petition.

Application for Appeal of Decision of Hearing/Disciplinary Decisions - A form that states the grounds for appeal, and explains how the appeal process works. Additional sheets may be included to explain the student's arguments, as well as any other documentation to substantiate such arguments. This constitutes an appeal petition and must be submitted in person, signed (notarized if applicable), and dated on or before the date written on the top of the form.

Burden of Proof - The level of evidence necessary to make a determination of responsibility.

Chancellor's Advisory Review Board - A panel of faculty, staff, and students that reviews second level appeals involving Disciplinary Suspensions and Expulsions, and advises the Chancellor.

Conditions of Sanction - Creative educational interventions that directly address the nature of the misconduct and provides students the opportunity to reflect on their conduct so that it does not jeopardize their educational careers.

Disciplinary Censure - A stern written warning that the cited behavior is unacceptable and any further misconduct may result in more severe disciplinary action.

Disciplinary Probation - Removes the student from good disciplinary standing and will last for a stated period of time or until the student completes the imposed condition(s) of sanction.

Disciplinary Suspension - An involuntary separation from the University for a stated period of time not to exceed three (3) years and/or until the students completes the imposed condition(s) of sanction.

Disciplinary History - Includes all documentations and disciplinary decisions the student has accumulated since his or her enrollment began with the University.

Expulsion - A permanent involuntary separation of the student from the University. This sanction is usually accompanied by a Letter of “No Trespass” applicable to all University owned, controlled, or operated properties and sponsored events.

Grounds for Appeal - The basis from which sanctioned students prepare appeal petitions. There are four (4) grounds for appeals.

In Absentia - Literally means “in the absence” of the student

Preponderance of the Evidence - Literally means: If it is more likely than not that something occurred, then it did occur.

Sanction - A measure imposed as a result of violating the Student Conduct Code.

Sanctioned Student - A student who has gone through the disciplinary process and received a disciplinary sanction for misconduct.

Social Misconduct - Any conduct that stands in opposition to the University’s educational mission, the principles in the Saluki Creed, and any other source of regulation of student conduct while at Southern Illinois University Carbondale (c.f., SIUC SCC, § II.B.1.a.-II.B.17.d.).

DIRECTORY

Department of Public Safety - Washington Square Bldg. A..	453-3771
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Office of the Provost - 125 Anthony Hall	453-5744
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Counseling Center	453-5371
Wellness Center.....	536-4441
Student Judicial Affairs - A 302 Woody Hall	536-2338
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