

THE CITADEL
The Military College of South Carolina
171 Moultrie Street
Charleston, S.C. 29409

MEMORANDUM
NUMBER 2-018

23 JANUARY 2023

**POLICY AND PROCEDURE FOR CADET / STUDENT
APPEALS OF DISCIPLINARY DECISIONS**

1. PURPOSE

The Citadel's disciplinary procedures are grounded on ensuring due process for cadets and students accused of violating College Regulations and/or The Blue Book, and determining appropriate punishment as warranted.

The President is the appellate authority for all Class I disciplinary offenses where punishment is less than Expulsion. Appellate Procedures for Expulsion are described in College Regulations. Appeals of Honor decisions are delineated in The Honor Manual.

The Appellate process is not intended to offer a second forum to present a case responding to a disciplinary decision. Appeals address only how a decision was reached, not the decision itself.

2. REFERENCES:

United States Constitution, Amendments IV and XIV

20 USC 1681

34 CFR 106.45

3. POLICY

A. Grounds where the President will consider relief from disciplinary decisions (except those governed by 20 USC 1681, as prescribed by regulations in 85 F. R. 30026, *et. seq.*):

1. A failure to follow prescribed procedures, or a violation of due process.
2. New evidence discovered since the Board/Hearing or determination by the President, of a magnitude to alter a final disciplinary decision.

B. A cadet or student may appeal disciplinary action to the President, except those governed by 20 USC 1681, as prescribed by regulations in 85 F. R. 30026, *et. seq.*; in those cases, the Provost is the appellate authority. Appeals are exclusively

the responsibility of the cadet or student. Definitions of cadets and students are found in College Regulations Section IV Paragraph 1.

- C. An appeal must include all necessary materials, documents, and physical or electronic evidence (or a description thereof) as applicable. The appellant should fully explain how any new evidence would have materially impacted the original decision.
- D. The appellant is free to include any other items deemed significant, including those not delineated here as grounds on which an appeal is considered. The President is not bound to consider these other items.
- E. In cases governed by 20 USC 1681, as prescribed by regulations in 85 F. R. 30026, *et. seq.*, both Complainant and Respondent may appeal final disciplinary decisions, and the Complainant may further appeal dismissal decisions on grounds of:
 - 1. Procedural irregularity impacting the outcome.
 - 2. New evidence which may have changed result, discovered after the Board/Hearing or determination by the President.
 - 3. The Title IX Coordinator, investigators, or those in decision-making positions had conflicts of interest or bias against the Complainants or Respondents impacting the outcome.

4. PROCEDURE

- A. The appellant must submit all materials to the President (or Provost as applicable) within five (5) business days of the announcement of the punishment. Extensions beyond five business days are at the discretion of the Chief of Staff or other appointed official, and generally do not extend past five (5) additional business days, except in extraordinary cases.
- B. The Chief of Staff forwards the appeal to the Commandant (for cadets), or the Provost (for students), to prepare the College's Response to the appeal.

In cases governed by 20 USC 1681, the party adverse to the Appellant may also prepare a response. The Chief of Staff will ensure copies of all appeals, College Responses, and Response to Appellees are provided to all parties.

- C. Upon receipt of the College's Response, the President may adjudicate the appeal immediately, or forward to a Review Committee for further consideration and recommendation.
- D. The Review Committee is composed of the Provost, the Senior Vice President, and the Vice President for Finance. For cases involving students, the Review Committee consists of the Commandant, the Senior Vice President, and Vice

President for Finance. The President may substitute other Vice Presidents as required.

- E. The Review Committee should meet within five (5) business days of receiving the appeal, and forward a written recommendation to the President within five (5) business days of meeting.
- F. The President may conclude at any time, or The Review Committee may recommend to the President the following:
 - 1. Grant the appeal.
 - 2. Remand to the Commandant or Provost, as appropriate) for reconsideration.
 - 3. Modify the punishment.
 - 4. Forward to a Disciplinary Board of Review (DBOR) for further consideration. DBOR procedures are contained in Annex A. The Review Committee can recommend further consideration by a DBOR where significant procedure or process questions remain unresolved, or if significant differences remain with the Committee on these topics. The Review Board should include a summary of these questions or differences to the President.
 - 5. Reject the appeal.
- G. The decision of the President is final, and may be made at any time in the process after the appeal and College Response received.

5. COMPLIANCE

- A. A cadet's or student's failure to timely submit an appeal results in imposition of punishment, finalizing the disciplinary action(s).
- B. Failure to follow procedures contained herein shall not constitute grounds for reversal or other modification of the punishment, or dismissal of the appeal.
- C. All disciplinary decisions where a cadet or student is suspended, dismissed, or expelled shall be finalized in a Special Order from the Office of the President.

6. NOTES

A. Dates of official enactment and amendments:

Approved by the Director of The Citadel Staff 11 February 2010

Vitiated by action of the Board of Visitors 11 June 2011

Reinstated, in part, by action of the Board of Visitors 4 August 2011

Revisions 12 September 2011, 18 July 2012, 17 September 2013, 16 December 2022

B. Responsible Department:

Office of the President/Chief of Staff

C. Cross References

College Regulations and Blue Book

D. RESCISSION

Memorandum 2-18, of 17 September 2013

FOR THE PRESIDENT:

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WILLIAM A. LIND
Commander, USN (Retired)
Chief of Staff

OFFICIAL
Attachments:
Annex A

ANNEX A

DISCIPLINARY BOARD OF REVIEW (DBOR) PROCEDURES

1. GENERAL

The DBOR examines and prepares recommendations regarding the college's adherence to its procedures and process, or consider new evidence presented in the appeal. A DBOR is formed when the President, after consideration by a Review Committee, deems further investigation is required. The DBOR submits recommendations to the President, who retains final authority on appellant actions.

While a DBOR requires careful consideration before forwarding recommendations, it is important they consider undue administrative delays are detrimental to the appellant as well as the College.

2. COMPOSITION

- A. Chair: Vice President, Associate Provost or Dean.
- B. Train, Advise, Coach (TAC) Officer who did not participate in original disciplinary action or Board.
- C. Faculty Representative: Department Head, or in cases where the Chair is an Associate Provost or Dean, a Staff Department Head/Director or equivalent.
- D. A non-voting recorder/assistant to the Chair.
- E. A non-voting Cadet Major or above, or student (for cadet or student cases respectively), not involved in the case.
- F. The DBOR forms via a Special Order, and terminates once its recommendation is forwarded to the President.

3. GENERAL PROCEDURE

- A. The DBOR should meet within five (5) working days of formation to consider the appeal and any recommendations from the Review Committee. The DBOR has two options:
 - i. Consider the Appeal and Review Committee recommendations, and offer its own report/recommendations to the President. This concludes the DBOR action on the matter.
 - ii. Conduct a Formal Hearing.

- B. All DBOR reports/recommendations should address issues raised in the appeal, and outline findings and rationale of the DBOR. The DBOR may recommend all appellate actions delineated in this Policy (Section 4, Paragraph F) to the President.

4. FORMAL HEARING

- A. If a Formal Hearing is required, the Chair and Recorder shall rapidly arrange a forum and time to meet. Undue delay by the appellant or others involved are not grounds to delay the Hearing. The Chair should target five (5) business days from DBOR formation to the Formal Hearing.
- B. The Appellant shall attend, and may be accompanied by up to two advisors per College Regulations. If previously approved by the Chair, the Appellant may be accompanied by an attorney or outside advisor. Attorneys or outside advisors may not present arguments, nor question college representatives, DBOR members, or witnesses.
- C. The Commandant or Provost ('College Respondent') as applicable (or their representative) shall attend to offer the College Response to the Appeal and answer questions from the DBOR.
- D. 'New Evidence' is only that presented in the original Appeal.
- E. It is critical the DBOR, Appellant, and College Respondent recall, throughout the Formal Hearing process, the DBOR only considers procedural, due process, and new evidence presented in the appeal.
- F. Hearing Conduct.
 - i. Upon Hearing opening, the Appellant presents a statement/argument on issues in the Appeal, and may be subject to questions from the DBOR.
 - ii. The College Respondent then offers response to the Appellant. The Respondent may be subject to questions from the DBOR.
 - iii. Both the Appellant and Respondent may submit questions to the DBOR, prior to or during the Hearing, to ask of the other party. The Chair determines what if any such questions are to be asked.
 - iv. Except in extraordinary circumstance and only where a DBOR majority deems it necessary, outside witnesses will not participate in a Formal Hearing.
 - v. After each party is heard in full and all DBOR questions addressed, the DBOR enters a closed deliberative executive session. This session is not recorded.
 - vi. Findings and recommendations, to include minority or dissenting opinions, are prepared by the DBOR, and finalized by the Chair before forwarding to the

President. The Chair should endeavor to complete DBOR findings within two (2) business days. The DBOR may recommend all appellate actions delineated in this Policy (Section 4, Paragraph F) to the President.

5. PRESIDENT'S ACTIONS

- A. The President reserves the right, at any time during the DBOR process, or after receiving its report, to take action on the appeal. A final Special Order will be issued, ending the appellate and disciplinary action.