



**TITLE IX**  
**Appeal Decision**  
**Maker Training**

**Fall 2023**

# Training Overview

- **Review Role and Responsibilities**
- **Review Documents**
- **Discuss Common Pitfalls**
- **Question and Answer Session**

# After the Live Hearing

- Either the Complainant or Respondent may appeal the Live Hearing Officer's determination within **10 College District business days** on the following grounds:
  - Procedural irregularity that affected the outcome,
  - New evidence not reasonably available prior to the Live Hearing that could affect the outcome, and/or
  - Conflict of interest or bias by Collin College's participants that affected the outcome.
- The appropriate Title IX Coordinator, Deputy Title IX Coordinator, or designee overseeing the case will notify the non-appealing party that the other party has appealed.
- The non-appealing party will be allowed to submit a written statement in response.

# Appeal Decision Maker's Role

- Title IX Coordinators, Deputy Title IX Coordinators, Informal Resolution Facilitators, Investigators, Removal Challenge Officers, Live Hearing Advisors, and Live Hearing Officers cannot serve as Appeal Decision Makers.
- The Appeal Decision Maker will be an appropriate Vice President or designee.
- When an Appeal Decision Maker is needed to serve on a case, the appropriate Title IX Coordinator, Deputy Title IX Coordinator, or designee will assign the appropriate Vice President or designee.
- The Appeal Decision Maker must conduct a **prompt, fair, impartial, unbiased, and equitable** process from the beginning of the Appeal Process to the submission of their *Appropriate Vice President or Designee's Appeal Determination* form.

# Appeal Procedures

- The appropriate Title IX Coordinator, Deputy Title IX Coordinator, or designee will send the following items to the Appeal Decision Maker via Collin College email:
  - The final *Investigation Report*,
  - A link to all evidence and documents relevant to the allegation(s),
  - The *Written Determination of Responsibility*,
  - A link to the Zoom audio and video recordings of the Live Hearing,
  - The appealing party's completed *Appeal Request Form*,
  - The non-appealing party's completed *Non-Appealing Party Written Statement* (if submitted by the non-appealing party),
  - The *Title IX Complaint Resolution Process Potential Penalties and Remedies* handout,
  - The *Appropriate Vice President or Designee's Appeal Determination* template, and
  - The *Appeal of Expulsion or Termination to the College District President or Designee Request Form* template (if applicable).

# Appeal Procedures (Cont.)

- The Appeal Decision Maker will review the records and evidence and may, at their discretion, meet separately with the complainant, the respondent, and/or witnesses.
- If the Appeal Decision Maker meets with any party, they **must** audio and/or video record the meeting.

# After the Appeal

- The Appeal Decision Maker sends the audio and/or video recording(s) of any meeting(s) to the appropriate Title IX Coordinator, Deputy Title IX Coordinator, or designee.
  - The appropriate Title IX Coordinator, Deputy Title IX Coordinator, or designee then sends an email to the Complainant and Respondent containing the link to the recording(s).
- The Appeal Decision Maker deliberates on the evidence provided and makes a determination.
  - Collin College uses the **preponderance of the evidence standard (i.e., more likely than not to have occurred)**.
  - Think of this as “50% plus a feather.”
  - It is critically important that the Appeal Decision Maker **does not** use a higher standard of evidence when making a determination.

# Relevant Evidence

- When determining responsibility, the Appeal Decision Maker must consider all information and evidence that is **relevant** to the allegation(s).
- **Inculpatory Evidence**: Evidence that can establish an individual's involvement in an act or their guilt.
- **Exculpatory Evidence**: Evidence that can exonerate an individual.
- For example, in a murder case:
  - Evidence of a prior dispute between the defendant and a next-door neighbor (unrelated to the murder) is not relevant to the case.
  - Evidence of a prior dispute between the defendant and the victim is relevant to the case because it may be related to the motive for the murder.
- The Appeal Decision Maker must also determine the credibility of each party and witness. Credibility determinations may not be based on a person's status as a Complainant, Respondent, or Witness.

# Determining Responsibility

- **Must** consider Collin College's jurisdiction:
  - Occurred while participating in or attempting to participate in Collin College's education program or activity, and/or
  - Impacted a person in the United States
- The alleged conduct must be so **severe, pervasive, or objectively offensive** that it limits or denies a party's ability to participate in or benefit from Collin College's educational program or activity.
- Collin College's education program or activity includes:
  - Locations, events, or circumstances over which the institution exercises substantial control over **both** the respondent and the context in which the prohibited conduct occurred.
  - Any building owned or controlled by a student organization that is officially recognized by Collin College.

# Determining Responsibility (Cont.)

- Quid pro quo harassment, *Clery Act*, and *VAWA* offenses (i.e., dating violence, domestic violence, sexual assault, and stalking) are **not** evaluated for severity, pervasiveness, or offensiveness, or denial of equal educational access because such misconduct is sufficiently serious to deprive a student of equal access.
- If the allegation does not rise to the level of a *Title IX* violation, but the Appeal Decision Maker thinks it still should be addressed through another Collin College process, they can refer it to the appropriate process (e.g., Employee Complaint Process, General Complaint Process, Student Disciplinary Process).

# Potential Penalties

- The Appeal Decision Maker may impose the following penalties on a student respondent or other penalties, as appropriate:
  - Reprimand
  - Restitution
  - Educational Project Experience (EPE)
  - Conditional Probation for One (1) Calendar Year, Two (2) Calendar Years, or Three (3) Calendar Years
  - Suspension for One (1) Regular Long Semester (i.e., Fall or Spring), One (1) Calendar Year, Two (2) Calendar Years, Three (3) Calendar Years, or Four (4) Calendar Years
  - Recommendation for Expulsion (Note: The Appeal Decision Maker can recommend Expulsion. However, the College District President is the only entity at Collin College who can actually expel a student.)

# Potential Penalties (Cont.)

- The Appeal Decision Maker may impose the following penalties on an employee respondent or other penalties, as appropriate:
  - Coaching and Counseling
  - Written Disciplinary Action
  - Unpaid Administrative Leave
  - Recommendation for Termination (Note: The Appeal Decision Maker can recommend Termination. However, the College District President/Board is the only entity at Collin College who can actually terminate an employee.)

# Potential Remedies

- If the Appeal Decision Maker determines the respondent committed prohibited conduct, Collin College must effectively implement remedies for the complainant.
- Remedies are designed to restore or preserve the complainant's right to equal access to education.
- The Appeal Decision Maker has flexibility to recommend remedies they think will best address each incident of prohibited conduct and meet each complainant's needs.
- The appropriate Title IX Coordinator, Deputy Title IX Coordinator, or designee is responsible for ensuring the effective implementation of any remedies.

# Potential Remedies (Cont.)

- Remedies the Appeal Decision Maker can offer to a **student complainant** include, but are not limited to:

1. Campus Change
2. Class Schedule Change
3. Drop a Course Without an Academic Penalty
4. Increased Security and Staff Monitoring of Certain Areas of the Campus
5. Information Regarding and Referrals to the Appropriate Agency for a No-Contact Order, Order of Protection, Restraining Order, or Similar Lawful Order through a Civil, Criminal, or Tribal Court
6. Late Withdrawal from a Course
7. No Contact Directive Issued by Collin College
8. Referral to Appropriate Medical Facility
9. Referral to Appropriate Off-Campus Resources
10. Referral to Collin College Police Department and/or Local Law Enforcement Agency
11. Referral to Counseling Services
12. Specific Educational Programming for an Individual or Group
13. Student Employment Assignment Change
14. Student Housing Change (If Residing in Collin College Student Housing)

- Remedies the Appeal Decision Maker can offer to an **employee complainant** include, but are not limited to:

1. Drop a Course Without an Academic Penalty
2. Increased Security and Staff Monitoring of Certain Areas of the Campus
3. Information Regarding and Referrals to the Appropriate Agency for a No-Contact Order, Order of Protection, Restraining Order, or Similar Lawful Order through a Civil, Criminal, or Tribal Court
4. No Contact Directive Issued by Collin College
5. Referral to Appropriate Medical Facility
6. Referral to Appropriate Off-Campus Resources
7. Referral to Collin College Police Department and/or Local Law Enforcement Agency
8. Referral to Employee Assistance Program (EAP)
9. Specific Educational Programming for an Individual or Group
10. Work Schedule Reassignment

# After the Appeal (Cont.)

- The Appeal Decision Maker composes the *Appropriate Vice President or Designee's Appeal Determination*.
- The Appeal Decision Maker sends the following documents to the Complainant and Respondent **simultaneously** in electronic format or hard copy within **10 College District business days** of the Appeal:
  - *Appropriate Vice President or Designee's Appeal Determination*
  - *Appeal of Recommendation for Expulsion or Termination to the College District President or Designee Request Form* (if applicable)
  - Any Other Applicable Forms or Documents (e.g., *Permanent No Contact Directive Acknowledgment Form*)
- Make sure the appeal deadline is filled in on **both** the *Appropriate Vice President or Designee's Appeal Determination* and *Appeal of Recommendation for Expulsion or Termination to the College District President or Designee Request Form*, if applicable.
  - This deadline will be **4:30 p.m.** on the **tenth College District business day** after the date you send the documents to the parties.

# Calculating “College District Business Days”

- College District business days exclude:
  - Weekends (i.e., Saturdays and Sundays),
  - National holidays recognized by Collin College, and
  - College District closures.
- **Do not** count the day you send the documents.
- Examples:
  - If you send the documents on **Monday, October 2, 2023**, the parties will have until **4:30 p.m. on Monday, October 16, 2023**, to submit an appeal.
  - If you send the documents on **Wednesday, December 20, 2023**, the parties will have until **4:30 p.m. on Friday, January 12, 2024**, to submit an appeal due to the Winter Break.

# After the Appeal (Cont.)

- The Appeal Decision Maker's determination is final and non-appealable except when Expulsion of a student or Termination of an employee is recommended.
- **Only** in cases where Expulsion of a student or Termination of an employee is recommended, either the Complainant or Respondent may appeal the Appeal Decision Maker's determination within **10 College District business days**.
- The Appeal Decision Maker's obligation ends once the *Appropriate Vice President or Designee's Appeal Determination* becomes final or the Expulsion/Termination Appeal phase is initiated.

# Question & Answer Session

