

RULE VII: APPEALS FROM DECISIONS OF THE COMMITTEE ON ACADEMIC STANDING AND SUCCESS

A. Decisions Subject to Appeal

The following decisions of CASS are subject to appeal, and no others.

1. Rejection of a plan.
2. Imposition of particular conditions of probation.
3. Suspension, with or without conditions.
4. Dismissal.
5. Refusal to shorten the time for reapplication after dismissal or denial of readmission after the time specified in the rules or by CASS.

B. Grounds for Appeal and Standards of Review

The notice of appeal shall specify one or more of the following grounds for appeal, and no others.

1. The rejection of the student's plan by CASS was clearly unreasonable on the evidence before it.
2. The conditions of probation imposed or insisted upon by CASS are clearly unreasonable on the evidence before it.
3. CASS's conclusion that the student:
 - a. Lacks the abilities to complete the degree program; and/or
 - b. Has failed to satisfy terms of probation; and/or
 - c. Has failed to present a plan or has failed to present a feasible plan to CASS, in accord with the criteria of Rule VI-G(8); was clearly unreasonable on the evidence before it.
4. CASS's failure to shorten the time for reapplication or to readmit was clearly unreasonable on the evidence before it.
5. The student, without fault, was prevented from making a fair and accurate presentation, that such presentation could have materially affected the ultimate decision, and that CASS has unreasonably declined to reconsider or take other specific remedial action requested by the student. Newly discovered evidence may be the basis for an appeal on this ground. However, newly discovered evidence must be submitted at the earliest possible time to CASS. CASS, upon receipt of such evidence, must issue a written decision on whether to accept the evidence, and if accepted, whether the evidence warrants further proceedings or a modification of its decision.
6. A specified action of CASS was beyond its authority, contrary to these rules, illegal, or so arbitrary as to amount to an injustice, and that such action may have materially affected the challenged decision of CASS.

C. Notice of Appeal and Memoranda in Support or Opposition

1. To appeal a decision of CASS, a student must file a notice specifying with particularity the decision(s) appealed from and the grounds for the appeal.

2. The notice of appeal must be delivered to the Assistant Dean of Students within seven (7) calendar days of the written CASS decision and copies shall promptly be served by the appellant on the individual members of CASS.
3. The student may request counseling from the Assistant Dean of Students before submitting the required memorandum in support of the appeal (see next subdivision).
4. Within fourteen (14) calendar days of filing a notice of appeal (unless the time is extended in the sole discretion of the Assistant Dean of Students), the student shall file with the Assistant Dean of Students a written memorandum in support of the appeal, which shall contain:
 - a. Where permitted under Rule VI(J) and (L) the student appellant's choice of appealing to the faculty or the Appeals Panel;
 - b. The student appellant's argument in support of each specified ground of appeal; and
 - c. Any writings the student submitted to CASS which are not a part of CASS file.

The student appellant shall promptly serve copies of the memorandum on the individual members of CASS.

5. At any time before the Assistant Dean of Students prepares the file of the case for submission to the Appeals Panel or faculty, and in no case later than five (5) days before oral argument or the meeting at which the appeal is to be decided, CASS may file a reply memorandum in opposition to the appeal with the Assistant Dean of Students. In such case CASS shall promptly provide copies of the memorandum on the appellant.

D. Jurisdiction of Appeals and Status Pending Appeal

1. The Appeals Panel has exclusive jurisdiction of appeals under Rule (VII)(A)(1) and (2) above and Rule VII(H) below.
2. The Appeals Panel and faculty have concurrent jurisdiction of all other appeals from CASS, and the student may choose either body.
3. CASS may modify its decision until the Appeals Panel or faculty begin their hearing or deliberations and may treat the appeal documents as requests for modification.
4. An appeal does not stay the effect of a decision of CASS, and students who are permitted to sit in on classes pending an appeal of suspension or dismissal do so at their own risk.

E. Record on Appeal, Contents, and Preparation

1. The written portion of the record on appeal shall consist of:
 - a. CASS's file on the case.
 - b. Any other writings submitted by the student to CASS for consideration in making the decision appealed from and not made a part of the CASS file so long as they are attached to or incorporated in the student's memorandum in support of the appeal, provided CASS may object to inclusion of this material if it believes the information was not previously submitted to it.
 - c. The notice of appeal and memoranda in support and opposition.
2. The written portion of the record on appeal will be prepared and distributed by the Assistant Dean of Students, who may arrange its components in such a way as will best aid in consideration of the issues of the particular case.
3. The record on appeal also includes:

- a. Statements made during the argument of the appeal by appellant, appellant's counsel, or members of CASS, including their recollections about proceedings or inquiries of CASS which are not embodied in the written record.
 - b. Statements relevant to the stated grounds for appeal made during the argument of the appeal by faculty members about their recollections of communications with the student or CASS members.
 - c. Any other official, written records of UNH Franklin Pierce School of Law (UNH Law) (such as admissions records or decisions of a Conduct Code Council) expressly referred to during the argument of the appeal which are relevant to the stated grounds for appeal and of which the appellant panel or faculty chooses to take notice.
 - d. Any other evidence relevant to the stated grounds for appeal which is offered by the appellant or CASS before or during the argument of the appeal and which the Appeals Panel or faculty affirmatively decides to consider after request by the offering party.
4. Matter submitted under (3) above may be excluded on motion of either party or by the body hearing the appeal on its own motion, but matters such as weight, credibility or relevance should ordinarily be handled by argument rather than exclusion.

F. Oral Arguments of Appeals

1. If the student appeals rejection of a plan, conditions of probation or automatic dismissal under Rule VI(A)(3), the Appeals Panel may choose to decide the case on the written portion of the record without oral argument.
2. If a student or former student appeals failure to reduce the time for reapplication or denial of readmission, the Appeals Panel or faculty, as the case may be, may choose to decide the case on the written portion of the record without oral argument.
3. In all other cases the student is entitled to oral argument of the appeal at which the student may appear in person and/or by counsel of their choosing. Counsel need not be an attorney, but the appellant must bear any cost for counsel. The student may waive oral argument.
4. The date for oral argument will be set by the Assistant Dean of Students in consultation with the Chair of the Appeals Panel or the Facilitator/Moderator of the faculty. An argument shall be scheduled to allow at least one (1) week for review of all pleadings and the record unless the Assistant Dean of Students determines compelling personal circumstances dictate that an expedited hearing be held.
5. If the student does not waive oral argument, CASS may make an oral argument through one of its members. If CASS waives argument, it must have at least one member present to respond to questions from the appellate body.
6. The student appellant shall argue first, whether or not CASS filed a memorandum in opposition. The length of arguments and time for questions shall be in the discretion of the appellate body but in the usual case the parties will have no more than fifteen (15) minutes each for argument.
7. Neither party shall argue outside the evidence in the record unless it first requests and is granted permission to present new evidence. Such permission will be granted only if the evidence is material to the issue on appeal and was not available for inclusion in the record by the means provided in Rule VII(B)(5) or Rule VII(E)(3) of these rules through no fault of the offering party.
8. Oral argument shall be private. Only parties, counsel, the Assistant Dean of Students, and the appellate body may be present.

G. Decision of Appeals

1. Deliberations of the appellate body shall be private and confidential.
2. Members of CASS who participated in making the decisions from which appeal is taken are ineligible to participate in deciding the appeal. Any person present at the oral argument but ineligible to participate in deciding the appeal must leave the room before the decision-making process.
3. Decisions shall be reached by a majority vote of the members of the appeals body present and eligible to participate.
4. In regard to each decision appealed from, the appellate body shall:
 - a. Affirm the decision;
 - b. Vacate the decision and remand the case to CASS or a special committee with directions for further proceedings; or
 - c. Modify or reverse the decision appealed from in part or in whole.

H. Appeal From Automatic Dismissal

An appeal from an automatic dismissal is made to the Appeals Panel. The Appeals Panel may reinstate a student who has been automatically dismissed only if the student demonstrates by clear and convincing evidence that the student will meet the standards for graduation in their program.