

SECTION I

PART T STUDENT ~~COMPLAINT AND APPEALS~~ POLICY

1.00 Introduction

~~The role of the Colorado Commission on Higher Education, and the Colorado Department of Higher Education acting as its staff, is to act as an ombudsman and advise students on how to follow the policies and procedures for resolving complaints at the institution where they are or were enrolled. In almost every instance, the institution where the student is or was enrolled will determine appropriate action for both the student and the institution. Such decisions by the institution are binding and most often are not subject to further appeal to the Department.~~

This policy applies to students ~~currently enrolled at a~~ public ~~and private~~ institutions of higher education. ~~This policy~~ mandates that each ~~public and private~~ institution define and implement ~~complaint and~~ appeals processes to ~~hear-investigate~~ student ~~complaints and~~ appeals in a fair and expeditious manner. ~~It identifies student issues that are statutorily institutional decisions and for which the state may only investigate on procedural grounds and those that may be referred to the state and investigated on substantive grounds.~~ appeal board. ~~The full appeals process is effective immediately. The expedited appeals process is effective fall 2003. Possible outcomes of filing a complaint include, but are not limited to:~~

~~The student is told the state has no authority to investigate their complaint and is referred back to the institution or another organization.~~

~~The department upholds the institution's decision.~~

~~The department finds in favor of the student and works with the institution on a resolution.~~

~~The student is referred to the Colorado Attorney General's office, in cases where the student has retained an attorney or is threatening or abusive.~~

2.00 Statutory Authority

~~The state has authority to resolve student complaints or to take student appeals only in a limited number of instances as outlined below. Most student complaints and appeals are handled at the institution. Pursuant to Article 34, Title 24, C.R.S., issues complaints of discrimination based on race, color, religion, creed, national origin, ancestry, sex, physical or mental disability, sexual orientation (incl. transgender status), marital status, and retaliation for engaging in protected activity should be filed with the Colorado Department of Regulatory Agencies (DORA), Division of Civil Rights at www.dora.state.co.us/civil-rights. Also, in cases where the student filing the complaint is also an employee of the institution of higher education and the complaint involves the employer-employee relationship, this may trigger state or federal Whistleblower legislation and will be referred to the Colorado Attorney General's Office and any~~

appropriate federal agency. Similarly, if the student complaint involves disclosures of fraud; violations of laws, regulations, or ethical standards; or misuse of funds in the context of a college- or university-administered federal grant, this may also trigger federal Whistleblower legislation and the Department may report this violation to the grantor.

2.01 Public Institutions of Higher Education

Several sections in statute outline ~~the Commission's how~~ responsibility to ensure that the public higher education system ~~should be~~ designed to function for ~~the benefit of~~ students' benefit. ~~Its responsibilities~~ These statutory requirements ~~range from~~ include (but are not limited to) ensuring ~~that~~ the design of degree programs ~~offer the maximum range of opportunities and assistance to students to complete their courses of study and obtain their degrees in to permit graduation within~~ a reasonable ~~amount of~~ time [~~§23-1-108(13) C.R.S.~~]; ~~ensuring fair policies for students who transfer coursework between degree programs or between public institutions intra-institutional and inter-institutional transfer~~ [~~§23-5-122 C.R.S.~~]; ~~and enforcing assurances ensuring the requirements in to~~ the Student Bill of Rights [~~§23-1-1235 C.R.S.~~]. ~~The department may investigate student complaints and appeals on substantive grounds when related to one of the statutorily defined responsibilities of the Commission outlined above.~~ The Commission is directed to develop the broadest and simplest mechanisms possible to ensure student rights.

2.02 Private Institutions of Higher Education

In the case of non-public institutions, the Department is authorized to investigate complaints based on claims of deceptive trade practice as described in §23-2-104(4) C.R.S. The Department shall not have authority to consider complaints that infringe on the academic freedom, religious freedom, or question the curriculum content of a private college or university, religious training institutions, or seminary, except where the state has that authority, such as with educator preparation programs (§23-1-121, C.R.S.) and voluntary participation in Pathways (§23-1-125(5), C.R.S.).

3.00 Goals and Definitions

3.01 The ~~policy~~ goals of ~~CCHE's~~ the Commission's Student ~~Complaint and Appeals~~ Policy ~~include:~~ for students in public ~~colleges and universities~~ institutions of higher education is; to ~~help students understand their rights under Colorado law described in section 2.01 and to advise students on how to follow their institution's policies and procedures.~~ uphold the Students' Bill of Rights and other statutory goals for the public higher education system

3.02 The goal of the Commission's Student ~~Complaint and Appeals~~ Policy, ~~and~~ for students in

private ~~or proprietary colleges and universities~~ institutions of higher education is to help students understand their rights under Colorado law described in section 2.02, to advise students on how to follow their institution's policies and procedures, and to uphold statutory goals that prohibit deceptive trade practice.

~~To ensure that student issues are resolved in a timely and reasonable manner.~~

~~3.03 To inform students of the appropriate way to solve non-academic problems.~~

3.03 Terminology

3.03.01 The "Commission" means the Colorado Commission on Higher Education.

3.03.02 The "Department" means the Colorado Department of Higher Education, which acts as the staff for the Commission. ~~department~~

3.03.03 "Ombudsman" means a person who advises and attempts to help resolve complaints and problems, as between students and a university.

3.03.04 The "Institution" means the public, private non-profit, or private for-profit college or university where the student is or was enrolled.

3.03.05 A "student complaint" is a grievance filed in writing or online at an institution of higher education where the student is or was enrolled, or at the Colorado Department of Higher Education. A grievable offense is any alleged action which violates one of the areas of statute in sections 2.01 and 2.02 of this policy. It should be noted that for complaints that do not involve one of the statutes described in sections 2.01 and 2.02, in almost every instance the institution where the student is enrolled will determine appropriate action for both the student and the institution. Such decisions by the institution are binding and most often are not subject to further appeal to the Commission.
~~The Department may not act on a student complaint until the student has exhausted the institution's complaint and appeals processes. Failure to exhaust such remedies in a timely fashion as required under the institution's written policies shall be a bar to initiating a complaint or appeal with the Department.~~

3.03.06 A "whistleblower" is a person, usually an employee in a government agency or private enterprise, who makes a report to the public or to those in authority, of mismanagement, corruption, illegality, or some other wrongdoing.

~~3.03.05 A "student appeal" is the final recourse for a student to have a complaint heard by the Commission's appeal board if they are not satisfied with the Department's handling of or decision in regards to the complaint. The decision of the state appeal board is final.~~

~~3.03.06 "State Appeal Board" is an ad hoc board of 3 student representatives and 2 at large members of~~

~~the Commission and/or institutions of higher education not named in the appeal, all of whom are selected by the Commission.~~

~~3.03.0 “Substantive grounds” means that where a basis or cause for a complaint that is within the scope of an authority of the Commission as is statutorily defined, such that the Department may investigate the substance of a student’s claim to determine if a statute or policy was violated.~~

~~3.03.0 “Procedural grounds” means a basis or cause for a complaint or appeal that is premised upon a denial of procedural rights required by the institution’s policies and procedures, but are not substantive grounds as defined in section 3.03.07. where statute gives authority to an institution of higher education, (The Department may only investigate a student complaint brought on procedural grounds to ensure the institution followed its own procedures for handling the complaint in the first place, and . In these cases, the Department and Commission have no authority over the substance of the complaint.~~

4.00 ~~Role, Responsibilities, and Limitations~~ Pertaining to Student Complaints and Appeals

4.01 Responsibilities of the Student

4.01.01 To follow the institution’s complaints and appeals procedures within the institution’s required timeframe first and exhaust all opportunities for resolution at the institution. In the case of private institutions, “If a former student files a complaint, he or she must do so within two years after discontinuing enrollment at the institution,” per 23-2-104(2)(a), C.R.S.

4.01.02 After exhausting all opportunities for resolution at the institution, to file a written complaint with the Department in writing, via US mail, e-mail or online at <http://higher.ed.colorado.gov/Academics/Complaints/default.html> or via US mail or e-mail and that describes: (a) the basis for the complaint; (b) how the institution’s complaints and appeals process that was followed; and (c) what the institution’s final decision was (including copies of documentation)-; and (d) the desired resolution.

4.01.03 To give the Department written permission to investigate -communicate with the institution regarding the complaint, as well as written permission to review any personally-identifiable student education records which may pertain to the subject of the complaint on the student’s behalf.

4.01.04 To be clear about what the complaint is and what resolution is sought.

4.01.05 To provide the Department with the all requested documentation.

4.02+ Responsibilities of the ~~Commission~~ Department

4.02.01 To advise students on how to follow the policies and procedures for resolving complaints at the institution where they are or were enrolled ~~establish a protocol to determine whether any ensuing investigation should be pursued on procedural or substantive grounds.~~

4.02.02 To help students understand their rights under Colorado law ~~ensure the complaint or appeal is resolved in a timely and reasonable manner. To arbitrate unresolved student appeals that involve academic issues related to state policy. To facilitate resolution of other academic issues.~~

4.02.03 To modify state policies ~~and/or~~ request ~~that institutions to review, and if necessary,~~ modify their policies to try and prevent ~~persistent~~ student problems ~~from recurring.~~

4.02.04 To publicize its ~~complaint and appeal process policy~~ and to promote the publication of all institutions' complaint and appeal processes/policies.

~~4.01.05 To appoint members to the Student Appeals Board.~~

4.032 Responsibilities of the Governing Board of the Public Institution of Higher Education-

4.03.01 To ensure that its institution(s) complies with state law and policy regarding appeals, including the intent for students to have a timely and fair hearing.

4.03.02 ~~To develop~~ adopt student complaint and appeal procedures for its institution(s).

4.043 Role-Responsibilities of the Public Institution of Higher Education

4.04.01 To ~~hear-investigate~~ student complaints or appeals in a timely and unbiased manner. ~~In some most instances, an institution is the sole determinate of the substance of a student issue and the Department may only investigate on procedural grounds, for issues including but not limited to issues of:-~~

a) ~~Tuition Classification. The institution shall establish an appeals process and timelines to hear cases in which a student disputes tuition classification. The decision of the institution appeal board is binding.~~

b) ~~Graduate issues related to admission, thesis defense and comprehensive exams.~~

c) ~~Admission and graduation decisions.~~

d) ~~Issues related to decisions made by student government and student organizations.~~

e) ~~Financial Aid awarding policies at public institutions.~~

f) ~~Grading decisions and policies.~~

g) ~~Non-academic issues Student code of conduct, discipline, and safety issues not related to civil rights.~~

- h) Issues related to health insurance coverage.
- i) Billing holds on transcripts or registration.
- j) Academic freedom/academic integrity.
- k) Religious freedom.
- l) Curriculum content where the state has no statutory authority over the content of coursework.
- m) Whistleblower situations (must be handled by a federal agency or private lawyer).

4.04.02 ~~• At minimum, t~~The public institution shall ~~To~~ publish its complaint and appeal procedures and the Student Bill of Rights in appropriate prominent student publications, including, but not limited to the college-course catalog, student handbook, and on the college-its web-site. ~~Institutions shall notify CCHE the Department of its appeal procedures and identify the primary contact person for its various appeals processes.~~

4.05 Responsibilities~~sole~~ of the Private College or University~~Institution~~ of Higher Education

4.05.01 ~~To investigate student complaints or appeals in a timely and unbiased manner. The~~ ~~institution shall publish its complaint and appeal procedures in the course catalog, student handbook, and on its website.~~

4.05.02. ~~In the case of private institutions, T~~he Department has authority t~~To~~ investigate claims of deceptive trade practice only. Pursuant to §23-2-104(4), C.R.S. ~~it~~ is deceptive trade practice for:

- a. An institution or agent to make or cause to be made any statement or representation, oral, written, or visual, in connection with the offering of educational services if the institution or agent knows or reasonably should have known the statement or representation to be materially false, substantially inaccurate or materially misleading;
- b. An institution or agent to represent falsely or to deceptively conceal, directly or by implication, through the use of a trade or business name the fact that an institution is a school;
- c. An institution or agent to adopt a name, trade name, or trademark that represents falsely, directly or by implication, the quality, scope, nature, size, or integrity of the institution or its educational services;
- d. An institution or agent to intentionally and materially represent falsely, directly or by implication, that students who successfully complete a course or program of instruction may transfer the credits earned to any institution of higher education;

- e. An institution or agent to intentionally and materially represent falsely, directly or by implication, in its advertising or promotional materials or in any other manner, the size, location, facilities, or equipment of the institution, the number or educational experience qualifications of its faculty, the extent or nature of any accreditation received from any accrediting agency or association;
- f. An institution or agent to provide prospective students with any testimonials, endorsements, or other information that may materially mislead or deceive prospective students or the public regarding current practices of the institution;
- g. An agent representing an out-of-state school to represent, directly or by implication, that the school is authorized by the state of Colorado or approved or accredited by an accrediting agency or body when the institution has not been authorized, approved or accredited; and
- h. An institution to designate or refer to its sales representatives by titles that imply the sales representatives have training in academic counseling or advising if they do not.

4.05.03 To publish its complaint and appeal procedures, where to file a complaint with the Colorado Department of Higher Education, contact information for the institution's accrediting agency in prominent student publications, including, but not limited to the course catalog, student handbook, and on its website.

4.0645.0 — Appeals Procedures

5.01 — Role of CCHE's the State Appeal Board.

The Commission delegates its authority to hear student appeals to an appeal board. The ad hoc appeal board will include 5 members — 3 student representatives and 2 at-large members chosen by the Commission from the Commission and institutions of higher education not named in the appeal. Each appointment will be a two-year term. The appeal board will convene as needed during the academic year to resolve cases. In the case of public institutions, complaints appeals must be filed within two years from the date of the Department's or institution's final decision. In the case of private and proprietary institutions, the statute of limitations for filing an appeal is two years from the date of the Department's or institution's final decision per §23-2-104(2)(a) CR.S. Appeals that involve issues that are reserved for the institution will be considered on procedural grounds only. Appeals that involve issues that are within the Commission's authority may be considered on substantive grounds.

5.02 — Materials to be Submitted on Appeal. The appeals board will review submitted materials and will provide copies of such materials to the parties. , hear the student's appeal, and invite tThe institutional representative will have ten (10) days after receiving the student's written materials to respond and the student will have five (5) days after receiving the response to file any final reply. The appeals board may limit the length of responses and replies, in its discretion. The

~~appeals board may either make a decision based on the written record or may determine that a hearing is required.~~

~~5.03—**Hearings.** If the appeals board determines that a hearing is required, notice of the date, time and place of the hearing will be provided to the parties no less than ten (10) days in advance, and each party shall have the right to appear and be heard. A party may be accompanied by a representative of the party's choice, who may be an attorney; however, the representative will be present only to advise the party, and shall not otherwise participate in the hearing. Hearings will be conducted in an orderly fashion, without the application of formal rules of evidence or procedure. If a party desires to call any witnesses, it shall submit a witness list and brief description of the testimony to be presented not less than five (5) days prior to the hearing. Witnesses may provide a statement and may be questioned by the appeals board but shall not be formally examined or cross-examined by a party. The appeals board may limit or exclude testimony of witnesses, including that of the student and institutional representative, in its discretion.~~

~~5.03—**Determinations—Finality.** The board will determine appropriate action for both the student and the institution. Such decisions are binding and not subject to further appeal.~~

~~5.00—**Whenis**~~

~~Commission Appeal Process and Procedures~~

~~A student may appeal to the Commission by submitting a written request (letter or e-mail), or by consulting the Commission's Student Complaint Database (located on line at: <http://higher.ed.colorado.gov/ComplaintPolicy.asp>), and describing the issue and the steps the student has taken to resolve the issue. Eligible appeals (e.g., transfer, inter-institutional agreements) will follow the full appeal process. Appeals that involve state guaranteed transfer courses will be handled through an expedited process. Appeals that involve issues that are reserved for the institution will be referred to the appropriate authority.~~

~~5.01—**Full appeal process.**~~

~~CCHE will assist the student by identifying the institutional staff person or department that is in the best position to resolve the issue directly.~~

~~If an institution does not act on an appeal within thirty days of the date that the appeal is received or if the outcome appears inconsistent with state policy, a student may formally request a hearing by CCHE's Appeal Board for issues that are within CCHE's authority, CCHE will convene the board. It will request the involved institution to provide a 1-2 page rationale for its actions. The board will review the submitted material within two weeks and meet to hear the student's appeal. The board will recommend appropriate action. To implement the decision in a timely manner, the decision of the board will be~~

~~communicated to both the student and the institution. Such decisions are binding and not subject to further appeal. CCHE staff will respond to all other issues by letter.~~

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~~5.02—Expedited Appeal Process.~~

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~~An enrolled student who receives a transcript evaluation that does not award general education transfer credit for a “state guaranteed” general education course may appeal directly to the Commission. The disputed credit must be earned in a course in which the student received a C or better grade. The student must have enrolled in the course during the 2002-03 academic year or later. The Commission staff will resolve such cases within five business days.~~