

THE CITADEL
The Military College of South Carolina
171 Moultrie Street
Charleston, SC 29409

MEMORANDUM
NUMBER 2-028

25 August 2015

CADET APPEALS OF HONOR DECISIONS

1. PURPOSE

The purpose of this Memorandum is to describe the policy and procedures to appeal Honor Court decisions. The President of The Citadel is the appellate authority for honor cases.

2. REFERENCES

United States Constitution, Amendments IV and XIV

3. DEFINITIONS

N/A

4. POLICY

A. In accordance with the [Honor Manual](#), the President will only consider a grant of relief from a Honor Court decision on the following grounds:

1. New evidence, available since the Honor Court trial, which would indicate the findings of the court are in error;
2. Evidence that a cadet's rights were not protected, jeopardizing that cadet's right to a fair and impartial trial; or
3. An error in the trial proceedings of such magnitude as to jeopardize the fairness of the trial.

B. A cadet may appeal an honor decision by preparing an appeal to the President. The preparation and submission of the appeal, which must include grounds on which relief is being sought, is exclusively the responsibility of the cadet.

C. An appeal must include all materials necessary for the President to fully evaluate the appeal.

D. In cases in which an appeal alleges that significant evidence has been discovered since the Honor Trial that was not available at the time the decision was reached,

the appeal must include that evidence, or, if unavailable, a written description of such evidence in sufficient form as to fully apprise the President of the nature of the evidence and the material impact it would have had on the proceedings.

- E. The cadet must present the appeal to the Deputy Director of the Krause Center, on behalf of the Office of the President, within five (5) business days of the receipt of the President's decision that announces punishment. Requests for extensions beyond five (5) business days are at the discretion of the Deputy Director of the Krause Center, or his designee, and may only be granted in extraordinary cases. (Requests to accommodate the schedule or other needs of anyone involved in the preparation of the appeal are normally not considered "extraordinary cases.") Requests for extensions must be submitted in writing to the Deputy Director of the Krause Center by the cadet and must include the justification for the extension.
- F. The Deputy Director of the Krause Center, on behalf of the Office of the President, will send the appeal to the Honor Committee through the Faculty Advisor to the Honor Committee. The Committee will, within five (5) business days, review the appeal and prepare a response ("the Committee Response"). The Deputy Director of the Krause Center will provide a copy of the Committee Response to the cadet.
- G. The Deputy Director of the Krause Center, on behalf of the Office of the President, will appoint a Board of Review in accordance with [Annex A](#), consisting of a Vice-President, Dean, Associate Vice President, or Associate Provost (to serve as Chair of the Board of Review), a Battalion or Company Tactical Officer, and a representative of the faculty or staff. Additionally, a recorder, selected from the faculty or staff, and a cadet, selected from members of the Honor Committee who did not participate in the trial of the cadet making the appeal, will be appointed. These two individuals will serve as non-voting advisors to the Board of Review.
- H. Upon receipt of the Committee Response, the Deputy Director of the Krause Center will submit the appeal, the Committee's Response, and the Honor Court file (collectively, "the Materials") to the Board of Review.
 - 1. *Initial Review.* The Board of Review will review the Materials and decide whether the appeal warrants formal review by the Board, in accordance with the procedures prescribed in the HBOR Standard Operating Procedures, attached hereto as [Annex A](#). If the Board determines a formal review is warranted, the recorder will notify all parties. If the Board determines a formal review is not warranted, the Chair of the Board will forward this decision and the Board's findings and recommendations to the President in accordance with the template at [Annex B](#).
 - 2. *Formal Review.* If the Board elects to hold a formal review, it will do so in accordance with [Annex A](#), HBOR Standard Operating Procedures.

3. Upon conclusion of the formal review, the HBOR Chair will present the findings and recommendations of the Board of Review to the President in accordance with the template at [Annex B](#).
- I. The President will review the materials and the Board's recommendation. The President may:
 1. Grant the appeal;
 2. Modify the finding or punishment imposed; or
 3. Reject the appeal.
 - J. The decision of the President will be final.

5. COMPLIANCE

- A. A cadet's failure to timely submit an appeal will result in imposition of punishment, which will constitute the final action of the College in the matter at issue. The College will not consider or take action on any further requests by the cadet.
- B. Any other failure to adhere to the procedures contained herein will not constitute grounds for reversal or other modification of the punishment, or dismissal of the appeal.

6. NOTES

- A. Dates of official enactment and amendments:

Approved by the Executive Assistant to the President on 25 August 2015.

Amended 21 August 2015: [Annex B](#) – Template for Report of Honor Board of Review and minor corrections to Memorandum 2-028, [Annex A](#), [Annex B](#).

- B. Responsible Department:

The Krause Center for Leadership and Ethics

- C. Responsible Official:

Deputy Director, The Krause Center for Leadership and Ethics

- D. Cross-references:

[College Regulations](#)

[The Honor Manual of The SCCC, The Citadel, Current Edition](#)

7. RESCISSION

[Memorandum Number 2-28 Policy and Procedure for Cadet Appeals of Honor Decisions and Annexes A/B](#), 11 January 2013, approved 4 Jan 2013.

8. REVIEW

Biennial

FOR THE PRESIDENT:

OFFICIAL

//signed, TWS, 25 August 2015//
TAYLOR W. SKARDON
Captain, USN, Retired
Executive Assistant to the President

Attachments

[Annex A](#) – Honor Board of Review Standard Operating Procedure
[Annex B](#) – Template, Honor Board of Review Report

ANNEX A

Honor Board of Review – Standard Operating Procedures

1. COMPOSITION. An Honor Board of Review (HBOR) will be composed of:

- A. A Vice-President, Dean, Associate Vice-President, or Associate Provost, who shall serve as Chair.

The Chair shall be responsible for convening the HBOR in an expeditious manner, ruling on all substantive and procedural issues raised during the Appeal process, and delivering the HBOR report to the President.

- B. A Battalion or Company Tactical Officer.

- C. A representative of the faculty or staff.

1. If the Chair is a Vice President, the representative should be a faculty department head.

2. If the Chair is a Dean or Associate Provost, the representative should be a department director from the staff of the college.

- D. A non-voting recorder. The Recorder will assist the Chair, as directed. Such assistance may include scheduling the Initial Review, scheduling the Formal Review Hearing, notifying the parties of various HBOR actions, preparing correspondence to include the final report, and recording the Formal Review Hearing.

- E. A non-voting member of the Honor Committee who did not participate in the honor proceedings at issue in the appeal. The role of this cadet advisor is to provide explanation of Honor Court and Honor Committee procedures to the HBOR.

2. PROCEDURE

- A. Appointment. Upon receipt of an appeal from a cadet, the Deputy Director of the Krause Center will appoint an HBOR on behalf of the President. He/she will ensure that the HBOR receives sufficient copies of the file of the Honor Court, the appeal, and the Committee's Response.

- B. Initial Review. The Chair will convene the HBOR after its appointment to determine if the appeal warrants a hearing before the HBOR. Board members will focus on the issues raised by the appellant and whether or not these meet the grounds for an appeal as outlined in the [Honor Manual](#). After review and discussion of the materials, the HBOR will vote to either hold a formal review hearing or report to the

President that there are insufficient grounds for an appeal. The voting members of the HBOR will each have an equal vote in determining the merits of the appeal.

1. If the HBOR determines a Formal Review is warranted, it will identify, in writing, the issues to be considered. The Recorder will deliver this identification of issues to the appellant and the Honor Committee, through the Faculty Advisor to the Committee.
2. If the HBOR determines a Formal Review is not warranted, the Chair will forward this decision with recommendations in a report prepared pursuant to [2.D](#) below to the President.

C. Formal Review. If the HBOR determines that a Formal Review is warranted, it will conduct the hearing in the following manner:

1. The Chair, through the Recorder, will notify all parties of a convenient time and location.
 - a. The appellant will attend the hearing and make an oral presentation to the HBOR. The appellant may be assisted by up to two cadet representatives, but it is the appellant's responsibility to make the argument to the HBOR.
 - b. The Chair of the Honor Committee, or his/her designee, (hereafter "the Committee Representative"), will attend to present the Committee's response to the appeal, and to answer any questions concerning the case as it relates to the issues raised in the appeal.
 - c. Should one of the issues to be considered be the introduction of new evidence, the HBOR will rely solely on the written materials submitted with the appeal. The Committee Representative may present written descriptions of evidence in response no later than two business days prior to the hearing.
 - d. Except in extraordinary circumstances, as determined by majority vote of the HBOR during the Initial Review, the hearing will not include the questioning of live witnesses. Rather, the hearing will only consist of argument by the appellant and the Committee's Representative, and questions by the HBOR, as provided herein.
2. After opening the hearing, the Chair will allow the appellant to present and make argument on the issues in dispute. Members of the HBOR may ask questions of the appellant.

3. The Committee Representative may make argument in response to the appellant's argument. HBOR Members may ask questions of the Committee Representative.
 4. Either party may submit questions to the HBOR to be asked of the other party; the Chair of the HBOR will decide whether to ask the proposed question(s).
 5. After each party has been heard in full, at the discretion of the Chair, the HBOR will enter into closed session to conduct deliberations. This session will not be recorded. The findings and recommendation of the HBOR will be sent to the President in writing.
- D. Report. Upon conclusion of the Final Review Hearing, the HBOR will prepare a report to the President. The report must address the issues raised by the appellant, the findings and supporting rationale of the HBOR on each of the issues, and a recommendation for action on the appeal by the President. The HBOR may attach a minority report on any or all issues if the HBOR's findings or recommendations are not unanimous.
- E. Action by the President. The President will receive the Report of the HBOR and take action as he deems fit. The President is not bound by the findings, rationale, or recommendations of the HBOR; he makes his own determinations on each individual case.
3. **BASIS FOR APPEAL.** *The [Honor Manual](#)*, Section VII paragraph 35b, permits only three grounds upon which an Appeal may be granted:
- A. New evidence, available since the Honor Court trial, which would indicate the findings of the court are in error;
 - B. As defined in Paragraph 17 of the [Honor Manual](#), evidence that a cadet's rights were not protected, jeopardizing that cadet's right to a fair and impartial trial; or
 - C. An error in the trial proceedings of such magnitude as to jeopardize the fairness of the trial.
4. **GENERAL GUIDANCE FOR THE CONDUCT OF THE HBOR**
- A. The HBOR does not provide a second forum to retry each case; rather, it sits as an Administrative Board to address the issues raised by the cadet in the written appeal, provided those issues are within the guidelines of Paragraph 3 of this SOP. As a general rule, external courts are reluctant to interfere with the self-governance of colleges. Before taking serious disciplinary action against a student, a college must provide the student with notice of the charges against him or her and an opportunity to contest those charges. Furthermore, the college's decision must be

based on ample evidence such that the decision is not arbitrary. The charge of the HBOR is to determine if the College has met those obligations as they relate to the specific issues presented in the appeal.

B. In relation to the specific issues presented in the appeal, the primary questions for the HBOR to answer are as follows:

1. Did the college (in this case, the Honor Court) follow its rules, and in so doing, did it afford the appellant a fair hearing? This question deals only with how a decision has been reached, and not with the decision itself.
2. Was there evidence of substance that supports the Honor Court's decision?
3. Is there new information that was not available at the time the hearing took place? If so, is that information of such substance that it would likely produce a result more favorable to the cadet if heard by the Honor Court?

C. Attorneys and other attendees:

1. A request to have an attorney present must be made in writing to the Chair two days in advance of the Formal Review Hearing. An attorney may only act in an advisory role to the cadet. An attorney may not make argument at the hearing, ask questions of witnesses or board members, or in any other way actively participate in the hearing process. If the student has an attorney present as an advisor, the College may, at the discretion of the board Chair, have legal counsel present to advise the Board.
2. Upon request and consent of the appellant, the HBOR, in its discretion, may permit other persons to be present during the hearing.

D. Timeliness: The HBOR should keep in mind the importance its findings will have upon the cadet. Cadets accused and found in violation generally suffer a decline in academic performance, therefore, a timely resolution of the appeal benefits all parties.

1. The cadet has five business days to prepare an appeal after the decision by the President.
2. The HBOR should conduct an Initial Review within five business days of its receipt of the case.
3. If the HBOR elects not to hold a Formal Review Hearing, it should submit its report to the President within two business days of this decision.

4. If the HBOR elects to conduct a Formal Review Hearing, it should hold the hearing within five business days after this decision.
 5. The final report of the HBOR should be sent to the President within two business days after the Formal Review Hearing.
- E. Majority decision: All action taken by an HBOR shall be by majority vote.

ANNEX B



REPORT OF HONOR BOARD OF REVIEW

To: Lieutenant General John W. Rosa, USAF (Ret.), President, The Citadel

Date:

Subject: Appeal of Cadet _____ (CWID-_____)

1. **Introduction:** On _____, (day) (month) (year), an Honor Board of Review met to consider the appeal filed by Cadet _____. The Board did / did not elect to hold a Formal Review of the appeal. The Board of Review conducted the Formal Review on _____.
2. **Findings:** The Board concluded there were / were not grounds to recommend altering the decision in this case.
3. **Issues:** Cadet _____ raised _____ issues in his / her appeal. The Board concluded the following merited consideration:
4. **Discussion:**
5. **Recommendations:** (If applicable).

(Name)
(Rank), (SCM or Service)
Vice President, Dean
Assoc Vice President or Assoc Provost
Chair

(Name)
(Rank), (SCM or Service)
(Title), (Department)
Member

(Name)
(Rank), (Service)
Tactical Officer, (Unit)
Member

(Name)
(Rank), (Service)
(Title), (Department)
Recorder (*non-voting*)

(Name)
(Rank), SCCC
Honor Representative, (Unit)
Cadet Advisor (*non-voting*)

Action by the President: Having considered all materials and the Board of Review's recommendation in the appeal of Cadet _____, I:

____ Grant the appeal

_____ Reject the appeal .

_____ Modify the finding or punishment imposed: _____

Comments:

Signature _____

Date _____

John W. Rosa, Lieutenant General, USAF (Ret.)
President, The Citadel