Title IX & Other Sex- and Gender-Based Misconduct Policy Team

Overview of the Hearing Process
Report Received

Complainant notified and invited to participate in an initial interview

Supportive Measures Provided

Decline Investigation

Interim Removal – BIT

Student Appeal (Coordinator Determination)

Formal Complaint Filed - Respondent Notification

Request for Formal Investigation

Mediation

Hearing

Resolution

Hearing Panel Decision

Appeal – New Hearing Panel Determination

Sanctioning – Hearing Panel Determination

Title IX and Other Sex – and Gender – Based Misconduct Policy Violation Process

Process Flowchart
Supportive Measures

Offered to both parties

• (To the Complainant) after the institution receives "Actual Knowledge" of possible policy violations
• (To the Respondent) once this office receives a Formal Complaint

Non-disciplinary

• No disciplinary measures can be given before the investigation and grievance process is complete
## Emergency Removal

<table>
<thead>
<tr>
<th>Students:</th>
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<tr>
<td>• Only if a personalized assessment finds a critical and current threat to the safety or physical health of any individual that derived from the sexual harassment being alleged</td>
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<table>
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<tr>
<th>Employees:</th>
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<tr>
<td>• May be put on administrative leave</td>
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- Emergency Removals and Hearing Participation
Investigation

Preliminary investigation:

• Must establish the complainant
• if unclear in the report

Formal investigation:

• Starts with a “formal complaint”
• A notice in writing with comprehensive information
• Both parties have equal opportunities to:
  • Provide witnesses, expert witnesses, and evidence
  • Review all evidence from the opposing party
  • Review the pre-hearing written report
Informal Resolution/Mediation

Only permitted if/when
A formal complaint is filed; and
Both parties voluntarily submit written consent after obtaining a notice with details of the allegations and information about informal resolution process

Never allowed if/when
An employee allegedly sexually harassed a student or
A student was persuaded to participate in an informal resolution
Hearing Process

The process begins when a formal complaint is filed and

The complainant requests to move forward; or
The Title IX Coordinator determines there is a need to move forward

Notice of a hearing and related details must be provided to both parties, their advisors, and their witnesses. The notice should include:
- Date & Time
- Location
- Participants
- Purpose

Both parties and their advisors should be given adequate time to prepare for the hearing.
Pre-Hearing Meeting

• Prior to the live hearing, parties will have the option of scheduling a pre-hearing meeting

• Meeting used to clarify questions the party may have about:
  • The hearing and hearing procedures;
  • Logistics and decorum;
  • Clarify advisor's role; and
  • Go over potential questions to determine relevance.
Records

Hearings must be recorded or transcribed.

The records will be available to both parties for examination.

Either party can request for the live hearing to take place from separate locations.
Advisors

• The Hearing must include the opportunity to cross-examine to ask the opposing party and their witnesses “all relevant questions and follow-up questions.” Questions about their credibility are permitted.
  • Cross-examination must be performed by the party’s advisor.

• If a party does not have an advisor, the University must provide an advisor of the party’s choice with no cost to that party.
# Advisors, Decision-Makers, and Cross Examination

<table>
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<tr>
<th>Checkmark</th>
<th>Questions must first be evaluated by the decision-maker for relevance before being permitted.</th>
<th>Any rejected questions will be explained on the record.</th>
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<tbody>
<tr>
<td>Gear</td>
<td>Decision-maker(s) must be prepared to understand the relevance and explain the rationale for rejecting questions.</td>
<td>Such decisions will be challenged.</td>
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<tr>
<td>Cross</td>
<td>If a party or witness does not participate in the hearing and/or chooses not to submit to cross-examination, exclude their prior statements when determining a finding.</td>
<td>Do not draw negative inferences from the failure to participate, only from the evidence that is or is not available!</td>
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</tbody>
</table>
Decision-Makers & Hearing Panel

- The decision-making panel members will be appointed and trained by the University.

- Decision-maker(s) do not present questions and/or consider evidence about the complainant’s previous sexual experiences unless such evidence is related to the incident in question.

- Decision Makers cannot permit related questions during the complainant's cross-examination that do not meet this standard.
Decision Makers will submit a written conclusion to all parties at the same time for each alleged violation of the policy, including:

- The exact section(s) of the code that was allegedly violated
- A detailed account of each step taken during the process
- Specific summary of all “findings of fact” that support the finding
- Determinations based on applying the “findings of fact” to the accuses violations
- The rationale regarding each allegation, finding, sanctions, and interim measures
- Information about the appeals process and the basis for the appeal
- Offer all appeal rights equally to all parties including to appeal the first dismissal of the case as not being under Title IX jurisdiction.
• We will use the *Preponderance of the Evidence* standard

• This standard will be held consistently in all cases, regardless of the status of the respondent

• The burden of proof of compiling relevant evidence rests on the university

• Assume the alleged did not break University policy until a finding is made
 Appeals

• Grounds for appeal:
  
  • **Procedural irregularity** that impacted the finding
  
  • **New evidence** that was not accessible at the time the dismissal or finding was made, that may impact the finding
  
  • **A conflict of interest** or **bias** with any officials in the process that may have impacted the determination
Q & A

Questions, comments, or concerns?