

Hearing Procedures and Rules of Decorum

Pre-Hearing Procedures

The Investigator will send a copy of the report to the Parties and their Advisors at least 10 days prior to any hearing for each Parties' review and written response.

The Investigator will prepare an investigative report that fairly summarizes all the relevant evidence. The investigative report should include a description of all steps taken in the investigation as well as summaries of all interviews with parties and/or witnesses and all relevant evidence reviewed by the Investigator. The Investigator will make all evidence that is directly related to the allegations available at the grievance hearing.

At the conclusion of the Investigation and 10 day review of all evidence by the Parties and their Advisors, the Investigator will notify the Parties the investigation has concluded. The Investigator will send the final investigation report to the:

- Complainant
- Complainant's Advisor (if selected)
- Respondent
- Respondent's Advisor (if selected)
- Hearing Officer

If either Party has not yet selected an Advisor they must select an Advisor or one will be assigned to them by the Hearing Officer at least 3 business days prior to the hearing.

The Investigator will ask each Party if either objects to meet in the same room for a face-to-face hearing. If either Party objects to a same room hearing, the Hearing Officer will be notified by the Investigator to make arrangements for a virtual, live hearing.

Once the Hearing Office (HO) receives the investigation report the HO will issue Notice to all Parties and Advisors (Complainant, Respondent, Advisors, Witness(es) and the TIX Coordinator) at least five (5) college business days before the scheduled hearing.

- The HO will reserve the rooms for the hearing and ensure technology is secured, if required.
 - If the parties do not agree to meet face-to-face a virtual meeting will be available.
- The HO will ensure the technology is available for the recording of the hearing.

The Notice will include:

- Hearing date, time and location
 - If meeting virtually the following rooms will be made available for use
 - Room 1: Complainant, Complainant's Advisor, and/or witnesses
 - Room 2: Respondent and Respondent's Advisor and/or witnesses
 - Room 3: Hearing officer

Hearing Procedures and Rules of Decorum

– Room 4: Title IX Coordinator

- A copy Hearing Procedures and Rules of Decorum
- Deadline to submit the Advisor and Witness names to the HO which shall be at least three (3) days prior to the hearing date
- The requirement and deadline to submit each Party's (Complainant and Respondent) written list of all questions to be asked of all Parties and witnesses during cross examination at least one day prior to the hearing.
- Pre-Hearing Conference date, time and location for the Party and their Advisor
 - The HO meets with the Party and Advisor in order to review the Hearing Procedures and Rules of Decorum and address any questions prior to the hearing

Rooms Fitted with Technology for Virtual TIX Hearings:

- Newton Hall Conference Room
- McDonald Hall 350
- Davidson 124
- Offices of individual staff members (Investigator or Hearing Officer) may also be used

Hearing Procedures and Rules of Decorum

Hearing Procedures

For all live hearings conducted under this Title IX Grievance Process, the procedure will be as follows:

- Hearing Officer will open the meeting and establish rules and expectations for the hearing
 - Notify all parties the hearing is being recorded
 - Introduction of Hearing Officer
 - Introduction of Complainant, Advisor, and any Witnesses
 - Introduction of Respondent, Advisor, and any Witnesses
 - Introduction of neutral Party Witnesses
 - Introduce Title IX Investigator (who may provide evidence, testify or call witnesses)

- Recap the purpose of the hearing and the hearing procedures including the following:
 - No Party shall be questioned directly by the other Party.
 - Advisors must abide by the Hearing Procedures and Rules of Decorum in questioning Parties and Witnesses.
 - Any Advisor who does not abide by the Hearing Procedures and Rules of Decorum will be warned or dismissed from the hearing at the discretion of the Hearing Officer.
 - An Advisor may request clarification of hearing procedures at any time by addressing the Hearing Officer.

- The Hearing Officer will present an overview of the case
 - HO will prepare and read a summary of the case using the investigation report
 - HO will define the 'preponderance of evidence' as the standard of proof

- Each Party's Advisor will be given an opportunity to provide a 3-minute opening statement
 - HO prompts Complainant's Advisor to provide opening statement
 - HO prompts Respondent's Advisor to provide opening statement

- The Hearing Officer asks their highly relevant questions of the Complainant and Respondent to keep the hearing shorter. These questions should not be duplicated or asked again later in the hearing by either Party.

- Parties will be given the opportunity for live cross-examination after the Hearing Officer conducts their initial round of highly relevant questioning. The HO at that time will explain:
 - No Party shall be questioned directly by the other Party
 - The Party's own Advisor may ask questions directly to their own Party
 - The Advisor will use the questions submitted and approved to be relevant by the HO during cross examination
 - After cross examination has concluded, the Advisor will be able to ask follow up questions of all parties.

Hearing Procedures and Rules of Decorum

- The question will be presented to the HO who will state whether each question is relevant before the question is answered by the party or witness to whom it is directed. The HO must explain any decision to exclude a question as not relevant. Questions or evidence that are deemed irrelevant by the Hearing Officer will be excluded from the hearing. The Hearing Officer's determination of relevance after the explanation of relevance is final.
- Hearing Officer calls Complainant's Advisor to begin cross examination
 - Complainant's Advisor asks questions of Respondent (previously approved by HO for relevance)
 - Complainant's Advisor asks questions of the Respondent's witnesses (previously approved by HO for relevance)
 - The Complainant's Advisor may ask any follow up questions
 - The HO must determine whether each question is relevant and the question must be asked and the HO must determine if the question is relevant before the Respondent or Witnesses respond
- Hearing Officer calls Respondent's Advisor to begin cross-examination
 - Respondent's Advisor asks questions of Complainant (previously approved by HO for relevance)
 - Respondent's Advisor asks questions of Complainant's witnesses (previously approved by HO for relevance)
 - The Respondent's Advisor may ask any follow up questions
 - The HO must determine whether each question is relevant and the question must be asked and the HO must determine if the question is relevant before the Respondent or Witnesses respond
- Hearing Officer asks any follow up questions of the Complainant or Respondent
- The following types of evidence are considered irrelevant:
 - Evidence that is not pertinent to proving whether a fact material to the allegation is more or less likely to be true;
 - Information that is protected by privilege (e.g. attorney-client privilege);
 - Any Party's medical, psychiatric, psychological, or counseling records without that Party's voluntary, written consent;
 - Any information about the Complainant's sexual predisposition or prior sexual behavior, unless it is offered to prove that someone other than the Respondent committed the behavior alleged in the formal complaint or offered to prove consent.
- Objections are only allowed by Parties to challenge the relevance of the question or ruling.

Hearing Procedures and Rules of Decorum

- Questions challenging credibility may be included and considered relevant.
 - During each Party's cross-examination, the HO will have the authority to pause cross-examination at any time for the purposes of asking the HO's own follow up questions; and any time necessary in order to enforce the established Rules of Decorum.
 - New evidence is not permissible. The Investigator must make all evidence available at any hearing to give each Party an equal opportunity to use the evidence.
 - If new evidence becomes available, the hearing will stop and the new evidence will be referred back to the Title IX Investigator for further investigation.
 - A Complainant or Respondent must answer all relevant questions.
 - Formal rules of evidence shall not apply.
 - Should a Party or the Party's Advisor choose not to cross-examine a Party or Witness, the Party shall affirmatively waive cross-examination through a written or oral statement to the HO. A Party's waiver of cross-examination does not eliminate the ability of the Hearing Officer to use statements made by the Party.
- If a Party does not have an Advisor at the hearing, Crowder will provide one to conduct cross-examination.
 - The Hearing Officer cannot draw an inference about the determination regarding responsibility based solely on a Party's or witness's absence from the hearing or refusal to answer questions during the hearing, including cross examination.
 - The Parties will each be given the opportunity to provide a 3-minute closing statement
 - HO prompts Complainant's Advisor to provide a closing statement
 - HO prompts Respondent's Advisor to provide a closing statement
 - Remind Parties of any supportive measures in place and the time frame for the written determination
 - Remind Parties the college prohibits retaliation.
 - Conclude the hearing.
 - The Hearing Officer will remind all Parties that a written determination will be issued regarding whether the Respondent is responsible for the policy violations alleged in the Formal Complaint within five (5) College business days of the conclusion of the hearing.

Hearing Procedures and Rules of Decorum

Rules of Decorum

Title IX hearings are not civil or criminal proceedings and are not designed to simulate formal trial proceedings. Rules of Decorum require that all Parties, Advisors, and institutional staff treat others who are engaged in the process with respect.

The rules and standards apply equally to all Parties and their Advisors regardless of sex, gender, or other protected class, and regardless of whether they are in the role of Complainant or Respondent.

The following Rules of Decorum are to be observed in the hearing and applied equally to all Parties (meaning the Complainant and Respondent) and Advisors:

1. Questions must be conveyed in a neutral tone, with questions designed to elicit factual information, rather than to accuse or attack a Party/Witness.
2. Parties and Advisors will refer to other Parties, Witnesses, Advisors, and College staff using the name and gender pronouns used by the person and shall not intentionally misname or misuse gender pronouns in communication or questioning.
3. Hearing participants shall interact with each other in a respectful manner during all proceedings, and refrain from any abusive, threatening, retaliatory, or intimidating behavior and/or language.
4. The College has the right to apply the Student Code of Conduct to any participant during the hearing.
5. While an Advisor may be an attorney, no duty of zealous advocacy should be inferred or enforced within this forum.
6. The Advisor may not yell, scream, badger, or physically “lean in” to a Party or Witness’s personal space. Advisors may not approach the other Party or Witnesses without obtaining permission from the Hearing Officer.
7. The Advisor may not use profanity or make irrelevant personal attacks upon a Party or Witness. Questions are meant to test knowledge or understand a fact; they may not include accusations within the text of the question.
8. The Advisor may not ask repetitive questions. This includes questions that have already been asked by the Hearing Officer, the Advisor in cross-examination, or if this is the institutional process the Party or Advisor in direct testimony. When the Hearing Officer determines a question has been “asked and answered” or is otherwise not relevant, the Advisor must move on.
9. Parties and Advisors may take no action at the hearing that a reasonable person of the affected Party would see as intended to intimidate that person (whether Party, Witness, or official) into not participating in the process or meaningfully modifying their participation in the process.
10. Where an Advisor asks a relevant question in a manner that violates the Rules, such as yelling, screaming, badgering, or violating to the Witness or Party’s personal space, the question may not be deemed irrelevant by the HO simply because of the manner it was delivered. Under that circumstance, the HO will notify the Advisor of the violation of the Rules, and, if the question is relevant, will allow the question to be re-asked in a

Hearing Procedures and Rules of Decorum

respectful, non-abusive manner by the Advisor (or a replacement Advisor), should the Advisor be removed for violation of the Rules.

Objections to Relevance of Testimony or Evidence

Only the Complainant or Respondent may raise objections to the relevance of testimony or evidence. Such objections must be directed to the Hearing Officer, who will determine whether the testimony or evidence is relevant and should be admitted or irrelevant and, thus, inadmissible.

Warning and Removal Process

All participants shall follow the instructions of the Hearing Officer with regard to the conduct of the proceedings. The Hearing Officer shall have sole discretion to determine if the Rules of Decorum have been violated. The Hearing Officer will notify the offending person of any violation of the Rules.

Upon a second or further violation of the Rules, the Hearing Officer shall have discretion to remove the offending person or allow them to continue participating in the hearing or other part of the process.

Where the Hearing Officer removes a Party's Advisor, the Party may select a different Advisor of their choice, or accept an Advisor provided by the College for the limited purpose of cross-examination at the hearing. Reasonable delays, including the temporary adjournment of the hearing, may be anticipated should an Advisor be removed. A Party cannot serve as their own Advisor in this circumstance.

The Hearing Officer shall document in writing the removal of any participant in the hearing for the violation of the Hearing Procedures and Rules of Decorum.

For flagrant, multiple, or continual violations of this Rule, in one or more proceedings, Advisors may be prohibited from participating in future proceedings at the College in the Advisor role on a temporary or permanent basis.

Evidence of violation(s) of the Hearing Procedures and Rules of Decorum will be gathered by the Hearing Officer and presented to the Title IX Coordinator.

- The Advisor will be notified that they will no longer be allowed to act as an Advisor in future hearings.