

HEARING PROCEDURE

Timing

The University will provide Parties with notice of a hearing date after the Title IX Coordinator has receipt of the submission of the final investigative report.

The notice will include the date, time, and location of the hearing. The notification will also provide logistical matters, hearing procedures, and the appointed Decision Maker(s).

If a party objects to the Decision Maker(s) based upon a conflict of interest, the party must provide written notice to the Title IX Coordinator, identified in the notice letter within two business days from the hearing notification, explaining the conflict of interest. The Title IX Coordinator will make a determination regarding the merits of the alleged conflict of interest. Parties will have at least ten business days to prepare for the hearing from the date they receive notice of the hearing date and the final investigative report. Parties may waive their right to ten (10) business days' notice in writing to the Title IX Coordinator, if they choose.

Pre-Hearing Meetings

The Decision Maker(s) and/or the Title IX Coordinator will offer a pre-hearing meeting opportunity to the Parties during the ten (10) day review period. This meeting is to answer any final questions that a party might have, explain the procedures, and review the expectations. This meeting does not include discussing details and/or issues with the formal complaint.

Title IX Hearing Process Procedures

The Decision Maker(s) will oversee the hearing process and the Title IX Coordinator, or designee, shall act as a hearing coordinator. All hearings must be live hearings with audio, audiovisual, and/or transcript recordings of the hearing must be created and made available for all Parties to review upon request. At the start of the hearing, the Decision Maker(s) will open the hearing and provide information to both Parties about the procedures. If a party does not have a Process Advisor present at the hearing, the University will provide one to conduct cross-examination on behalf of that party. A University-appointed Process Advisor may or may not be an attorney and will be provided at no charge to the party.

Parties may:

- Appear in person or virtually, to present their view of what took place to the Decision Maker(s) and may call witnesses on their behalf.
- Request to be in separate rooms during the hearing.
- Elect not to appear before the Decision Maker(s). Should a party elect not to appear, the hearing shall be held in their absence.
- Refuse to answer questions asked by the Decision Maker(s) or the other Parties Process Advisor.

Process Advisor Participation in Hearings

Process Advisors may participate in the hearing to ask questions of the other party or witnesses. This part of the process is not to embarrass, blame, humiliate, or emotionally berate a party, but rather to ask questions that probe a party's narrative to give the Decision Maker(s) the fullest view possible of the evidence relevant to the allegations.

During the resolution hearing, the Decision Maker(s) will notify the Process Advisor when they can ask questions. Questions should pertain specifically to the allegations being reviewed and may not be asked repeatedly throughout the process. Decision Maker(s) have the right to stop a question from being answered and will provide rationale for why the question is not permitted.

Process Advisors may not ask questions that rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

Process Advisors must remember that the University process is not a legal process, and hearings are not intended to be adversarial in nature and/or unduly legalistic. Intimidation or contentious behaviors will not be tolerated. In circumstances where the substance of a question is relevant, but the manner in which a Process Advisor attempts to ask the question is harassing, intimidating, or abusive (for example, the Process Advisor yells, screams, or physically 'leans in' to an individual's personal space), the University may appropriately enforce rules of decorum that require relevant questions to be asked in a respectful, non-abusive manner.

The Decision Maker(s) reserves the right to stop the hearing and warn a Process Advisor if their behavior is problematic. If the behavior persists, the hearing may be stopped and rescheduled allowing the Respondent the opportunity to select a Process Advisor. If this occurs, the party will be afforded three (3) business days to prepare and select a new Process Advisor. If they cannot obtain a new Process Advisor, the University will provide one.

Evidence

All evidence considered by the investigator, discussed in any party's final response or that any party intends to present at the hearing must be made available to all Parties at the hearing.

Cross-Examination

A party's Process Advisor is permitted to cross-examine the other party and any witnesses. Before a Complainant, Respondent, or Witness answers a cross-examination question, the Decision Maker(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Reporting Party's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

Parties and witnesses are not required to submit to cross-examination or otherwise participate in the Title IX grievance process; however, refusing to participate in the hearing or cross-examination may impact the Decision Maker's ability to consider evidence. The Decision Maker(s) cannot draw an inference about the determination regarding responsibility based solely on a party or witness's absence from the live hearing or refusal to answer cross-examination or other questions. Information may still be considered with appropriate weight if a party chooses not to participate in all or part of the formal resolution process, including a hearing or its cross-examination process. The Decision Maker(s) may not make any decisions about a party's credibility based on their decision not to participate in a hearing or submit to cross-examination.

Cross-examination that may reveal faulty memory, mistaken beliefs, or inaccurate facts about allegations does not mean that the party answering questions is necessarily lying or making intentionally false statements. The degree to which any inaccuracy, inconsistency, or implausibility in a narrative provided by a party or witness should affect a determination regarding responsibility is a matter to be decided by the Decision Maker(s), after having the opportunity to ask questions of Parties and witnesses, and to observe how Parties and witnesses answer the questions posed by the other party's Process Advisor.