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Title IX Hearing Panel Training

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What We Will Cover

- Title IX Process
 - What happens before a hearing
 - The Hearing Process
 - What happens after a hearing: The Appeals Process
- Main Distinctions between Oglethorpe Policies and General TIX Policies



1. Formal Complaint Filled
2. Notice of Allegations
3. Complaint Review
4. Investigation
5. Investigative Report Review by Parties
6. Investigative Report Review by Title IX Coordinator

The Title IX Process: Before

The Title IX Process: Pre-Hearing

Pre- Hearing Steps:

- Hearing Panels are made up of three impartial individuals who are trained to adjudicate Title IX complaints.
 - Can be members the Faculty or Staff
 - EXCEPTION: for cases with faculty Respondents
 - Hearing Panels will be made up of elected members of the Faculty Hearing Committee.
 - Conflicts of Interest?
- Date, Time and Location Secured
 - Remote?
 - Appropriate, private, and provides sufficient space for the Parties to confer and the witnesses to wait.
- Official hearing notice is sent to the Complainant and Respondent,
 - Parties must confirm attendance or provide a written request within 48 hours of receipt if there is valid reason to reschedule.
 - Parties will inform the Title IX Coordinator the name of their Advisor who will also be attending, or if they will elect to have a University Advisor instead.
 - Parties will also be required to indicate which Witnesses they intend to call for the hearing at this time.
- Hearing Panel will typically convene prior to the start of the hearing to review the investigative report and prepare questions

The Title IX Process: The Hearing

Introduction

Opening Statements

Hearing Panel Questions

Cross Examination of the Parties

Witnesses

Hearing Panel Follow Up Questions

Closing Statements

Dismissal and Deliberation



Introduction: Hearing Rules and Decorum

- The Hearing Officer will make introductions and explain the hearing process.
- The Hearing Officer is charged with administering the hearing, deliberations, and the appeals process.
- The Hearing Officer does not vote or make any determination of responsibility.
- Any attendee who wishes to speak during a hearing must first be recognized by the Hearing Officer.
- No interruptions will be tolerated. The Hearing Officer may remove any individual who is speaking out of turn or becoming disruptive.
- Brief breaks may be requested throughout the hearing by the Complaint, Respondent, or the Hearing Panel.

The Complainant may make the first opening statement. The Respondent may follow with their opening statement.

Opening Statements

Hearing Panel Questions

- One of the two investigators will present the investigation report to the Hearing Panel.
- The Investigator will then be available to answer questions of the Hearing Panel.
- The Hearing Panel may ask questions of the Complainant. Thereafter, the Hearing Panel may ask questions of the Respondent.

Cross Examination of the Parties: Process

- The Hearing Officer will recognize the Complainant's Advisor to cross examine the Respondent and the Respondent's Advisor to cross examine the Complainant.
 - Each Party's Advisor is able to ask the investigator, other Party and any Witnesses all relevant questions and follow-up questions, including those challenging credibility.
 - The cross-examination must be conducted directly, orally, and in real time by the Party's Advisor and never by a Party personally.

Cross Examination of the Parties: Considerations

The Decision-makers can consider statements made by parties or witnesses that are otherwise permitted under the regulations, even if those parties or witnesses do not participate in cross-examination at the live hearing, in reaching a determination regarding responsibility in a Title IX grievance process. (14.3.7)

The Decision-maker can consider statements made by the parties and witnesses during the investigation, emails or text exchanges between the parties leading up to the alleged sexual harassment, and statements about the alleged sexual harassment that satisfy the regulation's relevance rules, regardless of whether the parties or witnesses submit to cross-examination at the live hearing. The Decision-maker can also consider police reports, Sexual Assault Nurse Examiner documents, medical reports, and other documents even if those documents contain statements of a party or witness who is not cross-examined at the live hearing.

Cross Examination of the Parties: Relevancy

The Hearing Officer will make an oral determination of relevance of all questions, as follows:

- If the question is relevant, the Hearing Officer will state “yes” and the Complainant, Respondent, or Witness should proceed to respond.
- If the question is not relevant, the Hearing Officer will state “not relevant.” The Hearing Officer will explain to the Advisor the decision to exclude the question. The Complainant, Respondent, or Witness should not respond to the question. The Advisor will then be directed to proceed with the next question.

CATEGORIES NOT RELEVANT FOR CROSS-EXAMINATION

- RAPE SHIELD
- PRIVILEGED INFORMATION





Witnesses

- The Hearing Officer will determine the order of Witnesses and the order of the questioning of the Witnesses.
- The Hearing Panel, Complainant Advisor and Respondent's Advisor will each have the opportunity to separately ask any relevant question of each Witness.

Hearing Panel Follow Up Questions & Closing Statements

The Hearing Panel may ask any remaining questions of either Party.

Closing Statements. The Complainant may make a closing statement. The Respondent may follow with a closing statement.

Deliberation- Finding of Responsibility

- The Hearing Panel will deliberate in private to determine if any violation(s) of policy occurred.
- The decision of the Hearing Panel is decided by a majority vote, and responsibility will be determined based on **a preponderance of the evidence**.
- The Hearing Panel will base its decision solely on the participants' statements, the investigative report, information presented at the hearing, and University policy and procedure.
 - When there is more than one alleged code violation, the Hearing Panel will evaluate each charge separately.
- “Responsible” or “Not Responsible.”

Deliberation- Sanctions & Remedies

The Hearing Panel will make a determination of appropriate sanctions and/or remedies based on the facts of the case.

The Hearing Officer and Title IX Coordinator may also be present at deliberations to consult and ensure sanctions are consistent with relevant policies and historical institutional practices.

Multiple sanctions may be imposed depending on the number and severity of responsible findings in each case.

Sanctions that may be imposed, but not limited to:

- Warnings
- Social probation, which may include restriction from particular buildings, areas of campus, and/or University
- Restriction from participation in University athletics;
- No-contact orders
- Educational requirements focused on substance use, anger management or other issues
- Mandatory counseling
- Residential restriction
- Expulsion
- Behavior contracts
- Temporary suspensions
- Demotions
- Changes to their job description and/or responsibilities;
- Termination
- Or any other sanction permissible under the Employee Handbook.

Remedies awarded to the Complainant are designed to restore or preserve equal access to University programs or activities. These remedies typically include the same individualized services described as Supportive Measures in this policy; however, remedies may be disciplinary, punitive, and burden the Respondent.

After the Hearing: Notification

After a decision; the Parties will be provided with a simultaneous written decision letter detailing the findings, sanctions, and remedies as determined by the Hearing Panel.

The letter will include the process and deadline for submitting an appeal by either Party

After the Hearing: Appeals Process

- Grounds for an Appeal:
 - Procedural irregularity that affected the outcome of the matter
 - New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; or
 - The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter; or
 - The sanctions or remedies were not appropriate for the specific policy violation for which the Respondent was found responsible, or did not sufficiently restore access to University programs or activities for the Complainant.

Questions?

