



Title IX Hearings: Guidelines for Parties, Process and Resolution

Barring an outright dismissal and unsuccessful appeal of the dismissal of a formal complaint by the Title IX Coordinator, and barring a successful informal resolution of any Title IX complaint where permitted, formal Title IX complaints are to proceed to a live hearing before a hearing officer or hearing board, post investigation, and pre-resolution, of the allegations contained therein.

All Hearings will adhere to definitions of violations of the College's Title IX Policy, a Preponderance of the Evidence Standard, a Presumption of Non-Responsibility on the part of the respondent, and a commitment to Confidentiality during the hearing process on the part of decision makers.

All Hearings will be conducted live, or virtually live at the request of either party to the complaint, by a hearing officer, with the support of advisors to the parties, with witnesses, and will be organized as follows:

A. Recording of Live Hearings

1. All proceedings will be recorded for purposes of preserving the record for appeal, and a written transcript of the proceedings will be made available to both parties shortly thereafter.
2. By participating in the hearing, all parties to the hearing are deemed to have consented to the recording of their voices and images in accordance with Pennsylvania law.

B. Advisors and Selection of Advisors

3. Complainants and respondents alike are entitled to have their own advisor during the course of the hearing. These advisors may include attorneys or other professionals, hired at the party's expense.
4. Notice of the identity and contact information (name, address, telephone number, email address) of the chosen advisors, including attorneys, will have to be presented to the Title IX Coordinator seven (7) working days before the scheduled hearing.
5. If no notice of advisors are given, the College will assign trained advisors to one or both parties to the dispute, and at no charge to the parties.
6. Both parties will have an opportunity to comment and respond to the investigative report, with their comments and responses duly noted in the final report. The final report has to be accessible to the hearing officer or hearing board, and both parties and their advisors ten (10) working days in advance of the hearing.
7. Notice of hearing date, time, and place, and notice of all parties to the hearing including advisors and witnesses, will be communicated in writing to all parties seven (7) working days in advance of the hearing date.

C. Role of Advisors and Protocol for Advisors

1. The role of advisors is to provide support to the complainant and respondent respectively.
2. With permission of the persons they represent, advisors may present information or argument directly to the Hearing Officer.
3. Advisors may also ask direct questions and participate in cross-examination of the opposing party, provided that each question is reviewed, in real time, by the hearing officer, for a ruling on relevance and other concerns of permissibility (rape shield law; duplicative, etc.)
4. Selected Advisors and all parties to the complaint are to sign a non-disclosure agreement in advance of the hearing, in order to participate in the hearing and to comply with privacy considerations under the Family Educational Rights and Privacy (FERPA) Act.
5. Advisors are permitted, with permission of the persons they represent, to be present at the entire hearing. The hearing officer may exclude advisors that are perceived to be non-compliant with basic rules of decorum or who are otherwise disruptive of the hearing process.

D. Hearing Officer – Selection and Role.

1. The College will select a trained hearing officer and that hearing officer will preside over the hearing, and make decisions on evidence to be presented and questions to be asked. The College reserves the right to hire a trained hearing officer from an external organization. Information about the Hearing Officer will be given to the parties five (5) working days prior to the hearing.
2. No hearing officer is also either an investigator or an advisor in the same case.
3. The Hearing Officer may question and ask follow up questions of all witnesses.
4. The Hearing Officer controls the hearing insofar as the hearing officer presides over the conduct of all parties to the hearing, all witnesses and all evidence presented.
5. The Hearing Officer may include any testimony deemed relevant and permissible by law, and where the probative value of such testimony is not exceeded by its prejudicial effect.
6. The Hearing Officer will make the final decision as to responsibility for the alleged violations and issue a final report as to whether or not the respondent is responsible or not responsible for the alleged violation of Title IX within five (5) working days of the closing of the hearing.

E. Hearing Officer Decision Appeals Process.

1. The final resolution as presented by the hearing officer is subject to written appeal by either party within five (5) working days of the final decision presented.
2. The appellate officer, in the case of a student's appeal, is the Executive Director of Human Resources or trained designee.
3. The appellate officer, in the case of an employee's appeal, is the Vice President of Student Services or trained designee.
4. Written appellate decisions will be issued to the parties in writing no later than ten (10) working days of the receipt of the written appeal.

F. Witness Protocol: Notice, Selection, and Permissible Testimony

1. All parties to the complaint are permitted to present both fact and expert witnesses during the hearing.
2. The identities and contact information of all witnesses are to be presented to the Title IX Coordinator at least seven (7) working days before the scheduled hearing. This information may be presented together with the required information concerning selected advisors.
3. Any party to the complaint that wishes to present expert witness testimony must provide all other parties and the Title IX Coordinator with notice of that intention no later than seven (7) working days before the scheduled hearing date.
4. Notice of all expert witnesses must include name and contact information, a copy of the witness's resume including a statement of all publications over the past ten (10) years, a statement of the compensation to be provided to that witness if any, a statement of opinions and exhibits that the expert witness intends to offer at the hearing, if any.
5. At the hearing, the hearing officer may be permitted to require further explanation of the role of the expert witness and may exclude or limit the scope of any contemplated testimony if deemed irrelevant or more prejudicial than probative vis-a-vis the case at hand.

G. Evidence Standard and Burden of Proof.

The standard of evidence that is used in all Title IX hearings, and in all hearings at the College that involved conduct code violations and other policy violations, is the Preponderance of the Evidence Standard. This is the standard that whereby the decision maker, upon review of the evidence, determines that it is "more likely than not" that the violation occurred as alleged by the complainant.

The College bears the burden of establishing the proof of a preponderance of the evidence. Neither the respondent nor the complainant are responsible for providing proof of responsibility or non-responsibility. The College's responsibility for establishing the proof using the preponderance of the evidence standards, is due to the fact that the College is directly responsible for establishing the sanctions for a violation of the College's own policy.

H. Permissible Evidence.

1. Evidence that may be presented at the hearing is all relevant evidence.
2. Relevant evidence is that which tends to make a fact asserted more likely than not to have occurred.
3. Any witness or party statement that is not subject to cross-examination will not be considered by the hearing officer or panel in reaching a determination.
4. Evidence that is in violation of the Rape Shield Law, which is all evidence about a complainant's sexual predisposition or prior sexual behavior, is not relevant and therefore inadmissible.
5. Exceptions to the Rape Shield Law is evidence to prove identity or mistaken identity, or evidence of prior sexual behavior between the parties that is only offered to prove consent.

6. The decision maker or hearing officer will assess and determine the credibility of all relevant evidence and give the evidence its due weight.
7. The hearing officer decides on the relevance of all evidence to be presented, and before it is presented.

H. Decision by Hearing Officer.

1. The hearing officer issues a written decision as to whether the respondent is responsible for the alleged violations of Title IX.
2. The written decision will be issued within five (5) working days of the conclusion of the hearing.
3. The Hearing Officer's written decision will include the following:
 - i) description of the allegations that could amount to a Title IX violation
 - ii) description of all procedural steps from receipt of formal complaint to the determination, including all notice provisions, all interviews with parties and witnesses, site visits, evidence gathering methods and hearings.
 - iii) Factual findings that support the determination of the hearing officer
 - iv) Rationale for the result as to each allegation contained in the complaint
 - v) Determination of responsibility as to each allegation contained in the complaint
 - vi) Any recommended disciplinary sanctions and any remedies designed to restore or preserve equal access to the College's education programs or activities.
4. The Title IX Coordinator will be responsible for ensuring the implementation of any recommended remedies for the complainant.
5. The Title IX Coordinator will ensure that the written decision is provided to both parties simultaneously.
6. The Title IX Coordinator is responsible for all written notification requirements to both parties from receipt of formal complaint to written decision to notice of appeal, if any, and written notice of decision of appeal.
7. Decisions as to recommended sanctions will be held in abeyance and pending the opportunity for appeal of the decision within five (5) working days of receipt of the decision, and response to that appeal.

I. Remedies and Sanctions

The College will follow the recommendations of the hearing officer except upon good cause and a written explanation thereof. The sanctions may include any or all of the above for a respondent found responsible of violating the College's Title IX policy:

- i) warning, verbal or written
- ii) no contact order
- iii) mandatory training
- iv) mandated counseling
- v) probation, suspension, expulsion
- vi) suspension or termination from employment

J. Record Preservation.

The College will maintain any and all records related to any formal complaint alleging a violation of the College's Title IX policy for a period of seven (7) years from the date of the complaint that was filed.

The College will post all training received by its advisors, hearing officers, investigators and Title IX Coordinator on the College's website and will update this information as needed.

K. Timelines and Deadlines:

The Title IX Coordinator is responsible for adhering to all timelines, extending them for good cause, and providing written notifications to all relevant parties throughout the process of an alleged Title IX policy violation and its resolution.

1. Initial written notice of investigation to the parties will be provided within three (3) working days of the formal complaint being filed
2. The Investigation and investigative report is due to the parties within twenty (20) working days of the formal complaint being filed
3. Responses to the investigative report is due from the parties ten (10) working days after the report is delivered
4. The final investigative report with comments from the parties will be due to the Title IX Coordinator five (5) days thereafter
5. The live hearing will be scheduled to be held no less than ten (10) days of the final report being delivered to all parties
6. The written hearing report will be due within five (5) working days of the conclusion of the hearing
7. The written appeal to the decision of the hearing officer will be due within five (5) working days
8. The written decision to the appeal will be issued within ten (10) days thereafter
9. The entire grievance process will conclude, barring extensions for good cause with notice provided to the parties, within 75 days of the filing of the formal complaint
10. Any informal resolution of the complaint will precede, and not be counted, towards the timeline of 75 days from the filing of the complaint.
11. An extension of time may be granted at any point in the process by the Title IX Coordinator upon a showing of extenuating circumstances or good cause, and be promptly communicated thereafter to both parties by the Title IX Coordinator.