



**HEARING PROTOCOLS
AND
RULES OF DECORUM**
*Title IX, Sexual Violence, Sexual Harassment
and Related Offenses*

Civility and respect are important principles that guide the University's hearing process. Rudeness and incivility can make it difficult or impossible for the parties to present their accounts of events and for the decision-maker to reach a fair determination regarding responsibility. Accordingly, the University has established the following protocols and rules of decorum to facilitate a fair, productive and efficient hearing. The protocols and rules of decorum apply equally to all parties involved in the matter.

Participation in the Hearing:

- Try to arrive early for the hearing and provide advance notice if you are going to be late.
- Silence your cell phone before the hearing.
- The hearing will be recorded. Consent to record the hearing is required of all participants. Remember to answer questions verbally and describe documents you may reference or objects you may point to during the hearing.
- The parties may not directly address each other or the witnesses. All communication must be directly to the procedural advisor to the hearing panel or decision-maker.
- Be polite. Even though the hearing may involve statements and questions that are difficult for the parties and/or witnesses, they will be presented respectfully. Courtesy and respect to others makes it easier for people to listen to each other.
- Business casual or business attire is encouraged for a hearing to support presentation before the decision-makers.

Hearing Protocols:

- If any party objects to the participation of a decision-maker based on bias or conflict of interest, those objections should be made in advance of the hearing.
- The parties may offer opening and closing statements. These statements may be submitted in writing and/or presented orally by either the party or their advisor.
- The university will designate a single decision-maker for matters involving an employee. Where the matter involves students, the university will select a three-member panel of decision-makers, two members drawn from faculty and staff communities and a student.

- At the university's discretion, the faculty or staff member on the panel will serve as the chairperson of the panel and make determinations regarding whether questions posed by party-advisors are relevant for cross-examination.
- The parties will be invited to provide their questions in writing to the decision-maker in advance of the hearing to aid in the efficiency of relevance determinations during the hearing.
- If the decision-maker determines that a question is not relevant, a brief decision will be provided during the hearing and may be supplemented after the hearing. The advisors may discuss the relevance determination with the decision-maker during the hearing, but only one time. Thereafter, if the decision-maker determines the question is still not relevant, the advisor must move on to a different question.
- The decision-maker or chairperson will make determinations on a question-by-question basis regarding whether questions posed by party-advisors are relevant for questioning. A relevant question will be pertinent to proving whether facts material to the allegations are more or less likely to be true. Information that is not directly connected to the incident will generally be irrelevant.
- Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the Complainant's prior sexual behavior are offered to prove that someone other than the Respondent committed the conduct alleged, 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.
- Information protected by a legally recognized privilege and any party's medical, psychological, or similar records are not relevant, unless the party has given voluntary, written consent for the records to be used in the grievance process.
- A question is irrelevant if it is duplicative of a question that was asked and answered and will be excluded. This includes questions that are duplicative of those asked by the decision-maker and the advisor during cross-examination. If the decision-maker determines that a question has been "asked and answered", the advisor must move on to a different question.

Rules of Decorum:

Questioning a party or witness in a harassing, bullying, intimidating or ridiculing manner is prohibited.

The decision-makers will ask parties or witnesses questions during the hearing, subject to these rules of decorum.

Each party's advisor is permitted to conduct cross-examination or ask questions of a party or witness, subject to these rules of decorum. Cross examination must be conducted *by the party's advisor* and never by a party personally. Cross-examination must focus only on questions that are relevant to the allegations in dispute.

Prohibited Behavior:

- Outbursts, interruptions or ridicule of any party or participant.
- Directing obscenity or profanity at a party or participant.
- Threatening or abusive language.
- Yelling, screaming, or physically "leaning in" to the witness's personal space while questioning the witness.
- Any other disorderly conduct that disrupts, disturbs or otherwise impedes the orderly conduct of the hearing.
- Attacks on a person's sex, race, color, religion, sex, age, national origin, sexual orientation, gender identity or expression, physical or mental disability, marital status, veteran's status, genetic information or political orientation.
- Demonstrations in support or opposition to a speaker or statement (i.e. someone rolling their eyes or hitting the table with their hand when another person is speaking).
- Conversations, interruptions or other conduct that causes undue delay to the hearing or disturbs any other person who has been recognized to speak.
- Refusing to follow instructions of the procedural advisor to the hearing panel or decision-maker. If a participant believes the procedural advisor to the hearing panel or decision-maker is acting improperly, the participant must still follow the instructions even if the participant disagrees with the instructions. *After the hearing*, if a party believes the hearing was conducted improperly, the party may file an appeal to address that behavior.

Enforcement of Decorum by the Decision-Maker:

If the decision-maker determines that a rule has been violated, enforcement should be reasonably proportionate to the violation. Possible responses *could* include:

- Instructing the person to immediately stop engaging in the prohibited behavior.
- Explaining the rule and cautioning the person to follow it.
- Warning the person about the consequences for not abiding by the rule.

- If the violation is significant or if the conduct has continued even after a warning, the decision-maker may:
 - Order the person to leave the hearing (and continue on with the hearing).
 - Call a recess to the hearing and continue at a later time or date.
- A violation of these rules may result in separate misconduct charges for that violation.

Confidentiality:

Private information should be protected. Student conduct or employee disciplinary actions are confidential and may involve highly sensitive or private information. Parties have a right to expect that information disclosed at the hearing will remain confidential. Failure to honor the confidentiality of a hearing may result in additional misconduct charges. Non-students and non-employees who participate in hearings are also required to agree to maintain the confidentiality of the hearing. All participants present at the hearing will be asked to abide by and sign an honesty and confidentiality agreement.

May 17, 2021