

*Start recording/Be sure recording has started*

**I. Introduction**

Hello everyone. We are recording and now considered on the record.

It is approximately [TIME] on [DAY OF WEEK], [MONTH/DATE/YEAR]. If you have not already done so, please turn off or silence your cell phone or any other device that may create a distraction. Can everyone please confirm, on the record, your cell phone and any other device other than the one using to access this proceeding are turned off?

- COMPLAINANT
- COMPLAINANT'S Advisor
- COMPLAINANT'S Support Person
- RESPONDENT
- RESPONDENT'S Advisor
- RESPONDENT'S Support Person
- HEARING COORDINATOR
- INVESTIGATOR(S)

**Commented [A1]:** If present for the hearing.

Thank you.

My name is [HEARING OFFICER NAME] and my pronouns are [PRONOUNS]. I am serving today as a hearing officer and the moderator of the hearing. Today's hearing is being recorded and the recording of this hearing will be used in any deliberations of today's hearing or, if applicable, any appeal. This recording is the sole recording of today's hearing. This recording is the property of this institution and no other recording of this proceeding is permitted. Any other recording of today's hearing is considered unauthorized and prohibited. Either of the parties may request access to the audio of the recording prior to the appeal. If you are not comfortable with [VIDEO CONFERENCE PLATFORM] or have any questions, please use the chat box to write to [HEARING COORDINATOR] so that it can be addressed. Can everyone please confirm, on the record, that you are comfortable proceeding with [VIDEO CONFERENCE PLATFORM]?

**Commented [A2]:** Remove for in person hearing.

We will start with introductions of everyone present today. When I recognize you, please share your name, your pronouns and how you would like others to refer to you throughout these proceedings.

- I will start. My name is [HEARING OFFICER NAME] and I use [HEARING OFFICER PRONOUNS] pronouns. I am the *hearing officer/hearing panel chair* for today's hearing.
- [INTRODUCTIONS BY OTHER PANEL MEMBERS, IF APPROPRIATE.]
- Next, I will ask [HEARING COORDINATOR NAME], who is present to support the orderly facilitation of today's hearing, to introduce himself/herself/themselves? *[introduction]*.
- Would the Respondent(s) introduce himself/herself/themselves? *[introduction]*.
- Would the Respondent's advisor introduce himself/herself /themselves? *[introduction]*.
- Would the Complainant introduce himself/herself/themselves? *[introduction]*.
- Would the Complainant's advisor introduce himself/herself/themselves? *[introduction]*.

- Would the Investigator(s) introduce himself/herself/themselves? *[introduction]*.

Commented [A3]: If present at this point in the hearing.

## II. Privacy

This is a closed administrative proceeding and not a legal proceeding. In order to protect the privacy of the Parties and the integrity of this process, the Complainant, Respondent, witnesses, advisors and support persons participating in the hearing are asked to not communicate by any means or method with any witness outside of the *videoconference/hearing* room nor to disseminate by any means or method information shared and/or learned during the hearing to anyone outside the *videoconference/hearing* room during the course of these proceedings.

Do you agree not to record the hearing, communicate with any witness during the course of the hearing, and to not disseminate information shared or learned during the hearing during the course of these proceedings? I need a verbal response for the recording.

- COMPLAINANT
- COMPLAINANT'S Advisor
- RESPONDENT
- RESPONDENT'S Advisor

Thank you. The Complainant, Respondent, Advisors and Support Persons have verbally agreed to not record the hearing, communicate with any witness during the course of the hearing, and to not disseminate information shared or learned during the hearing during the course of these proceedings.

## III. Notice of Allegations

The hearing today is being held to determine if the Respondent, [RESPONDENT NAME] engaged in conduct that violated the [POLICY NAME]'s prohibition against [PROHIBITED BEHAVIOR] as *that term/those terms* are defined in the policy.

Specifically, the Complainant has alleged that... [INSERT ALLEGATIONS].

[COMPLAINANT NAME] -- I understand that you have received a copy of the College Title IX Policy and have had the opportunity to review it and ask questions.

Is this correct? I need a verbal response for the recording.

[RESPONDENT NAME] -- I understand that you have received a copy of the College Title IX Policy and have had the opportunity to review it and ask questions.

Is this correct? I need a verbal response for the recording.

Prior to this hearing you were both provided with a copy of the Investigator's preliminary report.

Is this correct? I need a verbal response for the recording.

- COMPLAINANT
- RESPONDENT

Prior to this hearing you were both offered the opportunity to review and respond to the evidence gathered and attached to the Investigator’s preliminary report.

Is this correct? I need a verbal response for the recording.

- COMPLAINANT
- RESPONDENT

I understand that you are aware that you are permitted to explore a resolution to this complaint without a hearing – through an Informal Resolution.

Is this correct? I need a verbal response for the recording.

- COMPLAINANT
- RESPONDENT

If at any point during the proceedings, you decide that you might want to revisit this option, please ask for a break so that you can speak with the Title IX Coordinator and further explore this option. Do you have any questions about this?

- COMPLAINANT
- RESPONDENT

**Commented [A4]:** Only if process allows for informal resolution AND the institution wants to offer it again at this time.

**IV. Standard of Proof**

The standard of proof for today’s hearing is “a preponderance of the evidence.” The “preponderance of the evidence” standard means that is “more likely than not” that a violation of the policy occurred based on all of the relevant information provided.

**Commented [A5]:** This section is written using the preponderance standard. Please update this section if using clear and convincing.

In this matter, if I decide that the allegations are not substantiated and that the Respondent did not violate the [POLICY NAME] policy, it does not mean that the incident did not occur, it just means that there was not enough evidence for me to conclude that it is more likely than not that it occurred, as reported. Likewise, if I decide that allegations are substantiated and that the Respondent violated the [POLICY NAME] policy, that does not mean that it definitely happened, it just means that the evidence establishes that it is more likely than not that it happened.

**V. Hearing Decorum**

Before the hearing progresses further, I want to discuss with you the expectations for this hearing, how the hearing will progress, and give you an opportunity to ask any questions about the process.

Both the Complainant and the Respondent are expected to be available to participate for the full duration of the hearing. Once the hearing begins, absent any extenuating circumstances, the hearing will proceed regardless of participation.

This is a closed process meaning that it is not open to anyone other than the participants identified, including parties, advisors, and witnesses. It is the expectation that everyone keep their video active during the proceeding, not including breaks. Additionally, it is the expectation that everyone keep their audio muted except when speaking as an approved and designated part of this proceeding.

**Commented [A6]:** Update with institution-specific language.

It is important for everyone to have a shared understanding that documents presented as part of this process, including the investigation, hearing, and appeal process, are presented for review only and may not be copied or distributed in any form. Behaviors against the spirit of this directive may be considered retaliatory and subject to disciplinary action.

Prior to today's hearing the parties and their advisors were provided a copy of the *College/University's* Rules of Decorum document, were asked to review it, and were invited to submit questions about the expectations set forth therein.

Have each of you received and reviewed the Rules of Decorum?

- COMPLAINANT
- COMPLAINANT'S Advisor
- RESPONDENT
- RESPONDENT'S Advisor

Does anyone have questions regarding the expectations set forth in that document?

I would like to assure the parties and their advisors of my intent to follow the rules of decorum set forth in the decorum policy and I expect that you all do the same. I further assure you that I intend to enforce the rules. If I determine that a participant has violated the Rules of Decorum, I will first notify the offending person of the violation. Upon a second or further violation, I may remove the offending participant. Any decision to remove a participant will be documented as part of the written determination regarding responsibility.

Advisors are responsible for conducting cross examination on behalf of their respective party. Advisors are not permitted to otherwise speak during today's proceedings. During cross examination, advisors may respectfully ask questions of the other party or witnesses so long as [the Panel/I] determine that those questions are relevant in making a determination in this matter.

Complainant or Respondent (not their advisor) may request a brief break to confer with their advisor.

Simply let me know that you are requesting a break and we will go off the record for that purpose. Please take particular care to mute the audio when conferring with your advisor. Please note that you may not take a break after a question is asked until that question has first been answered.

**Commented [A7]:** Specify how to ask for a break - email, chat, raising hand, etc.

**Commented [A8]:** Remove for fully in person hearings.

If *I/the panel* determine that a participant has violated the Rules of Decorum, I will first notify the offending person of the violation. Upon a second or further violation, I may remove the offending participant. Any decision to remove a participant will be documented as part of the written determination regarding responsibility.

**VI. Format of the Hearing**

The parties have had an opportunity to review and respond to the TIX Investigative Report and all of the evidence directly related to the allegations in formal complaint prior to the hearing. I have received and reviewed the Investigative Report and all of the directly related evidence and the parties' responses thereto. The Report and evidence is accepted by me as evidence in its final form, but it is not conclusive and all determinations of fact will be made independently me.

At the conclusion of my opening remarks, which are in process now, we will move into testimony. Please note that everyone present today is expected to present true and honest information.

The Investigator will go first. The investigator will begin by providing a brief statement summarizing the evidence. If I have questions, I will then pose those questions. After I have finished posing any questions that I have, the parties' advisors will be provided an opportunity to question the investigator. We will begin with Complainant's advisor and will conclude with Respondent's advisor.

**Commented [A9]:** If Investigator(s) are not present, or participating only as a witness, remove from script.

Next, the Complainant will have an opportunity to provide testimony. If Complainant chooses to participate, they will be questioned first by me. Following my questioning of the Complainant, the Complainant may supplement the information provided during my questioning with a brief statement. Respondent's advisor will then be permitted to ask all relevant cross examination questions of the Complainant.

Next, the Respondent will have the opportunity to provide testimony. If Respondent chooses to participate, they will be questioned first by me. Following my questioning of the Respondent, the Respondent may supplement the information provided during my questioning with a brief statement. Complainant's advisor will then be permitted to ask all relevant cross examination questions of the Respondent.

Following Respondent's opportunity to testify, witnesses will be called to provide testimony one at a time in an order determined by me. Witnesses will be present only during their questioning. Each witness will be questioned, initially, by me. Following my questioning, the parties' advisors will be provided an opportunity to question the witness. We will begin with Complainant's advisor and will conclude with Respondent's advisor. We may also have follow up questions from me, or from either Advisor. Then that witness will leave, and the same process will be repeated with the next witness. Please note that the hearing officer reserves the right to ask questions at any point throughout this process.

At the conclusion of all testimony, each party will be given a brief final opportunity to address me regarding any outstanding issues of fact and to submit for my consideration the facts, inferences, and conclusions which the party contends may be properly drawn from the evidence presented.

I will conclude the hearing by making closing remarks.

#### A Note on Cross Examination

At this time I would like to offer further guidance on cross examination. As stated earlier, the parties' advisors will be permitted to ask the other party and witnesses all relevant questions at a time and in a manner deemed appropriate by me.

Only relevant questions may be asked of a party or a witness during cross examination. The following information is irrelevant and questions that aim to elicit such information will not be allowed:

- Information about the Complainant's sexual predisposition or prior sexual behavior, except where the information is offered:
  - To show that someone other than Respondent committed the conduct alleged, or
  - To show Complainant's prior sexual behavior with Respondent and is offered to demonstrate consent;

- Information protected by a legally recognized, and un-waived privilege;
- Duplicative information.

Before a party or witness responds to a question posed by an advisor, I will first determine whether the question is relevant. When I determine that a question is not relevant, I will state my reasoning for the record.

When I determine that a question is irrelevant, the party or witness should refrain from answering the question and the advisor should move on to their next relevant question.

The parties and their advisors are prohibited from objecting to questions or my rulings during the hearing. If a party feels that a particular ruling is incorrect, the appropriate forum to raise that concern is on appeal.

Impact of Not Submitting to Cross Examination

**IF USING EXCLUSIONARY RULE:** University policy, in accordance with federal law, prohibits me from relying upon any statement made by a party or witness who declines to submit, either in whole or in part, to questioning by a party’s advisor, in my final determination. If you do not answer one of the permitted questions on cross-examination, then none of your statements, including those made to the investigator, or those associated with evidence that was provided by you or someone else, can be considered when I make my decision.

**IF NOT USING EXCLUSIONARY RULE:** In the event that any party or witnesses refuses to attend the conduct conference or attends but refuses to fully submit to questioning by the parties’ advisors, the testimony of that party or witnesses, as the case may be, whether given during the investigation or during the conduct conference, will be given appropriate evidentiary weight by the hearing officer in reaching a determination of responsibility. In applying this section, the hearing officer will not draw an inference about the determination regarding responsibility based solely on a party or a witness’s absence from the hearing and/or refusal to submit to questioning by the parties’ advisors.

Please remember that the advisors are bound by the same rules as the parties regarding conduct. I reserve the right to excuse anyone whose behavior is disruptive to the hearing process, and I will provide sufficient warning prior to taking such action.

Are there any questions regarding the process for this hearing? Since this proceeding is being recorded, please try to remember to identify yourself before you speak.

**VII. Opening Statements**

My opening instructions are now complete. Does either party have any questions at this time?

[COMPLAINANT NAME], are you ready to proceed?

[RESPONDENT NAME], are you ready to proceed?

Opening Statements

Each party will now have the opportunity to make a brief opening statement, should they choose to do so.

[COMPLAINANT NAME], do you wish to make an opening statement? If so, you may proceed.

[COMPLAINANT MAKES OPENING STATEMENT]

**Commented [A10]:** Only if your process/procedure permits closing statements.

Thank you.

[RESPONDENT NAME], do you wish to make an opening statement? If so, you may proceed.  
[RESPONDENT MAKES OPENING STATEMENT]

### **VIII. Testimony of the Parties**

We will now move into testimony from the parties.

#### Complainant's Testimony

I have questions for the Complainant.

Would the Complainant like to provide testimony?

In a few moments, I am going to ask you a series of questions. After I conclude my questioning of you, the parties' advisors may also ask you a series of questions. Your honesty when answering questions during today's proceedings is both expected and appreciated. During our questioning of you, please do let us know if you need us to repeat, rephrase, or clarify anything. Additionally, if you don't know the answer to a question posed, or if you are unsure of your answer, it is ok to tell us that. Do you have any questions before we begin?

*{pause for questions}*

*{Hearing officer directly questions the Complainant}*

I have concluded my questioning of the Complainant.

Does the Respondent's advisor wish to cross examine the Complainant?

Is the Complainant willing to participate in questioning by Respondent's advisor?

In a few moments, questioning by Respondent's advisor will begin. The Respondent's advisor is reminded that they should limit their questions to those questions that are relevant. After each question is asked, I will make a determination of relevancy. If I determine that the question is relevant, the complainant may answer it. If I determine that the question is irrelevant, the Complainant should not answer. I will state my reasoning and then Respondent's advisor should ask their next question. Both advisors are reminded the rules during questioning and of the Rules of Decorum. Finally, please remember that I may ask questions at any time, including during questioning by the advisor and my questions will take precedence.

Respondent's advisor, you may begin your questioning of Complainant.

*If the Hearing Officer has additional questions:*

I have additional questions and will ask them now.

*After the Hearing Officer's follow up:*

Does Respondent's advisor have follow up questions?

*Once concluded:*

Thank you for your testimony. Please mute your microphone.

**Commented [A11]:** Videoconference only. Refer to rules of decorum for consistency regarding instructions.

#### Respondent's Testimony

I have questions for the Respondent.

Would the Respondent like to provide testimony?

In a few moments, I am going to ask you a series of questions. After I conclude my questioning of you, the parties' advisors may also ask you a series of questions. Your honesty when answering questions during today's proceedings is both expected and appreciated. During our questioning of you, please do let us know if you need us to repeat, rephrase, or clarify anything. Additionally, if you don't know the answer to a question posed, or if you are unsure of your answer, it is ok to tell us that. Do you have any questions before we begin?

*{pause for questions}*

*{Hearing officer directly questions the Respondent}*

I have concluded my questioning of the Respondent.  
Does the Complainant's advisor wish to question the Respondent?  
Is the Respondent willing to participate in questioning by Complainant's advisor?

In a few moments, questioning will begin. The Complainant's advisor is reminded that they should limit their questions to those questions that are relevant. After each question is asked, I will make a determination of relevancy. If I determine that the question is relevant, the Respondent may answer it. If I determine that the question is irrelevant, the Respondent should not answer. I will state my reasoning and then Complainant's advisor should ask their next question. Both advisor's are reminded of the rules for questioning and of the Rules of Decorum. Finally, please note that I may ask questions at any time, including during questioning by the advisor and my questions will take precedence.

Complainant's advisor, you may begin your questioning of Respondent.

*If the Hearing Officer has additional questions:*  
I have additional questions and will ask them now.

*After the Hearing Officer's follow up:*  
Does Complainant's advisor have follow up questions?

*Once concluded:*  
Thank you for your testimony. Please mute your microphone.

**Commented [A12]:** Videoconference only. Refer to rules of decorum for consistency regarding instructions.

## **IX. Testimony of Witnesses**

### The Investigator

We will begin with testimony from the investigator.

Thank you. My name is [HEARING OFFICER NAME], and I am serving as today's adjudicator. Today's hearing is being recorded and recording of this hearing may be used in any deliberations or appeals. In a few moments, I am going to ask you a series of questions. After I conclude my questioning of you, the parties' advisors may also ask you a series of questions. During the advisor's questions, I will be making rulings as to whether or not the question is relevant, or one that you should answer. Thus, after a question is asked by the advisor, please wait until I have ruled before answering.

Your honesty when answering questions during today's proceedings is both expected and appreciated. During our questioning of you, please do let us know if you need us to repeat, rephrase, or clarify anything. Additionally, if you don't know the answer to a question posed, or if you are unsure of your answer, it is ok to tell us that. Do you have any questions before we begin?  
{pause for questions}

Would the Complainant like their advisor to question the investigator?  
Would the Respondent like their advisor to question the investigator?

**Commented [A13]:** Only if investigator is present. Investigator does not need to go first – can move to later if that works better.

### Witnesses

We will now turn to the questioning of the witnesses.

*Where the hearing officer does not have questions for the Witness:*

*I do not/the panel does not have questions for Witness X.*

*Would Complainant's advisor like to question Witness X?*

*Would Respondent's advisor like to question Witness X?*

*If neither party wishes to cross, no need to call the witness.*

*Where the hearing officer has questions for the Witness*

*I have/the panel has questions for [WITNESS NAME]. Thus, [WITNESS NAME] will be brought into the hearing room and questioning will begin.*

*To the witness:*

Thank you for joining us. Please introduce yourself, including your full name, any pronouns you may wish to share, and how you would like to be addressed during today's hearing.

Thank you. My name is [HEARING OFFICER NAME], I use [Pronouns] pronouns, and I am serving as today's hearing officer. Today's hearing is being recorded and this recording may be used in any deliberations or appeals. In a few moments, I am going to ask you a series of questions. After I conclude my questioning of you, the parties' advisors may also ask you a series of questions. During the advisor's questions, I will be making rulings as to whether or not the question is relevant, or one that you should answer. Thus, after each question is asked by the advisor, please wait until I have ruled before answering.

Your honesty when answering questions during today's proceedings is both expected and appreciated. During our questioning of you, please do let us know if you need us to repeat, rephrase, or clarify anything. Additionally, if you don't know the answer to a question posed, or if you are unsure of your answer, please indicate that. Do you have any questions before we begin?  
{pause for questions}

I will now begin our questioning.

*{Hearing officer directly questions the witness}*

I have concluded my questioning of this witness.

Does the Complainant's advisor wish to question the witness?

Complainant's advisor is reminded of the rules related to questioning witnesses. You may begin.

*{Advisor questions witness.}*

Does the Respondent's advisor wish to question the witness?  
Respondent's advisor is reminded of the rules related to questioning witnesses. You may begin.  
*{Advisor questions witness.}*

*If the Hearing Officer has additional questions:*  
I have additional questions and will ask them now.

*After the Hearing Officer's follow up:*  
Does either advisor have follow-up questions?  
Thank you, [WITNESS NAME] for your participation today. You are excused with *my thanks/with the thanks of the panel.*

**REPEAT THIS SECTION AS NECESSARY FOR EACH INDIVIDUAL WITNESS.**

*When witness testimony is complete:*  
At this time, that concludes all witnesses requested by the *College/University* and by the parties

*If the Hearing Officer has additional questions:*  
We will now close questioning with any final questions from the hearing officer/ hearing panel to either party.

**X. Closing Statements**

We will conclude with final remarks from each party. During this time each party will be given a brief and final opportunity to address *me/the panel* regarding any outstanding issues of fact and to submit for my consideration the facts, inferences, and conclusions which the party contends may be properly drawn from the evidence presented. Please note that this is not an opportunity to present new evidence; rather, this is an opportunity to speak directly to *me/the hearing panel* one final time.

**Commented [A14]:** Only if your process/procedure permits closing statements.

Would the Complainant like to provide final remarks?  
You may begin.  
*{Complainant Statement}*  
Thank you.

Would the Respondent like to provide final remarks?  
You may begin.  
*{Respondent Statement}*

Thank you.

**XI. Closing**

All parties may submit an impact statement, if they have not already done so, to the Title IX Coordinator. The statement will only be reviewed by *me/this panel* in the event of a determination of responsible so that a sanction can be considered. If either party wishes to access to the recording of this hearing, they should contact [CONTACT].

**Commented [A15]:** If process allows.

Thank you, all, for your participation. At this time, the hearing has concluded. *I/the panel* will move to closed deliberations. You will be notified of the outcome within [number] of [school, calendar, or business] days, which is on or before [DATE]. Thank you.

Commented [A16]: Update per policy.

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***\* This document was prepared as an example in light of Federal regulations at the time of preparation and best practices for institutions of higher education. This document should not be used without appropriate review and adaptation. Please adapt pursuant to local law and campus policies and procedures. Consult counsel prior to use. Please use in conjunction with good judgment.***