

I'm in the Hearing Panelist Pool: Now What?

Hearing Panelist Training
August 2020



Hearing Panel

- What is a Hearing Panel?
 - Panel of three members that make a recommendation or finding on each of the alleged University policy violations and sanctions and remedial actions after consideration of evidence presented at a hearing
- Available for both Title IX (600.030) & Equity (600.040) Processes
- How are they similar?
 - Used when a specific complaint is not resolved through an alternate resolution process
 - Comprised of three (3) members
 - Designated Hearing Officer or Chair of Hearing Panel will be selected
 - University Panelists will be selected from the Hearing Panelist Pool
 - Annual training will be required for all Panelists
 - Recommendations or determinations regarding responsibility, sanctions and remedial actions will require a majority vote by the Hearing Panel

Who are the Panel members?

- Title IX Hearing Panel

- Hearing Officer
- 2 University members randomly selected from Hearing Panelist pool
 - Good faith attempt will be made for Hearing Panel to include at least one faculty member and one administrator or staff member
 - Up to 2 alternates may be designated

- Equity Hearing Panel

- 3 University members randomly selected from Hearing Panelist pool
 - Chair of the Hearing Panel as designated by the Hearing Panel Pool Chair
 - Good faith attempt will be made for Hearing Panel to include at least one faculty member and one administrator or staff member
 - Up to 2 alternates may be designated

Hearing Panelists

- Hearing Panelists must be fair, impartial and unbiased
- Must be able to approach the hearing with an open mind
- Maintain a neutral and unbiased position throughout the hearing while considering the testimony and evidence that is presented

Fairness

- Treat both Parties equitably and with respect
- Do not base credibility determinations on whether an individual is a Complainant or Respondent
- Provide equal opportunity for the Parties to present witnesses and other evidence
- Allow both Parties to exercise their rights under the CRRs

Impartiality

- Only form an opinion *after* the hearing process is complete
- If you have had prior dealings with either Party, let the Title IX Coordinator or Equity Officer know
- Do not let personal feelings and/or prior dealings with either Party or a witness affect the way you treat the individual
- Ask questions in a non-accusatory manner

Recusal of a Hearing Panel Member

- Hearing Panel members, including the Hearing Officer, shall not have a Conflict of Interest or Bias for or against Complainants or Respondents generally or an individual Complainant or Respondent.
- If a Hearing Panel member or Hearing Officer feels that they have a Conflict of Interest or Bias, or cannot make an objective determination, they must recuse themselves.
- Not every case is right for you ... and that is okay!

Objection to a Hearing Panel Member

- Parties must raise all objections to any panelist in writing to the Title IX Coordinator or Equity Officer at least 15 business days prior to the hearing.
- Hearing Panel members will only be unseated and replaced if the Title IX Coordinator or Equity Officer concludes that **good cause** exists for the removal.
 - Good cause may include, but is not limited to, bias that would preclude an impartial hearing or circumstances in which the Hearing Panel member's involvement could impact the Party's work or learning environment due to current or potential interactions with the Hearing Panel member (e.g., a panel member being in the same department as either Party).
- The Title IX Coordinator or Equity Officer will provide a written response to all Parties addressing any objections to the Hearing Panel members, including the Hearing Officer.

TITLE IX:
For conduct falling under 600.020, the resolution process is 600.030.

- For complaints of sexual harassment against any Respondent, including any employee of the University.

Hearing Process Rules under 600.030

Hearing Officer Role - Procedurally

- *Hearing Officer* shall participate on the Hearing Panel and preside at the hearing, call the hearing to order, call the roll of the Hearing Panel and alternates in attendance, ascertain the presence or absence of the Investigator, the Complainant and the Respondent, confirm receipt of the Notice of Allegations and Notice of Hearing by the Parties, report any extensions requested or granted and establish the presence of any Advisors.
- The *Hearing Officer* may dismiss any person from the hearing who interferes with or obstructs the hearing, fails to adhere to the Rules of Decorum, or fails to abide by the rulings of the Hearing Officer.
- Procedural questions which arise during the hearing and which are not covered by these general rules shall be determined by the *Hearing Officer*, whose ruling shall be final.
- The *Hearing Officer* will prepare a written determination reflecting the decision of the Hearing Panel regarding responsibility, sanctions and remedial actions, if any (“Hearing Panel Decision”), and deliver it to the Title IX Coordinator.

Hearing Process Rules under 600.030

Hearing Officer Role – Substantively

- The relevancy and admissibility of any evidence offered at the hearing shall be determined by the *Hearing Officer*, whose ruling shall be final.
- Before a Party or witness answers a question, the *Hearing Officer* must determine whether the question is relevant. If a question is excluded as not relevant, the *Hearing Officer* must explain the decision to exclude that question. Where the *Hearing Officer* permits a question to be answered, there is a presumption that the *Hearing Officer* found the question to be relevant.
- The Parties' Advisors may object to questions on limited grounds as set forth in the Rules of Decorum. The *Hearing Officer* will rule on such objections and that ruling shall be final.

Hearing Process Rules under 600.030

Hearing Panelists' Role

- At least five (5) business days prior to the hearing date, the final investigative report and all exhibits will be provided to the **Hearing Panel** members.
- The **Hearing Panel** may ask questions of the Parties or any witnesses including the Investigator at any time during the hearing.
- The **Hearing Panel** will deliberate with no others present, except any legal advisor to the Hearing Panel, to find whether the Respondent is responsible or not responsible for the policy violation(s) in question.
 - Finding(s) based on a preponderance of the evidence
 - If a Respondent is found responsible by a majority of the **Hearing Panel**, the **Hearing Panel** will determine appropriate sanctions and remedial actions by a majority vote.

EQUITY:
For conduct falling under 600.010, the hearing resolution process is 600.040.

- For complaints of discrimination or harassment (non-Title IX) against a Faculty member, Student or Student organization.

Hearing Process Rules under 600.040

Hearing Panel Chair Role - Procedurally

- The *Hearing Panel Chair* shall preside at the hearing, call the hearing to order, call the roll of the Hearing Panel and alternates in attendance, ascertain the presence or absence of the Investigator, the Complainant and the Respondent, confirm receipt of the Notice of Allegations and Notice of Hearing by the Parties, report any extensions requested or granted, and establish the presence of any Equity Support Persons.
- The *Hearing Panel Chair* shall arrange for recording of the hearing, whether by audio, video, digital or stenographic means.
- The *Hearing Panel Chair* will prepare a written determination regarding responsibility (“Hearing Panel Decision”) and deliver it to the Provost (or Designee) (for Faculty Respondents) or the Equity Officer (for Student Respondents).

Hearing Process Rules under 600.040

Hearing Panel Chair Role – Substantively

- The relevancy and admissibility of any evidence offered at the hearing shall be determined by the *Hearing Panel Chair*, whose ruling shall be final, unless the *Chair* shall present the question to the Hearing Panel at the request of a member of the **Hearing Panel**, in which event, the ruling of the **Hearing Panel** by majority vote shall be final.
- Procedural questions which arise during the hearing and which are not covered by these general rules shall be determined by the *Hearing Panel Chair*, whose ruling shall be final unless the *Chair* shall present the question to the Hearing Panel at the request of a member of the **Hearing Panel**, in which event, the ruling of the **Hearing Panel** by majority vote shall be final.

Hearing Process Rules under 600.040

Hearing Panelists' Role

- At least five (5) business days prior to the hearing date, the final investigative report and all exhibits will be provided to the **Hearing Panel** members.
- A **Hearing Panel** may question witnesses or evidence introduced by the Investigator, the Complainant or the Respondent at any time during the hearing process.
- A **Hearing Panel** may call additional witnesses and submit documentary evidence.
- A **Hearing Panel** may exclude a witness proposed by the Investigator, the Complainant or the Respondent if it is determined their testimony would be redundant or not relevant.
- A **Hearing Panel** may dismiss any person from the hearing who interferes with or obstructs the hearing or fails to abide by the rulings of the Hearing Panel Chair.
- The **Hearing Panel** will deliberate with no others present, except any legal advisor to the Hearing Panel, to find whether the Respondent is responsible or not responsible for the policy violation(s) in question.
 - Finding based on a preponderance of the evidence
 - If a *Student or Student Organization Respondent* is found responsible by a majority of the Hearing Panel, the **Hearing Panel** will determine the appropriate sanctions which will be imposed by the Equity Officer.
 - If a *Faculty Respondent* is found responsible by a majority of the Hearing Panel, the **Hearing Panel** will recommend appropriate sanctions to the Provost, who will determine and impose the appropriate sanctions.

Questions?





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