

REVIEW FOR HEARING AND APPEAL PANEL TRAINING

I. Overview - Title IX and Sexual Misconduct

II. Definitions

- a. Sexual Harassment and other violation definitions
- b. Education program or activity
- c. Formal Complaint – Written complaint by complainant required for Title IX
- d. Complainant
- e. Respondent

III. Standard of Evidence

- a. Preponderance of evidence – “Fifty percent plus a feather” though USG policy requires tangible evidence for termination or expulsion

IV. Role of Advisor

- a. Definition
- b. Role of Advisor
- c. Represent or permit advisor participation.
- d. Who can be an Advisor
- e. Rules of decorum

V. Live Hearing

- a. Must have Live Hearing – In Person or Virtual allowed by policy.
- b. Option – Informal Resolution prior to adjudication (only for student-on-student scenarios)
- c. Parties physically present – Cannot force parties or witnesses to testify
- d. Recording
- e. Order of hearing /script
- f. Advisor: Attendance and role at hearing
- g. Cross-examination not required of parties or witnesses
- h. Questions of parties and witnesses by Advisor Cross-examination (Title IX) or Panel for Sexual Misconduct
- i. Trauma Informed Questions
- j. Understanding Consent & Incapacitation
- k. Determination by Decision-maker
- l. Weighing Credibility
- m. Relevant questions
- n. Parties who allege similar allegations cannot be used as witnesses unless party files a written complaint and becomes a Complainant for Title IX. Information though can be used in the employment arena

- o. Ruling of relevancy of questions
 - i. Not relevant questions
 - ii. Legally recognized privilege
 - iii. Rape shield protections
- p. Violations that may not rise to Title IX threshold, may be referred back to Human Resources in the employment arena (non-sexual based inappropriate conduct example)
 - i. Medical records
 - ii. Hearsay v. Direct
- q. Written determination required
- r. Remedies
- s. Range of Sanctions
- t. Consistency of outcomes
- u. Recording or transcripts, etc.
- v. Absolute Confidentiality is required of all Hearing Panelist

VI. Appeal

- a. Both parties can appeal
- b. Grounds for appeal
- c. Requirements for appeal
- d. Other Appeals
- e. Review of the record only
- f. Review Outcomes
 - i. Affirm findings
 - ii. Remand back to decision maker
 - iii. Reverse or dismiss.
- g. Simultaneously notice of appellate outcome

VII. Recording keeping

- a. 7 years
- b. Determination
- c. Recording or transcripts, etc.

VIII. Role Play