

## Party and Advisor Rights and Expectations

Final regulations governing the Title IX sexual harassment grievance process require the College to allow each party to select an advisor of the party's choice to accompany, advise, and assist the party with navigating the grievance process. If a party does not have an advisor, the College will provide an advisor of its choice without fee or charge to that for the limited role of conducting cross-examination on behalf of that party at any hearing on a Title IX formal complaint. The College retains significant flexibility and discretion regarding expectations for advisors and parties during the grievance process. All restrictions on the participation of parties and advisors during the grievance process apply equally to both parties.

The purpose of this document is to explain the rights and equal restrictions applicable to parties and advisors and the consequences for failure to comply with expectations.

### **Rights**

- Parties in the Title IX sexual harassment grievance process have the right to be assisted by an advisor of choice during all portions of the Title IX sexual harassment grievance process. The College does not restrict the right of each party to select an advisor with whom the party feels most comfortable and believes will best assist the party.
- Parties are best positioned to decide which individuals should serve as their advisors. Advisors may be friends, family members, attorneys, or other individuals with whom the party has a trusted relationship.
- Regardless of whether a party has an advisor, the College will objectively evaluate relevant evidence and use investigators and decision-makers free from bias or conflicts of interest. Such procedural rights, which are required to be part of the Title IX grievance process, allow both parties to advance their respective interests in the case regardless of whether the party has an advisor, pays for their advisor's services, or has an advisor with a certain level of experience. A party's choice of advisor may be limited by whether the party can afford to hire an advisor or must find an advisor to assist the party without fee or charge. The College does not guarantee that parties will have advisors with similar backgrounds, experience, or qualifications. An advisor may be but does not need to be an attorney or other advisor who charges the party a fee for representation. The status of any party's advisor (for example, whether a party's advisor is an attorney or not), the financial resources of any party, and the potential of any party to yield financial benefits to the College will never affect the College's compliance with the Title IX regulations.
- The College Title IX grievance process must provide for a live hearing. At the live hearing, the decision-maker(s) must permit each party's advisor to ask the other party and any witnesses all relevant questions and follow-up questions,

including those challenging credibility. Such cross-examination at the live hearing must be conducted directly, orally, and in real time by the party's advisor of choice and never by a party personally, notwithstanding the discretion of the College to otherwise restrict the extent to which advisors may participate in the proceedings.

- Only relevant cross-examination and other questions may be asked of a party or witness. Before an alleged victim ("complainant"), alleged perpetrator ("respondent"), or witness answers a cross-examination or other question, the decision-maker(s) must first determine whether the question is relevant and explain any decision to exclude a question as not relevant. 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 by the complainant, 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.
- If a party does not have an advisor present at the live hearing, the College must provide without fee or charge to that party, an advisor of the College's choice, who may be, but is not required to be, an attorney, to conduct cross-examination on behalf of that party.
- The College must attempt to accommodate parties' schedules and the schedules of witnesses and advisors throughout the grievance process to provide parties with a meaningful opportunity to exercise their rights under the Title IX regulations. However, The College must also meet its own designated time frames. The Title IX grievance process can proceed to a conclusion even without a party's, advisor's, or witness's participation if the College cannot secure that participation after offering the meaningful opportunity. Accordingly, the College may elect to move forward with the Title IX process, including any specific meeting, interview, or deadline, if it cannot secure reasonable cooperation regarding scheduling.
- If a party's advisor also serves as a witness in the Title IX process, the decision-maker can consider a perceived "conflict of interest" in weighing the credibility and persuasiveness of the witness's testimony.
- Title IX team members will copy a party's advisor on the following if the party has notified the College that it has an advisor and agrees for the College to share information regarding the process with the advisor: (1) evidence subject to the parties' inspection and review and (2) the investigative report, unless a party has requested in writing that the College not transmit the information to the party's advisor. Title IX team members may copy the advisor on other communications during the process but are not required to do so. The party is

responsible for forwarding communications on which the advisor is not copied to the advisor, if the complainant so wishes.

## **Expectations**

- The College will not forbid a party from conferring with the party's advisor during the grievance process. However, if a question is pending a break generally may not be taken until the question is answered. Breaks will be limited based on reasonableness and potential impact on the College's timely completion of the process.
- Parties and advisors may only use information or evidence obtained through the Title IX process, including evidence received for inspection and review and the investigative report, only for purposes of the grievance process. No party or advisor may disseminate or disclose such materials.
- Parties must personally answer questions posed by an investigator during an interview and posed by an authorized person during the hearing. The advisor must remain silent during interviews and the hearing unless authorized to speak by a Title IX team member or conferring with their party.
- The Title IX regulations do not preclude the College from enforcing rules of decorum that ensure all participants, including parties and advisors, participate respectfully and non-abusively during the Title IX process.
- No party or advisor may act abusively or disrespectfully toward any Title IX team member or another party, a witness, or an advisor.
- No party or advisor may use profanity or make irrelevant ad hominem attacks upon any other person.
- Parties and advisors must comply with all policies, codes of conduct, and other guidelines for students, employees, and community members, as applicable, at all times during the Title IX grievance process.

## **Consequences**

By participating in the Title IX process, every party and advisor agrees by that participation to conform to the expectations outlined in this document.

Parties and advisors who fail or refuse to comply with these and other stated expectations of decorum for the College's educational environment will receive consequences. For advisors, the College can remove the advisor from the process and require another advisor to attend instead. Consequences can also include those provided for in relevant policies, administrative regulations, and codes of conduct applicable to students, employees, and other College community members.

The Title IX Coordinator or their designee has sole discretion to determine if these expectations have been violated. In most cases a verbal warning will be given in response to a first violation of these expectations. Exceptions can be made based on

the severity of the violation. Repeated violations, even of different expectations than those for which a previous warning was provided, will not require a warning. If an advisor is removed under these guidelines, the party may select a different advisor. Reasonable delays, including the temporary adjournment of the process, may occur if an advisor is removed, but are not guaranteed.