



University Rules of Decorum for Sexual Misconduct Grievance Processes

Title IX hearings are not civil or criminal proceedings and are not designed to mimic formal trial proceedings. These rules apply to all stages of the University Sexual Misconduct Grievance Process.

These rules are based on all parties being treated with respect and applies equally to:

- all parties, witnesses, advisors of choice, appointed advisors, employees, and any individuals involved in the process.
- all processes for employees and/or students.
- all individuals involved in the process regardless of sex, gender, or other protected class, and regardless of their role in the process.

The following provisions are to be observed throughout the grievance processes and in the hearing:

1. During the hearing, questions must be conveyed in a neutral tone. Questions are meant to be interrogative statements used to test knowledge or understand a fact, but they may not include accusations within the text of the question.
2. Parties and advisors will refer to all persons involved in the grievance process or hearing, using the name and gender used by the person and shall not intentionally mis-name or mis-gender anyone in communications, questioning, or in any aspect of the grievance process.
3. No party may act abusively or disrespectfully toward any person involved in a hearing or any aspect of the grievance process.
4. While an advisor may be an attorney, no legal duty of an attorney to engage in zealous advocacy should be inferred or enforced within this forum.
5. The advisor should interact with individuals involved in the process in a respectful manner. During a hearing, the advisor may not yell, scream, badger, or physically “lean in” to a party or witness’s personal space. Advisors may not approach the other party or witnesses without obtaining permission from the hearing examiner or the hearing facilitator.
6. The advisor may not use profanity or make irrelevant *ad hominem* attacks upon a party or witness during a hearing.
7. In a hearing, the advisor may not ask repetitive questions. This includes questions that have already been asked by the Hearing Examiner, an advisor in cross-examination, or the party or advisor in direct testimony. When the Hearing Examiner determines a question has been “asked and answered” or is otherwise not relevant, the advisor must move on.

8. Parties and advisors may take no action at the hearing that a reasonable person would see as intended to intimidate that person (whether party, witness, or official) into not participating in the grievance process or meaningfully modifying their participation in the process.

Relevant Questions Asked in Violation of the *University Rules of Decorum*

Where an advisor asks a relevant question in a manner that violates the *University Rules of Decorum*, such as yelling, screaming, badgering, or leaning-in to the witness or party's personal space, the question may not be deemed irrelevant by the Hearing Examiner because of the manner it was delivered. Under that circumstance, the Hearing Examiner will notify the advisor of the violation, and, if the question is relevant, will allow the question to be re-asked in a respectful, compliant manner by the advisor (or a replacement advisor, should the advisor be removed for a violation). *See*, 85 Fed. Reg. 30331.

Warning and Removal Process of the of the *University Rules of Decorum*

The Hearing Examiner shall have sole discretion to determine if the provisions of the *University Rules of Decorum* have been violated. The Hearing Examiner will notify the offending person of any violation. The Hearing Examiner will issue a verbal warning on the record to the advisor and state the provision that has been violated. Upon a second or further violation, the Hearing Examiner shall have sole discretion to remove the offending person or allow them to continue participating in the hearing or other part of the grievance process.

Where the Hearing Examiner removes a party's advisor, the party may select a different advisor of their choice, or accept an advisor provided by the institution for the limited purpose of cross-examination at the hearing. Reasonable delays, including the temporary adjournment of the hearing, may be anticipated should an advisor be removed. A party cannot serve as their own advisor in this circumstance.

The Hearing Examiner shall document any decision to remove an advisor in the written determination regarding responsibility. For flagrant, multiple, or continual violations of the provisions, in one or more proceedings, advisors may be prohibited from participating in future proceedings at the institution in the advisor role on a temporary or permanent basis. Evidence of violation(s) of this agreement will be gathered by the Title IX Coordinator or a Title IX Deputy and presented to the Vice Chancellor of Student Affairs for student cases or the Associate Vice Chancellor of Human Resources/EOEAA for employee cases.

The advisor accused may provide an explanation or alternative evidence in writing for consideration by the Vice Chancellor of Student Affairs for cases involving only students or the Associate Vice Chancellor of Human Resources/EOEAA for cases where a faculty member, academic staff, or another university employee is a party. Such evidence or explanation is due within fifteen (15) calendar days of receipt of a notice of prohibition of participation. The advisor has no right to a live hearing, oral testimony, or cross-examination. The Vice Chancellor of Student Affairs for student cases or the Associate Vice Chancellor of Human Resources/EOEAA for employee cases shall consider the evidence under a preponderance of

the evidence standard and either confirm or remove the prohibition of participation. This decision shall be rendered to all parties and advisors if there is a current case pending within thirty (30) days unless extended for good cause. There is no right of appeal.

In the event an advisor is barred permanently or for a term from serving in the role as advisor in the future, they may request a review of that bar from the Vice Chancellor of Student Affairs for student cases or the Associate Vice Chancellor of Human Resources/EOEAA for employee cases no earlier than three-hundred and sixty-five (365) days after the date of the notice of prohibition of participation.

**Adapted from the SUNY Student Conduct Institute Model Rules of Decorum*

Note: The University may refer hearings for Title IX misconduct to the State of Wisconsin Division of Hearings and Appeals (DHA) for appointment of an Administrative Law Judge (ALJ) to preside as the Hearing Examiner. The Hearing Examiner or Hearing Facilitator may hold a telephone prehearing conference after the distribution of the Final Investigative Report and before the scheduled hearing date.

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