

THE HEARING, AN OVERVIEW



WHEN INFORMAL RESOLUTIONS ARE ALLOWED UNDER THE FINAL RULE:

- After a formal complaint
- When all parties & TIXC Coordinator's consent
- Any party can withdraw at any time

NOT ALLOWED IN CASES INVOLVING EMPLOYEE RESPONDENTS

TIXC CAN RUN THE PROCESS, BUT IT IS NOT RECOMMENDED

EXAMPLES:

- Administrative resolution
- Restorative justice
- Mediation



INFORMAL RESOLUTIONS





STICKING TO THE SCRIPT



1. Introductions
- 2. Purpose of Hearing, Review**
3. Privacy & Decorum Expectations
- 4. Due Process Rights**
5. Notice of Allegations & Claims
- 6. Opening Statements**
7. Presentation of Investigative Information
- 8. Cross Examination & Relevancy Determinations**
9. Witnesses & Cross Examination
- 10. Closing Statements**
11. End of Hearing

HEARING: INTRODUCTIONS

- Opportunity to review roles & participants in hearing
- Begins the recording – officially kicking off the hearing
- Reviewing basic expectations
 - Cell phone & device decorum
 - Notification of transcript
 - Rights to access
 - Ownership of recording
- Introduction of participants



PURPOSE OF HEARING

- Review objectives of the hearing
 - Not to find anyone responsible or not responsible
 - To have an equitable, fair process (not a perfect one)
- Obligation of truthfulness & transparency
- Reminder of educational philosophy of grievance process
- **Not a criminal proceeding**
- Discuss flow of meeting

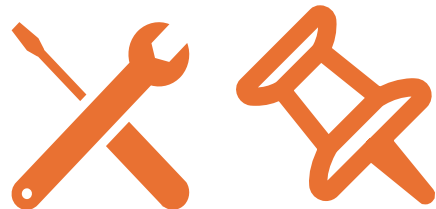
PRIVACY

- Notice of privacy & confidentiality
- Reminder that sharing materials to non-participating individuals may be retaliatory & violation of conduct code
- Review of decorum (will review later)
- Review of cross-examination (will review later)
- Discuss role & obligations of advisors
- How to request breaks or troubleshooting needs
- Review of accommodations



Questions should be asked in a neutral tone.

- No accusatory questions
- No “duty of zealous advocacy” inferred or enforced, even for attorney-advisors
- No abusive behavior: yelling, screaming, badgering, leaning in, or approaching witnesses/parties without permission
- No use of profanity or personal attacks
- Repetitive questions are not allowed



DECORUM

DUE PROCESS RIGHTS

DO PARTIES UNDERSTAND THEIR DUE PROCESS RIGHTS AS WELL AS THEIR RIGHTS UNDER TITLE IX?

- Opportunity for parties to object to panelists participation
 - If yes, decisionmakers meet off record to discuss objection
 - If the objection is sustained, substitute an alternate decisionmaker & repeat
 - May delay hearing
 - If not, you can continue
- Opportunity for process questions
- Move towards **formally** beginning the hearing, turn over facilitation responsibilities to **hearing chair**



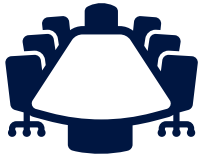
NOTICE OF ALLEGATIONS & CLAIMS

Hearing chair reviews allegations

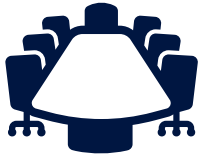
- Opportunity for respondent to enter claims of **“in violation/responsible”** or **“not in violation/not responsible”**
 - Respondent can also enter **“decline to respond on record”**
- Repeat for each claim
- If responsible is the claim, hearing would still be required to determine possible sanctioning



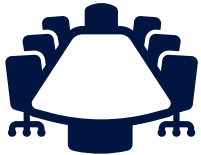
OPENING STATEMENTS



Acknowledge parties' opportunity to review investigative report & to respond to elements within the report



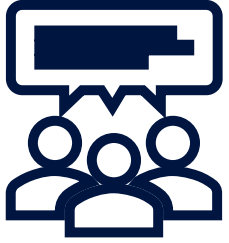
Parties can provide opening statements



Move to questions



Overview of cross-examination, review rules & expectations of all parties & advisors



Questions for all parties by the alternate parties' advisor



Relevancy determinations



Board questions for all parties



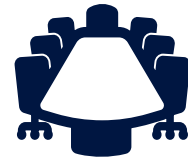
CROSS-EXAMINATION & QUESTIONING



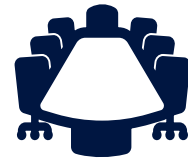
WITNESSES

- Same process of cross-examination
- Reminiscent of the introduction stage
 - Introduce witness
 - Notice that the hearing is recorded
 - Expectation of truthfulness
 - Reminder of educational philosophy of institution
 - Not a criminal proceeding
- Review process of cross-examination
- Move to questions, then dismiss witnesses from hearing after testimony
- Repeat for every witness

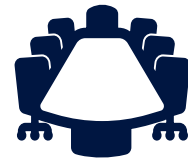
CLOSING STATEMENTS



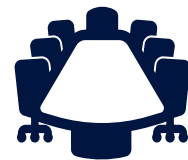
Closing statements



Impact statement submissions



Next steps



Decision making process begins!



THE HEARING ENDS

- After all of that, the hearing has officially ended. Parties are reminded of their rights and responsibilities as well as to abide by any policies pertaining to their involvement in the hearing. The parties are informed of the next steps, leave room for any lingering questions, and then the recording and transcription ends.
- The decision-maker(s) then move to deliberate, either immediately after the hearing concludes, or at a later scheduled date and time where they would determine the responsibility of the respondent for the allegations considered and write out a rationale for their decision.

