

Title IX Process Administrator Annual Training

Academic Year 2023/2024

OFFICE FOR INSTITUTIONAL EQUITY

House Keeping

- This presentation is part of a required annual training
- It is being recorded for other administrators use- please mute your microphones when not in use.
- There is an additional Bias training that you will be assigned through our employee training platform
- Please feel free to use the chat for questions you have, the chat will not be recorded or kept on record. You can chat to the group or to me directly, whatever feels comfortable
- Please feel free to turn cameras on or off and take any breaks you need through out the training.

Keep in Mind

- OIE is a neutral office with a neutral process. We refer parties to supports when appropriate.
- The ultimate goal for our office is to provide impartial and equitable processes and supportive measures to all parties.
- We will provide all parties every opportunity to share their perspective, ask relevant questions, and receive reasonable accommodations and supports at every stage of the process.
- Every case is unique, and our office is a resource to you.

Keep in Mind

OIE strive to provide a process that is impartial and supportive to all parties—to that end, we

- Treat all parties, advisors, and administrators with dignity and respect;
- Ensure due process for all parties
- Be available to answer questions and to encourage questions from parties
- Appreciate that this process is difficult for all involved
- Strive for a timely process
- Strive for thoroughness, efficiency, and clarity

Updates

Policy Prohibiting Sexual Misconduct, Discrimination and Retaliation

- Updated definitions of prohibited conduct
- Update to Mandatory Reporter requirements to include mandatory of reporting of Discrimination based on Protected Class

Procedure A: Resolving Complaints of Sexual Misconduct Under Title IX

- For Title IX Jurisdiction complaints of Sexual Misconduct only
- Includes a live hearing

Procedure B: Resolving Complaints of Sexual Misconduct, Discrimination, and Retaliation

- For non-Title IX complaints of Sexual Misconduct and Discrimination
- No live hearing-- investigation is referred to appropriate administrative process

Training Focus

This training will focus on Procedure A: Resolving Complaints of Sexual Misconduct for the Purpose of Title IX

If you would like more information about OIE processes and supports, please reach out and we can talk one on one, or we can arrange for additional trainings.

Administrator Roles

TITLE IX COORDINATOR

The Mines authority responsible for ensuring institutional compliance with Title IX

INVESTIGATOR

Mines contracts trained and impartial investigator to facilitate the investigation and author a report.

HEARING OFFICER

Mines contracts trained and impartial Hearing Officers to facilitate the Hearing, including, maintaining decorum and process, make determinations of relevance, and make recommendations to the Decision Maker

Administrator Roles

ADVISORS

Both parties have a right to an Advisor of their choosing throughout the process. The Advisor may be an attorney. If a party does not choose an Advisor, the University must appoint an Advisor for the Hearing portion of the process

DECISION MAKER

A Mines authority who will make the final determination for a case. They will review the Final Investigation Report and evidence, attend (or review) the Hearing, and determine responsibility and any applicable sanctions

APPELLATE OFFICER

A Mines authority who will review an appeal and case materials to make a final determination on the case

PROCESS OVERVIEW

- Incident Review
- Informal Resolution
- Formal Resolution



OIE Review of Incident

When OIE receives a report of Sexual Misconduct, we do the following:

- Outreach and engagement with impacted party
- Discussion of options
- Facilitation of next steps. Some examples of next steps include:
 - No further action
 - Supportive Measures
 - Risk assessment
 - Dismissal and referral
 - OIE process facilitation

Informal Resolution

- Requires a Formal Complaint, which is a written and signed complaint from the complainant;
- Does not include an Investigation;
- Consists of parties proposing and agreeing upon terms with the objective of moving forward without a formal process
- Voluntary
- Does not include punitive measures, sanctions, or a finding of responsibility for violation of policy

Formal Resolution

- Requires a Formal Complaint, which is a written and signed complaint from the complainant;
- Requires an Investigation;
- Voluntary
- Culminates with a Live Hearing
- Requires each party to have an Advisor during the Live Hearing

Components of the Formal Resolution

Investigation

This is where we want to collect information that is as complete as possible, and give opportunity to review, comment, and challenge things. By the end of the Investigation, we should have all information that will be discussed or presented in the Live Hearing.

Investigation

Notice of Investigation

- Sent to both parties simultaneously
- Includes a detailed description of the allegations including time, place, and allegation description, what provisions the allegations, if true, may be in violation of, a No Contact Directive, as well as information about resources and supports during the process

Investigation

- Interviews of parties, witnesses, any other relevant people
- Evidence collection & analysis (this stage excludes analysis of credibility)
- Draft and final report authoring
- Party review and response to reports

Investigation

During this stage, parties are driving the process through their direct participation.

Parties may utilize their advisors as supports throughout this portion including attending interviews and assisting with report review.

This is the parties' opportunity to provide information and pose any questions they may have about process, the investigation, and the report as completely as possible in order to provide the hearing portion with complete information regarding the case before the hearing.

Pre-Hearing & Hearing

We prepare parties with a pre-hearing conference to best prepare parties and advisors for what will happen in the live hearing, and what is expected of them as a participant.

Pre-Hearing

Final Investigation Report shared with parties and advisors

- Review and utilize as a basis to prepare questions
- May write and submit a response to the report before the hearing

Pre-hearing conference

- A venue for Parties and Advisors to learn about the components of the Hearing, ask questions, and make requests
- Each party has their own Pre-Hearing Conference
- Each party will receive a Hearing Guide
- Notice of Hearing sent to parties and advisors including logistics and information on supports

Live Hearing

REQUIREMENTS

- Live Hearing
- Recorded
- Closed to the Public
- Opportunity for both parties to question and submit to questioning
- Advisors for both parties must be present

WHAT TO EXPECT

- Could take anywhere between 1-5 days easily, with an 2-3 days being pretty normal
- Potential to be emotionally taxing for parties

Live Hearing

Introductions. The Hearing Officer will introduce themselves and ask all parties and attendees to introduce themselves and their role.

Opening Statements. An opportunity for a party to share any information they would like the Hearing Officer to hear before proceeding to questions; An opportunity for a party to give a statement on their position and perspective on the case at hand.

Hearing Officer Questions. The Hearing Officer will start the hearing with direct questions to parties and witnesses.

Live Hearing

- **Advisor Questioning.** Advisors may posit questions to both parties.
- **Relevance.** All questions are subject to a determination of relevance by the Hearing Officer. If a question is deemed not relevant, that question may not be answered/considered.
 - **Initial Questions.** Questions may be prepared in anticipation of the hearing and/or prepared during the hearing.
 - **Cross-Examination Questions.** This round of questioning follows initial questions as a form of addressing content from that round of questioning.

Live Hearing

- **Closing Statements.** Parties may direct closing statements to the Hearing Officer.
 - These statements can be prepared ahead of time in part or in full by the parties.
 - This is an opportunity to share any information that was left unsaid and that they would like the panel to hear before adjourning the hearing.
 - Closing statements may include statements of impact and requests for outcomes.

The Decision

The Decision is provided to the parties in writing and considers case materials, Hearing Officer recommendation, and the Decision Makers analysis and determination. It includes a determination of responsibility and sanctions.

Components of Decision

- Preponderance of Evidence Standard
 - 50% plus a feather
- Review of Materials
 - Final Investigation Report & Evidence
 - Hearing
 - Hearing Officer Recommendation
- Analysis of Credibility
 - Factors of credibility include consistency of information, a person's ability to speak to components of the allegations
- Determination of Responsibility
 - Responsible or not responsible for policy violation
- Sanctions
 - When applicable, the Decision Maker will consider the severity of the violation and appropriate and proportionate sanctions

Components of Decision: Recommendation from Hearing Officer

- Written Recommendation to Decision Maker
- Analysis of:
 - Final Investigative Report
 - Analysis of credibility
 - Analysis of facts
 - Recommendation of responsibility
 - Rationale for recommendation

Components of Decision: Decision Letter

- The Decision Maker will author a letter to include:
 - Determination of responsibility
 - Rationale for decision
 - Assignment of appropriate sanctions
 - Information on appeal process

APPEAL

An appeal is a review on the record of case materials and a requested appeal on limited grounds. Both parties have the right to appeal, and this is the final decision in a case.

Components of the Appeal: Appeal Request

Grounds for Appeal

1. Appropriateness of Sanctions
2. Procedural Error
3. New Information
4. Bias

Submission of Appeal Request Requirements

1. Identification of grounds of appeal
2. Specific aspect of the decision or sanction being appealed
3. Adequate and detailed rationale

Components of the Appeal: Appeal Request

1. **Submission (Request) for Appeal**
2. **Initial Review by Gatekeeper**
 - *Dismissed*
 - *Accepted*
 - *Letter to Parties with closure or next steps*

Components of the Appeal: Accepted Appeal

Accepted Appeal Request

- *Request for appeal shared with other party*
- *Response from other party*
- *Appellate Officer assignment and review*

Components of the Appeal: Appeal Determination

Possible Outcomes

- *Appeal denied and decision stands*
- *Adjustments to Sanctions*
- *Directive for Corrections*
- The Appellate Officer will share the decision in writing with the parties and will include rationale for the decision.
- This is the final decision; there are no other levels of appeal available

END