

TITLE IX Training

Part 3: Grievance Process and Appeals

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Grievance Process Overview

Four basic components:

- Investigation
 - Hearing
 - Determination of Responsibility
 - Appeals
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- Presumption that Respondent is Not Responsible, until entire process is complete.
 - Further detail on the Regis webpage, [Title IX Response and Grievance Process](#).

Context – Where does the Grievance Process fit?

- A report has come into the Title IX Coordinator or other official with authority to act (which will refer to the Title IX Coordinator). Consequently, Regis has Actual Knowledge.
- Supportive Measures have been discussed with the reporter and implemented, depending on the circumstances.
- The Formal Complaint and Grievance Process have been reviewed with the reporter.
- Reporter has decided to submit a Formal Complaint.
 - Remember: issues related to Educational Program or Activity.
 - When must/may a Formal Complaint be dismissed?
- And so . . . the Investigation begins.

Investigation

- The fact gathering component of the Grievance Process.
 - Interviews, review of documents, files, media, or other – to gather information that is Directly Related.
- Burden is on Regis to gather information and to prove whether a Respondent is responsible for a violation
- Participation is voluntary – may limit ability to gather facts.
 - If Respondent chooses *not* to participate, this choice will not affect the ultimate finding – based on Relevant information only.
- Equal chance to for the parties to:
 - Participate.
 - Provide information, suggest witnesses.
 - Review gathered information and respond in writing.
 - Have advisor of their choice present.

Hearing

- Purpose: to allow the parties to pose questions to each other and to Relevant witnesses. The questions are meant to test/challenge the information/statements gathered as part of the investigation.
- Participation is voluntary.
- Only Relevant questions permitted.
- No new information submitted during the Hearing.
 - If something emerges, referred to Title IX Coordinator who may re-initiate Investigation.
- May occur in person or via remote technology.
- Must be recorded, made available to parties to review/respond.

Hearing – Roles

- Hearing Advisor
 - Asks questions of the other party or witnesses.
 - At no point may parties ask each other questions directly.
 - Chosen by a party.
 - If a party does not have a Hearing Advisor, then Regis must provide one at \$0.
- Hearing Officer
 - Asks first round of questions.
 - Manages the Hearing process and steps.
 - Makes Relevance determinations for each question.
 - Enforces conduct rules.
 - May be same official as Decision Maker, depending on available staffing.
- Decision Maker
 - Reviews Relevant evidence to make Determination of Responsibility.

Determination of Responsibility

- In writing issued by Decision Maker.
- No role for Title IX Coordinator or investigators – intentional separation.
 - Prohibition of the “single investigator” model.
- Based on Relevant evidence – including Investigation Report (and supporting documents), Hearing proceedings.

- Applies Preponderance of the Evidence standard – more than 50% of the Relevant evidence indicates that Respondent’s conduct constituted Sexual Harassment.

Determination of Responsibility – MUST include

- Analysis of each allegation.
- Description/review of the investigation history.
- Description of any remedies (non-disciplinary) provided to Reporting Party, but no description of the content of those remedies.
- Sanctions issued, including rationale.
- Description of the Appeals process.

- Not required:
 - Consideration of all information presented at Hearing.
 - Description of credibility determinations.

Determination of Responsibility – Student Sanctions

- If a student Respondent is found responsible, then matter referred to Chief Conduct Officer to determine sanctions.
- Sanctions determined according to Student Sanctioning Guidelines.
 - Issued in writing, including a rationale based upon the Guidelines.
- Once sanctions are issued, Determination of Responsibility is complete.

Appeals - Bases

- A procedural irregularity that affected the outcome of the matter.
- New evidence that was not reasonably available at the time of the dismissal of a Formal Complaint, the dismissal of allegations within a Formal Complaint, or the Final Determination that could have affected the outcome of the matter.
- An allegation that an official involved in the investigation or hearing (e.g., the Title IX Coordinator, an investigator, the Hearing Officer, or Decision Maker) had a conflict of interest or bias for or against Reporting Parties or Respondents in general or against the Reporting Party or Respondent involved in the matter specifically and that conflict of interest or bias affected the outcome of the matter.
- ... *that affected the outcome of the matter.*
- Student Matters Only. That the sanction imposed is substantially disproportionate to the Respondent's conduct as described in the Determination of Responsibility and the Sexual Harassment Student Sanction Guidelines.

Appeals – Remedies for Granted Appeals

- Where a Formal Complaint was dismissed in its entirety:
 - The initiation of an investigation and hearing process.
- Where certain allegations of a Formal Complaint were dismissed:
 - The initiation of an investigation and hearing process regarding those allegations only.
- Where a Determination of Responsibility has been made:
 - A re-investigation of the Reporting Party's allegations.
 - A repeated hearing.
- For allegations involving students only, a re-evaluation of the imposed sanction.
- COI basis for appeal = new personnel as appropriate.



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