

DEVELOPING RULES OF DECORUM FOR LIVE HEARINGS





The following is offered as a resource to assist institutions with developing processes and procedures that facilitate a fair, respectful, and efficient hearing process. This document may be used in whole or in part and should be adjusted so that it does not conflict with other published policies or procedures already in place. While this document may be used by colleges, universities, or other programs conducting a Title IX hearing, for purposes of this document only the term “university” will be used.

Participating in a Hearing



A university hearing is a closed administrative process and not a legal proceeding. As a result, the following rules of conduct have been developed to facilitate a fair and efficient hearing process for the parties involved. All hearing participants are expected to comply with these rules in order to participate in the hearing. Failure to do so may result in the placement of limitations on an individual’s hearing participation including removal from the hearing, adjustments to the manner of their participation, and/or result in postponement of the hearing. Responsibility for upholding these rules and the authority and discretion regarding their adherence, and implementation of consequences for a participant failing to do so, rests with the Decision-Maker.

Rules Governing Hearing Participation

Only the Decision-Maker, investigator, other authorized University administrators (such as a hearing coordinator, if one is being utilized), the parties and their advisors, and called witnesses (while being questioned) are allowed to be present in the hearing.

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If the hearing occurs in a virtual environment (in part or in whole), it is expected that:

- The party will be the only person in the physical room from which they are joining virtually (unless with their advisor).
- Only the advisor will be in the physical room from which they are joining virtually (unless with the party).
- Each witness will be the only person in the physical room from which the witness joins virtually.
- All participants will keep their electronic devices muted until asked to speak. The Decision-Maker may mute a participant, if appropriate.

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During the hearing, parties and their advisors will communicate only with and at the direction of the Decision-Maker. With the exception of communications between a party and their advisor during breaks, neither the parties nor their advisors are permitted to communicate with any other participant in the hearing, by any method or medium including verbally, in writing, or electronically (including by phone, text message, chat messages, social media messaging or posting). Similarly, witnesses may not communicate with any party, advisor, witness, or any person not a participant in the hearing regarding anything relating to the hearing, by any method or medium including verbally, in writing, or electronically (including by phone, text message, chat messages, social media messaging or posting).

Rules Governing Hearing Participation

- 3 The only recording made of the hearing will be made by the University. Only the University may record the hearing or any portion of the hearing. Participants (parties and their advisor, witnesses, investigator) are prohibited from recording the hearing or any portion of the hearing.
- 4 Abusive, intimidating, and obstructive conduct will not be tolerated. All participants at the hearing are expected to treat each other with respect. Participants may not physically or verbally intimidate any other participant in the hearing. Participants may not engage in obstructive behavior including interrupting other participants by interjecting, yelling, or making loud noises such as sighs, grunts, or laughter.
- 5 Parties and advisors will refer to other parties, witnesses, advisors, and University staff using the name and gender used by the person they are addressing or to whom they are referring and shall not intentionally mis-name or mis-gender another in their communications.
- 6 Participants may not use profanity or aggressive/bullying language unless such language is part of their statement or evidence.
- 7 The role of an advisor is a limited one. Advisors may only participate consistent with their role as outlined in University policy/procedures including not speaking on behalf of a party except as necessary to perform their formal University-assigned hearing responsibilities.



Rules Governing Questioning of Parties and Witnesses

The purpose of asking questions of parties and witnesses is to clarify and/or solicit information pertinent to the allegations and not to intimidate, insult, bully, or harass a party or witness.

- 1 Questions by parties or advisors may not be argumentative, badgering, or intended to intimidate or otherwise attack other participants.
- 2 Duplicative questions, or questions that seek to elicit information already provided by a party or witness, are considered not relevant and will not be permitted.
- 3 Questions about a complainant's sexual predisposition and behaviors are prohibited, except when: a) a complainant's prior behavior is offered to prove that someone other than the respondent committed the alleged sexual assault; or b) the question or evidence concerns sexual behavior between the complainant and the respondent and is offered to prove consent.
- 4 All questions should be designed to obtain direct observations or facts, not personal opinion.
- 5 Advisors will not be allowed to make statements on behalf of the party through their own line of questioning.
- 6 The Decision-Maker has the sole authority to determine relevancy of questions.
- 7 The Decision-Maker may determine that a question is not relevant as asked and may offer the opportunity to rephrase the question or restate the question in a manner that complies with the rules (respectful, neutral and non-abusive).

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