

Allegany College of Maryland
STUDENT & LEGAL AFFAIRS

TITLE IX PROCEDURE: FORMAL RESOLUTION DECISION-MAKING

SEXUAL HARASSMENT & SEX DISCRIMINATION POLICY

FORMAL RESOLUTION

This process is the formal, detailed grievance procedure required by the 2020 federal regulations as reinstated on 1/9/25. It begins after the final investigation report with all evidence is complete and submitted to the Title IX Coordinator and Hearing Officer(s).

The role of the Title IX Coordinator in this process is to oversee the management of the required live hearing and to hold optional pre-hearing conferences with each Party/Advisor before the hearing. The role of the Hearing Officers is to decide:

- 1.) whether the allegation(s) occurred and
- 2.) if so, whether the conduct violates the Sexual Harassment & Sex Discrimination Policy and
- 3.) if so, what the consequences to the Respondent shall be.

PRE-HEARING CONFERENCE:

- Investigators have submitted the final report with all evidence to the Title IX Coordinator and Hearing Officers who notifies the Parties that investigation is closed and decision-making is now underway. (NOTE: the investigation report is an objective compilation of the investigation's findings; it does not draw any conclusions or offer any opinion or recommendation about the outcome.)
- The Parties and their Advisors will have had an opportunity to review the final investigation report and evidence for at least 10 days prior to the hearing unless the Parties waive it.
- Parties/Advisors are invited to participate in a pre-hearing conference. This conference is recommended but not required.
- If a Party does not have an Advisor, the Title IX Coordinator will randomly assign an advisor from the College's trained pool.
- The conference can be in-person, virtually, or via email.
- The purpose of the conference is to establish the boundaries of the hearing, to review hearing procedures, to identify issues/evidence with which the Parties agree (ie., stipulation of facts), to review relevance of evidence/testimony, to clarify any issues still in dispute, to confirm who will be conducting cross-examination, to confirm each Party will submit to cross-examination, and to decide witness order.
- Title IX Coordinator will inquire if the Parties wish to pursue Informal Resolution which is still an available option before decision-making occurs. (See *Informal Resolution* sheet for details)
- Title IX Coordinator will notify the Parties of any agreements reached during pre-hearing conferences
- Title IX Coordinator will notify the Hearing Officers when any conferences are concluded and provide guidance for conducting the live hearing.
- Title IX Coordinator schedules the live hearing.

DECISION-MAKING & THE LIVE HEARING:

- Hearing Officer(s) will have already reviewed the entire report and all accompanying information. Where multiple Hearing Officers are the decision-makers as a panel, one shall be designated as the chair.
- Hearing will be held in real time. In-person hearings are preferred but remote/virtual hearings are permitted.
- The hearing is not a repeat of the investigation.
- While there are some elements of the hearing that are similar to a courtroom trial, the hearing is not a criminal or civil trial subject to state or federal evidentiary or procedural rules *except* what is required (or permitted) by the 2020 Title IX regulations and by institutional process. It is an administrative hearing.

- Only the Parties, their Advisors, Hearing Officers, and Title IX Coordinator are permitted to remain in the hearing during its entirety. Investigators and witnesses are admitted only for their testimony, and the hearing is closed to third parties.
- The hearing shall be recorded.
- Title IX Coordinator shall open the proceedings by identifying the Parties, their Advisors, Hearing Officers and by identifying any stipulations to issues/evidence upon which the Parties have agreed via pre-hearing conferences. If all Parties did not participate in pre-hearing conferences, they may stipulate to issues/evidence at this time.
- Testimony shall be offered by the Parties, Investigators, and fact witnesses regarding issues/evidence that are in dispute. Only relevant testimony shall be permitted. Questions may be asked by Hearing Officers and Advisors. Only one person shall testify at a time, and only one person shall ask questions at a time.
- Civility and decorum are required of all hearing participants.
- Investigator(s) testify first unless the Parties have agreed to accept the contents of the entire final investigation report and its evidence as accurate. Investigators answer relevant questions from Hearing Officers and each Party's advisor in cross-examination.
- Complainant and Respondent may address issues/evidence in dispute, may offer verbal impact statements, may offer verbal mitigation/aggravation statements, and shall answer relevant questions from Hearing Officers and each Party's advisor in cross-examination.
- Fact witnesses testify by answering relevant questions from the Hearing Officers and each Party's advisor in cross-examination.
- In cases alleging a pattern of conduct by the Respondent, pattern witnesses may participate.
- Character witnesses may not participate.
- If a Party or fact witness refuses to answer questions on cross-examination, their statements and prior testimony may not be considered in decision-making.
- Questions about the Complainant's prior sexual history are not relevant unless the questions are offered to prove that someone other than the Respondent committed the conduct alleged or the questions are offered to prove consent.
- Questions that seek information about any Party's medical, psychological, similar records, or any record protected by legal privilege are not permitted unless the Party has given written consent. New evidence may not be offered unless the evidence is relevant to an issue in dispute and was not previously available during the investigation.
- Amnesty applies for drug/alcohol violations by Parties and witnesses. See **Definitions** for the criteria.
- The Respondent is presumed innocent unless there is sufficient evidence to find the Respondent responsible applying the standard of proof: preponderance of the evidence.
- After all testimony is concluded, the hearing ends.
- Hearing Officers deliberate at the conclusion of the hearing and/or soon thereafter. Deliberations are confidential. Hearing Officer(s) make these decisions:
 - 1.) whether the allegation(s) occurred and
 - 2.) if so, whether the conduct violates the Sexual Harassment & Sex Discrimination Policy and
 - 3.) if so, what the consequences to the Respondent shall be.
- Hearing Officers issue written decision/findings for each allegation. The written findings include:
 - 1) description of each allegation (may be adopted from the final investigation report)
 - 2) description of the process followed from the formal complaint through decision-making
 - 3) affirmation that only relevant and permissible evidence was considered
 - 4) whether each allegation occurred.
 - (a) upon a finding that the allegation did not occur, the matter is dismissed;
 - (b) upon a finding that the allegation occurred, whether the allegation violated policy;
 - (c) upon a finding that the allegation did not violate policy, the matter is dismissed;
 - (d) upon a finding that the allegation violated policy, an appropriate sanction is assigned to the Respondent. Title IX Coordinator implements the sanction.
 - 5) whether separate remedies will be provided to the Complainant or any other person
 - 6) appeal information noting the fifteen (15) day appeal deadline.
- Hearing Officers provide the decision/findings simultaneously to the Parties. It is the Parties' responsibility to share the outcome with their Advisor if they choose.