

Grievance Process Track C

Standard of Evidence & Presumption of Not Responsible. All Grievance Process tracks will use the preponderance of the evidence standard, as defined in [HOP 3-3031](#). By law, the burden does not shift to the Respondent when the Respondent asserts an affirmative defense; it is presumed that the Respondent is not responsible for the alleged conduct unless that determination regarding responsibility is made at the conclusion of the Grievance Process.

GRIEVANCE PROCESS TRACK C CONDITIONS

This track applies in all instances of alleged conduct including:

- a) Sex Discrimination
- b) Sexual Exploitation
- c) Unprofessional or Inappropriate Conduct
- d) Retaliation
- e) False Information and False Complaints
- f) Interference with Grievance Processes under this Policy
- g) Failure to Report by a Non-Confidential Employee
- h) Failure to Adhere to Interim Measures
- i) Pregnancy or Parenting Discrimination

1. Written Notice of the Formal Complaint and Notification of University Offices Offering Assistance

After a Formal Complaint has been signed, Parties will receive a written Notice of the Formal Complaint, which includes available University support and resources along with the following:

- A notice of the Grievance Process steps, as outlined in HOP 3-3031;
- A notice of the allegations that potentially constitute Prohibited Conduct under this Policy, including sufficient details about the alleged conduct, including the identity of the Parties, if known, and the date(s), time(s), and location(s) of alleged conduct known by the University at the time the Notice of the Formal Complaint is issued;
- A statement of the potential policy violations being investigated;
- A statement that the Respondent is presumed not responsible for the alleged conduct and that the determination regarding responsibility will be made at the conclusion of the Grievance Process;
- A statement of the range of possible disciplinary sanctions and remedies the University may implement upon a determination of responsibility;
- A statement that credibility determinations will not be based on a person's status as a Complainant, Respondent, or Witness;
- Parties may have an advisor of their choice, who may be, but is not required to be, an attorney, and may inspect and review all evidence;
- A statement that the Parties may review evidence gathered as part of the investigation;
- A statement that knowingly making false statements or knowingly submitting false information during the Grievance Process is prohibited and subject to disciplinary action; and

- Any other information relevant to the written notice.

2. Investigations

The Investigator will prepare a written preliminary investigation report (PIR) that will outline each of the allegations that potentially constitutes a conduct violation of [HOP 3-3031](#), provide the timeline of the investigation, and fairly summarize relevant evidence, Participant statements, and responses to questions, and include a statement of finding of violation or no finding of violation and the related rationale.

- Prior to the completion of the investigation report, the Investigator will provide access to the PIR and all relevant evidence obtained as part of the investigation to all Parties (and the Party's Advisor, if any, upon a Party's signed information release for their Advisor of choice). Parties will have 10 business days to inspect, review, and respond to the PIR. All responses must be submitted by the Party, in writing, to the Investigator. The Investigator will consider all timely responses submitted by the Parties.

3. Decision Maker Review of PIR

The PIR will be provided to the appropriate decision maker, who may consult with the investigator before the report is finalized regarding the investigation process, evidence collected, and the rationale provided for the determination of a finding or no finding of violation.

- If, after reviewing all timely responses, the Investigator changes the finding, then the Investigator will provide all Parties and their Advisor(s) access to an amended PIR and all relevant evidence upon which it is based. The amended PIR will include a summary of relevant information received during the response period and a rationale for the change of finding. Parties will have 5 business days to inspect, review, and respond in writing to the Investigator. The Investigator will consider all timely responses submitted by the Parties.

4. Completed Investigation Report Referral

If there is a finding of violation, the completed investigation report (CIR) will be provided to the appropriate decision maker for decision regarding disciplinary sanctions as follows:

- If the Respondent is a student, it will be referred to the Department of Investigation and Adjudication for disciplinary sanctions decision. Prior to issuing a disciplinary sanction, the Department of Investigation and Adjudication will consult with the Title IX Coordinator regarding the finding of violation. If the violation has a nexus to Respondent's appointment as student employee the disciplinary sanctions decision will be made in consultation with the Chief Human Resources Officer and/or the Executive Vice President and Provost. Any disciplinary sanction imposed will be included in the CIR. If the disciplinary sanction is suspension or expulsion, Respondent can request to resolve this matter via a hearing procedure. The hearing will be held in accordance with the hearing procedures outlined in Sec. IX. D. (5) – Live Hearing – Determination of Responsibility;
- If the Respondent is faculty, it will be referred to the Executive Vice President and Provost for disciplinary sanctions decision, in accordance with the University's policies for discipline and termination of faculty; and
- If the Respondent is staff, it will be referred to the Chief Human Resources Officer for disciplinary sanctions decision, in accordance with the University's policies for discipline and termination of staff.

5. Grievance Process Track C Appeals Eligible Respondents can appeal or grieve the assigned discipline outcome.

- Students. Student Respondents can appeal by following [HOP 3-3031](#). Sec. IX. D. (6).
- Faculty. Faculty Respondents will follow the procedures set out in [HOP 2-2310](#) governing faculty grievances.
- Staff. Staff Respondents will follow the procedures set out in [HOP 5-2420](#). Staff Respondents are eligible to appeal or grieve an assigned discipline outcome if they are both within the scope of [HOP 5-2420](#) and the assigned discipline is something grievable under that policy. If both of those conditions are not met, the staff Respondent is not eligible to appeal or grieve a Track C assigned discipline outcome.