



## FORMAL GRIEVANCE PROCESS TRACK A

**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.

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##### Conditions:

- a. Respondent is a student (including a student employee) or employee or other university affiliate at the University at the time of the alleged conduct;
- b. The alleged conduct includes Sexual Assault, Dating Violence, Domestic Violence, Stalking, or Sexual Harassment;
- c. Occurred in the U.S.;
- d. Complainant was participating or attempting to participate in an education program or activity at the University.

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

After receiving a Formal Complaint, the Title IX Office will provide a written notice to the Parties of the Formal Complaint and available University support and resources. The written notice of the Formal Complaint will include 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 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;
- Both 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.



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### **2 Investigation of the Formal Complaint — Gathering of Evidence**

- a. Notice of Formal Investigation is sent to all Parties
- b. Respondent Statement and Interview
- c. Notice of Events to Investigation Parties
- d. Investigation Parties submit evidence and witness names
- e. Witness Interviews
- f. Parties are provided access to all evidence and the investigation report for comment.
- g. The completed investigation report is provided to Parties and advisors at least 10 business days prior to the hearing.
- h. The investigation of a Formal Complaint will be concluded within 90 business days of the filing of a Formal Complaint.

### **3 Live Hearing — Determination of Responsibility**

- a. Written Notice of Hearing at least 10 days prior to the hearing date
- b. Challenges to hearing officer, if any
- c. Access to all evidence from the investigation
- d. Opening statements by all Parties
- e. Questions asked by hearing officer, neutral university representative and advisors
- f. University records hearing and makes available to Parties

### **4 Appeals must be made by either Party within 10 business days of issuing the determination of responsibility**



## LIVE HEARING PROCESS

- 1. Written Notice of the Hearing.** The University will provide at least 10 business days written notice to participants of the hearing.
- 2. Challenges to the Hearing Officer.** Either Party may challenge the fairness, impartiality or objectivity of a hearing officer.
- 3. Hearing Officer Duties at the Hearing.** The hearing officer will rule on all procedural matters and on objections regarding exhibits and testimony of participants at the hearing, may question participants who testify at the hearing, and is entitled to have the advice and assistance of legal counsel from the Office of General Counsel of The University of Texas System.
- 4. Access to Evidence.** Each Party will have access to all of the evidence from the investigation.
- 5. Separate Rooms and Virtual Participation.** At the request of either Party, the University will provide the hearing to occur with the Parties located in separate rooms with technology enabling the hearing officer and the Parties to simultaneously see and hear the participants answering questions.
- 6. Opening Statements.** Each Party may make opening and closing statements.
- 7. Privileged Information Excluded.** No person will be required to disclose information protected under a legally recognized privilege.
- 8. Advisor of Choice.** Each Party must have an advisor. Each Party may have an advisor of their choice at the hearing. If a Party does not have an advisor, the University must provide one. Advisors are not permitted to actively participate in the hearing, except for asking questions of the other Party and any other witnesses. In addition, witnesses may have an advisor of their choice at the hearing.
- 9. Questioning Participants.** The hearing officer may, at the hearing officer's discretion, ask questions during the hearing of any Party or witness and may be the first person to ask questions of any Party or witness. Each Party's advisor will have an opportunity to ask relevant questions and follow-up questions of the other Party and of any witnesses that participate in the hearing, including questions that challenge credibility. The Parties will not be permitted to personally ask questions of the other Party or any witnesses that participate in the hearing.



## LIVE HEARING PROCESS

**10. Hearing Officer Determination.** The hearing officer will prepare an initial draft determination.

- a. If the Respondent is found responsible for any alleged violations, the initial draft determination will be referred to the appropriate decision makers regarding disciplinary sanctions, as follows:
- b. If there is a non-finding by the hearing officer, no initial draft determination is required. The Parties will receive the completed written report.
- c. If the Respondent is a faculty member, it will be referred to the Executive Vice President and Provost for a discipline decision; and
- d. If the Respondent is a staff member, it will be referred to the Associate Vice President of Human Resources for a discipline decision.
- e. If the Respondent is a student, it will be referred to the Dean of Students for a discipline decision.
- f. Decision makers will provide the discipline decisions to the hearing officer within 10 business days of the hearing officer's referral to the decision maker.
- g. The hearing officer will send a copy of the completed written hearing determination concurrently to the Parties, the Title IX Coordinator, and the Dean of Students or Executive Vice President and Provost or Associate Vice President of Human Resources within 21 business days from when the hearing concludes.

**11. Appeal of Hearing Determination (initiated by the Complainant or Respondent).**