



## 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), 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, and/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 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 Investigation of the Formal Complaint — Gathering of Evidence

- a. Notice of Investigation is sent to Parties;
- b. Respondent statement and interview;
- c. Notice of events to Parties;



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- d. Parties submit evidence and names of Witnesses;
- e. Witness Interviews;
- f. Parties are provided access to evidence and the investigation report where they will have 10 business days to inspect, review, and respond to the evidence;
- g. The completed investigation report is provided to Parties and Advisors at least 10 business days prior to the scheduled hearing; and
- h. The investigation of a Formal Complaint will be concluded within 90 business days of the Notice of the Formal Complaint.

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

- a. Written Notice of the Hearing sent to Parties at least 10 days prior to the hearing date;
- b. Challenges to the Hearing Officer, if any;
- c. Access to evidence from the investigation;
- d. Opening and closing statements by all Parties;
- e. Questions asked by Hearing Officer, neutral University representative, and Advisors;
- f. Recording of hearing will be available to Parties; and
- g. Hearing Officer will issue a Written Determination Letter to Parties.

### **4 Appeals regarding a Respondent's responsibility may be made by either Party within 10 business days of the Written Determination Letter, then the Final Determination is issued to Parties.**



## 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:
    - If there is a non-finding by the Hearing Officer, no initial draft determination is required. The Parties will receive the completed written report;
    - If the Respondent is a faculty member, it will be referred to the Executive Vice President and Provost for discipline decision;
    - If the Respondent is a staff member, it will be referred to the Chief Human Resources Officer for discipline decision; and
    - If the Respondent is a student, it will be referred to the Office of the Dean of Students for discipline decision.
  - b. 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.
  - c. The Hearing Officer will send a copy of the completed Written Determination Letter concurrently to the Parties, the Title IX Coordinator, and the Dean of Students or Executive Vice President and Provost or Chief Human Resources Officer within 21 business days from when the hearing concludes.
- 11. Appeal of Hearing Determination (initiated by the Complainant or Respondent).**
- a. Basis for Appeal. Either Party may appeal a Hearing Officer's determination regarding a Respondent's responsibility under the Grievance Process or from the University's dismissal of a Formal Complaint within 10 business days of such a determination.
  - b. Impartial Appellate Officer. Both Parties will be notified in writing when an appeal is filed and the appeal procedures will apply equally for both Parties.
  - c. Statement of Support. Any non-appealing Party (or the University) will have 7 business days from the notification of an appeal to submit a written statement in support of the outcome.
  - d. Final Determination. The decision maker on the appeal will release a written decision within 21 business days from the date of the appeal.