

Title IX Sexual Harassment Information for Advisors

Title IX Sexual Harassment

- Includes conduct that occurs on the basis of sex in a University education program or activity in the United States that satisfies one or more of the following:
 - An employee conditioning the provision of an aid, benefit, or service on an individual's participation in unwelcome sexual conduct (i.e., quid pro quo);
 - Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to an education program or activity (i.e., hostile environment); or
 - Sexual assault (as defined by Clery Act), or “dating violence,” “domestic violence,” and “stalking” (as defined by Violence Against Women Act).

UNIVERSITY OF CONNECTICUT POLICY AGAINST
DISCRIMINATION, HARASSMENT, AND RELATED
INTERPERSONAL VIOLENCE

*Including Sexual and Gender-Based Harassment, Sexual
Assault, Sexual Exploitation, Intimate Partner Violence,
Stalking, Complicity, Retaliation and Inappropriate Amorous
Relationships*

Page 1

UConn

OFFICE OF
INSTITUTIONAL EQUITY

Advisor Selection

- Advisors are assigned to the complainant and respondent at investigation onset if the parties do not already have an advisor selected (within 7 calendar days of issuance of Notice of Allegations in both student and employee matters)
- OIE and/or Community Standards will facilitate appointment of University appointed advisors

What is the role of an advisor?

- To assist the party throughout the proceedings set forth in the procedures
- Parties and their advisors will have opportunity for inspection and review of evidence, and will receive the investigative report
- To conduct cross examination in the live hearing
- Advisors may not participate in lieu of the party
- Advisors must maintain respectful and professional decorum

Advisor vs. Support Person

- Parties also have the right to select a support person, in addition to their advisor if they so choose
 - The same person can serve in both roles
- Support people do not actively participate in the investigation or hearing process
 - Role is to offer comfort and guidance
- Other Resources/Support Roles:
 - Dean of Students Office/Assistant Dean of Students
 - Cultural Centers, including the Women's Center
 - SHAW
 - Ombuds
 - EAP
- Supportive measures

The Hearing

Participants:

- Hearing Chair
 - Hearing Officers (2)
 - Investigator
 - Advisors
 - Support People (if any)
 - Complainant
 - Respondent
 - Witnesses
- Hearings are virtual
 - Rules of Decorum must be upheld by all individuals present
 - A final determination is NOT made in the live hearing
 - Cross-examination

Purpose of Cross-Examination

- The Department of Education broadly explains that “cross-examination is especially critical to resolve factual disputes between the parties and give each side the opportunity to test the credibility of adverse witnesses, serving the goal of reaching legitimate and fair results.” *Id.* at 30311

Facilitation of Cross Examination

- Each party's advisor and only the advisor will conduct live cross-examination of the other party or parties and witnesses present. During this live-cross examination the advisor will ask the other party or parties and witnesses relevant questions and follow up questions
- The Hearing Chair will determine if the question is relevant.

Relevance

- “Relevant” evidence and questions refer to any questions and evidence that is pertinent to proving whether facts material to the allegations under investigations are more or less likely to be true. 85 Fed. Reg. 30294.
- Questions and evidence about the complainant’s sexual predisposition or prior sexual behavior are “irrelevant,” unless (1) such questions and evidence about the complainant’s prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or (2) the questions and evidence concern specific incidents of the complainant’s prior sexual behavior with respect to the respondent and are offered to prove consent. 34 C.F.R. §106.45(b)(6)(i).

Cross Examination Continued

- Use cross-examination to highlight important facts, especially those that corroborate your advisee's narrative
- Cross-examination is your opportunity to test the credibility of a particular witness who is providing testimony

Basic Cross-Examination Approach: For those unfamiliar or intimidated by the prospect of conducting cross-examination, here some are ordinary guideposts for framing your questioning.

Obtain and confirm helpful information from the witness

"You were at the party at 9:30 pm? And you stated to the investigators that you observed the complainant at that time and they appeared to be sober? What made you think that?"

If the witness does not have helpful information, then ask questions to limit the witness' importance

"You left the party after thirty minutes? At around 10 pm? So you did not actually see how the complainant was acting at around midnight?"

Address potential bias

"You know the respondent from Debate Team? Would you say you are good friends?"

Following the Hearing

- Hearing Officers will issue a written decision regarding Respondent(s)'s responsibility and recommendation regarding sanctions (if applicable)
- Parties have the opportunity to appeal the decision

Practical Considerations

- ✓ Self Care
- ✓ Thoroughly review investigative report and all information collected throughout the investigation
- ✓ Prep prior to the hearing for advisor and advisee