



TITLE IX HEARING PROCEDURES AND RULES OF DECORUM

HEARING PREPARATION

1. The parties will be provided a copy of the Investigative Report, including all exhibits and appendices, at least ten days prior to the hearing date. A party or advisor may not photograph, download, or print any document or record submitted by another party or witness, and may not publish such documents or records to any third party.
2. No witness, document, or tangible evidence will be permitted at the hearing unless such information was submitted during the investigation.
3. All parties and witnesses interviewed during the investigation must be invited to be present for and participate in the hearing. If a party or witness refuses to participate in the hearing process, all statement(s) and/or evidence provided by that party or witness may be relied upon by the decision maker when making a determination of responsibility. The decision maker will not draw inference about the determination of responsibility based solely on that party or witness's refusal to participate.

HEARING PROCESS

1. Setting and Schedule
 - a. The responsibility for setting the hearing location solely rests with the University. In making the decision, the Title IX Coordinator may consult with the parties to determine their preferences for certain aspects of the hearing. Those aspects may include:
 - i. Location: The live hearing may be conducted with all parties physically present in the same geographic location, venue where all parties and witnesses are present, along with their advisors and the decision-maker.
 - ii. Parties and witnesses may be through remote video conferencing applications, such as Zoom or Microsoft Teams. This technology will enable participants simultaneously to see and hear each other. At its discretion, Coastal Carolina University may delay or adjourn a hearing based on technological errors not within Coastal Carolina University's, a party's, or a witness's control.
 - b. The hearing schedule will be decided by the Title IX Coordinator. In determining the schedule, the decision-maker should consider the following:
 - i. Equal and fair presentation of all relevant evidence.
 - ii. Breaks and overall hearing length.
 - iii. Due to the difficulty of scheduling a hearing on multiple days, the decision-maker should balance the needs of both parties equally and how such a schedule will impact their presentations. Once the impact is determined, the decision-maker should set the schedule in a way that minimizes any impact to the parties.

2. Introductions
 - a. The decision-maker will introduce themselves.
 - b. The parties, their advisors, and support persons will introduce themselves.
 - c. The decision-maker may provide a brief overview of the proceedings, including:
 - i. The hearing schedule:
 - ii. That only advisors are allowed to ask questions during the hearing, not the parties themselves.
 - iii. That the questions posed to the parties and the witnesses will be screened by the decision-maker to ensure that only relevant questions are asked. Meaning, the advisor will ask the question live and the decision-maker will deem it as relevant or not.
 - iv. During cross-examination, advisors may ask follow-up questions, including those that challenge the credibility of the other party. The decision-maker has the authority to allow or disallow any question. A party or witness may choose not to answer a particular question.
 - v. The decision-maker should disclose that they cannot make an inference on a party's culpability or credibility solely based on their refusal to answer questions.
3. Review of the complaint and alleged violations
4. Complainant's Opportunity to Address the Decision-maker
 - a. The decision-maker may ask questions of the complainant
 - b. The respondent's advisor may ask questions of the complainant.
 - c. (If applicable) Complainant's witness
 - The witness will be brought in and asked to introduce themselves.
 - The decision-maker may ask questions of the witness.
 - The complainant and respondent may ask questions of the witness at designated times.
 - The witness will be excused and leave the hearing room/Zoom. They may be asked to remain available should follow-up be necessary.
 - This process will be repeated until all of the complainant's witnesses (who have been approved by the decision-maker) have appeared. Witnesses may be asked to stay in case the decision-maker wishes to call them for additional questions.
4. Respondent's Opportunity to Address the Decision-maker
 - a. The decision-maker may ask questions of the respondent.
 - b. The complainant's advisor may ask questions of the respondent.
 - c. (If applicable) Respondent's witness
 - The witness will be brought in and asked to introduce themselves.
 - The decision-maker may ask questions of the witness.
 - The complainant and respondent may ask questions of the witness at designated times.
 - The witness will be excused. They may be asked to remain available should follow-up be necessary.
 - This process will be repeated until all of the respondent's witnesses (who have been approved by the decision-maker) have appeared. Witnesses may

be asked to stay in case the decision-maker wishes to call them for additional questions.

5. General Questions

- a. Time will be available for the decision-maker to ask questions of either party as well as for the parties to ask questions of each other (through their advisors).
- b. The decision-maker may call nonparty witnesses to be questioned, so long as those witnesses were interviewed during the investigation.

6. Concluding Statements

- a. The complainant may make a closing statement.
- b. The respondent may make a closing statement.
- c. The complainant, respondent, and all witnesses are excused. The hearing is concluded.

7. Deliberations and Follow-up

- a. After the live hearing, the decision-maker will deliberate and assess whether or not the evidence presented during the hearing has met the preponderance of evidence and support a finding that the complainant's allegations are more likely than not true.
- b. If the respondent is found not in violation, deliberations conclude. If the respondent is found in violation of any or all of the charges, the decision-maker will determine the sanction in consultation with the appropriate university administrator.
- c. Once a finding is determined, the decision-maker will draft the Determination Memorandum.

COASTAL CAROLINA UNIVERSITY RULES OF DECORUM FOR HEARINGS

Purpose of the Rules of Decorum

Title IX hearings are not civil or criminal proceedings and are not designed to mimic formal trial proceedings. They are primarily educational in nature, and the U.S. Department of Education, writing about Title IX in the Final Rule “purposefully designed these final regulations to allow recipients to retain flexibility to adopt rules of decorum that prohibit any party advisor or decision-maker from questioning witnesses in an abusive, intimidating, or disrespectful manner.” 85 Fed. Reg. 30026, 30319 (May 19, 2020). The Department has determined that institutions “are in a better position than the Department to craft rules of decorum best suited to their educational environment” and build a hearing process that will reassure the parties that the institution “is not throwing a party to the proverbial wolves.”

To achieve this purpose, institutions may provide for reasonable rules of order and decorum, which may be enforced through the removal of an advisor who refuses to comply with the rules. *Id.*, at 30320. As the Department explains, the removal process “incentivizes a party to work with an advisor of choice in a manner that complies with a recipient’s rules that govern the conduct of a hearing and incentivizes colleges and universities to appoint advisors who also will comply with such rules, so that hearings are conducted with respect for all participants.”

At base, these Rules of Decorum require that all parties, advisors of choice, and institutional staff treat others who are engaged in the process with respect.

The rules and standards apply equally to all parties and their advisors regardless of sex, gender, or other protected class, and regardless of whether they are in the role of complainant or respondent.

Rules of Decorum

Decorum by Participants for In-Person or Virtual Hearings

1. Questions must be conveyed in a neutral tone.
2. Parties and advisors will refer to other parties, witnesses, advisors, and University employees using the name and gender used by the person and shall not intentionally mis-name or mis-gender that person in communication or questioning.
3. No party may act abusively or disrespectfully during the hearing toward any other party or to witnesses, advisors, or decision-makers.
4. Any party or witness will not engage in any activity that may be disruptive. Impermissible activities may include, but are not limited to, unnecessary conversation, loud whispering, texting or typing on personal devices, or newspaper or magazine reading.
5. Parties and advisors may take no action at the hearing that a reasonable person in the shoes of the affected party would see as intended to intimidate that person (whether party, witness, or official) into not participating in the process or meaningfully modifying their participation in the process.
6. Cellular telephones should be turned to the “OFF” setting during proceedings, or better yet, should not be brought into the room. Even phones on a “vibrate” setting can be disruptive.
7. Recordings of any type by the parties are prohibited.

Decorum by the Parties

1. No party will address the other for any reason unless given express permission by the decision-maker.
2. During cross examination, only a party's advisor may speak or address the other party or their witnesses.
3. No party will interrupt the proceedings with applause, heckling, outbursts or other disruptive behavior.
4. Any threat of violence expressly made by either party will be immediately reported by the decision-maker to the appropriate office for review.

Decorum by Advisors

1. Questions must be conveyed in a neutral tone.
2. No party may act abusively or disrespectfully during the hearing toward any other party or to witnesses, advisors, or decision-makers.
3. While an advisor may be an attorney, no duty of zealous advocacy should be inferred or enforced within this forum.
4. The advisor may not yell, scream, badger, or physically "lean in" to a party or witness's personal space. Advisors may not approach the other party or witnesses without obtaining permission from the decision-maker.
5. The advisor may not use profanity or make irrelevant ad hominem attacks upon a party or witness. Questions are meant to be interrogative statements used to test knowledge or understand a fact; they may not include accusations within the text of the question.
6. The advisor may not ask repetitive questions. This includes questions that have already been asked by the decision-maker or the advisor in cross-examination. When the decision-maker determines a question has been "asked and answered" or is otherwise not relevant, the advisor must move on.

Warning and Removal Process

The decision-maker shall have sole discretion to determine if the Rules of Decorum have been violated.

The decision-maker will notify the offending person of any violation of the Rules.

The decision-maker shall have discretion to remove the offending person or allow them to continue participating in the hearing or another part of the process.

Where the decision-maker removes a party's advisor, the party may select a different advisor of their choice, or accept an advisor provided by Coastal Carolina University for the limited purpose of cross-examination at the hearing. Reasonable delays, including the temporary adjournment of the hearing, may be anticipated should an advisor be removed. A party cannot serve as their own advisor in this circumstance.

The decision-maker shall document any decision to remove an advisor in the written determination regarding responsibility.

For flagrant, multiple, or continual violations of this Rule, in one or more proceedings, advisors may be prohibited from participating in future proceedings at the institution in the advisor role on a temporary or permanent basis.

Evidence of violation(s) of this agreement will be determined by the Title IX Coordinator or their designee.

Relevant Questions Asked in Violation of the Rules of Decorum

Where an advisor asks a relevant question in a manner that violates the Rules, such as yelling, screaming, badgering, or leaning-in to the witness or party's personal space, the question may not be deemed irrelevant by the decision-maker simply because of the manner it was delivered. Under that circumstance, the decision-maker will notify the advisor of the violation of the Rules, and, if the question is relevant, will allow the question to be re-asked in a respectful, non-abusive manner by the advisor (or by a replacement advisor, should the advisor be removed for violation of the Rules). See, 85 Fed. Reg. 30331.