Hearing Procedure

Hearing Preparation Timeline:

- The Deputy Title IX Coordinator will set a date for the hearing.
- The responding student and reporting student, with their advisors, will prepare opening and closing statements as well as their impact statement to be presented at the hearing. These statements are not submitted prior to the hearing.
- At least 5 days prior to the date of the hearing, the responding student and reporting student will be notified in writing of the charges against the responding student. The investigation report and supplemental materials collected during the investigation are shared with the reporting student and responding student, their advisors, the Title IX Coordinator and the hearing panel.
- Within 3 business days of receiving the investigation materials, the reporting student and responding student must notify the Chair of their final witness list. These witnesses should be called only if there will be testimony beyond what appeared in their written investigation interview or if they were not interviewed previously. The Chair of the hearing panel shall have discretion to determine which proposed witnesses and evidence the hearing panel will hear to provide for a fair hearing. The Chair shall also have authority to call expert sources of information, as necessary. Counselors, psychiatrists and psychologists are not permitted as in-person witnesses unless they have substantive testimony to provide regarding the incident under review. The reporting student and responding student may submit relevant documentation from health care professionals. Admission of the statement will be at the discretion of the Chair.
- The Chair will share the names of all approved witnesses, including expert sources of information, with the reporting student, responding student, their advisors, the Title IX Coordinator and the hearing panel in advance of the hearing.
- Prior to the hearing all parties will be notified of the time and location of the hearing.

Hearing Procedures, Step-by-Step:

A hearing panel hearing normally consists of a single session that typically takes between four and six hours. In the event of a lengthy hearing, the hearing panel, at its sole discretion, may decide to continue the hearing at a later date. If the responding student or reporting student has disabilities that will require accommodations during the hearing they should notify the Chair of the hearing panel as to what accommodations will be needed.

The following instructions will be read to all parties providing testimony at the hearing:

- It is essential that all information presented in this hearing be completely confidential. The hearing shall be conducted in an orderly manner and anyone violating that directive will be required to leave. All participants are obligated to tell the truth and be forthcoming. All participants shall speak only when recognized by the Chair.
- All discussion and questions must be limited to the specific act(s) and charge(s) alleged in the report. The hearing panel will determine if a violation of the College’s Code of conduct occurred. Information regarding other acts or past infractions is inappropriate at this time. Please restrict any discussion accordingly. Only information presented in connection with this hearing can be used to determine if a violation occurred.

Per the College’s policy and Office for Civil Rights (OCR) guidance, questions about the sexual history of the reporting student with anyone other than the responding student are not permitted. Furthermore, the mere fact of a current or previous consensual dating or sexual relationship between the two parties does not itself imply consent or preclude a finding of responsibility. Questions about the responding student’s sexual history with anyone other than reporting student are also not permitted.

Some documents in the investigative file may have been redacted to remove information not necessary for the Panel to evaluate the claims in this proceeding. The Panel should not infer anything from the redactions nor consider the redactions one way or the other in reaching its decision.

1. The Title IX Coordinator shall appoint a three-person hearing panel composed of two Sexual Misconduct Panel members who have not served as investigators or advisors for this report. In most situations the College will appoint an attorney as the third member of the hearing panel. The Chair or designee is a non-voting member of the hearing panel who presides over the hearing. The Title IX Coordinator has the option of attending the hearing proceeding as an observer.
2. The hearing panel reviews all materials from the investigation. The panel may hold preparatory meetings as needed.
3. The hearing panel notes any questions they have based upon the investigation report and may seek more information or clarification before the hearing.
4. The hearing is called to order with the reporting student and responding student present with their advisors and separated by a screen so as to ensure privacy and comfort, or, if requested, connected remotely to the hearing via closed circuit television or internet connection. Witnesses are not present at this point and are kept sequestered outside the hearing room.
5. Each participant makes their own introduction and states their role in the hearing. There will be identifying “table tents” for the purpose
At the beginning of the hearing, the reporting student and responding student will provide four copies each of their opening and closing statements and four copies of their impact statement to the Chair.

The Chair asks if any of the participants have questions about Hearing procedures or their rights in the hearing.

All participants are reminded: (1) to be truthful; (2) to speak only when recognized by the Chair, who has full authority over the proceedings; (3) that the proceedings are confidential and should not be discussed outside of the hearing room; and (4) questioning about the reporting student’s sexual history with anyone other than the responding student will generally not be permitted. Questions about relevant social histories are permissible. Each witness to be called into the hearing room is informed of the same expectations.

The Chair introduces the formal statement and identifies the policies allegedly violated.

The reporting student or advisor is asked to make an opening statement. These comments should be directed to areas of agreement/disagreement with the investigation report. The decision to have an advisor read the statement in lieu of the student is a personal choice to be made at any time. The Chair does not require prior notice.

The responding student or advisor is asked to make an opening statement. These comments should be directed to areas of agreement/disagreement with the investigation report. The decision to have an advisor read the statement in lieu of the student is a personal choice to be made at any time. The Chair does not require prior notice.

The hearing panel may ask questions of the reporting student, responding student or the investigators (if the Chair has called the investigators to the hearing). The responding student and reporting student may not question each other.

The reporting student and responding student may submit, to the hearing panel, relevant questions to be asked of the responding student and reporting student respectively. These questions should be submitted to the Chair of the hearing panel no less than 24 hours prior to the hearing. If at the conclusion of the panel’s questioning the responding student or reporting student have additional questions to be asked of the other, they may submit questions in writing to the Chair of the hearing panel who will submit them to the panel to be asked at the panel’s discretion.

Witnesses are called in order as determined by the Chair. The reporting student, responding student and hearing panel may question the witnesses as called upon by the Chair. Character witnesses are not called in person. Each student may, however, submit a written statement from one character witness that will be read aloud to the hearing panel by the Chair at the completion of all questioning. Additional witnesses identified during questioning may be called to the hearing at the discretion of the Title IX Coordinator and/or the Chair.

Any witnesses who need to be recalled and re-questioned are called and then excused.

The reporting student or advisor is given the opportunity to make a closing statement.

The responding student or advisor is given the opportunity to make a closing statement.

The Chair confirms that no relevant questions remain unanswered.

The hearing is adjourned. The Chair collects all notes, personal and investigative, from the Panel which remain with the College. The responding student and reporting student may keep their notes but are advised that they are confidential and may not be shared with anyone other than the advisor, an attorney or their family. All participants other than the hearing panel members, Title IX Coordinator, if present, and Chair are asked to leave. The Chair will ask the reporting student and responding student if they would like to hear the outcome, without sanction, of the hearing immediately after the hearing panel reaches its conclusion or if they would prefer to wait for a meeting with the Chair and Dean of Students. If the responding student and reporting student choose to be notified immediately they will be notified by phone.

Using the “more likely than not” standard, also known as a “preponderance of the evidence” standard, the Hearing Panel determines first if the responding student is responsible for violation of the policy or policies identified in the report. Decisions are made by majority vote of the hearing panel members only. The Chair and Title IX Coordinator, if present, do not vote.

There are three possible findings:

- Responsible for a violation of College policy
- Not responsible for a violation of College policy
- Insufficient evidence for a finding of violation of College policy

If the hearing panel has found the responding student responsible for a violation of College policy, the panel will draft a statement explaining the finding of responsibility and for any recommended sanction. This will be included in the sanction letter sent to the responding student by the Dean of Students. Various sanctions, including but not limited to Reprimand, Warning, Suspension, Probation or Expulsion from the College, may be recommended by the Hearing Panel and implemented by the Dean of Students. Individuals found to have violated the College policy on non-consensual sexual intercourse through non-consensual vaginal or anal penetration with a body part or object, or through non-consensual oral penetration using a sex organ, generally will be expelled from the College.

The Chair and/or the Title IX Coordinator consults with the Dean of Students or designee and discusses the panel’s findings and the rationale for its recommended sanction(s). The Dean of Students or designee may request a meeting with the hearing panel. The Dean of Students or designee makes the final decision on all sanctions. The Dean of Students or designee will consult with the College’s Title IX Coordinator before assigning the sanction.

Typically, within 48 hours of consulting with the Chair, and/or the Title IX Coordinator, the Dean of Students or designee inform the
parties of the outcome and sanctions, if any, and explain appeal options, and how sanctions will be implemented. These meetings take place in person or via phone depending on the preference of the reporting student or responding student. The meetings are separate for each student. The Dean of Students will provide a written confirmation of the outcome and sanctions concurrently to the reporting student and responding student within 5 working days of the hearing. Both letters will include the Panel’s statement regarding reasoning for the finding of responsibility if that is the outcome. The Title IX Coordinator will inform the advisors of the outcome.