BREAK
<table>
<thead>
<tr>
<th>Date/Time of Formal Complaint and who filed the complaint</th>
</tr>
</thead>
<tbody>
<tr>
<td>References to policy and procedures</td>
</tr>
<tr>
<td>Parties involved</td>
</tr>
<tr>
<td>Conduct alleged</td>
</tr>
<tr>
<td>Date/location of the alleged conduct</td>
</tr>
<tr>
<td>Upcoming meeting date/time/location</td>
</tr>
<tr>
<td>Notice of advisor of choice</td>
</tr>
<tr>
<td>Presumed not responsible until a determination is made</td>
</tr>
<tr>
<td>Copy sent to complainant</td>
</tr>
</tbody>
</table>

**THE NOTICE OF ALLEGATIONS (NOA)**
NOTICE REQUIREMENTS

Timing

• Send to parties as soon as practicable after filing of formal complaint

• No investigative interviews until parties have sufficient time to review allegations

Advisor

• Notice must inform parties of right to advisor, who may be attorney

• School does not need to pay for attorney nor provide an advisor

• Reasonable restrictions

• Unless they conflict with cross-examination role
Reactions v. Responses

Reflective Responses: Restate, Reflect, Validate

Choices

Consistent Communication and Offerings for Parties

FERPA Considerations

REACTIONS AND CONSISTENT COMMUNICATION
2. TITLE IX GRIEVANCE PROCESS INITIATED

**CASE PROCESS DECONSTRUCTED**

**Key Players:**
- Conduct Staff
- Registrar
- TIXC

**Title IX Grievance Process Initiated**

**Checklist**
- Due process rights
- Advisor of choice
- Timeline for process
- Answer questions
- Provide resources
- Discuss evidence and witnesses
- Resolution options

**Meeting with Involved Parties**
- Incident reports gathered and processed
- Case rationale map
- Investigative report template

**Additional Steps & Tools**
2. TITLE IX GRIEVANCE PROCESS INITIATED

**CASE PROCESS DECONSTRUCTED**

**Initial Procedures Meeting Completed**
- Due process rights
- Advisor of choice
- Timeline for process
- Answer questions
- Provide resources
- Discuss evidence and witnesses
- Resolution options

**Investigation Begins**

**Post Investigation Procedures Meeting**

**Resolution Options**

**Key Players:**
- TIXC
- Conduct Staff
- UPD
- Hall Staff
- Hearing Board
- Appeals Board
- Registrar
Meet with Students

**MEETING WITH STUDENTS**

- **Detail Due Process Rights**
- **Review Grievance Process**
- **Timeline**
- **Answer questions; provide resources**
- **Review procedures (evidence, witnesses)**
- **Discuss potential outcomes, offer resolution options**

**Action Items**
- Virtual vs in-person meetings
- Location of meeting and privacy concerns
- Preparation of materials in advance
- Schedule with adequate time
- Build in flexibility and anticipate challenges
When Informal Resolutions are allowed under the Final Rule:

• After a formal complaint;
• When all parties and the TIXC coordinator consent;
• Any party can withdraw at any time

Not allowed in cases involving employee Respondents

TIXC can run the process, but it is not recommended

Examples:

• Administrative resolution
• Restorative justice
• Mediation
<table>
<thead>
<tr>
<th>Area</th>
<th>Considerations</th>
</tr>
</thead>
<tbody>
<tr>
<td>Capacity</td>
<td>Staff and technology needs</td>
</tr>
<tr>
<td>Policy Updates</td>
<td>Website, code, promotional materials</td>
</tr>
<tr>
<td>Process</td>
<td>Conceptualization, implementation, criteria, execution, form creation</td>
</tr>
<tr>
<td>Facility</td>
<td>Physical and Virtual</td>
</tr>
<tr>
<td>Training</td>
<td>Facilitators and Stakeholders</td>
</tr>
<tr>
<td>Awareness</td>
<td>Marketing &amp; outreach</td>
</tr>
</tbody>
</table>
2. TITLE IX GRIEVANCE PROCESS INITIATED

CASE PROCESS DECONSTRUCTED

Initial Procedures Meeting Completed

Investigation Begins

- Investigation Report Template
- Notice of Investigatory Interview Template
- Collection of evidence
- Witness interviews
- Review of evidence by Respondent and Complainant
- Written response from Respondent and Complainant
- Once completed the information is sent to the Student Conduct office.

Post Investigation Procedures Meeting

- Detail due process rights
- Indicate right to advisor of choice (advisor guide)
- Describe timeline for process
- Answer questions & provide resources
- Discuss new evidence and witness procedures
- Discuss charges and allegations
- Offer resolution options (Informal Resolution & Hearing process)
- Disability accommodations
- Retaliation policy reminder
- Describe potential sanction outcomes
- Decorum policy
- Determining relevance guide
- Share their appeal rights
- Correspondence

Resolution Options

Key Players:
- TIXC
- Conduct Staff
- UPD
- Hall Staff
- Hearing Board
- Appeals Board
- Registrar
• Avoid repeated disclosures
• Consider the impact of trauma:
  o Fragmented memory and non-linear order of events
  o Specific details about sensory events
• Trauma-informed approach is not a substitute for missing info, justification for not doing a full investigation, or cause a biased belief in a party’s accuracy
• No right or wrong way to respond

• Training and procedure review
• Check your body language and demeanor
• Questioning and word usage (Help me understand… and what are you able to tell me about what you experienced?)
  o Describing another individual’s experience
  o Framing your questions, avoiding why questions
<table>
<thead>
<tr>
<th>Evidence Collection</th>
<th>Evidence Sharing</th>
<th>Investigation Report</th>
</tr>
</thead>
<tbody>
<tr>
<td>Interviews of parties &amp; witnesses must take place after Notice of Allegations</td>
<td>Parties may review evidence with advisors present</td>
<td>Summarizes relevant evidence directly related to allegations</td>
</tr>
<tr>
<td>Both inculpatory &amp; exculpatory evidence must be collected</td>
<td>May set reasonable rules around evidentiary review and sharing</td>
<td>Cannot make determination regarding responsibility- sole role of the hearing panel</td>
</tr>
<tr>
<td>Evidence will be directly related to the allegations</td>
<td>Redaction of “irrelevant” evidence</td>
<td>Parties must have opportunity to review at least 10 days before hearing</td>
</tr>
<tr>
<td>The collection process may include evidence that institution does not intend to rely on</td>
<td>Mandatory inspection process with 10-day min. review period</td>
<td></td>
</tr>
</tbody>
</table>

### Evidence Sharing
- Parties may review evidence with advisors present.
- May set reasonable rules around evidentiary review and sharing.
- Redaction of “irrelevant” evidence.
- Mandatory inspection process with 10-day min. review period.

### Investigation Report
- Summarizes relevant evidence directly related to allegations.
- Cannot make determination regarding responsibility- sole role of the hearing panel.
- Parties must have opportunity to review at least 10 days before hearing.
Prompt and Impartial Investigations

- Require publication of a timeframe based on a specific number of days with room for ‘good cause’ delay
- Final Rules (and case l) anticipate balance between prompt resolution and adequate time to prepare and respond to charges
- Must collect exculpatory and inculpatory evidence
- Must follow code
- Cannot have bias or conflict of interest
<table>
<thead>
<tr>
<th>Evidence Collection</th>
</tr>
</thead>
<tbody>
<tr>
<td>Testimony</td>
</tr>
<tr>
<td>Text Messages</td>
</tr>
<tr>
<td>Social Media Posts</td>
</tr>
<tr>
<td>Medical Records</td>
</tr>
<tr>
<td>Public Safety/Police Records</td>
</tr>
<tr>
<td>Videos / Surveillance Footage</td>
</tr>
<tr>
<td>Pictures</td>
</tr>
<tr>
<td>ID Card Data / Network Usage Location Data</td>
</tr>
<tr>
<td>Email</td>
</tr>
<tr>
<td>Voice notes</td>
</tr>
</tbody>
</table>
2. TITLE IX GRIEVANCE PROCESS INITIATED

**CASE PROCESS DECONSTRUCTED**

**Initial Procedures Meeting Completed**

**Investigation Begins**

**Post Investigation Procedures Meeting**

- Detail due process rights
- Indicate right to advisor of choice (advisor guide)
- Describe timeline for process
- Answer questions & provide resources
- Discuss new evidence and witness procedures
- Discuss charges and allegations
- Offer resolution options (Informal Resolution & Hearing process)
- Disability accommodations
- Retaliation policy reminder
- Describe potential sanction outcomes
- Decorum policy
- Determining relevance guide
- Share their appeal rights
- Correspondence communication

**Resolution Options**

- TIXC
- Conduct Staff
- UPD
- Hall Staff
- Hearing Board
- Appeals Board
- Registrar
**POST-MEETING WITH STUDENTS**

<table>
<thead>
<tr>
<th>Detail</th>
<th>Due Process Rights, advisor of choice reminder</th>
</tr>
</thead>
<tbody>
<tr>
<td>Review charges/allegations and remaining timeline</td>
<td></td>
</tr>
<tr>
<td>Answer questions; provide resources</td>
<td></td>
</tr>
<tr>
<td>Offer resolution options again, discuss</td>
<td></td>
</tr>
<tr>
<td>Review appeal rights, policy and procedure reminders</td>
<td></td>
</tr>
</tbody>
</table>

**Action Items**

- Virtual vs in-person meetings
  - Clear expectations and reminders in your meeting notices (e.g., Advisor of choice notice)
- Location of meeting and privacy concerns
- Preparation of materials in advance
  - Referral Packet
  - Visual of hearing space if in person
- Schedule with adequate time
- Build in flexibility and anticipate challenges
  - Emotional state of all parties
  - Breaks may be necessary
  - Working with the student's advisor
2. TITLE IX GRIEVANCE PROCESS INITIATED

**Case Process Deconstructed**

**Initial Procedures Meeting Completed**
- Due process rights
- Advisor of choice
- Timeline for process
- Answer questions
- Provide resources
- Discuss evidence and witnesses
- Resolution options

**Investigation Begins**
- Investigation Report Template
- Notice of Investigatory Interview Template
- Collection of evidence
- Witness interviews
- Review of evidence by Respondent and Complainant
- Written response from Respondent and Complainant
- Information sent to the Student Conduct office.

**Post Investigation Procedures Meeting**
- Detail due process rights
- Indicate right to advisor of choice (advisor guide)
- Describe timeline for process
- Answer questions & provide resources
- Discuss new evidence and witnesses procedures
- Discuss charges and allegations
- Offer resolution options (Informal Resolution & Hearing process)
- Disability accommodations
- Retaliation policy reminder
- Describe potential sanction outcomes
- Decorum policy
- Determining relevance guide
- Share their appeal rights
- Correspondence communication

**Resolution Options**

**Informal Resolution**
- Complainant has agreed in writing.
- Title IX Coordinator agrees.
- Respondent has agreed to participate.
- Facilitator reaches out to both parties.
- Both parties agree to the resolution.
- Informal Resolution Model Policy

**Hearing**
- Managing all schedules
- Notice of Hearing
- Parties confirm attendance with advisors
- Pre-Hearing preparation & logistics
- Selection of Board Members
- Order of Hearing
- Determination

**Key Players:**
- TIXC
- Conduct Staff
- UPD
- Hall Staff
- Hearing Board
- Appeals Board
- Registrar
PRE-HEARING PREPARATIONS
# Pre-Hearing Considerations

## Technology
- Accessibility needs
- Internet signal strength
- Party access to appropriate equipment – don’t make assumptions
- Technology settings
- Recording ability (double check cloud space & storage)
- Double check provided links
- Back up plan & back up tech person role that does not wear other hats in the process

## Hearing Space and Parties
- Physical space for party and advisor
- Hearing board member location
- Your location
- Witness & Investigator invites
- All party and advisor confirmations (back up advisors)
- Confidentiality and privacy of communications (tip: pan the room)

## Virtually

### Technology
- Accessibility needs
- Internet signal strength
- Party access to appropriate equipment – don’t make assumptions
- Technology settings
- Recording ability (double check cloud space & storage)

### Hearing Space and Parties
- Space considerations for where students will be placed – enter/exit building?
- Space availability (multiple spaces)
- Masks and visitor policies
- Access to documents and evidence
- Proximity to restrooms
- Proximity to a printer
- Fire alarm plan
- Water, tissues, snacks, pens, paper (for all)
- Witness & Investigator invites

## In-Person

### Technology
- Accessibility needs
- Recording ability (double check cloud space & storage)
- Smart equipment (e.g. for the purposes of showing evidence)
- Back up tech person role that does not wear other hats in the process

### Hearing Space and Parties
- All party and advisor confirmations (back up advisors)
<table>
<thead>
<tr>
<th>Topic</th>
</tr>
</thead>
<tbody>
<tr>
<td>Availability Expectations</td>
</tr>
<tr>
<td>Conflict of Interest and Bias Check</td>
</tr>
<tr>
<td>Access to evidence, hearing resources, information</td>
</tr>
<tr>
<td>Board Communication</td>
</tr>
<tr>
<td>Select chairperson, discuss relevant roles on board</td>
</tr>
<tr>
<td>Topic</td>
</tr>
<tr>
<td>--------------------------------------------</td>
</tr>
<tr>
<td>Date, Time, Location (Meeting Links)</td>
</tr>
<tr>
<td>Include and cite relevant policies / procedures</td>
</tr>
<tr>
<td>Describe the outline/process for day of</td>
</tr>
<tr>
<td>Include failure to appear clause</td>
</tr>
<tr>
<td>New evidence and witness reminder</td>
</tr>
</tbody>
</table>
• **All parties, advisors, witnesses, and decision-makers:**
  o must be present at the same time either physically or remotely via secure technology.

• **Decision-makers**
  o Must be able to see and hear parties and witnesses (either physically or via secure technology).
  o Ask questions of the parties and witnesses.
  o Decide whether question is relevant.

• **Advisors**
  o ask relevant cross-examination questions. *(Does the question make a fact at issue more or less likely to be true?)*
Rules to consider

- Questions in neutral tone
- No accusatory questions
- Require parties and advisors to refer to other persons by the name and gender pronoun used by that person
- No "duty of zealous advocacy" inferred or enforced, even for attorney-advisors
- No abusive behavior: yelling, screaming, badgering, leaning in, or approaching witnesses/parties without permission
- No use of profanity or personal attacks

- No use of repetitive questions
Student Conduct Institute
Guide for Determining Relevance

Question about Complainant’s Prior Sexual Behavior or Sexual Predisposition

- The question is relevant because although it calls for prior sexual behavior information about the complainant, it meets one of the two exceptions to the rape shield protections defined in 34 C.F.R. § 106.45(b)(6)(i), and it tends to prove that a material fact at issue is more or less likely to be true (denote which exception).
  - Exception one: The question is asked to prove that someone other than the respondent committed the conduct alleged by the complainant.
  - Exception two: The question concerns specific incidents of the complainant’s prior sexual behavior with respect to the respondent and is asked to prove consent.

- The question is irrelevant because it calls for prior sexual behavior information about the complainant without meeting one of the two exceptions to the rape shield protections defined in 34 C.F.R. § 106.45(b)(6)(i).
CODE WORD: SONY

BREAK