

**Texas Tech University System  
Regulation 07.18 – Attachment 1**

**Title VI (Discrimination Based on Race, Color, National Origin, Including Shared Ancestry): Hearing Procedures and Appeals**

1. General Requirements

- a. *Hearing.* A live hearing may be conducted with all parties physically present in the same geographic location or, at the University's discretion, any or all parties, witnesses, and other participants may appear at the hearing virtually, with technology enabling participants to simultaneously see and hear each other. At the request of either party, the live hearing may occur with the parties located in separate rooms; however, technology enabling the Hearing Panel, Hearing Officer, parties, and witnesses to simultaneously see and hear the party or the witness answering questions must be used.
- b. *Hearing Panel.* The University will appoint a Hearing Panel ("Hearing Panel"). The Hearing Panel will be the decision-maker that objectively evaluates all relevant evidence and renders a determination and issues findings and appropriate disciplinary action, when violations of the regulation have been found, upon completion of the hearing. The determination and issuance of findings and any disciplinary action will be made by a majority vote of the Hearing Panel. The Hearing Panel has the right and responsibility to ask questions and elicit information from parties and witnesses on its own initiative to aid in obtaining relevant evidence both inculpatory and exculpatory.
- c. *Hearing Officer.* The University will appoint an independent Hearing Officer to oversee and conduct the hearing and chair the Hearing Panel ("Hearing Officer"). When the independent Hearing Officer is a licensed attorney, the Hearing Officer will provide confidential legal advice to the Hearing Panel when the panel is deliberating the determination of findings and drafting the written findings and disciplinary action when violations of the regulation have been found.
- d. *Parties and Witnesses at Hearing.* All parties, witnesses, and other participants in a hearing must be physically or virtually present in a manner where all participants can simultaneously see and hear each other.
- e. *Advisors.* Each Complainant and Respondent may have an advisor present at the hearing, and each is entitled to select an advisor of their choice. Each party must inform the University at least ten (10) days prior to the hearing whether the party intends to select and bring an advisor of their choice to the hearing. The advisors' only permissible role at the hearing is to advise and consult with the respective party and will not actively participate in the hearing.
- f. *Rules of Order and Decorum.* The University will adopt rules of order and decorum provided for and enforced by the Hearing Officer. Such rules will include, without limitation, time limits, hearing order, and requirements that participants not badger a witness, and repetition of the same question may be deemed irrelevant by the Hearing Officer; no party be asked questions in an abusive or intimidating manner; and questioning shall be relevant, respectful, and non-abusive.

2. Hearing Procedure

- a. *Hearing Officer to Direct Hearing.* The Hearing Officer will set the Rules of Order and Decorum and agenda for the hearing and will direct and oversee the hearing in accordance

with this regulation and the Rules of Order and Decorum. The hearing shall be no more than four (4) hours in length, unless the Hearing Officer determines that exceptional circumstances exist justifying a longer hearing.

- b. *Record of Hearing.* The University will create a record of the live hearing and make it available to the parties for inspection and review upon request. The Hearing Panel's deliberations are not part of the live hearing and therefore will not be part of the record.
- c. *Evidence Not Included in the Investigative Report.* Only evidence (including but not limited to documents, media, witnesses, and other tangible evidence) provided by the parties to the Investigator during the pre-hearing investigation, and/or identified or included in the investigative report may be presented, introduced, or used at the hearing. Any new evidence identified after completion of the investigative report that a party intends to present, introduce, or use at the hearing must be provided to the Title IX Office at least five (5) days prior to the hearing and to the other party at least three (3) days prior to the hearing. Failure to comply with this provision will result in the new evidence being excluded from consideration during the hearing and decision-making process.
- d. *Opening and Closing Statements.* At the direction of the Hearing Officer, Complainants and Respondents will have an opportunity to offer their own opening and closing statements, subject to time limits set by the Hearing Officer.
- e. *Presentation of Evidence.* Each party will have an opportunity to introduce evidence to the Hearing Panel.
  - i. *Rules of Evidence; Relevance.* The Hearing Officer will be responsible for making determinations regarding evidence, including relevance.
- f. *Examination of Witnesses*
  - i. *Direct Examination.* Direct examination may be conducted by the Hearing Officer or the Hearing Panel.
  - ii. *Cross-Examination.* All cross-examination must be conducted directly, orally, and in real time. Only relevant cross-examination and other questions, including those challenging credibility, may be asked of a party or witness. Before a participant answers a cross-examination or other question, the Hearing Officer must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.

### 3. Appeals

- a. *Grounds for Appeal.* The parties may appeal a determination of findings and/or disciplinary action on the following grounds:
  - i. A procedural irregularity that affected the outcome of the matter
  - ii. New evidence that was not reasonably available at the time the determination of findings was made, that could affect the outcome of the matter.
  - iii. The Investigator or a Hearing Officer had a conflict of interest or bias for or against Complainants or Respondents generally or the individual Complainant or Respondent that affected the outcome of the matter; or

- iv. The disciplinary action imposed substantially vary from the range of sanctions normally imposed for similar infractions.

b. *Process for Appeal.*

- i. *Filing by Appealing Party.* The appeal process is initiated upon a party's filing of a written appeal within three (3) University business days after University's delivery of the written findings and any disciplinary action. The written appeal must be filed with the University's Title IX Office or System Office of Equal Opportunity, as directed in the written determination of findings, and the party's written appeal must set forth the grounds for the appeal and any supporting information.
- ii. *Response of Non-Appealing Party.* Upon the filing of a written appeal, University will give written notice of the filed appeal to the non-appealing party. The non-appealing party will have three (3) University business days after University's delivery of the written notice to respond to the appeal.
- iii. *Appeal Officer.* The University will designate a decision-maker for the appeal (the "appeal officer"). The appeal officer shall not be the same person as any of the Hearing Panel members that issued the written findings, the Investigator(s), or the Title IX Coordinator.
- iv. *Response of Hearing Panel.* The appeal officer may submit the written appeal and non-appealing party's response to the Hearing Panel, and the Hearing Panel may submit its response in support of the appeal or original decision to the appeal officer.
- v. *Review of Appeal.* The appeal officer will first review the appeal to determine if the appeal is timely and properly sets forth the appropriate grounds for appeal, with adequate accompanying evidence. If any of these requirements are not met, the appeal will be dismissed, and the decision will be final. If these preliminary requirements are met, the appeal officer will then review the substance of the appeal and make a final determination.
- vi. *Written Decision and Notice.* Within five (5) University business days of the non-appealing party's deadline to submit a response to the filed appeal, the appeal officer will issue a written decision describing the result of the appeal and the rationale for the result. The appeal officer will provide the written decision simultaneously to both parties. The written decision of the appeal officer is final and may not be appealed.