

WARNER UNIVERSITY

POLICY: Sexual Harassment and Title IX Grievance Policy and Procedures
POLICY #: P-786 (also P-380)
STATUS: Approved by Leadership Team, August 12, 2020

I. PURPOSE:

Warner University (University) is committed to maintaining a Christ-centered community, free of all forms of sexual harassment as defined in this policy. The University is committed to addressing sexual harassment in a manner consistent with the May 19, 2020 U.S. Department of Education’s Final Rule under Title IX of the Education Amendments of 1972. The University also is committed to raising awareness of issues relating to sexual harassment and its prevention, providing training and continuing education for students, staff and faculty. The University is also committed to the training of all personnel tasked with overseeing, investigating and adjudicating the grievance process as outlined by the Final Rule.

The requirements and protections of this policy apply equally regardless of sex or other protected classes covered by federal or state law. All requirements and protections are equitably provided to individuals regardless of such status or status as a Complainant, Respondent or Witness.

Individuals who wish to file a complaint about the institution’s Sexual Harassment and Title IX Grievance Policy and Procedures may contact the Department of Education’s Office for Civil Rights using contact information available at <https://ocrcas.ed.gov/contact-ocr>.

II. SCOPE:

This policy applies to all University students, faculty, staff, and campus visitors, contractors, consultants and vendors. This policy applies on all University property, on all property at which the University holds educational programs or activities, and on all means of transport utilized by or on behalf of the university for students, faculty, and staff. This policy applies to all University educational programs and other university sponsored activities.

III. DEFINITIONS

Covered Sexual Harassment

For the purposes of this Sexual Harassment and Title IX Grievance Policy, “covered sexual harassment” includes any conduct based on sex that satisfies one or more of the following:

1. An employee conditioning educational benefits on participation in unwelcome sexual conduct (i.e., quid pro quo);

2. Unwelcome conduct that a reasonable person would determine is so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the educational institution's education program or activity;
3. Sexual assault (as defined in the Clery Act), which includes any sexual act directed against another person, without the consent of the victim including instances where the victim is incapable of giving consent;
4. Dating violence (as defined in the Violence Against Women Act (VAWA) amendments to the Clery Act), which includes any violence committed by a person: (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) The length of the relationship; (ii) The type of relationship; (iii) The frequency of interaction between the persons involved in the relationship.
5. Domestic violence (as defined in the VAWA amendments to the Clery Act), which includes any felony or misdemeanor crimes of violence committed by a current or former spouse or intimate partner of the victim, by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner, by a person similarly situated to a spouse of the victim under the State of Florida's domestic or family violence laws or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of Florida.
6. Stalking (as defined in the VAWA amendments to the Clery Act), meaning engaging in a course of conduct directed at a specific person that would cause a reasonable person to-- (A) fear for their safety or the safety of others; or (B) suffer substantial emotional distress.

Note that conduct by a person that does not meet one or more of these criteria may still be prohibited under the Warner Student Life Code of Conduct.

Consent

Consent for sexual activity must be informed and voluntary and can be withdrawn at any time. Consent can be given by words or actions if those words or actions create mutually understandable permission regarding the scope of sexual activity. There is no consent when there is force, expressed or implied, or when coercion, intimidation, threats, or duress is used. Whether a person has taken advantage of a position of influence over another person may be a factor in determining consent.

Silence or absence of resistance does not imply consent. Past consent to sexual activity with another person does not imply ongoing future consent with that person or consent to that same sexual activity with another person.

If a person is mentally or physically incapacitated or impaired so that he or she cannot understand the fact, nature, or extent of the sexual situation, there is no consent; this includes

impairment or incapacitation due to alcohol or drug consumption that meets this standard, or being asleep or unconscious.

Effect of drugs and alcohol on consent:

Individuals should be aware of, and carefully consider, the potential consequences of the use of alcohol or drugs. Alcohol and other drugs can lower inhibitions and create an atmosphere of confusion over whether consent is freely and affirmatively given. If there is a question about whether someone consented to sexual activity after consuming drugs or alcohol, the University will examine the issue from the perspective of a reasonable person. Specifically, the University will consider whether the Respondent reasonably should have known about the impact of alcohol and other drugs on the complainant's ability to give consent.

Education Program or Activity

For the purposes of this Sexual Harassment and Title IX Grievance Policy, Warner University's "education program or activity includes:

- Any on-campus premises
- Any off-campus premises that the University has substantial control over. This includes buildings or property owned or controlled by a recognized student organization.
- Activity occurring within computer and internet networks, digital platforms, and computer hardware or software owned or operated by, or used in the operations of Warner University's programs and activities over which the University has substantial control.

Formal Complaint

For the purposes of this Sexual Harassment and Title IX Grievance Policy, "formal complaint" means a document – including an electronic submission - filed by a complainant with a signature, or other indication that the complainant is the person filing the formal complaint, or signed by the Title IX Coordinator, alleging sexual harassment against a Respondent about conduct within the University's education program or activity and requesting initiation of the procedures consistent with the Sexual Harassment and Title IX Grievance Policy to investigate the allegation of sexual harassment.

Complainant

For the purposes of this Sexual Harassment and Title IX Grievance Policy, Complainant means any individual who has reported being or is alleged to be the victim of conduct that could constitute covered sexual harassment as defined under this policy.

Relevant Evidence and Questions

"Relevant" evidence and questions refer to any questions and evidence that tends to make an allegation of sexual harassment more or less likely to be true.

“Relevant” evidence and questions do not include the following types of evidence and questions, which are deemed “irrelevant” at all stages of the Title IX Grievance Process:

- Evidence and questions about the Complainant’s sexual predisposition or prior sexual behavior unless:
 - They are offered to prove that someone other than the Respondent committed the conduct alleged by the Complainant, or
 - They concern specific incidents of the Complainant’s prior sexual behavior with respect to the Respondent and are offered to prove consent.
- Evidence and questions that constitute, or seek disclosure of, information protected under a legally-recognized privilege such as attorney-client privilege.
- Any Party’s medical, psychological, and similar records unless the Party has given voluntary, written consent.

Evidence may include written, audio, electronic, text and social media accounts that met the criteria of “relevant” evidence.

Respondent

For the purposes of this Sexual Harassment and Title IX Grievance policy, Respondent means any individual who has been reported to be the perpetrator of conduct that could constitute covered sexual harassment as defined under this policy.

Privacy vs. Confidentiality

References made to *privacy* mean the University offices and employees who cannot guarantee confidentiality but will maintain privacy to the greatest extent possible, and information disclosed will be relayed only as necessary to investigate and/or seek a resolution and to notify the Title IX Coordinator or designee, who is responsible for tracking patterns and spotting systemic issues. Warner University will limit the disclosure as much as practicable, even if the Title IX Coordinator determines that the request for confidentiality cannot be honored.

References made to *confidentiality* refer to the ability of identified confidential resources to not report crimes and violations to law enforcement or college officials without permission, except for extreme circumstances, such as a health and/or safety emergency or child abuse.

Disability Accommodations

The Sexual Harassment and Title IX Grievance Policy does not alter any institutional obligations under federal disability laws including the Americans with Disabilities Act of 1990, and Section 504 of the Rehabilitation Act of 1973. Parties may request reasonable accommodations for disclosed disabilities to the Title IX Coordinator at any point before or during the Title IX Grievance Process that do not fundamentally alter the Process. The Title IX

Coordinator will not affirmatively provide disability accommodations that have not been specifically requested by the Parties, even where the Parties may be receiving accommodations in other institutional programs and activities.

IV. POLICY:

A. Nondiscrimination Statement

The University does not illegally discriminate on the basis of race, color, gender, sex, age, religion, national or ethnic origin, genetic information, veteran or military status, disability, or on any other basis in the admission of students, educational policies and programs, employment policies and activities with the exception of allowed exemptions in the Title VII Civil Rights Act of 1964 as amended; and Title IX of the of the Education Amendments Act of 1972.

B. Making a Report Regarding Covered Sexual Harassment to the University

Any person may report sex discrimination, including sexual harassment (whether or not the person reporting is the person alleged to be the victim of conduct that could constitute sex discrimination or harassment), in person, by mail, by telephone, by electronic mail or via the University's web based reporting form using the contact information listed for the Title IX Coordinator, or by any other means that results in the Title IX Coordinator receiving the person's verbal or written report.

Contact Information for the Title IX Coordinator:

Mrs. Janet Craigmiles
Asst. VP for HR and Organization Effectiveness/Title IX Coordinator
Rigel Student Center – Human Resources Office
janet.craigmiles@warner.edu
863-638-7524
Web form via: help.warner.edu

Such a report may be made at any time (including during non-business hours).

C. Confidential Reporting

The following Officials will provide privacy, but not confidentiality, upon receiving a report of conduct prohibited under this policy:

- Title IX Coordinator or designee
- Mrs. Anne Tohme – Vice President for Student Life
- Mr. Steven Weathers – Dean of Students
- Mr. Rodney Dallas – Assistant Dean of Students

The following Officials may provide confidentiality:

- On Campus Confidential Support - University contracted mental health counselors
- Royal MD
- Off Campus Confidential Support

Florida Council Against Sexual Abuse

Toll-free 24-hour hotline (1.888.956.7273)

Counselors are always available to provide support, information, education, and referrals.

Peace River Center Victim Services

Toll-free 24-hour hotline (1.877.688.5077)

24-hour hotline, information and referral, crisis intervention, advocacy and accompaniment.

D. Non-Investigatory Measures Available Under the Sexual Harassment and Title IX Grievance Policy

1. Supportive Measures

Complainants (as defined above) who report allegations that could constitute covered sexual harassment under this policy, have the right to receive supportive measures from the University regardless of whether they desire to file a complaint, which may include:

- Counseling
- Extension of deadlines or other course-related adjustments
- Modifications of work or class schedules or coursework deadlines
- Providing an escort to ensure safe movement between classes and other activities
- Restrictions on contact between the Parties (no contact orders)
- Reassigning the Respondent to another course section, if the complainant and Respondent are enrolled in the same course.
- Changes in work or housing locations
- Leaves of absence
- Providing access to tutoring or other academic support

Supportive measures are non-disciplinary and non-punitive

2. Emergency Removal

Warner University retains the authority to remove a Respondent from the University's program or activity on an emergency basis, where;

- a. The University undertakes an individualized safety and risk analysis, and
- b. The University determines that an immediate threat to the physical health or safety of any student, or other individual, exists based on the allegations of covered sexual harassment and that an immediate removal is justified.

If the University determines such a removal is necessary, the Respondent will be provided notices and an opportunity to challenge the decision immediately following the removal. Such a challenge should be filed with the Title IX Coordinator within five (5) business days of the notice of removal.

3. Administrative Leave

The University retains the authority to place a non-student employee Respondent on administrative leave during the Title IX Grievance Process.

E. Procedures for Informal Resolution

Warner University encourages informal resolution options when the Parties desire to resolve an allegation of sexual harassment cooperatively. Informal resolution may include an inquiry into the facts by the Title IX Coordinator, but typically does not rise to the level of an investigation.

Information resolution may include but is not limited to, options such as referral to another campus office or program, mediation, separation of the Parties, referral of the Parties to counseling programs, or conducting targeted educational and training programs.

Situations that are resolved through informal resolution are usually subject to follow-up after a period of time to assure that resolution has been implemented effectively. Steps taken by a Title IX Coordinator to help Parties achieve an informal resolution will be documented.

Allegations of sexual assault are not appropriate for the informal resolution process.

V. The Title IX Grievance Process

A. Filing a Formal Complaint

The timeframe for the Title IX Grievance Process begins with the filing of a Formal Complaint. The Grievance Process will be concluded within a reasonably prompt manner, and no longer than ninety (90) calendar days after the filing of the Formal Complaint, provided that the Process may be extended for a good reason, including but not limited to the absence of a Party, a Party's Advisor, or a Witness; concurrent law enforcement activity; or the need for language assistance or accommodation of disabilities. The procedure for applying for extensions is described below.

To file a Formal Complaint, a Complainant must provide the Title IX Coordinator a written, signed complaint describing the facts alleged. Complainants are only able to file a Formal Complaint under this Policy if they are currently participating in, or attempting to participate in, the education programs or activities of Warner University, including as an employee. For Complainants who do not meet these criteria, the College will utilize existing disciplinary procedures within the Student Handbook for students or the Faculty/Staff Handbook for employees.

If a Complainant does not wish to make a Formal Complaint, the Title IX Coordinator may determine a Formal Complaint is necessary. Warner University will inform the Complainant of this decision in writing, and the complainant need not participate in the process further but will receive all notices issued under this Policy and Process.

Nothing in the Sexual Harassment and Title IX Grievance Policy prevents a Complainant from seeking the assistance of state or local law enforcement alongside the appropriate on-campus process.

B. Multi-Party Situations

The institution may consolidate Formal Complaints alleging covered sexual harassment against more than one Respondent, or by more than one Complainant against one or more Respondents, or by one Party against the other Party, where the allegations of covered sexual harassment arise out of the same facts or circumstances.

C. Determining Jurisdiction

The Title IX Coordinator will determine if the instant Title IX Grievance Process should apply to a Formal Complaint. The Process will apply when all of the following elements are met, in the reasonable determination of the Title IX Coordinator:

- The conduct is alleged to have occurred on or after August 14, 2020;
- The conduct is alleged to have occurred in the United States;
- The conduct is alleged to have occurred in {institution's} education program or activity; and
- The alleged conduct, if true, would constitute covered sexual harassment as defined in this policy.

If all the elements are met, the University will investigate the allegations according to the Grievance Process outlined in this policy.

D. Allegations Potentially Falling Under Two Policies

If the alleged conduct, if true, includes conduct that would constitute covered sexual harassment and conduct that would not constitute covered sexual harassment, the Title IX Grievance Process will be applied in the investigation and adjudication of all the allegations.

E. Notice of Allegations

The Title IX Coordinator will draft and provide the Notice of Allegations to all Parties involved in the allegations of sexual harassment. Such notice will occur as soon as practicable after the institution receives a Formal Complaint of the allegations, if there are no extenuating circumstances.

The Parties will be notified by their institutional email accounts if they are a student or employee, and by other reasonable means if they are neither.

The institution will provide sufficient time for the Parties to review the Notice of Allegations and prepare a response before any initial interview.

The Title IX Coordinator may determine that the Formal Complaint must be dismissed on the mandatory grounds identified above, and will issue a Notice of Dismissal. If such a determination is made, any Party to the allegations of sexual harassment identified in the Formal Complaint will receive the Notice of Dismissal in conjunction with, or in separate correspondence after, the Notice of Allegations.

F. Contents of Notice

The Notice of Allegations will include the following:

- Notice of the institution's Title IX Grievance Process and a hyperlink to a copy of the process.
- Notice of the allegations potentially constituting covered sexual harassment, and sufficient details known at the time the Notice is issued, such as the identities of the Parties involved in the incident, if known, including the Complainant; the conduct allegedly constituting covered sexual harassment; and the date and location of the alleged incident, if known.
- A statement that the Respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the end of the grievance process.
- A statement that the Parties may have an Advisor of their choice, who may be, but is not required to be, an attorney, as required under 34 C.F.R. § 106.45(b)(5)(iv).
- A statement that before the conclusion of the investigation, the Parties may inspect and review evidence obtained as part of the investigation that is directly related to the allegations raised in the Formal Complaint, including the evidence upon which the institution does not intend to rely in reaching a determination regarding responsibility, and evidence that both tends to prove or disprove the allegations, whether obtained from a Party or other source, as required under 34 C.F.R. § 106.45(b)(5)(vi).

G. Ongoing Notice

If, in the course of an investigation, the institution decides to investigate allegations about the Complainant or Respondent that are not included in the Notice of Allegations and are otherwise covered "sexual harassment" falling within the Title IX Grievance Policy, the institution will notify the Parties whose identities are known of the additional allegations by their institutional email accounts or other reasonable means.

The Parties will be provided sufficient time to review the additional allegations to prepare a response before any initial interview regarding those additional charges.

H. Advisor of Choice and Participation of Advisor of Choice

Warner University will provide the Parties equal access to Advisors and Support persons; any restrictions on Advisor participation will be applied equally.

The University has practice of requiring students to participate in the process directly and not through a representative. Students participating as Complainant or Respondent in this process, however, may be accompanied by an Advisor of Choice to any meeting or hearing to which they are required or are eligible to attend. The Advisor of Choice is not an Advocate. Except where explicitly stated by this Policy, as consistent with the Final Rule, Advisors of Choice shall not participate directly in the process.

The University will not intentionally schedule meetings or hearings on dates where the Advisors of Choice for all Parties are not available, provided that the Advisors act reasonably in providing available dates and work collegially to find dates and times that meet all schedules.

The University's obligations to investigate and adjudicate in a prompt timeframe under Title IX and other college policies apply to matters governed under this Policy, and the University cannot agree to extensive delays solely to accommodate the schedule of an Advisor of Choice. The determination of what is reasonable shall be made by the Title IX Coordinator or designee.

The University will not be obligated to delay a meeting or hearing under this process more than five (5) days due to the unavailability of an Advisor of Choice, and may offer the Party the opportunity to obtain a different Advisor of Choice or utilize one provided by the University.

I. Notice of Meetings and Interviews

The University will provide, to a Party whose participation is invited or expected, written notice of the date, time, location, participants, and purpose of all hearings, investigative interviews, or other meetings with a Party, with sufficient time for the Party to prepare to participate.

J. Delays

Each Party may request a one-time delay in the Grievance Process of up to five (5) days for good cause (granted or denied in the sole judgment of the Title IX Coordinator, Vice President of Student Life, or designee) provided that the requestor provides reasonable notice and the delay does not overly inconvenience other Parties.

For example, a request to take a five day pause made an hour before a hearing for which multiple Parties and their advisors have traveled to and prepared for shall generally not be

granted, while a request for a five day pause in the middle of investigation interviews to allow a Party to obtain certain documentary evidence shall generally be granted.

The Title IX Coordinator, Vice President of Student Life, or designee, shall have sole judgment to grant further pauses in the Process.

VI. Investigation

A. General Rules of Investigations

The Title IX Coordinator and/or an investigator designated by the Title IX Coordinator} will perform an investigation under a reasonably prompt timeframe of the conduct alleged to constitute covered sexual harassment after issuing the Notice of Allegations.

Warner University, and not the Parties, has the burden of proof and the burden of gathering evidence, to show that a violation of this Policy has occurred. This burden does not rest with either Party, and either Party may decide not to share their account of what occurred or may decide not to participate in an investigation or hearing. This does not shift the burden of proof away from the University and does not indicate responsibility.

The University cannot access, consider, or disclose medical records without a waiver from the Party (or parent, if applicable) to whom the records belong or of whom the records include information. The University will provide an equal opportunity for the Parties to present Witnesses, including fact and expert Witnesses, and other inculpatory and exculpatory evidence, (i.e. evidence that tends to prove and disprove the allegations) as described below.

B. Inspection and Review of Evidence

Prior to the completion of the investigation, the Parties will have an equal opportunity to inspect and review the evidence obtained through the investigation. The purpose of the inspection and review process is to allow each Party the equal opportunity to meaningfully respond to the evidence prior to conclusion of the investigation.

Evidence that will be available for inspection and review by the Parties will be any evidence that is directly related to the allegations raised in the Formal Complaint. It will include any:

- Evidence that is relevant, even if that evidence does not end up being relied upon by the institution in making a determination regarding responsibility;
- Inculpatory or exculpatory evidence (i.e. evidence that tends to prove or disprove the allegations) that is directly related to the allegations, whether obtained from a Party or other source.

All Parties must submit any evidence they would like the investigator to consider prior to when the Parties' time to inspect and review evidence begins. See, 85 Fed. Reg. 30026, 30307 (May 19, 2020).

The institution will send the evidence made available for each Party and each Party's Advisor, if any, to inspect and review through an electronic format or a hard copy. The Institution is not under an obligation to use any specific process or technology to provide the evidence and shall have the sole discretion in terms of determining format and any restrictions or limitations on access.

The Parties will have ten (10) business days to inspect and review the evidence and submit a written response by email to the investigator. The investigator will consider the Parties' written responses before completing the Investigative Report.

The institution will provide copies of the Parties' written responses to the investigator to all Parties and their advisors, if any. See, 85 Fed. Reg. 30026, 30307 (May 19, 2020).

The institution will allow the Parties an additional five (5) business days to review any written responses to the evidence before the investigator completes their Investigative Report. During this additional five (5) day review Parties may provide additional evidence. If this occurs the additional evidence will be provided to all Parties to inspect and review for an additional five (5) business days. Parties may submit written responses regarding the new evidence to the investigator during the additional 5 day review. Those written responses will also be disclosed to the Parties. See, 85 Fed. Reg. 30026, 30307 (May 19, 2020).

After the conclusion of the evidence review and inspection by both Parties, the Investigator has 10 business days to generate a report. For more information on the Investigation Report see the section below.

Any evidence subject to inspection and review will be available at any hearing, including for purposes of cross-examination.

The Parties and their advisors must sign an agreement not to disseminate any of the evidence subject to inspection and review or use such evidence for any purpose unrelated to the Title IX grievance process. See, 85 Fed. Reg. 30026, 30435 (May 19, 2020).

C. Inclusion of Evidence Not Directly Related to the Allegations

Evidence obtained in the investigation that is determined in the reasoned judgment of the investigator not to be directly related to the allegations in the Formal Complaint will be included in the appendices to the investigative report.

D. Investigative Report

The Title IX Coordinator, and/or an investigator designated by the Title IX Coordinator, will create an Investigative Report that fairly summarizes relevant evidence, and will provide that Report to the Parties at least ten (10) {business/calendar/school} days prior the hearing, in an electronic format or a hard copy, for each Party's review and written response.

The Investigative Report is not intended to catalog all evidence obtained by the investigator, but only to provide a fair summary of that evidence.

Only relevant evidence (including both inculpatory and exculpatory – i.e. tending to prove and disprove the allegations - relevant evidence) will be referenced in the Investigative Report.

VII. HEARING

A. General Rules of Hearings

Warner University will not issue a disciplinary sanction arising from an allegation of covered sexual harassment without holding a live hearing unless otherwise resolved through an informal resolution process.

The 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 live hearing virtually through Zoom. This technology will enable participants simultaneously to see and hear each other. At its discretion, the University may delay or adjourn a hearing based on technological errors not within a Party's control.

All proceedings will be recorded through either audio recording, audiovisual recording or transcript. That recording or transcript will be made available to the Parties for inspection and review.

B. Continuances or Granting Extensions

The University may determine that multiple sessions or a continuance (i.e. a pause on the continuation of the hearing until a later date or time) is needed to complete a hearing. If so, the University will notify all participants and endeavor to accommodate all participants' schedules and complete the hearing as promptly as practicable.

C. Participants in the Live Hearing

Live hearings are not public, and the only individuals permitted to participate in the hearing are as follows:

1. Complainant and Respondent (The Parties)

- The Parties cannot waive the right to a live hearing.
- The institution may still proceed with the live hearing in the absence of a Party, and may reach a determination of responsibility in their absence, including through any evidence gathered that does not constitute a "statement" by that Party. 85 Fed. Reg. 30026, 30361 (May 19, 2020).
 - For example, A verbal or written statement constituting part or all of the sexual harassment itself is not a "prior statement" that must be excluded if

the maker of the statement does not submit to cross-examination about that statement. In other words, a prior statement would not include a document, audio recording, audiovisual reading, and digital media, including but not limited to text messages, emails, and social media postings, that constitute the conduct alleged to have been the act of sexual harassment under the formal complaint. See, OCR Blog (May 22, 2020), available at

<https://www2.ed.gov/about/offices/list/ocr/blog/20200522.html>

- The University will not threaten, coerce, intimidate or discriminate against the Party in an attempt to secure the Party's participation. See 34 C.F.R. § 106.71; see also 85 Fed. Reg. 30026, 30216 (May 19, 2020).
- If a Party does not submit to cross-examination, the decision-maker cannot rely on any prior statements made by that Party in reaching a determination regarding responsibility, but may reach a determination regarding responsibility based on evidence that does not constitute a "statement" by that Party.
- The decision-maker cannot draw an inference about the determination regarding responsibility based solely on a Party's absence from the live hearing or refusal to answer cross examination or other questions. See 34 C.F.R. §106.45(b)(6)(i).
- All Parties shall be subject to the University's Rules of Decorum as described in Appendix A of this document.

2. The Hearing Panel

- The Hearing Panel will consist of a panel of no less than two (2) decision-makers.
- No member of the Hearing Panel will also have served as the Title IX Coordinator, Title IX investigator, or Advisor to any Party in the case, nor may any member of the Hearing Panel serve on the appeals body in the case.
- No member of the Hearing Panel will have a conflict of interest or bias in favor of or against complainants or Respondents generally, or in favor or against the Parties to the particular case.
- The Hearing Panel will be trained on topics including how to serve impartially, issues of relevance, including how to apply the rape shield protections provided for complainants, and any technology to be used at the hearing.
- The Parties will have an opportunity to raise any objections regarding a decision-maker's actual or perceived conflicts of interest or bias at the commencement of the live hearing.

3. Advisor of choice

- The Parties have the right to select an Advisor of their choice, who may be, but does not have to be, an attorney.
- In addition to selecting an Advisor to conduct cross-examination, the Parties may select an Advisor who may accompany the Parties to any meeting or hearing they are permitted to attend, but may not speak for the Party.
- The Parties are not permitted to conduct cross-examination; it must be conducted by the Advisor. As a result, if a Party does not select an Advisor, the institution will select an Advisor to serve in this role for the limited purpose of conducting the cross-examination at no fee or charge to the Party.
- The Advisor is not prohibited from having a conflict of interest or bias in favor of or against Complainants or Respondents generally, or in favor or against the Parties to the case.
- The Advisor is not prohibited from being a Witness in the matter.
- If a Party does not attend the live hearing, the Party's Advisor may appear and conduct cross-examination on their behalf. 85 Fed. Reg. 30026, 30340 (May 19, 2020).
- If neither a Party nor their Advisor appear at the hearing, the University will provide an Advisor to appear on behalf of the non-appearing Party. See, 85 Fed. Reg. 30026, 30339-40 (May 19, 2020).
- Advisors shall be subject to the University's Rules of Decorum as described in Appendix A of this document

4. Witnesses

- Witnesses cannot be compelled to participate in the live hearing, and have the right not to participate in the hearing free from retaliation. See, 85 Fed. Reg. 30026, 30360 (May 19, 2020).
- If a Witness does not submit to cross-examination, as described below, the decision-maker cannot rely on any statements made by that Witness in reaching a determination regarding responsibility, including any statement relayed by the absent Witness to a Witness or Party who testifies at the live hearing. 85 Fed. Reg. 30026, 30347 (May 19, 2020).
- Witnesses shall be subject to the University's Rules of Decorum as described in Appendix A of this document.

D. Hearing Procedures

For all live hearings conducted under this Title IX Grievance Process, the procedure will be as follows:

- The members of the Hearing Panel, prior to the start of the hearing, will choose a panel member to serve as the Hearing Panel Chair. The Hearing Panel Chair will open and establish rules and expectations for the hearing;
- The Parties will each be given the opportunity to provide opening statements;
- Member of the Hearing Panel will ask questions of the Parties and Witnesses;
- Parties will be given the opportunity for live cross-examination after the Hearing Panel conducts its initial round of questioning; During the Parties' cross-examination, a member of the Hearing Panel will have the authority to pause cross-examination at any time for the purposes of asking their own follow up questions; and as necessary in order to enforce the established Rules of Decorum.
- Should a Party or the Party's Advisor choose not to cross-examine a Party or Witness, the Party shall affirmatively waive cross-examination through a written or oral statement to the Hearing Panel. A Party's waiver of cross-examination does not eliminate the ability of the Hearing Panel to use statements made by the Party.

E. Live Cross-Examination Procedure

Each Party's Advisor will conduct live cross-examination of the other Party or Parties and Witnesses. During this live-cross examination the Advisor will ask the other Party or Parties and Witnesses relevant questions and follow-up questions, including those intended to challenge credibility directly, orally, and in real time.

Before any cross-examination question is answered, the Hearing Panel will determine if the question is relevant. For more on relevance, please see the Guidelines for Determining Relevancy in Appendix B of this document. Cross-examination questions that are duplicative of those already asked, including by the Hearing Panel may be deemed irrelevant if they have been already asked and answered.

F. Review of Transcript/Recording

The recording/transcript of the hearing will be available for review by the Parties within five (5), unless there are any extenuating circumstances. The recording/transcript of the hearing will not be provided to Witnesses or Advisors.

VIII. Determination Regarding Responsibility

A. Standard of Proof

Warner University uses the preponderance of the evidence standard for investigations and determinations regarding responsibility of formal complaints covered under this Policy. This means that the investigation and hearing determines whether it is more likely than not that a violation of the Policy occurred.

B. General Considerations for Evaluating Testimony and Evidence

While the opportunity for cross-examination is required in all Title IX hearings, determinations regarding responsibility may be based in part, or entirely, on documentary, audiovisual, and digital evidence, as warranted in the reasoned judgment of the Hearing Panel.

Members of the Hearing Panel shall not draw inferences regarding a Party or Witness' credibility based on the Party or Witness' status as a Complainant, Respondent, or Witness, nor shall it base its judgments in stereotypes about how a Party or Witness would or should act under the circumstances.

Generally, credibility judgments should rest on the demeanor of the Party or Witness, the plausibility of their testimony, the consistency of their testimony, and its reliability in light of corroborating or conflicting testimony or evidence.

Still, credibility judgments should not rest on whether a Party or Witness' testimony is non-linear or incomplete, or if the Party or Witness is displaying stress or anxiety.

The Hearing Panel will afford the highest weight relative to other testimony to first-hand testimony by Parties and Witnesses regarding their own memory of specific facts that occurred. Both inculpatory and exculpatory (i.e. tending to prove and disprove the allegations) evidence will be weighed in equal fashion.

Except where specifically barred by the Title IX Final Rule, a Witness' testimony regarding third-Party knowledge of the facts at issue will be allowed, but will generally be accorded lower weight than testimony regarding direct knowledge of specific facts that occurred.

The Final Rule requires that the University allow parties to call "expert Witnesses" for direct and cross examination. (The University will not allow for expert Witnesses to be called in any other non-Title IX related student or employee disciplinary proceeding.) While the expert Witness will be allowed to testify and be crossed as required by the Final Rule, the Hearing Panel will be instructed to afford lower weight to non-factual testimony of the expert relative to fact Witnesses, and any expert testimony that is not directed to the specific facts that occurred in the case will be afforded lower weight relative to fact Witnesses, regardless of whether the expert Witness testimony is the subject of cross examination.

The Final Rule requires that the University allow Parties to call character Witnesses to testify. (The University will not allow for character Witnesses to be called in any other non-Title IX related student or employee disciplinary proceeding.) While the character Witnesses will be allowed to testify and be crossed examined as required by the Final Rule, the Hearing Panel will be instructed to afford very low weight to any non-factual character testimony of any Witness.

The Final Rule requires that the University admit and allow testimony regarding polygraph tests ("lie detector tests") and other procedures that are outside of standard use in academic and non-academic conduct processes. While the processes and testimony about

them will be allowed to testify and be crossed as required by the Final Rule, the decision-maker will be instructed to afford lower weight to such processes relative to the testimony of fact Witnesses.

Where a Party or Witness' conduct or statements demonstrate that the Party or Witness is engaging in retaliatory conduct, including but not limited to Witness tampering and intimidation, the Hearing Panel may draw an adverse inference as to that Party or Witness' credibility.

C. Components of the Determination Regarding Responsibility

The written Determination Regarding Responsibility will be issued simultaneously to all Parties through their institution email account, or other reasonable means as necessary. The Determination will include:

- Identification of the allegations potentially constituting covered sexual harassment;
- A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and Witnesses, site visits, methods used to gather other evidence, and hearings held;
- Findings of fact supporting the determination;
- Conclusions regarding which section of the Warner Student Handbook or Warner Faculty-Staff Handbook, if any, the Respondent has or has not violated.
- For each allegation:
 - A statement of, and rationale for, a determination regarding responsibility;
 - A statement of, and rationale for, any disciplinary sanctions the recipient imposes on the Respondent; and
 - A statement of, and rationale for, whether remedies designed to restore or preserve equal access to the recipient's education program or activity will be provided by the recipient to the complainant; and
- The recipient's procedures and the permitted reasons for the Complainant and Respondent to appeal (described below in "Appeal").

D. Timeline of Determination Regarding Responsibility

If there are no extenuating circumstances, the determination regarding responsibility will be issued by the University within ten (10) business days of the completion of the hearing.

E. Finality

The determination regarding responsibility becomes final either on the date that the University provides the Parties with the written determination of the result of the appeal, if an appeal is filed, consistent with the procedures and timelines outlined in "Appeals" below, or if an appeal is not filed, the date on which the opportunity to appeal expires.

F. Appeals

Each Party may appeal (1) the dismissal of a formal complaint or any included allegations and/or (2) a determination regarding responsibility. To appeal, a Party must submit their written appeal within five (5) business days of being notified of the decision, indicating the grounds for the appeal.

The limited grounds for appeal available are as follows:

- Procedural irregularity that affected the outcome of the matter (i.e. a failure to follow the University's own procedures);
- New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
- The Title IX Coordinator, Investigator(s), or Hearing Panel members(s) had a conflict of interest or bias for or against an individual Party, or for or against Complainants or Respondents in general, that affected the outcome of the matter.

The submission of appeal stays any sanctions pending the outcome of an appeal. Supportive measures and remote learning opportunities remain available during the appeal process.

If a Party appeals, the institution will as soon as practicable notify the other Party in writing the appeal, however the time for appeal shall be offered equitably to all Parties and shall not be extended for any Party solely because the other Party filed an appeal.

Appeals may be no longer than 1,000 words (including attachments). Appeals should be submitted in written or electronic format to the Title IX Coordinator.

Appeals will be decided by an Appeals Panel made up of no less than two (2) persons who will be free of conflict of interest and bias, and will not have served previously as an Investigator, Title IX Coordinator, or Hearing Panel member for the matter being appealed.

Outcome of appeal will be provided in writing simultaneously to both Parties, and include rationale for the decision.

IX. Other Relevant Information

A. Retaliation

The University will keep the identity of any individual who has made a report or complaint of sex discrimination confidential, including the identity of any individual who has made a report or filed a Formal Complaint of sexual harassment under this Sexual Harassment and Title IX Grievance Policy, any Complainant, any individual who has been reported to be the perpetrator of sex discrimination, any Respondent, and any Witness, except as permitted

by the FERPA statute, 20 U.S.C. 1232g, or FERPA regulations, 34 CFR part 99, or as required by law, or to carry out the purposes of 34 CFR part 106, including the conduct of any investigation, hearing, or judicial proceeding under this Title IX Grievance Policy.

No person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX of the Education Amendments of 1972 or its implementing regulations.

No person may intimidate, threaten, coerce, or discriminate against any individual because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding or hearing under this Title IX Grievance Policy.

Any intimidation, threats, coercion, or discrimination, for the purpose of interfering with any right or privilege secured by Title IX or its implementing regulations constitutes retaliation. This includes any charges filed against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but that arise from the same facts or circumstances as a report or complaint of sex discrimination or a report or Formal Complaint of sexual harassment.

Complaints alleging retaliation may be filed according to the University's Title IX Coordinator. Adjudication of retaliation complaints will follow the University's internal grievance procedures as outlined in the Student Handbook and the Faculty-Staff Handbook.

B. Bystander Intervention & Conditional Immunity

Warner University is deeply committed to the health, safety and well-being of its students. Bystander intervention by students can be a critical aspect of enhancing the welfare of their peers. Students are strongly encouraged to contact University personnel, call 911 or seek other professional or medical attention when the health or safety of themselves or others is threatened or appears to be at risk.

The University wants to eliminate barriers for students who may be hesitant to seek medical or emergency help or report an incident to University officials for fear of being held accountable for student or community policy violations (e.g., drinking alcoholic beverages). To encourage reporting, Warner offers conditional immunity from being charged with policy violations related to the particular incident to students who are accessing help for themselves or others. While there may be no community accountability sanctions for individuals covered under bystander intervention protections, the University may provide elements of help, support and education to these individuals.

C. Filing a False Complaint

Knowingly providing false information during any stage of a sexual misconduct case is prohibited and is considered misconduct subject to disciplinary action up to and including expulsion from the university or termination of employment.

D. Complaints Filed By Individuals Under the Age of 18

Before beginning an investigation, the University will inform and obtain consent from the parents of any individual involved in a Title IX complaint who is under the age of 18.

E. Police Reporting

A Complainant may choose to file both a Title IX complaint and a criminal complaint simultaneously, or may choose to file one report or the other. A Complainant may choose to file a police report directly. Any Student Life personnel, Campus Safety and Security or the Title IX Coordinator can assist a Complainant, upon request, in making such a report. A Complainant may also directly contact the Polk County Sheriff's Police Southeast Substation at 863-378-4170 or in an emergency dial 911.

F. Records Retention

The Title IX Coordinator(s) are responsible for maintaining records relating to Sexual Harassment and Title IX allegations, informal resolutions, investigations, decisions and appeals. Records shall be maintained in accordance with University records policies, and will generally be kept up to seven years after the complaint has been resolved. Records may be maintained for a longer period of time at the discretion of the Title IX Coordinator in cases where the Parties have a continuing affiliation with the University. All records pertaining to pending litigation or a request for records shall be maintained in accordance with instructions from University legal counsel.

X. REVISION HISTORY

Date	Revision #	Description of Change
04/15/18	1.0	Initial creation
08/12/20	2.0	Updated for new Title IX Regulations released in May 2020

APPENDIX A

Rules of Decorum

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.” *Id.*

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.” *Id.*

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

The following Rules of Decorum are to be observed in the hearing and applied equally to all parties (meaning the complainant and Respondent) and advisors:

- Questions must be conveyed in a neutral tone.
- Parties and Advisors will refer to other Parties, Witnesses, Advisors, and institutional staff using the name used by the person and shall not intentionally mis-name that person in communication or questioning.

- No Party may act abusively or disrespectfully during the hearing toward any other Party or to Witnesses, Advisors, or members of the Hearing Panel.
- While an Advisor may be an attorney, no duty of zealous advocacy should be inferred or enforced within this forum.
- 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 Hearing Panel.
- 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.
- The Advisor may not ask repetitive questions. This includes questions that have already been asked by the Hearing Panel, the Advisor in cross-examination, or the Party or advisor in direct testimony. When the Hearing Panel determines a question has been “asked and answered” or is otherwise not relevant, the Advisor must move on.
- 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 or Witness) into not participating in the process or meaningfully modifying their participation in the process.

Warning and Removal Process

The Hearing Panel shall have sole discretion to determine if the Rules of Decorum have been violated. The Hearing Panel will notify the offending person of any violation of the Rules.

Upon a second or further violation of the Rules, the Hearing Panel shall have discretion to remove the offending person or allow them to continue participating in the hearing or other part of the process.

Where the Hearing Panel removes a Party’s advisor, the Party may select a different Advisor of their choice, or accept an Advisor provided by the institution 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 Hearing Panel 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.

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 Hearing Panel simply because of the manner it was delivered. Under that circumstance, the Hearing Panel 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 a replacement Advisor, should the Advisor be removed for violation of the Rules). See, 85 Fed. Reg. 30331.

Appendix B

Guidelines for Determining Relevancy

What is the purpose of this Guide?

On May 19, 2020, the U.S. Department of Education issued Final Rules governing the Title IX grievance process, effective August 14, 2020. The Final Rule requires that all colleges and universities hold a live hearing before making any determination regarding responsibility for covered reports of Title IX sexual harassment, including sexual violence. This hearing must provide for live cross-examination by the Parties' Advisors.

Any question posed by the Advisors must be evaluated for "relevance" in real time by the Hearing Panel. According to Final Rule §106.45(b)(6)(i):

Only relevant cross-examination and other questions may be asked of a Party or Witness. Before a Complainant, Respondent, or Witness answers a cross-examination or other question, the Hearing Panel must first determine whether the question is relevant and explain any decision to exclude a question as not relevant.

What is a relevant question?

The Department of Education encourages institutions to apply the "plain and ordinary meaning" of relevance in their determinations. 85 Fed. Reg. 30026, 30304 (May 19, 2020). Basically, a relevant question will ask whether the facts material to the allegations under investigation are more or less likely to be true. *Id.* at 30294. A question not directly related to the allegations will generally be irrelevant.

Hearing Panelists should use common sense in this understanding. Things may be interesting or surprising but not be relevant.

Relevance decisions should be made on a question-by-question basis, looking narrowly at whether the question seeks information that will aid the Hearing Panel in making the underlying determination. The relevance decision should not be based on who asked the question, their possible (or clearly stated) motives, who the question is directed to, or the tone or style used to ask about the fact. Relevance decisions should not be based in whole or in part upon the sex or gender of the Party for whom it is asked or to whom it is asked, nor based upon their status as Complainant or Respondent, past status as Complainant or Respondent, any organizations of which they are a member, or any other protected class covered by federal or state law (e.g. race, disability).

If a question is relevant but offered in an abusive or argumentative manner, the Hearing Panel has the discretion to ask the Advisor to rephrase the question in an appropriate manner, consistent with the institution's Rules of Decorum (see Appendix A).

What if the question is "prejudicial" and concerns sensitive or embarrassing issues?

Much of the content within these hearings may be considered sensitive and/or embarrassing by Parties or Advisors. However, relevant questions need to be considered *even if* a Party or

Advisor believes the danger of unfair prejudice substantially outweighs their probative value.¹ Only irrelevant questions (detailed below), including about the complainant's prior sexual history, may be excluded.

What is an irrelevant question?

Question about Complainant's Prior Sexual Behavior or Sexual Predisposition

Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior are not relevant, 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. if 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(6)(i).

Question regarding Privileged Information

Questions that constitute, or seek disclosure of, information protected under a legally-recognized privilege are irrelevant. 34 C.F.R. § 106.45(1)(x). Individuals with legal privilege may include medical providers (physician, dentist, podiatrist, chiropractor, nurse), psychologists, clergy, rape crisis counselors, and social workers.

Questions about Undisclosed Medical Records

Questions that call for information about any Party's medical, psychological, and similar records are irrelevant unless the Party has given voluntary, written consent. 85 Fed. Reg. 30026, 30294 (May 19, 2020).

Duplicative Questions

Questions that repeat, in sum or substance, questions already asked by the Hearing Panel prior to cross-examination, or by a Party's Advisor during cross-examination or direct examination, may be ruled duplicative, and therefore irrelevant.²

How should the Hearing Panel reach a relevance determination?

The Hearing Panel Chair will make all determinations of relevance.

¹ 85 Fed. Reg. 30026, 30294 (May 19, 2020).

² See 85 Fed. Reg. 30026, 30331 (May 19, 2020) ("nothing in the final regulations precludes a recipient from adopting and enforcing (so long as it is applied clearly, consistently, and equally to the parties) a rule that deems duplicative questions to be irrelevant").

What should the relevance determination consist of?

The Department of Education explains that the Final Rule “does not require a Hearing Panelist to give a lengthy or complicated explanation” in support of a relevance determination. Rather, “it is sufficient, for example, for a decisionmaker to explain that a question is irrelevant because the question calls for prior sexual behavior information without meeting one of the two exceptions, or because the question asks about a detail that is not probative of any material fact concerning the allegations.” *Id.* at 30343. As such, the Hearing Panelist need only provide a brief explanation of the determination, which will ordinarily consist of one of the following statements depending on the situation.

Generally probative questions

- The question is relevant because it asks whether a fact material to the allegations is more or less likely to be true.
- The question is irrelevant because it asks about a detail that does not touch on whether a material fact concerning the allegations is more or less likely to be true. See, 85 Fed. Reg. 30026, 30343 (May 19, 2020).

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.
 - 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).

Question regarding Privileged Information

- The question is irrelevant because it calls for information shielded by a legally-recognized privilege [identify the privilege].
- The question is relevant because, although it calls for information shielded by a legally-recognized privilege [identify the privilege], that privilege has been waived in writing, and the question tends to prove that a material fact at issue is more or less likely to be true.

Questions about Undisclosed Medical Records

- The question is irrelevant because it calls for information regarding a Party's medical, psychological, or similar record without that Party's voluntary, written consent. 85 Fed. Reg. 30026, 30294.
- This question is relevant because although it calls for a Party's medical, psychological, or similar records, that Party has given their voluntary, written consent to including this material, and it tends to prove that a material fact at issue is more or less likely to be true. 85 Fed. Reg. 30026, 30294 (May 19, 2020).

Duplicative Questions

- The question is irrelevant because it is duplicative of a question that was asked and answered.

The Hearing Panel may relay a longer explanation if necessary under the circumstances.

The relevance determination will be conveyed orally, except as needed to accommodate a disclosed disability of a hearing participant, and all relevance determinations will be preserved in the record of the proceeding.

May the Parties and/or their Advisors ask the Hearing Panel to reconsider their relevance decision?

Any Party or their Advisor may request that the Hearing Panel reconsider their relevance determination.

The Hearing Panel may deny or grant the request to reconsider. This determination is final, but may be subject to appeal under the Title IX Grievance Process.