

VIRTUAL Title IX Formal Process Review Meeting

Script and Process

2020-2021

Entrance - (Waiting room is activated - holding witnesses)

DM Panel, meeting facilitators, and the immediate party members (complainant, respondent, and their advisors) will be present with cameras on. If either party has requested not to see the other party, the Lead DM will require cameras to be turned off when all parties first enter the meeting. Breakout rooms will also be utilized when requested.

<Start the recording feature>

Introduction

Lead DM introduces self to the attendees. Briefly explains their role as the Lead DM.

1. *Lead DM will read the following statements addressing the review meeting process:*
 - a. *“We are gathering today, Monday, February 21, 2021, at 2:00 pm, to hold a review meeting for incident report 12345678. In accordance with PLU’s current COVID-19 safety measures, this meeting is being conducted electronically. Participants are asked to have their cameras on, showing themselves whenever they are speaking unless otherwise arranged.*
 - b. *Introduction of the individuals in attendance*
 - i. *The Decision Maker Panel*
 - ii. *Title IX Coordinator and/or Deputy*
 - iii. *PLU Legal Counsel - if required*
 - c. *“Complainant please introduce yourself, include your name, hometown, and intended major, followed by an introduction of your Advisor.”*
 - d. *“Respondent please introduce yourself, include your name, hometown, and intended major, followed by an introduction of your Advisor.”*
 - e. *Thank them for their attendance and engagement in the process*
 - f. *“We recognize the challenges associated with this proceeding, and if at any time you need a break, please utilize the chat function to submit a request for us to pause the meeting and allow for a quick timeout.”*
 - g. *“Either the Complainant or Respondent may request to be placed in a separate breakout room during the portion of the meeting featuring the other participant. We will inquire about your preference prior to either statements being shared.”*
 - h. *“Understand that this meeting is being recorded by the University should it be needed for the appeal process. All answers and statements must be made verbally for the benefit of the recording. Your camera must be on at any point that you are speaking.”*
 - i. *“Remember that this review meeting is private, and only those previously authorized shall be present. Further, as acknowledged, the University is recording these proceedings*

and any other recording is prohibited. No camera, TV, or other equipment, including cell phones, will be permitted in the review meeting except as arranged by the University.”

- j. *Reiterate that the parties have received a copy of the Review Meeting Decorum and it is the intention of the DM Panel to uphold the referenced expectations.*
- k. “The purpose of this meeting is to determine whether an alleged policy violation occurred; and, if necessary, to recommend appropriate remedies and sanctions, if any. In keeping with the spirit of the review meeting process, I would like to remind everyone speaking here today that it is expected that all information presented will be true and correct. Intentionally providing any false information is a violation of the Student Code of Conduct, and could result in additional action through the Student Rights and Responsibilities Office.”
- l. “Will each party, beginning with the Complainant, please verbally state their understanding of and agreement with the previous statements?”

Student Conduct Process

Lead DM states the alleged policy violations

1. “PLU has received information regarding an allegation of violations of the following policies: <Sexual Misconduct and Disruption of University Community>. This meeting could result in a determination of responsibility, inconclusive, or not responsible.”
2. *Make sure the students understand they are not allowed to engage with the other party directly*
3. *Inform the Respondent that this incident will be a part of their educational file. Title IX formal process files will be saved for seven years.*
4. *Keep in mind that the conduct process is educational, not punitive. Goal is to help student learning.*
 - a. “The Decision Makers, when making a determination, will look at the impact this incident has on you, the impact this incident has on the PLU community, and the impact this incident has on the larger community. PLU presumes that the Respondent is not responsible for the alleged conduct and does not make a determination regarding responsibility until the conclusion of the grievance process.”
 - b. “Note that PLU uses a ‘Clear and Convincing’ standard when making decisions on responsibility, which means it is “substantially more likely than not” based on the information provided. The Student Conduct process is an educational process, not a punitive one. If responsibility is found however, sanctions may be issued.”
5. “Students are able to appeal a determination based on four criteria:
 - a. Procedural error that substantially impacted the outcome of the investigation process
 - b. Bias unknown at the beginning of the investigation that substantially impacted the outcome of the investigation
 - c. New information, previously unavailable, that would substantially impact the outcome of the investigation
 - d. Severity of Sanction”
6. *Lead DM ask* - “You are entitled to an impartial and fair Decision Maker Panel. Do either of the parties involved have issues or concerns about the members of the DM Panel being able to serve

in this capacity and remain unbiased? Please acknowledge for the record whether or not you feel the DM Panel can serve in a fair and impartial manner.”

7. *Lead DM will describe the order of the process*
 - a. “The Complainant will have the opportunity to provide an opening statement, followed by the DM Panel asking questions, and the opposing party’s advisor asking cross-examination questions. If need be, the DM Panel will ask any follow-up questions they deem necessary. We will repeat this process for the Respondent.”
 - i. *The “opening statement” must be derived from the Complainant alone, and may not include the voice or input of their Advisor*
 - b. *Lead DM will remind the parties that, “Under the 2020 Title IX Final Rule regulations, if a party or witness is not willing to submit to cross-examination during the hearing, the Decision Makers will not rely on any statement of that party or witness in reaching a determination regarding responsibility.”*
 - i. *Cross-examination is all-or-nothing. If the witness or party is willing to answer some questions but not others, the effect is the same as answering none at all. None of the statements made by the party or witness can be relied upon. A denial to submit to questioning will halt that individual’s participation in the proceedings moving forward.*
 - c. “We want to remind the Advisors you may not speak or otherwise participate in the hearing except for purposes of conducting cross-examination, when directed to do so by the Lead DM. Other than cross-examination, the advisor may not address the DM Panel and must conduct themselves in a manner that is not disruptive to the review meeting process.”
 - d. *Add the disclaimer that since this meeting is being conducted in nontraditional format, we ask that individuals be patient for technological difficulties or concerns.*
8. *Ask the student if there are any questions before moving on to the statements*

Prior to Statements and Questioning

To begin the process, confirm the following with the Respondent:

1. “Have you <respondent> received the letter from the Office of Student Rights and Responsibilities that stated the alleged policy violations?”
2. “Were you offered the opportunity to obtain and utilize an Advisor?”
3. “Have you had enough time to properly prepare for today’s review meeting?”
4. “Do you understand you have the right to self-initiate an appeal once a determination has been reached?”

Complainant Statement and Questioning

Lead DM asks the Respondent if they would like to excuse themselves from this portion of the meeting, if so, Respondent will be sent to a breakout room.

1. *Provide the Complainant opportunity for an opening statement if they wish (not required)*
2. *Lead DM asks complainant - “Do you intend to answer all questions posed to you here today?”*
3. *“Do members of the Panel have questions for the Complainant?”*

4. "Does the Respondent's Advisor have questions for the Complainant? (Questions are subject to a relevance determination by the Lead DM and Panel)"
5. "Does the Complainant's Advisor have questions for the Complainant? (Questions are subject to a relevance determination by the Lead DM and Panel)"
6. "Does the DM Panel have any additional or follow-up questions for the Complainant?"

Respondent Statement and Questioning

Lead DM asks the Complainant if they would like to excuse themselves from this portion of the meeting, if so, Complainant will be sent to a breakout room.

1. *Provide the Respondent opportunity for an opening statement if they wish (not required)*
2. *Lead DM asks respondent - "Do you intend to answer all questions posed to you here today?"*
3. "Do members of the Panel have questions for the Respondent?"
4. "Does the Complainant's Advisor have questions for the Respondent? (Questions are subject to a relevance determination by the Lead DM and Panel.)"
5. "Does the Respondent's Advisor have questions for the Respondent? (Questions are subject to a relevance determination by the Lead DM and Panel.)"
6. "Does the Panel have any additional or follow-up questions for the Respondent?"

Witnesses Questioning

1. *Call witnesses (admitted from waiting room one at a time) beginning with the Complainant's, then Respondent's, and finally any neutral witnesses*
2. *Lead DM will ask each witness - "Do you intend to answer all questions posed to you here today?"*
3. "Do members of the Panel have questions for the Witness?"
4. "Does the Complainant's Advisor have questions for the Witness? (Questions are subject to a relevance determination by the Lead DM and Panel.)"
5. "Does the Respondent's Advisor have questions for the Witness? (Questions are subject to a relevance determination by the Lead DM and Panel.)"
6. "Does the Panel have any additional or follow-up questions?"
7. REPEAT with remaining witnesses

Final Statements

1. "Do members of the Panel have any additional questions for the Complainant, or the Respondent?"
2. "Does the Complainant have anything else you would like to share?"
3. "Does the Respondent have anything else you would like to share?"
4. "Thank you all for your time today. These are challenging conversations and we appreciate your participation. We encourage you both to continue to seek the support you need and take advantage of the resources that are available to you. We also want to remind you that the No Contact Order remains in effect until you are notified otherwise."

Closing

1. *Lead DM will remind the involved parties, “The Decision Makers will make a determination as to the alleged policy violation(s) based on the “Clear and Convincing” standard. This standard requires that the information supporting a finding of responsible demonstrates that a particular fact is substantially more likely than not to be true.*
2. *“Once the DM Panel has come to a determination, the Title IX Coordinator will be in touch to arrange a time to deliver the Determination Letter. The Determination Letter will be available FIVE business days following the conclusion of the review meeting.”*
3. *“Accompanying the Determination Letter, will be information regarding the Appeal Process”*
4. *“The Title IX Coordinator will continue to be your main point of contact through the end of the formal grievance process. If you have further questions, please do not hesitate to contact Jennifer ChildressWhite, or the Office of Student Rights and Responsibilities.”*
5. *Ask if there are any additional questions*
6. *Thank all in attendance for their time and respect to the process*

<Turn off recording>

Exiting

Facilitator will ensure all involved parties have logged off the virtual meeting. DMs and support staff will schedule any future deliberations.

Title IX Coordinator ensures the recording of the hearing is uploaded to the appropriate file, and access is granted if an appeal process warrants it.