

# Policy 6.4 and Procedures related to Faculty

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# Policy 6.4: Prohibited Bias, Discrimination, Harassment, and Sexual and Related Misconduct

## Policy 6.4

### Procedures to enforce Policy 6.4

- Title IX cases
- Non-Title IX cases

## Policy 6.4: Prohibited Bias, Discrimination, Harassment, and Sexual and Related Misconduct

### **“preponderance of evidence standard”**

**[“more likely than not”]**

- Consistent with standard of evidence in prior version of Policy 6.4
- May encourage complainants to come forward.
- Standard used in civil lawsuits

### **“clear and convincing standard”**

**[i.e. “highly probable”]**

- Consistent with the level of certainty needed for potentially severe sanctions.
- Consistent with AFPS hearings.
- Consistent with AAUP principles.
- Hearings are private; civil suits are carried out in public hearings.

# Procedures for Title IX cases

(alleged sexual misconduct/sexual harassment)

## STUDENT RESPONDENT

- **Investigator** decides whether enough evidence to send case to Hearing Panel.
- **Full hearing before Hearing Panel (“Hearing A”) prior to conclusions on the allegations.**

## FACULTY RESPONDENT

- **Investigator** decides whether enough evidence to send case to Hearing Panel.
- **Full hearing by Hearing Panel prior to conclusions on the allegations.**

# Procedures for Non-Title IX cases (alleged sexual misconduct/sexual harassment/other harassment or discrimination)

## STUDENT RESPONDENT:

- **Investigator** decides whether enough evidence to send case to Hearing Panel
- **Full hearing** by Hearing Panel **PRIOR TO conclusions on the allegations.**
  - “Hearing A” where potential sanction of suspension/dismissal.
  - “Hearing B” where lesser sanction.

## FACULTY RESPONDENT:

- **Investigator concludes whether misconduct occurred/recommends sanctions.**
- **Investigator sends report to Dean to make final decision.**
- **Full Hearing only** where there is a subordinate-supervisory relationship or academic freedom issue:
  - **Hearing by Senate Committee on Academic Freedom AFTER the decision reached by investigator and the Dean.**
- **All other non-Title IX cases: NO hearing on misconduct/sanctions**
  - **Dean** reviews investigative report and makes final decision.
  - Faculty respondent may file grievance in **college-level grievance procedure.**

**Non-Title IX cases** (alleged sexual misconduct/sexual harassment/other harassment or discrimination)

**Current Procedures**

**FACULTY RESPONDENT:**

- **Investigator concludes whether misconduct occurred/recommends sanctions.**
- Investigator sends report to **Dean to make final decision.**
- **Full Hearing only** where there is a subordinate-supervisory relationship or academic freedom issue:
  - **Hearing by Senate Committee on Academic Freedom AFTER the decision reached by investigator and the Dean.**
- **All other non-Title IX cases: NO hearing** on misconduct/sanctions
  - **Dean** reviews investigative report and makes final decision.
  - Faculty respondent may file grievance in **college-level grievance procedure.**

**Non-Title IX Procedures could be amended with:  
Full hearings for faculty prior to decisions in **ALL** non-Title IX cases  
[note: amendments in **red**]**

- **Investigator** decides **whether enough evidence to send case to a hearing.**
- **Full Hearing by Senate Committee on Academic Freedom and Professional Status (AFPS) **in all non-Title cases.****
- **Dean must accept the AFPS's findings of fact and conclusions. However, Dean may modify the AFPS recommended sanctions.**

# CONSIDERING THE AMENDMENTS TO NON-TITLE IX PROCEDURES FOR FACULTY

## IN FAVOR OF AMENDMENTS

### **Due Process/Fairness:**

- Full hearings by peers (AFPS) in all non-Title IX cases.
- Separates role of investigator and decision-maker
- Timing of hearings prior to decisions.
- Faculty and students have same levels of due process.

## AGAINST AMENDMENTS

- This level of due process is not required by law (including Title IX)  
[Note: This is also true for student respondents.]
- Students hesitant to bring complaints or appear as witnesses against faculty.  
[Note: This applies to any hearings.]