

Adjudication and Appeals: Discrimination and Discriminatory Harassment

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Initial intake and assessment

Supportive Measures

- No Contact Orders which prohibit contact between the parties;
- Other Contact limitations between the parties;
- Academic support;
- Housing modifications; and
- Workplace modifications

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Resolution Options

Adaptable Resolution (called "Informal Resolution" in Section 9.8)

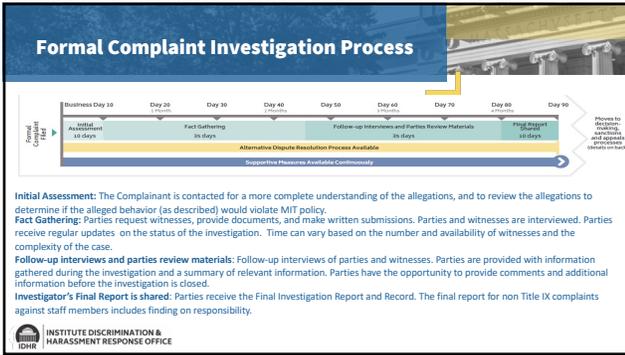
- IDHR staff facilitating communication of proposals between the parties
- Direct discussions between the parties
- Mediation with a neutral party
- AR is voluntary and can result in a resolution of the allegations by agreement of the parties and the Institute.

Formal Investigation Process

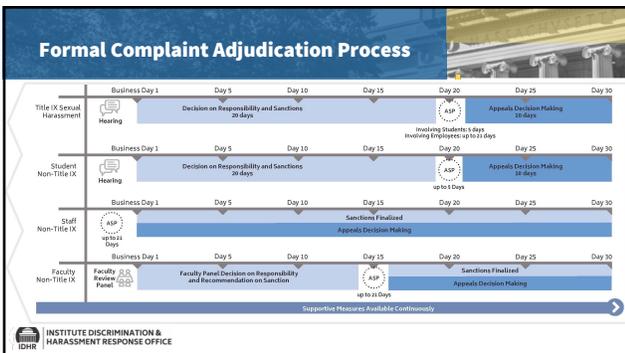
- Only process to a determination on a policy violation
- Only mechanism for sanctions including expulsion or termination
- Independent from the criminal process

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“Preponderance of the Evidence”

- Preponderance of the evidence standard = whether it is *more likely than not* that the respondent has violated a Conduct Policy.
- If a factfinder decides that, based on the evidence, one account of an event is more likely to be true or accurate than any other account of the event, then the fact finder will base its decision on that account.
- A “preponderance” is not highly probable (a/k/a “clear and convincing”). A preponderance is also not “proof beyond a reasonable doubt.”
- A respondent is presumed to be not responsible for the alleged policy violation until the final determination regarding responsibility is made at the conclusion of the process.

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Faculty Panel (Non-Title IX)

- The report is provided to a Faculty Panel.
- The Faculty Panel may meet or consult with the investigator or others but generally does not meet with the Complainant or the Respondent.
- The Faculty Panel decides if the Respondent violated one or more of the Conduct Policies.
- If the Faculty Panel decides that the Respondent violated a Conduct Policy, the Faculty Panel recommends what action should be taken in light of the finding.

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The Title IX Hearing Panel

- Faculty member, senior research scientist, senior research engineer, or senior research associate:
Hearing Panel: Chair and 2 trained faculty members
- Staff and Post-Doctoral Associate or Fellow:
Hearing Panel: Chair and 2 trained staff members
- Title IX cases: Outside Professional Chair

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Title IX Hearing Procedures

- Chair introduces procedures
- Complainant, Respondent, and Witnesses: Opening statements, panel Q&A, and cross-examination
- Questions allowed during cross-examination
- Closing statements
- Deliberations: Preponderance of the Evidence based on a majority

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Title IX Matters - Advisors

- Advisor of Choice
- Title IX Hearing Role:
 - Conduct cross-examination of parties and witnesses
 - Otherwise, may not actively participate
- If needed, MIT will provide advisor to conduct cross-examination at a hearing

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Sanctioning

- Faculty: Faculty Panel makes recommendation to Dean or other Academic Council member
- Staff: sanctioning decided by Dean or other Academic Council member
- Examples of discipline include a reprimand
 - suspension
 - salary reduction
 - demotion
 - removal of privileges
 - termination of employment or appointment.

See <http://idhr.mit.edu/policies-procedures/staff-outcomes> and <http://idhr.mit.edu/policies-procedures/faculty-outcomes> for a more detailed list.

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Appeals

- Either party may appeal the decision based on following grounds:
 - New evidence
 - Procedural irregularity
 - Material finding substantially against weight of the evidence
 - Conflict of interest or bias
- Faculty Respondent – Provost or President
- Postdoc Scholar – VPR or Provost
- Employee – EVPT

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Confidentiality

- Panel Members should treat all cases as confidential and they should not be discussed outside of the hearing panel process.
- Confidential information includes
 - the existence and substance of the complaint
 - the names of complainants, respondents, witnesses
 - what is said in the hearing panel processes and by whom
 - the findings made, and sanctions imposed.
- Complainants, respondents, advisors, and witnesses are encouraged to use discretion in their sharing of information about the Section 9.8 process, but complainants and respondents are not restricted from discussing the allegations or gathering and presenting relevant evidence.

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Thank you!

For additional information:
<http://idhr.mit.edu>

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