



## **Rules for Advisors in the Title IX Sexual Harassment Process**

Seton Hill University's ("SHU") Title IX Sexual Harassment Policy provides that Complainants and Respondents ("Party" or "Parties") may have an advisor of choice during the process. SHU developed these rules and requirements in order to promote fairness, remain true to the SHU's educational mission, and maintain the integrity and equity of the process. Parties must provide the name and contact information of their advisor to the Title IX Coordinator. Notice must also be provided in the event of a change in advisor during the process.

### **What is an advisor?**

An advisor is any person who, upon the request of a Party or appointment by SHU, agrees to serve as an advisor to a Party during the Title IX Sexual Harassment Process.

### **Who can serve as an advisor?**

An advisor may be a faculty or staff member, a friend, a parent, an attorney, or any other person of the Party's choosing. To serve as advisor, the Party and the advisor must sign an agreement that she/he will not use the evidence provided during the process for any reason other than Title IX proceedings and will not publish or distribute the evidence.

### **What is the role of an advisor during the investigation phase of the process and/or the voluntary informal resolution process?**

During the investigation phase and/or voluntary informal resolution process, an advisor's role is limited to being present with the Party during meetings and interviews, supporting the Party, consulting with and advising the Party, suggesting questions for the Party to ask, and reviewing evidence. During meetings or interviews with the Investigator, an advisor may quietly converse with or write notes to a Party. Advisors should be mindful that communication with the Party does not disrupt the meeting or interview. Advisors during the investigation phase and/or voluntary informal process may not act as participants, speak for or on behalf of a Party, present information, ask questions, or make statements.

### **What is the role of an advisor during a hearing?**

An advisor's role during a hearing differs from the role during the investigation phase and is limited to:

- Reviewing the evidence gathered by the investigator and submitted to the decision-maker.
- Supporting the Party.
- Consulting with and advising the Party during the hearing, including providing consultation on issues of relevance. During the hearing, an advisor may quietly converse with or write notes to a Party. Advisors may request breaks from the Hearing Decision-Maker.
- Listening to the information provided by Parties and witnesses.
- Listening to the questions of the Hearing Decision-Maker who will ask questions (if any) of the Parties and witnesses immediately after their statements.

- Following the Hearing Decision-Maker's questions, directly asking questions of: (1) the opposing Party; and (2) other witnesses in real time. The asking of questions, if the Party elects to have the advisor ask questions, may occur via technology as the opposing Party or witness may be in a separate room.
- Acting in a professional, respectful and courteous manner.
- Being mindful that the process is educational in nature, not penal.

At hearings, advisors may not:

- Disrupt, unreasonably delay, or interfere with the proceedings.
- Ask questions of the Party that the advisor is advising (Parties speak for themselves)
- Provide opening or closing statements.
- Act as participants or speak for or on behalf of a Party.
- Argue or raise objections.
- Seek information through questions that are not relevant to the alleged policy violations at issue.
- Disrespect others in the hearing by engaging in interrupting, badgering, or harassing behavior.
- Use raised voices or profanity.

### **What is the role of an advisor if an appeal is filed?**

SHU decides appeals based on the Parties' written submission. The role of an advisor during an appeal is to advise the Party on the written submission.

### **How can evidence disclosed to an advisor during the SHU Title IX process be used?**

Advisors have the right to review evidence relating to the process to aid the Party they are advising during the process. With respect to the evidence that the University provides to the Parties and their advisors, Parties and their advisors may not photograph, disseminate or otherwise copy the evidence provided by SHU for their inspection and review. The exercise of rights protected under the First Amendment, such as discussing the evidence, does not constitute retaliation. However, threatening to publicize or make evidence or a written determination public for the purpose of retaliation is strictly prohibited.

### **What happens if an advisor does not follow these Rules?**

If at any time during the process an advisor does not act in accordance with these rules, then the Investigator or Decision-maker has the authority to enforce these rules. Where appropriate as determined by the Investigator or Decision-maker, the advisor will be warned that if noncompliance persists, the advisor will be required to leave. If the conduct continues, the advisor may be required to leave. Under such circumstances, SHU will allow the Party a brief period of time to secure a replacement advisor, or SHU will appoint one if necessary.

### **How can advisors best prepare for their role in the process?**

Advisors are encouraged to familiarize themselves with this document and the SHU Title IX Sexual Harassment Policy and Procedure. If you have any further questions or concerns about this information or the role of an advisor, please contact [titleixcoordinator@setonhill.edu](mailto:titleixcoordinator@setonhill.edu).

**I am an attorney and an advisor, will I have the opportunity to depose witnesses, engage in formal discovery, make motions and arguments?**

No. The SHU Title IX Sexual Harassment process is an internal, non-legal process. There are no pleadings, motions, formal arguments, depositions, or formal discovery. As more fully detailed in the Policy, the Parties do have the opportunity to submit information and identify witnesses during the investigation phase and prior to the hearing. In addition, the Parties and their advisors are provided access to evidence gathered by the Investigator before any investigative report is finalized and prior to any hearing. Please see above regarding the advisor’s role during different phases of the process.

**What are some differences between the SHU Title IX Sexual Harassment process and the legal system?**

SHU’s standards are often, by design, higher than the obligations imposed by civil and criminal law. Further, SHU’s general philosophy, where appropriate, is educational as opposed to punitive in nature. SHU strives to help parties learn from their choices in addition to holding them accountable for their behavior where appropriate. Some of the resulting differences between the legal system and the SHU process are set forth here:

Legal System	SHU Process
Prosecutes criminals who violate the law	Disciplines Parties who violate SHU policy
Highest standard of proof — “beyond a reasonable doubt”	Standard of proof — “more likely than not.” (Also referred to as the "preponderance of the evidence.")
“Rules of evidence” apply in state and federal courts	“Rules of evidence” do not apply. The Investigator and Decision-maker will review and consider relevant evidence
More severe punishment	Educational and corrective accountability
Incarceration	Maximum consequence is expulsion or dismissal
State and federal laws set minimum standards for a safe and orderly society	SHU policies are designed to create and maintain equal access to the educational and employment environment
Legal system may choose not to prosecute a certain action or behavior	Campus resolution may proceed before, during or after civil or criminal actions are concluded. Civil and criminal processes do not materially affect SHU internal processes.
Sentencing and punishment	Remedies/sanctions/responsive actions
"Guilty" or "not guilty"	"Responsible" or "not responsible"
“Plaintiff” or “Defendant”	“Complainant” and “Respondent”