



Writing Hearing Decisions

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Template for Written Decisions

- Three documents
 - Notification of Conduct Hearing Outcome: Respondent
 - Notification of Conduct Hearing Outcome: Complainant
 - University Hearing Decision (attached to both notifications)



Notification of Conduct Hearing Outcome

- Serves as a cover letter to Hearing Decision
- Introduction
 - Include hearing date
 - Alleged incident date/time/location and details
- Outcome
 - Alleged violations of university policy
 - Finding of responsibility or non-responsibility for each charge
 - Reference to attached hearing decision
- Sanctions, if assigned



Notification of Conduct Hearing Outcome

- Appeal Process
 - a. A procedural irregularity under the University policy or procedures that affected the hearing outcome.
 - b. New evidence that was not reasonably available through the exercise of reasonable diligence at the time of the hearing that could affect the outcome of the matter or dismissal of the Formal Complaint.
 - c. The Title IX Coordinator, Investigator(s), or Decision Maker(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.
- Retaliation Language



University Hearing Decision

- Introduction
- Formal Complaint
- Timeline of Procedural Steps Taken & Evidence Reviewed
- Inspection and Review of Evidence and Investigative Report
- Delays and Adjournments
- Live Hearing
- Standard of Proof
- Findings and Rationale
- Sanctions
- Right to Appeal
- Conclusion
- Board Affirmation with Signatures



Introduction

This letter is to inform you of the decision of the {Decision-Maker(s)} regarding your hearing held on {Date} at {Time}. At the hearing, you entered a claim of {Responsible/Not Responsible}.

After carefully reviewing all the information presented at the hearing, you have been found {Responsible/Not Responsible} for {indicate each charge separately}.

- Charge 1: Section of Policy
- Responsible/Not Responsible
- *As necessary: repeat for additional charges.*

A description of our rationale for this decision and the procedural steps followed are indicated below.



Formal Complaint

- Date filed by Complainant
- Date Respondent was notified about Complaint
- Allegations
- Reference to Title IX Final Rule

The Title IX Grievance Process is developed and enforced according to the Institution's obligations under the U.S. Department of Education's Final Title IX Rule of May 19, 2020 (you may view the Final Rule at <http://bit.ly/TitleIXReg>).

On {Month/Day/Year}, a formal complaint was filed by {Name of Complainant(s)} against you alleging the following violations of {University's Policy Name}: [identify the allegations potentially constituting sexual harassment as defined in § 106.30].

In accordance with the {University's Policy Name}, the Title IX Coordinator emailed you a written Notice of Allegations on {Month/Day/Year}.



Timeline of Investigative Steps

- List all:
 - 1) Notification to the parties
 - 2) Interviews (all dates/times/locations) with parties
 - 3) Interviews (all dates/times/locations) with Witnesses
 - 4) Site visits
 - 5) Methods used to gather other evidence
 - 6) Documents and Descriptions of Evidence



Inspection and Review of Evidence and Investigative Report

- The Title IX Investigator submitted this evidence and a Draft Investigation Report to the parties {and their advisors, as applicable} on {Month/Day/Year}.
- Describe inspection and review period and responses to any new and additional evidence



Delays and Adjournments

- If applicable: Complainant/Respondent requested a delay of ___ days for good cause because of _____. The Title IX Coordinator/Other Official {granted/denied} the delay.*



Live Hearing

- Date/time/location of hearing
- The {Decision-Maker(s)} had previously had training 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 were afforded the opportunity to raise objections to the {Decision-Maker(s)} concerning material conflicts of interest or bias, and none were identified/an accusation of bias was identified and reviewed; the determination was that there was/was not bias and the {Decision-Maker(s)} was/was not replaced by another {Decision-Maker(s)}.



Live Hearing

- List of parties who attended the hearing
- Describe procedural steps of hearing (opening statements, questioning by the hearing board, questioning by the parties' advisors)
- *If applicable: Indicate any instances where the Decision-Maker(s) ruled a question irrelevant and explain why.*
- *If applicable: Indicate any parties or witnesses who declined to submit to cross-examination, either by not appearing at the hearing or declining to address relevant questions posed by the advisors.*
- The parties, advisors, and witnesses were subject to rules of decorum, and these individuals (did/did not) follow these rules in the {Decision-Maker(s)'s} judgment. *If applicable: Indicate any issues arising from decorum and their resolution, if any.*



Standard of Proof

- Consistent with the Student Personnel requirements for the Pennsylvania State System of Higher Education set forth in Pennsylvania Code, the University will use the preponderance of the evidence standard in investigations of formal complaints alleging sexual misconduct violations under the University's Sexual Misconduct Policy. This means that the Decision Makers must determine whether it is more likely than not that a violation of the Policy occurred.



Findings and Rationale

- For each Charge:
 - Definition of charge from Policy
 - Description of evidence reviewed (i.e. written statements, report filed through the Title IX Investigator, screen shots of various text message and social media conversations, as well as verbal testimony from witnesses)
 - Re-statement of finding (not responsible/responsible)
 - Element 1:
 - Description of disputed facts related to Element 1 of charge
 - Description of rationale supporting the finding, including which evidence was relied on and what the substance of that evidence was, and if applicable, evidence that was not relied on.
 - **The Decision Makers determined it is {not more likely than not/more likely than not} that Respondent {Charge}.**

Example: Sexual Contact Without Consent

- Definition: Knowingly touching or fondling a person's genitals, breasts, buttocks, or anus, or knowingly touching a person with one's own genitals or breasts, when Consent is not present.
- **Element 1**: Knowingly
- **Element 2**: touching or fondling a person's genitals, breasts, buttocks, or anus, or knowingly touching a person with one's own genitals or breasts
- **Element 3**: when Consent is not present



Example, cont.

- **Element 1: Knowingly**
 - Are there any undisputed facts about whether or not the Respondent acted knowingly?
 - What are the disputed facts related to whether or not the Respondent acted knowingly?
 - What evidence supports either side of the disputed facts?
 - How did the Decision Makers decide on the disputed facts? What is the rationale behind the decision?



Example, cont.

- **Element 2**: touching or fondling a person's genitals, breasts, buttocks, or anus, or knowingly touching a person with one's own genitals or breasts
 - Are there any undisputed facts about whether or not the Respondent touched or fondled Complainant's {body part}?
 - What are the disputed facts related to whether or not the Respondent touched or fondled Complainant's {body part}?
 - What evidence supports either side of the disputed facts?
 - How did the Decision Makers decide on the disputed facts? What is the rationale behind the decision?

Example, cont.

- **Element 3:** when Consent is not present
 - Include the definition of Consent from the Policy
 - Are there any undisputed facts about whether or not the Complainant consented?
 - What are the disputed facts related to whether or not the Complainant consented?
 - What evidence supports either side of the disputed facts?
 - How did the Decision Makers decide on the disputed facts? What is the rationale behind the decision?
- The Decision Makers determined it is **{not more likely than not/more likely than not}** that Respondent **{Charge}**.



Sanctions

- As the Decision Maker(s) have found the Respondent responsible for violation(s) of the Policy as incorporated into the University Student Code of Conduct the Respondent has been assigned the following sanction conditions.
- List specific sanctions
- Due date or date range to complete
- Where to report verification that sanctions are complete



Right to Appeal

- Both parties have right to appeal within 5 days
- How to file an appeal
- Contact information



Affirmation with Signatures

- **{Name} UNIVERSITY SEXUAL MISCONDUCT HEARING DECISION AFFIRMATION:** As a Decision Maker for the **{Name}** University Sexual Misconduct Hearing Panel held on **{DATE}**, I affirm that the information presented above accurately reflects the decision of the Decision Makers. The **{Appropriate Office}**, not the Decision Makers, is responsible for the implementation of the sanctions presented in this document.



Questions???