

Equal Opportunity Policies & Hearings

Training Materials for Participants

Contents

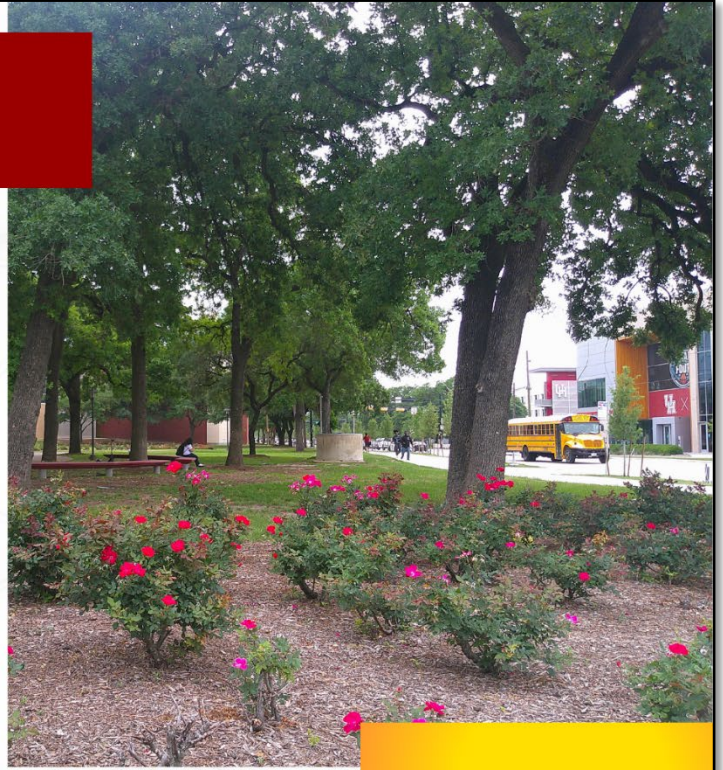
| | |
|---|----------|
| Section Six | 2 |
| Content Roadmap (starting section six) | 3 |
| Policy Checkpoint (Section Six) | 4 |
| The Hearing Board | 5 |
| The Hearing Panel | 6 |
| Expectations for a Hearing | 8 |
| Steps Before a Panel Hearing | 10 |
| Panelist (Limitations)..... | 12 |
| Tips for the Panelists | 13 |
| More Tips for the Panelists | 15 |
| Advisors at the Panel Hearing | 17 |
| Advisors at the Hearing (Limitations)..... | 18 |
| Witnesses | 20 |
| Other Participants | 21 |
| Possible Outcomes: Accept EOS Finding(s) | 22 |
| Possible Outcomes: Remand..... | 23 |
| Possible Outcomes: Reject EOS Finding(s) | 25 |
| What to Expect in the Panel Decision | 26 |
| Procedures for a Final Appeal | 28 |
| What happens next if appealed? | 29 |
| Expectations for a Final Appeal..... | 30 |
| What about a sanction decision?..... | 32 |
| Is there a sanction appeal in this process? | 34 |

Section Six

SECTION SIX

This section overviews the UH System Sexual Misconduct and Anti-Discrimination Hearing Process (which does not include cases designated for a Title IX Hearing). If you are preparing for a Title IX Officer Hearing, you will want to go back to review the previous section.

UNIVERSITY of **HOUSTON** SYSTEM | EOS



Slide Contents:

This section overviews the UH System Sexual Misconduct and Anti-Discrimination Hearing Process (which does not include cases designated for a Title IX Hearing). If you are preparing for a Title IX Officer Hearing, you will want to go back to review the previous section.

Narrator Notes:

(same as above)

Content Roadmap (starting section six)

Learn About the Process

This series will overview the types of concerns covered by EOS policies and the various forms of resolution that may be applicable during EOS review.

| | |
|---|---|
| 1 | Introduction to Equal Opportunity Services |
| 2 | Definitions of Misconduct Under EOS Policies |
| 3 | Preliminary Evaluation and Filing a Complaint |
| 4 | After a Formal Complaint: The Investigation Process |
| 5 | Understanding the Title IX Officer Hearing Process |
| 6 | Understanding the University Panel Hearing Process |
| 7 | Hearing Decorum and Preparing for the Hearing |

YOU ARE
HERE

UNIVERSITY of HOUSTON SYSTEM | EOS

Slide Contents:

Learn About the Process (Content Roadmap)

This series will overview the types of concerns covered by EOS policies and the various forms of resolution that may be applicable during EOS review.

1. Introduction to Equal Opportunity Services
2. Definitions of Misconduct Under EOS Policies
3. Preliminary Evaluation and Filing a Complaint
4. After a Formal Complaint: The Investigation Process
5. Understanding the Title IX Officer Hearing Process
6. Understanding the University Panel Hearing Process (you are here about to start this section)
7. Hearing Decorum and Preparing for the Hearing

Narrator Notes:

(same as above)

Policy Checkpoint (Section Six)

Policy Checkpoint

The University's policy and procedures on hearings that are not part of the Title IX Grievance process are contained the following policies:

SAM 01.D.07 – UH System [Anti-Discrimination Policy](#) (Appendix B)

SAM 01.D.08 – UH System [Sexual Misconduct Policy](#) (Appendix C)

We recommend that a party reviews the procedures soon after receiving the investigation report to ensure that they are aware of their rights and how the hearing will proceed.

Remember that **Appendix A** to the Sexual Misconduct Policy also includes important definitions of prohibited conduct (be sure to review the UH System sexual misconduct definitions specifically).

UNIVERSITY of **HOUSTON** SYSTEM | EOS



Slide Contents:

The University's policy and procedures on hearings that are not part of the Title IX Grievance process are contained the following policies:

SAM 01.D.07 – UH System [Anti-Discrimination Policy](#) (Appendix B)

SAM 01.D.08 – UH System [Sexual Misconduct Policy](#) (Appendix C)

We recommend that a party reviews the procedures soon after receiving the investigation report to ensure that they are aware of their rights and how the hearing will proceed.

Remember that **Appendix A** to the Sexual Misconduct Policy also includes important definitions of prohibited conduct (be sure to review the UH System sexual misconduct definitions specifically).

Narrator Notes:

(same as above)

The Hearing Board

The Hearing Board

The University's Faculty Senate, Staff Council, and Student Affairs may each recommend nominees to the University's President for the University Anti-Discrimination and Sexual Misconduct Hearing Board.

The President picks the Board members, and they serve for staggered terms for three years.



Contact EOS for Questions

The parties should not have private contact with the Hearing Board about their case (so both parties have equal opportunity during the hearing).

UNIVERSITY of HOUSTON SYSTEM | EOS

Slide Contents:

The University's Faculty Senate, Staff Council, and Student Affairs may each recommend nominees to the University's President for the University Anti-Discrimination and Sexual Misconduct Hearing Board.

The President picks the Board members, and they serve for staggered terms for three years.

Contact EOS for Questions: The parties should not have private contact with the Hearing Board about their case (so both parties have equal opportunity during the hearing).

Narrator Notes:

The Hearing Board:

According to the Sexual Misconduct Policy section 3.9, the Hearing Board is "the group of faculty and staff members from which a Hearing Panel may be selected in a UH System Sexual Misconduct hearing."

According to the Anti-Discrimination Policy, Appendix B, section 8(B):

Members of the Board are selected from recommendations from the University's Faculty Senate, Staff Council, and Student Affairs departments/offices, who shall each recommend at least five individuals to the University's President. The President shall then select a Board . . . with representation from each group recommended. Except for the first Board, members shall serve staggered terms of three years."

See the same provision in Appendix C, section 4 of the Sexual Misconduct Policy.

The EOS team are available for questions about the process. The parties should not have private contact with the Hearing Board about their case (so both parties have equal opportunity).

The Hearing Panel

The Hearing Panel

Hearing panels are drawn from the Hearing Board to review an appeal of an investigative report.

A panel of three is led by a Hearing Chair (a fourth panelist may be present to serve as an alternate as needed).

There is also an option for certain cases under the Sexual Misconduct Policy to be heard by a Non-Affiliated Hearing Officer. The appealing party in a sexual assault case may waive a panel in writing within five business days of the Final report notice with EOS' Finding(s) and have the appeal heard by a Non-Affiliated Hearing Officer.



Contact EOS for Questions

The parties should not have private contact with Panelists about their case (so both parties have equal opportunity).

UNIVERSITY of HOUSTON SYSTEM | EOS

Slide Contents:

Hearing panels are drawn from the Hearing Board to review an appeal of an investigative report.

A panel of three is led by a Hearing Chair (a fourth panelist may be present to serve as an alternate as needed).

There is also an option for certain cases under the Sexual Misconduct Policy to be heard by a Non-Affiliated Hearing Officer. The appealing party in a sexual assault case may waive a panel in writing within five business days of the Final report notice with EOS' Finding(s) and have the appeal heard by a Non-Affiliated Hearing Officer.

Contact EOS for Questions: The parties should not have private contact with the Hearing Board about their case (so both parties have equal opportunity).

Narrator Notes:

The Hearing Panel:

According to the Anti-Discrimination Policy, Appendix B, section 8(B), "Upon the Equal Opportunity Coordinator's receipt of the appeal, they will take a poll to identify four Board members to hear the appeal and compose the hearing panel (three members of the hearing panel will serve as voting members and one will serve as an alternate, non-voting member)." A Panel for a UH System Sexual Misconduct hearing has the same structure (see policy section 3.11 and Appendix C, section 4).

According to Appendix C, section 5.1, of the Sexual Misconduct Policy, If the hearing request concerns Sexual Assault, the moving party may waive their right to a hearing before the Hearing Panel and have their challenge heard by an individual hearing officer not affiliated with the University ("Non-affiliated Hearing Officer"). To waive their right to a Hearing Panel,

the moving party must submit written notice to the Title IX Coordinator within five (5) business days of receiving the Title IX investigator's' finding(s).

Expectations for a Hearing

Expectations for a Hearing

The Hearing Panel uses the preponderance of the evidence standard to determine whether a violation of policy occurred.

While the Hearing Panel has the opportunity to review any evidence presented at the hearing, their role is **not to reinvestigate** the original Formal Complaint or to review new allegations under an equal opportunity policy, or any other University policy.

This section refers to Hearing Panels or Chairs. In certain sexual misconduct cases, the parties may be heard by a non-affiliated hearing officer. The same processes apply to this officer as the hearing panelists or Chair.

The hearing outcome is a recommendation. If the parties do not appeal a recommendation to accept or reject the EOS' Finding(s) within five business days, the decision becomes final.

UNIVERSITY of HOUSTON SYSTEM | EOS



Slide Contents:

The Hearing Panel uses the preponderance of the evidence standard to determine whether a violation of policy occurred.

While the Hearing Panel has the opportunity to review any evidence presented at the hearing, their role is not to reinvestigate the original Formal Complaint or to review new allegations under an equal opportunity policy, or any other University policy.

This section refers to Hearing Panels or Chairs. In certain sexual misconduct cases, the parties may be heard by a non-affiliated hearing officer. The same processes apply to this officer as the hearing panelists or Chair.

The hearing outcome is a recommendation. If the parties do not appeal a recommendation to accept or reject the EOS' Finding(s) within five business days, the decision becomes final.

Narrator Notes:

Expectations for a Hearing:

These materials refer to Hearing Panels or Chairs as different roles of decisionmakers. In certain sexual misconduct cases, the parties may be heard by a non-affiliated hearing officer. The same processes apply to this officer as the hearing panelists or Chair.

According to Sexual Misconduct Policy Appendix C, section 5.2, "The Hearing Panel/Non-affiliated Hearing Officer will make decisions using a preponderance of the evidence standard." (The Anti-Discrimination Policy has the same standard in Appendix B, section 8(C).

Remember as previously discussed, preponderance means more likely than not. So if two situations are equally plausible (one a violation and one not a violation), then there should not be a finding of a violation.

Section 5.6 states that, "While the Hearing Panel/Non-affiliated Hearing Officer will have the opportunity to review any evidence presented at the hearing, their role is not to reinvestigate the original Formal Complaint or to review allegations that would otherwise constitute a new Formal Complaint under this Policy or any other University policy."

Similarly, the Anti-Discrimination Policy, Appendix B, Section 8(A)(3) states that after receiving the EOS investigative report, "An appeal is not a new investigation of the complaint." Section 8(C) also states that, "While the hearing panel will have the opportunity to review any evidence presented on appeal, their role is not to reinvestigate the original complaint or to review allegations that would otherwise constitute a new complaint under this Policy or any other University policy."

Finally, Appendix C, Section 9.7 and 9.8 state that:

If the Hearing Panel/Non-affiliated Hearing Officer accepts or rejects The Title IX investigator's finding(s), any party or the Title IX office may appeal the decision of the Hearing Panel/Non-affiliated Hearing Officer to the appropriate administrator. Any appeal must be filed in writing within five business days of the Hearing Panel/Non-affiliated Hearing Officer's decision. If no appeal is filed by the deadline, the Hearing Panel/Non-affiliated Hearing Officer's recommendation(s) become final.

Steps Before a Panel Hearing

- 1 Step One: Panelists**
EOS sends notice of the panelists to the parties, and they have five (5) business days to object to a panelist for cause.
- 2 Step Two: Hearing Date & Time**
EOS will provide possible hearing dates/times to the parties and ask for availability.
- 3 Step Three: Confirm Materials & Witnesses**
EOS will ask the parties to confirm the materials and witnesses they intend to present at least five (5) business days before the hearing.
- 4 Prepare with an Advisor**
EOS will ask the parties for the name of their advisor, and check that there is a written confirmation from the student.



UNIVERSITY of **HOUSTON** SYSTEM | EOS

Slide Contents:

Step One: Panelists

- EOS sends notice of the panelists to the parties, and they have five business days to object to a panelist for cause.

Step Two: Hearing Date & Time

- EOS will provide possible hearing dates/times to the parties and ask for availability.

Step Three: Confirm Materials & Witnesses

- EOS will ask the parties to confirm the materials and witnesses they intend to present at least five business days before the hearing.

Prepare with an Advisor

- EOS will ask the parties for the name of their advisor, and check that there is a written confirmation from the student.

Narrator Notes:

Steps Before a Panel Hearing

According to the Anti-Discrimination Policy, Appendix B, section 8(D), "The Complainant and Respondent(s) will be notified of the composition of the hearing panel for their hearing. Within five business days of this notification, the

Complainant and Respondent(s) have the opportunity to object in writing to a panel member for cause." See Appendix C, section 7.3 for the same provision in the Sexual Misconduct Policy.

The Policy also states that, "Absent extenuating circumstances, the Equal Opportunity Coordinator will schedule a hearing within fifteen business days from the filing of the appeal, or as soon as practicable." Likewise, see Appendix C, section 7.1 of the Sexual Misconduct Policy.

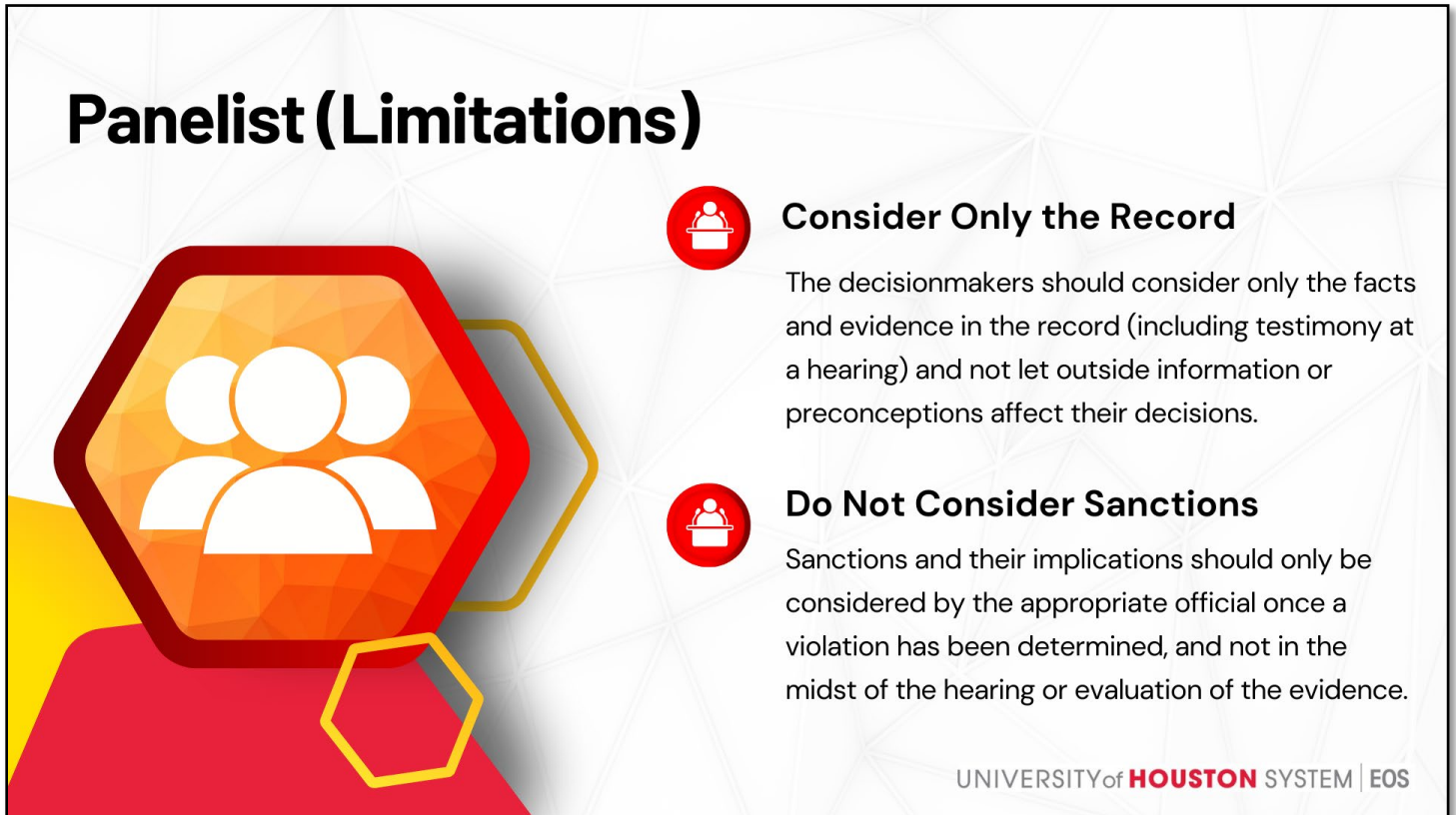
In addition to this step, panelists may ask to recuse themselves. According to the Anti-Discrimination Policy, Appendix B, section 8(B), "A selected hearing panel member may request in writing not to serve on a panel based on a conflict of interest, and another board member may be substituted."

The Policy also states in section 8(D) that:

No later than five business days prior to the hearing, all materials that will be used at the hearing must be submitted to the Equal Opportunity Coordinator or their designee, who will forward the materials to the hearing panel and will simultaneously make available for inspection or provide the materials to both parties. . . . No advisor, witness, document, or tangible evidence will be permitted at the hearing unless such information was timely submitted.

The same provision can be found in the Sexual Misconduct Policy, Appendix C, section 7.5.

Each party may then prepare for the hearing with their respective advisor.

The slide features a large, stylized graphic on the left consisting of a red hexagon with a white icon of three people, set against a background of yellow and red geometric shapes. To the right of this graphic are two red circular icons, each containing a white icon of a person at a desk. The slide title 'Panelist (Limitations)' is at the top left. The text 'UNIVERSITY of HOUSTON SYSTEM | EOS' is at the bottom right.

Panelist (Limitations)

Consider Only the Record

The decisionmakers should consider only the facts and evidence in the record (including testimony at a hearing) and not let outside information or preconceptions affect their decisions.

Do Not Consider Sanctions

Sanctions and their implications should only be considered by the appropriate official once a violation has been determined, and not in the midst of the hearing or evaluation of the evidence.

UNIVERSITY of **HOUSTON** SYSTEM | EOS

Slide Contents:

Consider Only the Record

- The decisionmakers should consider only the facts and evidence in the record (including testimony at a hearing) and not let outside information or preconceptions affect their decisions.

Do Not Consider Sanctions

- Sanctions and their implications should only be considered by the appropriate official once a violation has been determined, and not in the midst of the hearing or evaluation of the evidence.

Narrator Notes:

Limitations for Panelists:

As part of their deliberations, the decisionmaker should consider only the record (the record of facts and evidence combined with the hearing materials and testimony), and not let outside information or preconceptions affect their decisions.

Sanctions and their implications should only be considered by the appropriate official (not the panelists at the hearing) and once a violation has been determined (either not appealed or upheld after appeals are exhausted), and not in the midst of the hearing or evaluation of the evidence.

Tips for the Panelists



- Consider drafting a script for the introduction.
- Review the applicable policy sections before the hearing.
- Ask all persons to introduce themselves once the hearing starts for the record.
- Summarize the parts of the hearing for the parties and their advisors.
- Identify a Chair for the hearing. Explain parties may call and question their own witnesses, but questions they have for any other testimony can be collected in writing, and then the Chair will consider if relevant.
- If a party does not appear at the hearing, ask the EOS Representative to read their appeal statement into the record (or to summarize if too long to recite).

UNIVERSITY of **HOUSTON** SYSTEM | EOS

Slide Contents:

- Consider drafting a script for the introduction.
- Review the applicable policy sections before the hearing.
- Ask all persons to introduce themselves once the hearing starts for the record.
- Summarize the parts of the hearing for the parties and their advisors.
- Identify a Chair for the hearing. Explain parties may call and question their own witnesses, but questions they have for any other testimony can be collected in writing, and then the Chair will consider if relevant.
- If a party does not appear at the hearing, ask the EOS Representative to read their appeal statement into the record (or to summarize if too long to recite).

Narrator Notes:

Panelists can prepare for the hearing with steps such as:

- Consider drafting a script for the introduction.
- Review the applicable policy sections before the hearing.

To keep the hearing orderly and on the record, the Panel can:

- Ask all persons to introduce themselves once the hearing starts for the record.
- Summarize the parts of the hearing for the parties and their advisors.

According to the Anti-Discrimination Policy, Appendix B, section 9(A), "Prior to the beginning of a hearing, the members of a hearing panel will select a Chairperson for the hearing."

According to sections 9(D through F) of the Anti-Discrimination Policy:

The parties may question their own witnesses, but they cannot directly question each other or any other party's witnesses. The parties may request that the Panel Chairperson ask questions of another party or their witnesses by submitting proposed questions to the Panel Chairperson in writing either prior to or during the hearing. The Panel Chairperson may determine which questions are relevant, and the Panel Chairperson has the discretion to revise a question or to decline to ask the question.

The same information about selecting Chairs and managing cross examination questions in writing from the parties can be found in Appendix C, section 8 of the Sexual Misconduct Policy.

According to section 9(H), "In cases where an appellant or an appellee does not participate in or attend the hearing, the Panel will convene and make a decision based on the evidence and testimony available to the Panel. Any party who declines to participate in a hearing waives any additional right to appeal." To help focus the hearing where the appealing party is not present, the Panel may ask the EOS Representative to read their appeal statement into the record (or to summarize if too long to recite). Similarly, if the non-appealing party is not present, the Panel may ask the representative if there was a written reply to the appeal notice and to recite that for the record.

If a party does not appear at the hearing, the Chair may ask the EOS Representative to read their appeal statement into the record (or to summarize if too long to recite). This can help to focus the hearing on the grounds provided for the appeal.

More Tips for the Panelists



- Keep any questions submitted in writing as part of the record.
- The Chair may revise a question or to decline to ask the question.
- If needed, pause the hearing to confer off the record with UHS Office of General Counsel about UH System policies.
- Double check the allegation list before concluding the hearing to make sure all allegations have been discussed at the hearing, as appropriate.
- Deliberate with the other Panelists in private, off the record.
- Block time on your schedule for after the hearing to deliberate so the parties receive a timely decision.

UNIVERSITY of **HOUSTON** SYSTEM | EOS

Slide Contents:

- Keep any questions submitted in writing as part of the record.
- The Chair may revise a question or to decline to ask the question.
- If needed, pause the hearing to confer off the record with UHS Office of General Counsel about UH System policies.
- Double check the allegation list before concluding the hearing to make sure all allegations have been discussed at the hearing, as appropriate.
- Deliberate with the other Panelists in private, off the record.
- Block time on your schedule for after the hearing to deliberate so the parties receive a timely decision.

Narrator Notes:

More Tips for the Panelists

According to the Anti-Discrimination Policy, Appendix B, section 9(B), the Panel Chair may determine the "relevance of, and place restrictions on, any witness or information presented. The Panel Chairperson and/or Panel may question any individual at any time during the hearing. . . . The Panel Chairperson may determine which questions are relevant, and the Panel Chairperson has the discretion to revise a question or to decline to ask the question." See also Appendix C, section 8 for the same provisions in the Sexual Misconduct Policy. Hearing records must be preserved, including questions submitted to the Panel from the parties.

If the Panel has a question about policy or procedure during the hearing, they can pause the hearing and recording, and meet privately with Office of General Counsel for advice.

According to the Sexual Misconduct Policy, Appendix C, section 9.3 states, "The Hearing Panel/Non-affiliated Hearing Officer will communicate its decision by completing the hearing decision form and forwarding it to the Title IX Coordinator within three business days of the hearing." In order to prepare for the deliberation, make sure each allegation in the appeal has been addressed to the Panel.

As stated in the Anti-Discrimination Policy, Appendix B, section 10(A), "After the hearing has concluded, the three voting members of the Panel will deliberate in private." Schedules can book up fast, so consider blocking off time for deliberation when scheduling the hearing, so that deliberation can take place without delay.

Advisors at the Panel Hearing



Personal Advisor

Each party may have one and they do not participate.

A Personal Advisor is a private support person for one party and may not question witnesses, the Equal Opportunity representative or the Hearing Officer during the hearing.

However, if a Panelist has a question for the Personal Advisor, they may answer the question.

UNIVERSITY of **HOUSTON** SYSTEM | EOS

Slide Contents:

Personal Advisor

- Each party may have one and they do not participate.
- A Personal Advisor is a private support person for one party and may not question witnesses, the Equal Opportunity representative or the Hearing Officer during the hearing.
- However, if a Panelist has a question for the Personal Advisor, they may answer the question.


Narrator Notes:

Advisors at the Panel Hearing

According to the Sexual Misconduct Policy, section 3.14, a Personal Advisor is chosen by a party to be "present during any meeting related to the investigation of Sexual Misconduct." The Policy continues to state that:

This advisor may be an attorney, provided at the party's expense, with no cost to the University. Personal Advisors may not speak on behalf of the individual they are advising or be a witness at any hearing that they attend in the capacity of Personal Advisor or Hearing Advisor. A Personal Advisor may ask to briefly suspend any meetings, interviews, or hearings to provide private consultation related to the meeting or proceeding in process. An individual serving as a Personal Advisor may serve as a Hearing Advisor under Title IX Grievance Procedures.

According to section 6.2 of Appendix C, "A Personal Advisor may respond to a direct question from the investigator during a meeting or the [decisionmaker] during a hearing." See also section 3.7 of the Anti-Discrimination Policy for similar provisions for Personal Advisors.



Advisors at the Hearing (Limitations)

Limits of Confidentiality

Confidentiality may be limited by others laws and processes. For instance if a civil or criminal process issues a lawful subpoena, advisors may have to testify and share confidences. Warn participants about the possible limits of confidentiality.

Employee Advisors

While employee advisors may help a party to understand and participate in the process, they are still bound by University policies. If a party wants an advisor to breach a policy, the advisor can explain their limited role.

UNIVERSITY of HOUSTON SYSTEM | EOS

Slide Contents:

Limits of Confidentiality

- Confidentiality may be limited by others laws and processes. For instance if a civil or criminal process issues a lawful subpoena, advisors may have to testify and share confidences. Warn participants about the possible limits of confidentiality.

Employee Advisors

- While employee advisors may help a party to understand and participate in the process, they are still bound by University policies. If a party wants an advisor to breach a policy, the advisor can explain their limited role.

Narrator Notes:

Limitations for Advisors at the Hearing:

As stated in the Sexual Misconduct Policy, section 11.4, "The University will protect the anonymity of all individuals involved in a report or a Formal Complaint by refusing to disclose their identifying information to anyone outside the University to the maximum extent permitted by law." University confidentiality limits may be superseded by other legal processes, such as a lawfully issued civil or criminal court subpoena. Therefore advisors may warn participants that their discussions will be confidential only within the bounds of the University's process and applicable laws.

While advisors from the University may help a party to understand and participate in the process, they are still bound by University policies. If a party wants an advisor to breach a policy, the advisor can explain their limited role. For instance, if a student asked an employee advising the student to access confidential University data in order to help their case, the

employee should not violate secure data. However, the employee could explain to the student other options to make an information request or notify the Equal Opportunity Coordinator about possible evidence.



Witnesses

- Party Responsible for Witness**

Parties must secure their own witnesses to attend the hearing. The University cannot compel a witness to attend.
- Summary of Testimony in Record**

Parties are responsible for providing a summary of expected witness testimony in the record, which can help the Panel plan for the order and timing of hearing process.
- Decorum and Access**

Witnesses must adhere to the rules of decorum. Witnesses may be present in a hearing only during their own testimony.

UNIVERSITY of **HOUSTON** SYSTEM | EOS

Slide Contents:

Party Responsible for Witness

- Parties must secure their own witnesses to attend the hearing. The University cannot compel a witness to attend.

Summary of Testimony in Record


- Parties are responsible for providing a summary of expected witness testimony in the record, which can help the Panel plan for the order and timing of hearing process.

Decorum and Access


- Witnesses must adhere to the rules of decorum. Witnesses may be present in a hearing only during their own testimony.


Narrator Notes:

(same as above)



Other Participants

-  **EOS Representatives**

EOS staff participate in the hearing to serve as resources on the investigation record (for related questions) and to help coordinate technical support.
-  **Office of General Counsel**

A representative from UH System Office of General Counsel may attend the hearing in case Panelists have private questions about an applicable System policy during the hearing.

UNIVERSITY of **HOUSTON** SYSTEM | EOS

Slide Contents:

EOS Representatives

- EOS staff participate in the hearing to serve as resources on the investigation record (for related questions) and to help coordinate technical support.

Office of General Counsel

- A representative from UH System Office of General Counsel may attend the hearing in case Panelists have private questions about an applicable System policy during the hearing.

Narrator Notes:

Other Participants at the Hearing:

Per section 8.2.3 of Appendix C of the Sexual Misconduct Policy, "The Title IX investigator shall present their documentation related to the finding(s) to the [decisionmakers.]"

A representative from UH System Office of General Counsel may attend the hearing in case officials have questions about an applicable System policy during the hearing.

Possible Outcomes: Accept EOS Finding(s)



The Hearing Panel must use the preponderance of the evidence standard.

The Panel may recommend accepting the EOS Finding(s).

Note that even if there was a possible procedural error or defect in the case, the Panel may still accept the Finding(s) if the evidence does not support by a preponderance that the error or defect significantly impacted the Finding(s).

UNIVERSITY of **HOUSTON** SYSTEM | EOS

Slide Contents:

The Hearing Panel must use the preponderance of the evidence standard.

The Panel may recommend accepting the EOS Finding(s).

Note that even if there was a possible procedural error or defect in the case, the Panel may still accept the Finding(s) if the evidence does not support by a preponderance that the error or defect significantly impacted the Finding(s).

Narrator Notes:

Possible Outcomes: Accept EOS Finding(s):

According to Appendix C, Section 5.2, "The Hearing Panel/Non-affiliated Hearing Officer will make decisions using a preponderance of the evidence standard."

Section 5.3 states that, "The role of the Hearing Panel/Non-affiliated Hearing Officer is to recommend that the appropriate administrator accept, remand, or reject the Title IX investigator's finding(s)."

Similarly, the Anti-Discrimination Policy, Appendix B, section 8(C) provides that, "The role of the hearing panel is to accept, remand, or reject the finding(s)."

Note that even if there was a possible procedural error or defect in the case, the Panel may accept the Finding(s) if the evidence does not support by a preponderance that the error or defect significantly impacted the Finding(s).

Possible Outcomes: Remand



The Hearing Panel may only recommend remanding the EOS Finding(s) if:

- An error or procedural defect occurred during the investigation that could have significantly impacted its finding(s); or
- Further investigation is warranted for any other material reason.

To expedite the process, the Panel should specify in their decision what specific issues need to be addressed on remand.

UNIVERSITY of HOUSTON SYSTEM | EOS

Slide Contents:

The Hearing Panel may only recommend remanding the EOS Finding(s) if:

- An error or procedural defect occurred during the investigation that could have significantly impacted its finding(s); or
- Further investigation is warranted for any other material reason.

To expedite the process, the Panel should specify in their decision what specific issues need to be addressed on remand.

Narrator Notes:

Possible Outcomes: Remand:

According to Appendix C, section 5.4 of the Sexual Misconduct Policy:

The Hearing Panel/Non-affiliated Hearing Officer can only recommend remanding the Title IX investigator's finding(s) if:

1. An error or procedural defect occurred during the investigation that could have significantly impacted its finding(s); or
2. Further investigation is warranted for any other material reason.

Similarly, the Anti-Discrimination Policy has the same standard in Appendix B, section 8(C).

To expedite the process, the Panel should specify in their decision what specific issues need to be addressed on remand. Otherwise, at the next hearing, if the Panel concerns or not addressed, the case could be remanded again delaying the outcome.

Section 9.3 states that, "If the decision is to remand the case to the Title IX office to correct an investigative error(s), the Hearing Panel/Non-affiliated Hearing Officer will indicate the error(s) to be corrected."

Possible Outcomes: Reject EOS Finding(s)



The Hearing Panel may only recommend rejecting the Title IX investigator's finding(s) if:

The weight of the evidence does not support or is contrary to the Title IX investigator's finding(s); or

An error or procedural defect that significantly impacted the finding(s) is discovered and the error cannot be remedied.

UNIVERSITY of HOUSTON SYSTEM | EOS

Slide Contents:

The Hearing Panel may only recommend rejecting the Title IX investigator's finding(s) if:

The weight of the evidence does not support or is contrary to the Title IX investigator's finding(s); or

An error or procedural defect that significantly impacted the finding(s) is discovered and the error cannot be remedied.

Narrator Notes:

Possible Outcomes: Reject EOS Finding(s):

According to Appendix C, section 5.5 of the Sexual Misconduct Policy, "The Hearing Panel/Non-affiliated Hearing Officer can only recommend rejecting the Title IX investigator's finding(s) if:

1. The weight of the evidence does not support or is contrary to the Title IX investigator's finding(s); or
2. An error or procedural defect that significantly impacted the finding(s) is discovered and the error cannot be remedied."

Similarly, the Anti-Discrimination Policy has the same standard in Appendix B, section 8(C).

What to Expect in the Panel Decision

What to Expect in the Panel Decision

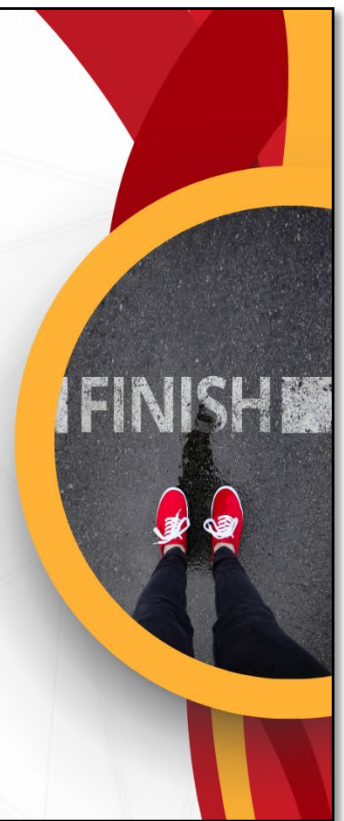
Notification of the Panel's recommendation (by majority vote) should be provided simultaneously to the parties within three business days of the hearing.

A recommendation for accepting or rejecting the EOS Finding(s) may be appealed. **If there is no appeal within five business days, the decision is final.**

Once one party appeals, then the other party is notified and has the option to submit a written statement in response to the appeal within five (5) business days.

EOS staff will then forward the appeal record to the appropriate administrator.

UNIVERSITY of HOUSTON SYSTEM | EOS



Slide Contents:

Notification of the Panel's recommendation (by majority vote) should be provided simultaneously to the parties within three business days of the hearing.

A recommendation for accepting or rejecting the EOS Finding(s) may be appealed. If there is no appeal within five business days, the decision is final.

Once one party appeals, then the other party is notified and has the option to submit a written statement in response to the appeal within five (5) business days.

EOS staff will then forward the appeal record to the appropriate administrator.

Narrator Notes:

What to Expect in the Panel Decision:

As stated in the Anti-Discrimination Policy, Appendix B, section 10(B through D):

The Panel's decision . . . will be by majority vote. The Panel will communicate its decision by completing the Hearing Decision Form and forwarding it to the Equal Opportunity Coordinator within three business days of the hearing. If the decision is to remand the case to correct an investigative error(s), the Panel will indicate the error(s) to be corrected. . . . The Equal Opportunity Coordinator will then provide a copy of the decision simultaneously to all parties involved in the complaint.

For the same provisions in the Sexual Misconduct Policy, see section 9 of Appendix C.

Section 9.8 states, "Any appeal must be filed in writing within five business days of the Hearing Panel/Non-affiliated Hearing Officer's decision. If no appeal is filed by the deadline, the Hearing Panel/Non-affiliated Hearing Officer's recommendation(s) become final."

Procedures for a Final Appeal

The Complainant or Respondent may appeal the Panel's recommendation to accept or reject the EOS Finding(s).

- Any appeal must be submitted in writing to the Title IX/Equal Opportunity Coordinator within five (5) business days of the decision. **If no one files an appeal within the time period, the decision becomes final.**

Remember this recommendation only affects the Finding(s), and any sanction decision is made in a separate process.

UNIVERSITY of HOUSTON SYSTEM | EOS

Slide Contents:

The Complainant or Respondent may appeal the Panel's recommendation to accept or reject the EOS Finding(s).

- Any appeal must be submitted in writing to the Title IX/Equal Opportunity Coordinator within five (5) business days of the decision. If no one files an appeal within the time period, the decision becomes final.

Remember this recommendation only affects the Finding(s), and any sanction decision is made in a separate process.

Narrator Notes:

Procedures for a Final Appeal:

According to the Anti-Discrimination Policy, Appendix B, section 10(G and H):

If the Panel accepts or rejects the finding(s), any party or the Equal Opportunity office may appeal the Panel's decision to the appropriate administrator. Any appeal must be filed with the Equal Opportunity office in writing within five business days of the Panel's decision. The Equal Opportunity office will forward the appeal to the appropriate administrator for review. If no appeal is filed by the deadline, the Panel's recommendation(s) become final.

For the same provisions, see the Sexual Misconduct Policy, Appendix C, sections 9.7 and 9.8.

Remember, sanctions come at a later point, so this process only affects the Finding(s) of whether the evidence supported a policy violation.

What happens next if appealed?

What happens next if appealed?

Once one party appeals the Panel's recommendation, the other party has the option to submit a written statement in response to the appeal within five (5) business days.

EOS staff will then forward the appeal record to the appropriate administrator.

The appropriate administrator's decision is a review of the record only, not a de novo review or new investigation. Their decision is to **accept, remand or reject** the previous decision. The administrator's decision to accept or reject is final.

UNIVERSITY of HOUSTON SYSTEM | EOS

Slide Contents:

Once one party appeals the Panel's recommendation, the other party has the option to submit a written statement in response to the appeal within five (5) business days.

EOS staff will then forward the appeal record to the appropriate administrator.

The appropriate administrator's decision is a review of the record only, not a de novo review or new investigation. Their decision is to accept, remand or reject the previous decision. The administrator's decision to accept or reject is final.

Narrator Notes:

What happens next if appealed?

Once one party appeals the Panel's recommendation, the other party has the option to submit a written statement in response to the appeal within five business days.

According to the Anti-Discrimination Policy, Appendix B, section 11(A), "The role of the appropriate administrator is to accept, reject, or remand the Panel's recommendation(s)." Likewise, as stated in section 10.6 of Appendix C in the Sexual Misconduct Policy, "The appropriate administrator will review the record on appeal which may include the case file, appeal documentation, and hearing recording only," and section 10.1, "The role of the appropriate administrator is to accept, reject, or remand the Hearing Panel/Non-affiliated Hearing Officer's recommendation(s)." Per section 10.5, "If the appropriate administrator accepts or rejects the Hearing Panel/Nonaffiliated Hearing Officer's recommendation(s), the decision becomes final."

Expectations for a Final Appeal

Appropriate administrator reviews the record on appeal which may include the case file, appeal documentation, and hearing recording.

Decision within fifteen (15) business days.

If not possible within fifteen business days, they must provide an explanation to the parties and the Equal Opportunity Coordinator in writing by that deadline and every ten (10) business days thereafter.

Again, any decision to accept or reject is final. The grounds for rejecting or remanding the case back down to the Panel or EOS investigator are the same as the grounds previously listed for the Panel to consider, but the Administrator may also evaluate the hearing procedures.

UNIVERSITY of HOUSTON SYSTEM | EOS

Slide Contents:

Appropriate administrator reviews the record on appeal which may include the case file, appeal documentation, and hearing recording.

Decision within fifteen (15) business days.

If not possible within fifteen business days, they must provide an explanation to the parties and the Equal Opportunity Coordinator in writing by that deadline and every ten (10) business days thereafter.

Again, any decision to accept or reject is final. The grounds for rejecting or remanding the case back down to the Panel or EOS investigator are the same as the grounds previously listed for the Panel to consider, but the Administrator may also evaluate the hearing procedures.

Narrator Notes:

Expectations for a Final Appeal:

The Anti-Discrimination Policy, Appendix B, section 11(B and C) also provides that:

If an appeal is filed, the appropriate administrator will review the record on appeal which may include the case file, appeal documentation, and hearing recording, and will render a decision within fifteen business days from the date that the appeal is filed. If the appropriate administrator extends the fifteen day deadline, they must provide an explanation to the parties and the Equal Opportunity Coordinator in writing by that deadline and every ten business days thereafter. See Sexual Misconduct Policy, Appendix C, section 10.5 for the same timelines.

The Policy also explains in sections D through G, the parameters for an appropriate administrator to consider rejecting or remanding the matter. The policy states:

The appropriate administrator can only recommend remanding the case back to the Equal Opportunity Coordinator if they find: an error or procedural defect occurred during the investigation that could have significantly impacted the finding(s), or further investigation is warranted for any other material reason. The appropriate administrator can only reject the finding(s) if they find: the weight of the evidence does not support or is contrary to the finding(s), or an error or procedural defect that significantly impacted the finding(s) is discovered and the error cannot be remedied. The appropriate administrator can remand the case back to the Panel if they find an error or procedural defect occurred during the hearing that could have significantly impacted the Panel's recommendation(s), or which caused harm to the appellant or appellee. If the appropriate administrator accepts or rejects the Panel's recommendation(s), the decision becomes final.

For the same processes under the Sexual Misconduct Policy, see Appendix C, sections 10.2 to 10.5.

What about a sanction decision?



EOS Finding(s) of a policy violation and the Panel's review do not determine the sanction(s) if the Respondent is still found in violation at the end of the appeal.

Once the appeal is complete, EOS will recommend appropriate University action and refer the matter to the appropriate administration for sanction decision:

- For **faculty** Respondents, see the Faculty handbook/manual for the appropriate administrator.
- For a **non-faculty employee**, see employee discipline policies and procedures.
- For **students**, the Dean of Students' Office or equivalent office will review the matter per student conduct/discipline.

UNIVERSITY of **HOUSTON** SYSTEM | EOS

Slide Contents:

EOS Finding(s) of a policy violation and the Panel's review do not determine the sanction(s) if the Respondent is still found in violation at the end of the appeal.

Once the appeal is complete, EOS will recommend appropriate University action and refer the matter to the appropriate administration for sanction decision:

- For faculty Respondents, see the Faculty handbook/manual for the appropriate administrator.
- For a non-faculty employee, see employee discipline policies and procedures.
- For students, the Dean of Students' Office or equivalent office will review the matter per student conduct/discipline.

Narrator Notes:

What about a sanction decision?

Once a finding of a violation is final, the sanction decision will be referred to the appropriate administrator. According to the Sexual Misconduct Policy, Appendix C, sections 11.2 to 11.4:

If there is a finding of a violation of this Policy against a faculty member, any sanctions imposed on the faculty member will be determined and implemented by the appropriate administrator after consultation with the Title IX Coordinator and consistent with the University's faculty handbook/manual.

If there is a finding of a violation of this Policy against a non-faculty University employee, any sanction imposed on the employee will be determined and implemented by the appropriate administrator after

consultation with the Title IX Coordinator and consistent with the University's policies and procedures related to employee discipline.

If there is a finding of a violation of this Policy against a student, any sanction imposed on the student will be determined and imposed by the Dean of Students Office or its equivalent after consultation with the Title IX Coordinator and consistent with the University's policies and procedures related to student discipline.

The same process can be found in the Anti-Discrimination Policy, Appendix B, section 12(A).

Is there a sanction appeal in this process?

Is there a sanction appeal in this process?



If a party (not limited to the Respondent) is dissatisfied with a sanction determined by the appropriate administrator, they may appeal:

- For **faculty** Respondents, through the Faculty handbook/manual.
- For a **non-faculty employee**, through employee discipline policies and procedures related to employee grievances.
- For **students**, through the student conduct of conduct or its equivalent.

Keep in mind that a Respondent may receive interim sanctions if they are found in violation of the Policy while an appeal is pending.

UNIVERSITY of **HOUSTON** SYSTEM | EOS

Slide Contents:

If a party (not limited to the Respondent) is dissatisfied with a sanction determined by the appropriate administrator, they may appeal:

- For faculty Respondents, through the Faculty handbook/manual.
- For a non-faculty employee, through employee discipline policies and procedures related to employee grievances.
- For students, through the student conduct of conduct or its equivalent.

Keep in mind that a Respondent may receive interim sanctions if they are found in violation of the Policy while an appeal is pending.

Narrator Notes:

According to the Sexual Misconduct Policy, Appendix C, section 11.9:

If a party is dissatisfied with a sanction determined by the appropriate administrator, they may appeal the sanction as follows:

Any appeal to the sanction against a faculty member must be addressed through the university's faculty handbook/manual;

Any appeal to the sanction against a non-faculty University employee must be addressed through the university's policies and procedures related to employee grievances; and

Any appeal to the sanction against a student must be addressed through the appeal process in the university's Student Code of Conduct or its equivalent.

The same process can be found in the Anti-Discrimination Policy, Appendix B, section 12(C).

Learn About the Process

This series will overview the types of concerns covered by EOS policies and the various forms of resolution that may be applicable during EOS review.

| | |
|---|---|
| 1 | Introduction to Equal Opportunity Services |
| 2 | Definitions of Misconduct Under EOS Policies |
| 3 | Preliminary Evaluation and Filing a Complaint |
| 4 | After a Formal Complaint: The Investigation Process |
| 5 | Understanding the Title IX Officer Hearing Process |
| 6 | Understanding the University Panel Hearing Process |
| 7 | Hearing Decorum and Preparing for the Hearing |



Slide Contents:

Learn About the Process (Content Roadmap)

This series will overview the types of concerns covered by EOS policies and the various forms of resolution that may be applicable during EOS review.

1. Introduction to Equal Opportunity Services
2. Definitions of Misconduct Under EOS Policies
3. Preliminary Evaluation and Filing a Complaint
4. After a Formal Complaint: The Investigation Process
5. Understanding the Title IX Officer Hearing Process
6. Understanding the University Panel Hearing Process (you are and completed this section)
7. Hearing Decorum and Preparing for the Hearing

Narrator Notes:

You have completed section six. Continue to section seven to learn about requirements for hearing decorum and tips for an EOS hearing, in general.