

# Advisor Training

---

## *Office of Title IX Compliance*

123 I.G. Greer Hall

(828) 262-2144

[titleix@appstate.edu](mailto:titleix@appstate.edu)



# ● Advisor Roadmap

---



01. Introduction

02. Advisor's Role

03. Pre-Hearing

04. Hearing

05. Post-Hearing



# 01. Introduction

---

- What is Title IX?
- What does Appalachian do when alleged misconduct is not regulated by Title IX?
- How does the grievance process work?



## Title IX of the Education Amendments of 1972

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.

**“On the basis of sex”** – The current federal understanding, based on the Supreme Court of the United States’ ruling in *Bostock v. Clayton County, Georgia*, 140 S.Ct. 1731 (2020), is that protections guaranteed “on the basis of sex” shall cover gender, gender identity, and sexual orientation.



# **Appalachian Policies & Procedures**

**Policy 110** – Discrimination & Harassment

**Policy 112** – Sex-Based Misconduct (w/Title IX and  
Sex/Gender-Based Misconduct Procedures)

**Policy 602.21** – Improper Relationships between Students and  
Employees

**Policy 602.32** – Workplace Violence



# Grievance Process...*in a nutshell*



Assessment



Informal or Formal



Investigation



Hearing



Final Determination



Appeal & Response



## 02. Advisor's Role

---

- Who can be an advisor?
- What is the purpose of an advisor?
- Other considerations

# ● Who May Serve as an Advisor

Parties have the right to an advisor of choice (e.g., friend, relative, attorney).

Some parties prefer a University-appointed advisor.

No training requirement (legal or otherwise).





## ● Two Main Functions



I. *Serve as a support person* for the parties and perform advising throughout the process.

II. *Conduct cross-examination* should the matter proceed to a hearing. We'll discuss this in more detail later in the presentation.

# Supporting the Advisee



Actively Listen

Create a Comfort Plan

Help the Party Feel Less Alone



Explain Parts of the Process

Prepare for Interviews

Review Investigative Report

Brainstorm Questions



## Limitations & Considerations

- Advisors may build relationships of trust and candor with the party.
- Remind advisees about confidential resources.
- Unreasonable delays, disruption, or interference with any part of the procedures may result in an Advisor's removal from the process.
- ***University-Appointed Advisors***
  - Avoid any promises regarding outcomes or sanctions.
  - Admissions of fraudulent reporting by all parties may not be kept confidential.



## 03. Pre-Hearing

---

- How is my advisee supported beyond my role?
- What if my advisee wants to do an informal resolution?
- How can I help during the investigative process?



## Supportive Measures

---

Upon receiving a concern of misconduct, Appalachian first offers supportive measures to the Complainant. Once the Respondent is notified of the allegations, they will also be offered supportive measures.

**Examples** – Mutual no-contact directives, adjustments to the party's academic, housing, and work schedules

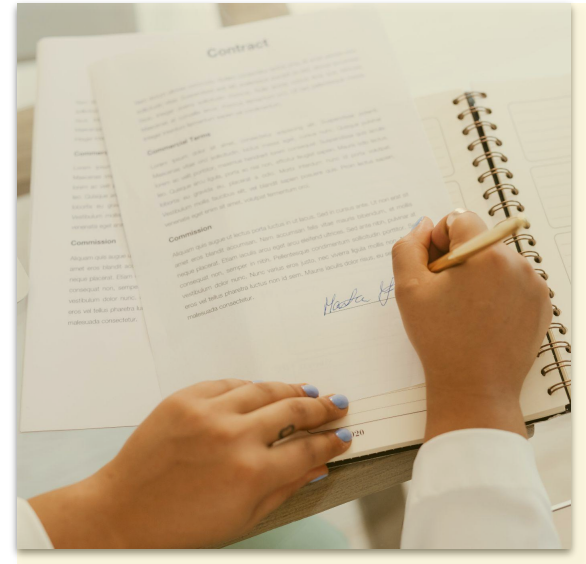
Discuss with your advisee on and off-campus **confidential resources** (e.g., Counseling Center, Student Health Services, OASIS, Legal Aid of NC)

# ● Informal Resolutions

Appalachian offers an “*informal resolution*” process as an alternative to the formal investigation.

- In Title IX cases, **not** offered when allegations involve an employee respondent.
- Voluntary agreement by the parties.
- Any party may withdraw at any time.

An advisor can help the party understand their rights and options they waive by entering into an informal resolution.





## Formal Resolutions

A “*formal resolution*” process will commence if the Complainant wants to pursue an investigation **or** the parties do not agree on an informal resolution.

The party will receive a *notice of allegations* that details: allegations, parties’ names, and information regarding their rights during the process, including the right to an advisor.

An investigator will set up an *initial interview*, and the advisor may be present. As the advisor, you can provide a lot of support by helping your advisee prepare for this meeting.



## Preparing for the Interview

- The party's answers should always be in their own words, but practicing may help them get comfortable with the experience.
- Suggest to the party that they avoid conclusory statements.
- Describe the incident in full detail for the investigator.

*“We hung out at the party.” → “We were talking at first with a group, but then we ended up alone. We took 2 or 3 shots and then we started playing flip cup. We played about 2 games of flip cup before we decided to leave the party together.”*



- **Narrative** - Can you describe for me what happened Saturday night?
- **Clarification** - When you say “hook-up,” what do you mean by that?
- **Consent** - What words or actions led you to believe that the Complainant was consenting to your sexual advances?
- **Evidence** - Tell me about your most recent communications with the Complainant/Respondent.

### ***Example Interview Questions***





## Going Into the Interview

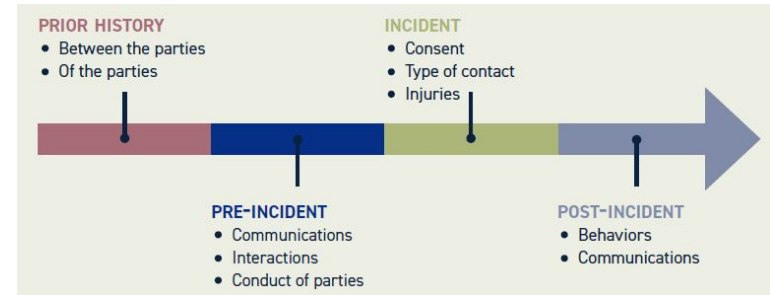
Help the party feel more in control of the process by explaining:

- ***Interview may be long*** – initial interview is typically blocked for 1-2 hours (breaks are allowed!)
- ***Multiple Interviews*** – it's not uncommon for the investigator to do follow-up interviews with parties
- ***Questions may feel personal*** – investigator has no intention to make a party feel uncomfortable; goal is to have the clearest and most complete picture of their experience



# Create a Timeline & Agenda

**Timeline** – allows party to organize their thoughts and consider evidence that may be relevant at each point



**Agenda** – creating a checklist of key items can help the party avoid missing any important details during the meeting

## ● During the Interview



- **Remember** – You're there to support your advisee, not speak on their behalf.
- **Take Notes** – You can help the party by taking notes about key points to review later.
- **Check off Agenda Items** – If you and the party created an agenda, mark off when specific items are addressed. Use breaks to review the agenda with your advisee.
- **Breaks** – Request a break if you start to observe signs of distress from your advisee.



## Compiling & Preserving Evidence

After the interview, the investigator will request the party to submit evidence, such as photographs, text messages, e-mails, and so forth.

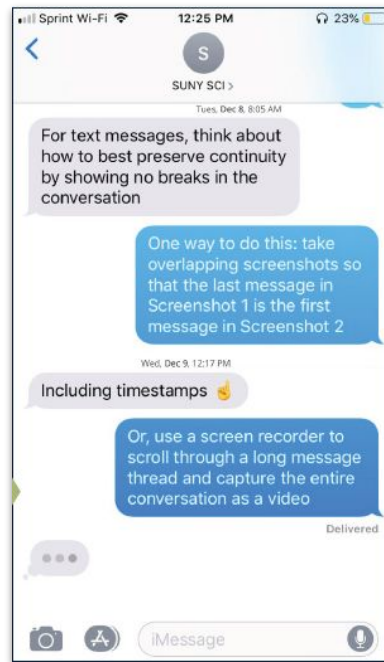
### *Some examples:*

- Uber or Lyft? See if party has an electronic receipt.
- Physical evidence? Advise party to photograph it.
- Save any social media posts, e-mails, and text messages.
- Suggest storing evidence on a USB or external hard drive.
- Draft an outline of potential witnesses during the party's narrative.

# Special Note About Text Messages

Advise the party to overlap screenshots for continuity and include timestamps.

Organizing evidence and sending it to the investigator before an interview can be very helpful but is not required.



**Intake:** On or about August 7, 2021, Respondent texted Complainant about meeting up later. He later entered her on-campus residence, against Complainant's will, after Respondent had represented to Complainant that he would remain in the hall outside her room. Respondent did not immediately leave the residence when asked by Complainant to do so, but instead sat on Complainant's bed and pulled Complainant down onto the bed with him, without her consent. Respondent made remarks about the visibility of Complainant's underwear and then proceeded to reach over and pull on Complainant's underwear, causing it to come down lower than the line of the shorts she was then wearing. When Complainant stated that she would report his behavior to a Resident Assistant, Respondent threatened to deny what transpired in Complainant's residence and left.

What evidence would you anticipate the **Complainant** should share with the investigator?

What evidence would you anticipate the **Respondent** should share with the investigator?

***Let's Talk About Evidence***





## Reviewing Evidence



- After the party submits evidence, the advisor can help inspect and review the investigative file.
- The investigator will consider the parties' written responses before completing the Investigative Report.
- Make sure you and your party take detailed notes while reviewing the evidence (limited access period).





## The Investigative Report

---

Before completing the investigative report, the Investigator will send all parties and their Advisors an electronic draft investigative report, including a file of all relevant and/or directly related evidence obtained as part of the investigation, and give the parties ***ten (10) days to submit a written response***. The Investigator will then consider the written responses and finalize the investigative report.

At the conclusion of an investigation, the final investigative report will be sent to all parties, their Advisors, the Title IX Coordinator, and Decision-Maker(s) at least ten (10) days prior to a hearing.



## **The Pre-Hearing Meeting**

- List of witnesses to appear and suggested order to be called
- List of questions prepared for other party and witnesses
- Civility Agreement
- Raise any challenges of conflict of interest or bias
- Final questions regarding process presented to Hearing Officer

# Reflection

---

01. Introduction

02. Advisor's Role

03. Pre-Hearing



## 04. Hearing

---

- What is the hearing process?
- How does cross-examination work?
- How can I best prepare for the hearing?



# Hearing Process...*in a nutshell*



Introductory  
Statements



Allegations



Opening Remarks



Questions by the  
Decision-Maker(s)



Questions by the  
Advisors



Closing Remarks



## Cross-Examination

---

Cross-examination is required under Title IX regulations

- Not intended to cover every topic, question, or piece of evidence.
- Purpose is to *highlight* important facts.
- Never allowed to badger a witness or call someone a liar.

Remember, parties cannot cross-examine each other. Questions during the hearing may only be asked by the advisor.



## Preparing To Cross-Examine

Ask questions previously screened by Hearing Officer for relevancy.

If you think of new question, it's okay to ask it for the first time.

The Hearing Officer may ask you to reframe or reword a question.

Have brainstorming sessions with your advisee.

**Remember:** Questions do not have to be answered!

- **Potential Witness Bias** – You know the Complainant/Respondent from the Debate Team. Would you say you're good friends?
- You told the investigator you were at the party with the Complainant around 9:30 pm and they appeared sober. What made you think that?
- **Credibility** – At first you stated that you didn't punch him in the chest, then you stated that you pushed him in the chest with a closed fist. Can you describe in more detail what happened?
- You texted your friend that you were spending the night at their apartment instead of returning to your residence hall, correct?

### ***Example Cross-Examination Questions***





# Supporting the Party



- ***Remember*** – Explain to your advisee that cross-examination is part of the process.
- ***Managing Stress*** – Discuss a strategy with your advisee on remaining calm and focused under questioning. Practicing questions may help.
- ***Clarify*** – Let the party know they can ask for clarification or a break to discuss the question with you.
- ***Breathe*** – Encourage your advisee to take pauses. They can take time to organize their thoughts.



## 05. Post-Hearing

---

Now that the hearing is over, are there ways that I can still support the party?



# Determination Regarding Responsibility

## *Ways to support the party:*

- Create a plan on where the party will read the letter – Alone?  
With you? Debrief at a later time?
- Give them time to process as needed.
- Discuss what this means going forward – Appeals? Sanctions?  
Remedies?



## Appeals

At this point, the party will need to decide if they want to appeal the decision under one or more of the following grounds:

- *Procedural Error*
- *New Evidence*
- *Conflict of Interest/Bias*

You can help the party prepare any necessary statements and documents for their appeal.

# Thank you for your time & willingness to support others.

---

## *Office of Title IX Compliance*

123 I.G. Greer Hall

(828) 262-2144

[titleix@appstate.edu](mailto:titleix@appstate.edu)



*Courtney & Anita Trainings*