

Mercyhurst University
Decorum Policy for Title IX Grievance Process Hearings
2023 - 2024

Purpose of the Rules of Decorum

Title IX hearings are not civil or criminal proceedings, and are not designed to mimic formal trial proceedings. The U.S. Department of Education states in its Final Rule for Title IX that it “purposefully designed these final regulations to allow recipients to retain flexibility to adopt rules of decorum that prohibit any party advisor or decision-maker from questioning witnesses in an abusive, intimidating, or disrespectful manner.” The Department has determined that institutions “are in a better position than the Department to craft rules of decorum best suited to their educational environment” and build a hearing process that will reassure the parties that the institution “is not throwing a party to the proverbial wolves.”

To achieve this purpose, institutions may provide for reasonable rules of order and decorum, which may be enforced through the removal of an advisor who refuses to comply with the rules. As the Department explains, the removal process “incentivizes a party to work with an advisor of choice in a manner that complies with a recipient’s rules that govern the conduct of a hearing, and incentivizes colleges and universities to appoint advisors who also will comply with such rules, so that hearings are conducted with respect for all participants.”

At base, these Rules of Decorum require that all parties, advisors of choice, and institutional staff treat others who are engaged in the process with respect.

The rules and standards apply equally to all Parties and their Advisors regardless of sex, gender, or other protected class, and regardless of whether they are in the role of Complainant or Respondent.

Rules of Decorum

The following Rules of Decorum are to be observed in the hearing and applied equally to all

4. While an advisor may be an attorney, no duty of zealous advocacy should be inferred or enforced within this forum.
5. The advisor may not yell, scream, badger, or physically “lean in” to a party or witness’s

to the Vice President for Student Life or designee for cases involving students/Director of Human Resources or designee for cases involving employees. The Advisor accused may provide an explanation or alternative evidence in writing for consideration by the Vice President for Student Life or designee for cases involving students/Director of Human Resources or designee for cases involving employees. Such evidence or explanation is due within fifteen (15) business days of receipt of a notice of a charge of re-disclosure or improper access to records. There shall be no right to a live hearing, oral testimony, or cross-examination. The Vice President for Student Life or designee for cases involving students/Director of Human Resources or designee for cases involving employees shall consider the evidence under a preponderance of the evidence standard and issue a finding in writing and, if the finding is Responsible, shall include a Sanction. The finding shall be issued in writing to all Parties and Advisors (if there is a current case pending) within thirty (30) business days unless extended for good cause. There is no appeal of this finding. In the event that an Advisor is barred permanently or for a term from serving in the role as Advisor in the future, they may request a review of that bar from the Vice President for Student Life or designee for cases involving students/Director of Human Resources or designee for cases involving employees no earlier than three-hundred and sixty-five (365) days after the date of the findings letter.

Relevant Questions Asked in Violation of the Rules of Decorum

Where an advisor asks a relevant question in a manner that violates the Rules, such as yelling, screaming, badgering, or leaning-in to the witness or party's personal space, the question may not be deemed irrelevant by the hearing board chair simply because of the manner it was delivered. Under that circumstance, the hearing board chair we.(365x 455.9 515.the findings letter.