Policy 6.4 Stakeholder Review Update

Faculty Senate - November 11, 2020
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Background

• Policy 6.4 covers Prohibited Bias, Discrimination, Harassment, and Sexual and Related Misconduct
• Interim policy changes were made through the University’s policy process, effective 8/14/2020 to comply with new Title IX regulations
• New requirements apply to sexual harassment defined in the regulations
Policy 6.4 Stakeholder Review Group

- Purpose is to review the policy changes and gather input in order to finalize the policy through the University’s policy process.
- Representatives from each assembly as well as Tech and Weill are included in the review.
Review Group Discussion Items

Policy:

• Evidentiary Standard – unchanged; remains preponderance of the evidence
• Designated Reporters (DRs) – changed from broad duty to consult for all non-confidential employees to list of DRs

Procedures:

• Alternate Resolution – addition of informal as well as formal means of alternate resolution
• Hearing Panel Process – addition of oral cross-examination led by parties’ advisors

*Additionally, unrelated to the Title IX changes, some members have interest in the bias process and protected status definitions.
## Overview of Procedures – effective 8/14/2020

<table>
<thead>
<tr>
<th>Respondent</th>
<th>Prohibited Conduct</th>
<th>Co-Investigator</th>
<th>Hearing Panel Process</th>
<th>Reviewer Process</th>
<th>Appeal</th>
</tr>
</thead>
<tbody>
<tr>
<td>Employee</td>
<td>Title IX</td>
<td>X</td>
<td>A</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Employee</td>
<td>Non-Title IX</td>
<td>X</td>
<td></td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>Student</td>
<td>Title IX and/or suspension or dismissal is a potential sanction</td>
<td>A</td>
<td></td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>Student</td>
<td>Non-Title IX and suspension or dismissal is not a potential sanction</td>
<td>B</td>
<td></td>
<td></td>
<td>X</td>
</tr>
</tbody>
</table>
Procedures related to Policy 6.4
Important Issues for Faculty

Risa Lieberwitz
Professor of Labor and Employment Law
ILR School
Faculty Senate member
Title IX cases
(alleged sexual misconduct/sexual harassment)

STUDENT RESPONDENT

- **Investigator** decides whether enough evidence to send case to Hearing Panel.
- Full hearing before Hearing Panel ("Hearing A") prior to conclusions on the allegations.

FACULTY RESPONDENT

- **Investigator** decides whether enough evidence to send case to Hearing Panel.
- Full hearing by Hearing Panel prior to conclusions on the allegations.
Non-Title IX cases (alleged sexual misconduct/sexual harassment/other harassment or discrimination)

**STUDENT RESPONDENT:**
- Investigator decides whether enough evidence to send case to Hearing Panel
- **Full hearing** by Hearing Panel **PRIOR TO conclusions on the allegations.**
  - “Hearing A” where potential sanction of suspension/dismissal.
  - “Hearing B” where lesser sanction.

**FACULTY RESPONDENT:**
- Investigator concludes whether misconduct occurred/recommends sanctions.
- **Full Hearing only** where there is a subordinate-supervisory relationship or academic freedom issue:
  - Hearing by Senate Committee on Academic Freedom **AFTER the conclusion** reached by investigator.
- **All other non-Title IX cases: NO hearing** on misconduct/sanctions
  - **Dean** reviews investigative report and makes final decision.
  - Faculty respondent may file grievance in **college-level grievance procedure.**