

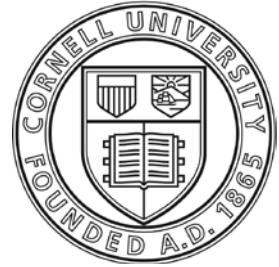
Brief Guide to an Investigation of a Formal Complaint Against a Student

Office of the Title IX Coordinator

150 Day Hall, Ithaca, New York 14853

Email: titleix@cornell.edu; Phone: 607.255.2242; Web: titleix.cornell.edu

This is intended to be a brief guide. Please carefully review the Procedures for Resolution of Reports Against Students Under Cornell University Policy 6.4 at: <http://titleix.cornell.edu/procedure/>



The investigation is designed to be timely, thorough, and impartial and provide for a fair and reliable gathering of the facts. The investigation will generally include individual interviews of the complainant, the respondent, and relevant witnesses. It culminates in a final investigative record and an investigative report, both prepared by the investigator and utilized at the hearing, if there is one.

The investigation will be conducted as expeditiously as possible. To that end, there will be reasonable deadlines that the parties must adhere to. Parties may request appropriate extensions.

All individuals involved in the investigation, including the complainant, the respondent, and any third-party witnesses, will be treated with sensitivity and respect.

Important Investigation Forms:

- Witness Request
- Evidentiary Material Request
- Exclusion/Redaction Request
- Review of Investigative Record
- Opening Statement
- Pre-Hearing Witness Request
- Pre-Hearing Witness Questions/Topics
- Closing Statement
- Impact/Mitigation Statement
- Appeal/Response to Appeal

All submission must be made by the party and parties must use the forms available online at: http://titleix.cornell.edu/guides_forms/forms/

At all stages of the process, all Cornell University community members are expected to provide truthful information.

Parties' Participation: The parties are not required to participate in the investigation or hearing.

- Investigation: If a party declines to participate in investigative interviews deemed necessary by the investigator, the party will forfeit the opportunity at the hearing to give a written opening statement, testify, and give oral and written closing statements.
- Hearing: Neither party is required to attend a hearing for the hearing to proceed. The parties are not required to testify at a hearing and the Hearing Panel will not draw a negative inference from a party's silence. However, where a party declines to testify, the Hearing Panel's ability to hear information necessary to make an informed decision in that party's favor may be limited.

Witness Participation: All members of the university community are expected to cooperate and participate in inquiries, investigations, and resolutions of reports and Formal Complaints of prohibited conduct under these procedures.

Process Privacy

The university encourages parties not to reveal any information they learn in the course of their participation in this process other than for the purpose of consulting with an advisor; incidental to seeking support and advice from family, clergy, health professionals, and others playing a similar role; or as part of a civil, criminal, or administrative legal proceeding.

Parties may choose whether to disclose or discuss with others the outcome of a complaint.

The university prohibits students from distributing documents obtained in the course of their participation in this process.

Investigation: Witness Interviews and Gathering Evidentiary Materials

- The investigator will gather information from the parties and other individuals who have relevant information. The investigator will also gather relevant, available evidentiary materials, including physical evidence, documents, communications, and other electronic records and media as appropriate.
- The complainant and the respondent will have an equal opportunity to be heard, submit evidence, and suggest witnesses who may have relevant information. Specifically, during the investigation, each party will have the opportunity to:
 - be interviewed by the investigator;
 - review their own interview statements prior to the statements being distributed to the other party and included in a draft investigative record;
 - provide evidence to the investigator; and
 - suggest witnesses to be interviewed by the investigator.
- The investigator has the discretion to determine the relevance of any proffered witnesses, and, accordingly, the investigator will determine which witnesses to interview.
- Parties should provide all relevant information during the investigation. Information not included in the investigative record will not be considered by the Hearing Panel.

Response to Investigative Record

- The investigative record is a compilation of statements by the parties and witnesses, which are audio recorded and transcribed, as well as the other evidence gathered by the investigator.
- As part of the investigative process, both parties have an opportunity to review and comment upon a draft investigative record before the investigator finalizes it and issues an investigative report.
- The parties will have five (5) business days to review the draft investigative record and submit in writing:
 - comments about content, and a form requesting exclusions/redactions;
 - requests for additional meetings with the investigator; and
 - requests for the investigator to conduct further investigation or questioning.

Investigative Report

- The investigator will issue a final investigative record and a written report explaining the scope of the investigation and summarizing and synthesizing the facts. The investigative report is not evidence, does not address all information gathered during the investigation, and does not replace the Hearing Panel's close reading of the investigative record and attention to the submissions and testimony at the hearing.
- The investigator will not render an opinion on responsibility, other than to make a threshold determination as to whether there is sufficient evidence to proceed.
- If the investigator concludes that, when viewing the evidence in the light most favorable to the complainant, there is no reasonable basis to find that the respondent committed the alleged prohibited conduct, the Formal Complaint will be dismissed.

Pre-Hearing Submissions, Hearing, and Appeal

First Pre-Hearing Submissions:

The first pre-hearing submissions (Written Opening Statement and Witness Requests) are due five (5) business days from the date the investigative report is issued.

Witness List: The parties will receive the witness list from the Hearing Chair approximately a week after their first pre-hearing submissions.

Second Pre-Hearing Submissions:

After the parties are provided with a witness list, they have an opportunity to propose in writing questions and topics for the witnesses, the investigator, themselves, and the other party.

Impact/Mitigation Statement: The parties will be permitted, but not required, to prepare a written or recorded Impact/Mitigation Statement relevant to any sanctions. The parties may submit the statement up until the start of a hearing.

Hearing: The hearing will be held approximately four weeks after the report is issued.

Closing Statement: At the hearing, the parties may provide both oral and written closing statements. Parties should expect to submit the written closing statement shortly after the oral closing statement.

Appeal: Both the complainant and the respondent may appeal a decision of the Hearing Panel. The appealing party commences an appeal by submitting a written statement to the Title IX Coordinator within ten (10) business days of service of the Hearing Panel's decision.