

IDHR Investigation Process Factsheet for Advisors

Overview

This document summarizes the expectations and responsibilities of individuals serving as advisors to parties to an [Institute Discrimination and Harassment Response Office](#) (IDHR) investigation. This document is intended to supplement, but does not supplant, the information in IDHR's [Investigation Guide](#).

An advisor is someone who assists a party with the investigation process and procedures. An advisor offers guidance to a party when they are drafting responses and reviewing materials, as well as support on overall strategy.

IDHR's investigation and adjudication processes are administrative in nature. Detailed information about IDHR policies and procedures can be found on our [website](#) and in our Investigation Guide. While IDHR's investigation process adheres to federal and state law, it is not a legal process, does not use courtroom procedures or processes, and does not follow civil or criminal evidentiary rules

IDHR investigations are conducted by trained investigators who neutrally, fairly, and reliably gather relevant facts and produce an investigative report. Investigators engage with all parties and participants in an investigation with dignity and respect. The investigation is designed to be timely, thorough, voluntary, and impartial.

The Complainant and the Respondent will have an equal opportunity to participate in the investigation, including an equal opportunity to be heard, submit evidence, and suggest witnesses who may have relevant information.

Scope and Role of Advisors

1. Selection of an Advisor

The Complainant and Respondent can select an advisor of their choosing who is a member of the MIT community and NOT an attorney, with the exception of cases involving allegations described below in Section 2.

IDHR strongly discourages using an advisor who will also be a witness in the investigation. While not prohibited, using an advisor who is also a witness may compromise the credibility of the advisor's witness testimony.

Parties are expected to maintain the same advisor throughout the process but are not required to bring their advisor to all meetings. While parties are expected to maintain the same advisor throughout the process, a brief extension, not to exceed five (5) business days, may be granted if a party obtains a new advisor. In the event that a party wants to change their advisor, they must provide written notice to the investigator(s) and good cause must be shown for the change.

General Expectations of Advisors

- Advisors may accompany the party throughout the investigation process, but may not speak on the party's behalf or otherwise interfere with meetings or proceedings.
- Advisors may provide guidance to the party in preparing written submissions. However, all communications and written submissions must be authored and submitted by the party themselves.
- Parties are expected to inform IDHR of the identity of their advisors.
- Parties may share information and documents with their advisors. Advisors are prohibited from copying, retaining, or distributing investigation materials. Failure to adhere to these expectations may result in loss of access to investigation materials.¹
- Parties may request that the Investigator include their advisors on all correspondence.
- By accepting the role of advisor, all advisors agree to comply with all applicable MIT policies and procedures, including rules regarding privacy and the Institute's [Expectations of Decorum](#), the processes set out in the IDHR [Investigation Guide, Policies & Procedures \(P&P\) Section 9.8, and the Committee on Discipline \(COD\) Rules](#).
- In extreme cases, where either IDHR or a hearing chair determines that an advisor's conduct undermines or interferes with the integrity of the process, the advisor will be prohibited from continuing to serve as advisor in that case. The affected party will be permitted to obtain a substitute advisor.
- If IDHR or a hearing chair determines that an advisor has a conflict of interest, the advisor will be prohibited from continuing in their role. The affected party will be permitted to obtain a substitute advisor.

2. Attorney Advisors

Attorneys may only serve as advisors in investigations of certain matters:

- For employee matters²: Attorney advisors are **ONLY** permitted in matters alleging sexual harassment, sexual misconduct, gender-based harassment, Title IX Sexual Harassment, or Stalking.³
- For student matters⁴: Attorney advisors are **ONLY** permitted in matters alleging sexual misconduct, sexual harassment, intimate partner violence, or stalking, including Title IX Sex-based Harassment.
- For all other IDHR investigations, the Complainant and Respondent can select an advisor of their choosing who is a member of the MIT community and NOT an attorney.⁵

¹ Under such circumstances where an advisor loses such access, the advisor will be permitted to view materials in person.

² An employee investigation is one in which the Respondent is a faculty member, staff member, researcher, or postdoctoral scholars.

³ In matters against staff, researchers, postdoctoral scholars, and faculty members, [P&P, Section 9.8](#) governs who may serve as an advisor.

⁴ A student investigation is one in which the Respondent is a student (undergraduate or graduate).

⁵ Nothing contained in this factsheet, nor any Institute policy or procedure, shall prevent an individual from seeking advice from an attorney. A party may consult an attorney, but that attorney cannot serve as the party's advisor in cases that fall outside the cases described above.