Adjudication and Appeals: Discrimination and Discriminatory Harassment

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Supportive Measures
• No Contact Orders which prohibit contact between the parties;
• Other Contact limitations between the parties;
• Academic support;
• Housing modifications; and
• Workplace modifications

Initial intake and assessment

Resolution Options
Adaptable Resolution (called “informal resolution” in Section 9.8)
• IDHR staff facilitating communication of proposals between the parties
• Direct discussions between the parties
• Mediation with a neutral party
• AR is voluntary and can result in a resolution of the allegations by agreement of the parties and the Institute.

Formal Investigation Process
• Only process to a determination on a policy violation
• Only mechanism for sanctions including expulsion or termination
• Independent from the criminal process
Formal Complaint Investigation Process

Initial Assessment:
The Complainant is contacted for a more complete understanding of the allegations, and to review the allegations to determine if the alleged behavior (as described) would violate MIT policy.

Fact Gathering:
Parties request witnesses, provide documents, and offer written submissions. Parties and witnesses are interviewed. Parties receive regular updates on the status of the investigation. Time can vary based on the number and availability of witnesses and the complexity of the case.

Follow-up interviews and parties review materials: Follow-up interviews of parties and witnesses. Parties are provided with information gathered during the investigation and a summary of relevant information. Parties have the opportunity to provide comments and additional information before the investigation is closed.

Investigator’s Final Report is shared: Parties receive the Final Investigation Report and Record. The final report for non Title IX complaints against staff members includes finding on responsibility.

Formal Complaint Adjudication Process

- Preponderance of the evidence standard = whether it is more likely than not that the respondent has violated a Conduct Policy.
- If a factfinder decides that, based on the evidence, one account of an event is more likely to be true or accurate than any other account of the event, then the fact finder will base its decision on that account.
- A “preponderance” is not highly probable (a/k/a “clear and convincing”). A preponderance is also not “proof beyond a reasonable doubt.”
- A respondent is presumed to be not responsible for the alleged policy violation until the final determination regarding responsibility is made at the conclusion of the process.

“Preponderance of the Evidence”
The report is provided to a Faculty Panel.

The Faculty Panel may meet or consult with the investigator or others but generally does not meet with the Complainant or the Respondent.

The Faculty Panel decides if the Respondent violated one or more of the Conduct Policies.

If the Faculty Panel decides that the Respondent violated a Conduct Policy, the Faculty Panel recommends what action should be taken in light of the finding.

**Faculty Panel (Non-Title IX)**

- Faculty member, senior research scientist, senior research engineer, or senior research associate:
  - Hearing Panel: Chair and 2 trained faculty members
- Staff and Post-Doctoral Associate or Fellow:
  - Hearing Panel: Chair and 2 trained staff members
- Title IX cases: Outside Professional Chair

**The Title IX Hearing Panel**

- Chair introduces procedures
- Complainant, Respondent, and Witnesses: Opening statements, panel Q&A, and cross-examination
- Questions allowed during cross-examination
- Closing statements
- Deliberations: Preponderance of the Evidence based on a majority
Title IX Matters - Advisors

- Advisor of Choice
- Title IX Hearing Role:
  - Conduct cross-examination of parties and witnesses
  - Otherwise, may not actively participate
  - If needed, MIT will provide advisor to conduct cross-examination at a hearing

Sanctioning

- Faculty: Faculty Panel makes recommendation to Dean or other Academic Council member
- Staff: sanctioning decided by Dean or other Academic Council member
- Examples of discipline include a reprimand
  - suspension
  - salary reduction
  - demotion
  - removal of privileges
  - termination of employment or appointment.

See [http://idhr.mit.edu/policies-procedures/staff-outcomes](http://idhr.mit.edu/policies-procedures/staff-outcomes) and [http://idhr.mit.edu/policies-procedures/faculty-outcomes](http://idhr.mit.edu/policies-procedures/faculty-outcomes) for a more detailed list.

Appeals

- Either party may appeal the decision based on following grounds:
  - New evidence
  - Procedural irregularity
  - Material finding substantially against weight of the evidence
  - Conflict of interest or bias
- Faculty Respondent – Provost or President
- Postdoc Scholar – VPR or Provost
- Employee – EVPT
Confidentiality

• Panel Members should treat all cases are confidential and they should not be discussed outside of the hearing panel process.
• Confidential information includes
  • the existence and substance of the complaint
  • the names of complainants, respondents, witnesses
  • what is said in the hearing panel processes and by whom
  • the findings made, and sanctions imposed.
• Complainants, respondents, advisors, and witnesses are encouraged to use discretion in their sharing of information about the Section 9.8 process, but complainants and respondents are not restricted from discussing the allegations or gathering and presenting relevant evidence.

For additional information: http://idhr.mit.edu

Thank you!