

University of Arizona

Interim Additional Protocols for Student Disciplinary Proceedings Involving Sex Discrimination Under ABOR Policy 5-403

The Department of Education Office for Civil Rights has provided guidance to universities regarding the institutional responsibilities responding to matters that fall under the protections of Title IX of the Educational Amendments of 1972. Title IX prohibits discrimination on the basis of sex in any educational program or activity receiving federal financial assistance. Sex-based discrimination includes, but is not limited to, sexual harassment, sexual assault, stalking, dating/relationship violence, or sexual misconduct of any nature.

The Arizona Board of Regents' (ABOR) Student Code of Conduct Section 5-401 directs each university to adopt supplemental procedures to the student disciplinary procedures consistent with applicable laws and regulations, which include Title IX and the Violence Against Women Act. The University of Arizona (UA) is committed to following all applicable laws and policies addressing allegations of sex-based discrimination. UA adopts the following Interim Additional Protocols for the response to and adjudication of all student conduct cases where sex-based discrimination is alleged to have occurred.

1. In student discipline cases involving charges of sex discrimination, a Complainant, who is an alleged victim, has the opportunity to participate in disciplinary appeals. The Complainant has the opportunity to participate in any appeal hearing or request for reconsideration initiated by the Respondent. Any available review, appeal, or request for reconsideration process provided to Respondent is also available to a Complainant.
2. Mediation is not an option to resolve charges of sex discrimination under the University's Code of Conduct.
3. The Complainant may challenge the participation of any member of the University Hearing Board in the same manner as the Respondent. [5-403(f)]
4. Neither the Respondent nor the Complainant may examine one another directly (or through counsel) unless the parties elect to allow to be so examined. Instead, each may submit written questions to the Hearing Panel for it to ask in its discretion along with appropriate follow-up. [5-403(i)]
5. The parties are allowed to provide testimony remotely, using available technology, or behind a barrier. [5-403(i)]
6. Both parties have the opportunity to participate in the disciplinary hearing process in the same manner, including (1) being provided with timely access to information, (2) presenting witnesses and documentary evidence, and (3) presenting an opening and/or closing statement. [5-403(i)]
7. Both parties will have an equal opportunity to have an "advisor of his/her choice" present at the hearing.

* The additional protocols outlined above may be subject to change from time to time, as required by then-existing ABOR policies, and state and federal laws, rules, and guidelines.

** Sources:

- April 24, 2011, "Dear Colleague Letter" guidance issued by the U.S. Department of Education, Office for Civil Rights.

- April 29, 2014, “Questions and Answers on Title IX and Sexual Violence” issued by the U.S. Department of Education, Office for Civil Rights.
- Campus Sexual Assault Violence Elimination (SaVE) Act, 20 U.S.C. §1092(f)(8)(B)(iv)(II); 32 CFR 668.46.