



AMERICAN UNIVERSITY  
WASHINGTON, DC

CHALLENGE  
ACCEPTED

# SANCTIONING PANEL – TITLE IX GRIEVANCE PROCESS

March 3, 2022





# AGENDA

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- **Review of Grievance Process: Sanctions**
- **Experience with the Conduct Council Sanctioning Panel with Katie Porras, Associate Dean of Students & Director, Student Conduct & Conflict Resolution**
- **Q&A**

# 5 STEPS (OF GRIEVANCE PROCESS)

1. Notice of Allegations
2. Investigation & Report
3. Live Hearing
4. Sanctions
5. Appeal



## Sanctions Referral

If the Hearing Panel finds the Respondent responsible, by a Preponderance of the Evidence, for one or more of the allegations, the case will be referred to the University's sanctioning process for **appropriate remedies and sanctions**.

Remedies provided to the Complainant are designed to restore or preserve equal access to the University's education program or activity, and sanctions imposed on the Respondent may be disciplinary or punitive in nature.

## Step 5: Sanctions

### Facilitation of the Sanctions

- The Hearing Panel will submit a copy of the **written determination** to the Title IX Coordinator or designee to facilitate a Sanctioning Panel.
- The Title IX Coordinator or designee will decide which Sanctioning Panel and appeal process applies in cases where the Respondent is both a student and employee or is both a faculty member and staff member.

### Sanctioning Panel

- The Title IX Coordinator or designee or designee will select a Sanctioning Panel comprised of 3 members.
  - **If the Respondent is a student, the Sanctioning Panel will be comprised of will be comprised of 3 members of the Student Conduct Council (1 student and 2 faculty/staff members).**
  - If the Respondent is a faculty member, the Sanctioning Panel will be comprised of 3 members of the Faculty Hearing Committee.
  - If the Respondent is a staff member or related third party, then the Sanctioning Panel will be comprised of 3 members of the Staff Personnel Review Board.
- **Notice of Sanctioning Panel's Deliberation Date:** The Title IX Coordinator or designee will provide both parties at least 5 calendar days advance notice of the Sanctioning Panel's deliberation date.



## Conflict of Interest Challenge

- The Sanctioning Panel must be impartial and **free from bias or conflict of interest**. If a member of the Sanctioning Panel has a concern that they cannot conduct a fair or unbiased review, they may report those concerns directly to the Title IX Coordinator or designee and a different Sanctioning Panelist will be assigned.
  - **Examples of Conflicts of Interest:** Personal relationships (ex. Being a party's friend or advisor), OR knowing facts about the investigation prior to the panel.
- The Complainant and the Respondent will be informed of the identities of the members of the Sanctioning Panel at least 48 hours before the hearing. The Complainant and the Respondent may challenge a member(s) of the Sanctioning Panel on the grounds of conflict of interest or bias for or against complainants or respondents generally, or an individual Complainant or Respondent.
- The Title IX Coordinator or designee will assess the challenge and determine, in their sole discretion, whether a different Sanctioning Panel member should be assigned.

# Step 5: Sanctions

## Sanctioning Panel Recording

- The University will make **audio recordings** of the Sanctioning Panels, **not including the Sanctioning Panel's deliberations**, for the purpose of review and appeals.
- The University does not provide copies of recordings from Sanctioning Panels. The parties may request to listen to the recording, following the proceeding, in the Office of Equity and Title IX.

## Sanctioning Panel's Review

- The Sanctioning Panel will **review the Hearing Panel's written Determination letter and determine the appropriate sanction(s)**.

# Step 5: Sanctions

## Submitted Statements

- The Complainant may submit a written statement to the Sanctioning Panel, describing the impact of the Title IX Sexual Harassment on the Complainant, and expressing a preference about the sanction(s) to be imposed.
- The Respondent may submit a written statement explaining any factors that the Respondent believes should mitigate or otherwise be considered in determining the sanction(s) to be imposed.
- The Complainant and the Respondent may provide their statements orally or they may be submitted into record for consideration by the Sanctioning Panel.
  - Should both parties attend the Sanctioning Panel, each party will provide their statements separately to the Sanctioning Panel.
- The Sanctioning Panel may ask questions of both parties in order to determine information relevant to a sanction recommendation. The questions should not be about the investigation report or decision, but rather about factors or recommendations from the parties.

# Step 5: Sanctions



## Sanctioning Panel's Deliberation

- The Sanctioning Panel will deliberate on appropriate sanctions.
- The Complainant, the Respondent, and advisors are excluded from the Sanctioning Panel's deliberations.
- The sanctions determined by the Sanctioning Panel are recommendations to the appropriate university administrator.
  - If the Respondent is a **student**, then the **Dean of Students** or designee will render a final decision regarding sanctions.
  - If the Respondent is a **faculty** member, then the **Deputy Provost** or designee will render a final decision on sanctions.
  - If the Respondent is a **staff** or related third party, then the **Assistant Vice President of Human Resources** or designee will render the final decision on sanctions.
    - This administrator will also determine the outcome of any appeal.
- The recommendation of sanction(s) to the appropriate University administrator will be made by majority vote of the Sanctioning Panel.

# Step 5: Sanctions

## Step 5: Sanctions

### Sanctioning Panel's Deliberation

- In determining the appropriate sanction(s) and/or remedies, the following factors may be considered:
  - the **nature of the conduct** at issue;
  - the **impact of the conduct** on the Complainant;
  - the **impact or implications** of the conduct on the University community;
  - **prior misconduct** by the Respondent, including the Respondent's relevant prior discipline history, both at the University or elsewhere, and any criminal convictions, if such information is available and known;
  - **maintenance of a safe and respectful environment** conducive to learning;
  - **protection** of the university community;
  - the necessity of any specific action in order to **eliminate** the Title IX Sexual Harassment, **prevent** its recurrence and **remedy** its effects on the Complainant or other University community members; and,
  - any mitigating, aggravating or compelling circumstances in order to reach a **just and appropriate resolution** in each case.
- The Sanctioning Panel may also consider **restorative outcomes** that, taking into account the safety of the AU Community as a whole, allow a Respondent to develop insight into the causes of the prohibited conduct, learn about the impact of the behavior on the Complainant and the community, and identify how to prevent or change the behavior. Sanctions may be issued individually, or a combination of sanctions may be imposed.

## Sanction Outcome Letter

- The appropriate University administrator or designee will normally provide both parties, simultaneously and in writing, a sanction outcome letter within 5 calendar days after the conclusion of the Sanctioning Panel's deliberation. The sanction outcome letter will include:
  - a) A **copy of the written determination letter**; and
  - b) Disciplinary sanctions imposed** on the Respondent, and
  - c) Whether **remedies designed to restore or preserve equal access to the University's education program or activity will be provided to the Complainant**; and
  - d) Information on the University **appeal process**.

# Step 5: Sanctions

## Range of Sanctions

- If the Respondent is a **student**, then the range of sanctions may include, may include, but are not limited to:
  - **censure, educational actions, remedial, disciplinary probation, removal from University housing, suspension, or dismissal.**
- If the Respondent is a **faculty** member, then the range of sanctions may include, but are not limited to:
  - **minor sanctions, which include any adverse employment action short of suspension, such as a reprimand, or major sanctions, which include suspension or dismissal from employment.**
- If the Respondent is a **staff** member, then the range of sanctions may include, but are not limited to:
  - **a warning, reprimand, temporary suspension without pay, or termination from employment.**
- In cases where the Respondent is both a student and employee or is both a faculty member and staff member, then the range of sanctions can be a combination of sanctions based on the Respondent's multiple statuses.

# Step 5: Sanctions



## Estimated Timeline for Written Sanction Outcome

- The University's goal is to complete the sanction process within approximately 12 calendar days after the written determination of responsibility is sent to the parties.

# Step 5: Sanctions



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**QUESTIONS???**



# Conduct Council Sanctioning Panel

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## OFFICE OF EQUITY AND TITLE IX

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