



BLESSING-RIEMAN College of Nursing & Health Sciences

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Owner: Jenna Crabtree: Dean Of
 Enrollment Mgmt/Business Mgr
Area: Student Development Committee
References: Husch-Blackwell

Sexual Harassment Hearing Procedure

I. Purpose and Nature of These Procedures

These procedures supplement Blessing-Rieman College of Nursing and Health Sciences' Sexual Harassment Policy and specify how the College will conduct hearings regarding Formal Complaints of Sexual Harassment. To the extent there is a conflict between these procedures and the College's Sexual Harassment Policy, the Sexual Harassment Policy shall control. Titles appearing in quotation marks are to relevant sections of the Sexual Harassment Policy.

II. The Hearing Panel

The hearing panel oversees the hearing process, rules on questions of relevance and admissibility, resolves all procedural disputes, and renders a determination of responsibility for the allegations in the Formal Complaint at the conclusion of the hearing process and in the manner specified in the policy. The hearing panel has discretion to interpret, apply, and modify these procedures in any manner that is not clearly unreasonable and is consistent with the policy.

III. Pre-Hearing Review of Investigation Report and Evidence

Prior to commencement of the hearing, the hearing panel will review the investigation report and a copy of all evidence transmitted to the parties by the investigator as specified in Section "Access to Evidence." This review of materials is provisional and intended to provide background and orientation to the hearing panel in planning and conducting the hearing. The hearing panel must exclude from consideration in deliberation any evidence developed during the investigation that is deemed inadmissible at the hearing, including specifically, but not limited to, the statements of any party or witness who refuses to submit to questioning by a party advisor as specified in "Subjection to Questioning."

IV. Convening the Hearing

Immediately prior to convening the hearing, the hearing panel will ensure that an audio recording of the hearing is being made by the College and that the hearing room is cleared of all individuals who are not permitted to be present during the hearing as specified in "Hearing." The hearing panel will then convene the hearing and clearly state for the record the date, time, and location of the hearing; the names of the Complainant and Respondent; the parties present at the hearing; any accommodations that have been provided at the request of a party or in the College's discretion; whether all or a portion of the hearing is being conducted virtually as specified in "Hearing"; and any other introductory matters that the hearing panel deems appropriate.

V. Statement of the Investigator

After convening the hearing, the hearing panel will call the investigator to give an overview of the investigation process. Thereafter, the investigator will be subject to questioning by the hearing panel, followed by

questioning from each party's advisor commencing first with questioning from the advisor for the Complainant followed by questioning from the advisor for the Respondent.

VI. Statements of the Parties

After questioning of the investigator is complete, the hearing panel will invite the Complainant to provide a statement to the hearing panel regarding the events in question and identify and comment on any non-testimonial evidence the Complainant believes is relevant. After the Complainant has made a statement, or waived the right to make a statement, the Complainant will be subject to questioning by the hearing panel, followed by questioning from the advisor for the Respondent.

After questioning of the Complainant is complete, the hearing panel will invite the Respondent to provide a statement to the hearing panel regarding the events in question and to identify and comment on any non-testimonial evidence the Complainant believes is relevant. After the Respondent has made a statement, or waived the right to make a statement, the Respondent will be subject to questioning by the hearing panel, followed by questioning from the advisor for the Complainant.

VII. Testimony of Witnesses

After questioning of the parties is complete, witnesses will be called to testify in the order determined by the hearing panel. Unlike the parties, witnesses will not be invited to make a statement but, instead, will be subject to questioning from the hearing panel followed by questioning from each party's advisor commencing first with questioning from the advisor for the Complainant followed by questioning from the advisor for the Respondent.

VIII. Investigation Materials

After the questioning of witnesses is complete, the hearing panel will identify any portion of the evidence developed during the investigation that the hearing panel has determined should be excluded from the hearing record based on rulings made at the pre-hearing conference, during the hearing itself, due to the refusal of a party or witness to submit to questioning by a party advisor, or for any other reason. The hearing panel will then provide the parties a final opportunity to raise any additional objections to inclusion of any other portions of the investigation record into evidence and resolve any such objections. All evidence from the investigation and hearing not specifically excluded by the hearing panel shall be deemed admitted into the hearing record and may be considered by the hearing panel as part of the deliberation.

IX. Closing Argument

After the questioning of the witnesses is complete, the hearing panel will invite the Complainant to make a closing argument. After the Complainant has made a closing argument, or waived the right to make a closing argument, the hearing panel will invite the Complainant to make a closing argument.

X. Deliberation

After closing arguments are complete, the hearing panel will conclude the hearing and deliberate and render a determination as specified in "Deliberation and Determination."

XI. Access to and Use of Investigation Evidence

During the hearing, the parties and their advisors shall have access to the investigation report and a copy of all evidence transmitted to the parties by the investigator as specified in "Access to Evidence" and "Hearing." Such evidence may be utilized in the questioning of witnesses where relevant. Non-testimonial evidence utilized during the hearing shall be marked and referred to in such a manner as to make it clearly identifiable by audio (i.e., such as sequential marking of "exhibits").

XII. Rulings on Evidence

Throughout the hearing, the hearing panel will independently and contemporaneously screen all questions for relevance and resolve any contemporaneous evidentiary objections raised by the parties. If the hearing panel does not exclude a question, it is presumed the hearing panel has deemed the question relevant and admissible. Although formal rules of evidence do not apply, the hearing panel may, in the hearing panel's discretion, utilize evidentiary principles similar to those specified in the Federal Rules of Evidence to the extent such evidentiary principles are not contrary to the policy.\

XIII. Timing and Continuances

The hearing panel will have discretion to set the overall length of the hearing and may set time limits for statements of the parties, questioning of parties and witnesses, and closing arguments. A hearing will not exceed seven (7) hours in length absent extraordinary circumstances. Once a hearing is commenced, it will be continued only for good cause as determined by the hearing panel.

XIV. Role of Advisors

As specified in "Advisor of Choice," advisors to the parties must play a passive role in the hearing with the sole exception that advisors are permitted to question parties and witnesses as specified in "Hearing." Advisors are not permitted to speak for their advisee, make objections, present arguments, or engage in any other active role.

XV. Disruptions

All parties, advisors, and other persons present at a hearing are required to act professionally, maintain decorum, and abide by the policy, these procedures, and any other rules specified by the hearing panel. Any party, advisor, or other person who materially disrupts the proceeding or violates applicable policies, procedures, and rules, may be barred from further participation and/or have their participation limited, as the case may be, by the hearing panel.

XVI. Questioning

Wherever these procedures contemplate questioning of a party or witnesses, the hearing panel has discretion to permit more than one round of questioning. In addition to ruling on questions of relevancy, the hearing panel may limit cumulative and redundant questioning.

XVII. Discretion in Application

The College retains discretion to interpret and apply these procedures in a manner that is not clearly unreasonable, even if the College's interpretation or application differs from the interpretation of the parties.

Despite the College's reasonable efforts to anticipate all eventualities in these procedures, it is possible unanticipated or extraordinary circumstances may not be specifically or reasonably addressed by the express language of these procedures, in which case the College retains discretion to respond to the unanticipated or extraordinary circumstance in a way that is not clearly unreasonable.

Attachments

No Attachments

Approval Signatures

Approver	Date
Reta Richmond: ADMINISTRATIVE ASSISTANT	10/2020
Kevin Williams: ADMISSIONS COUNSELOR	09/2020
Jessica Bliven: INSTRUCTOR	09/2020

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