

Carnegie Mellon University

Discriminatory and Sexual Misconduct Policy (Interim)

Procedures for Adjudication without a Live Hearing

This document sets forth the procedures for the adjudication of alleged Prohibited Conduct under the Carnegie Mellon University Discriminatory and Sexual Misconduct Policy (Interim) (the “Policy”) without conducting a live hearing. These procedures apply as specified in Section VI.D of the Policy.

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1. Definitions & Roles

- a. **Decisionmaker** – An individual appointed by the university to make findings of a fact and make a determination regarding responsibility for each allegation in the Complaint, as well as determining Disciplinary Sanctions and/or Remedies for any violations of the Policy, as necessary. The Decisionmaker may be an employee of Carnegie Mellon or a third party engaged by the university to serve in this role. The Investigator who prepared the Investigative Report is permitted to serve as the Decisionmaker.
- b. **Complaint** – Under these Procedures, the allegations filed under Section VI.A of the Policy, subject to any changes to the allegations during the course of the investigation under Sections VI.B (Dismissals) or Section VI.C (Investigation Procedures). The allegations of the Complaint are set forth in the current Notice of Allegations applicable to the matter.
- c. **Investigative Report** – A report prepared at the conclusion of the investigation of the allegations in the Complaint, as specified in section VI.C of the Policy.

All other defined terms, indicated by capitalization, have the meaning assigned in the Policy.

2. Appointment of Decisionmaker

- a. The university will appoint a Decisionmaker who will be for making findings of a fact and making a determination regarding responsibility for each allegation in the Formal Complaint, as well as determining sanctions as necessary. The Office for Institutional Equity and Title IX is responsible for ensuring the Decisionmaker is appropriately trained.
- b. After being appointed, the Decisionmaker will provide the Complainant, the Respondent, and their respective Advisors with the following:
 - i. Written notice of the appointment of the Decisionmaker;
 - ii. A copy of the final Investigative Report prepared under Section VI.C of the Policy;
 - iii. The opportunity to access any Relevant evidence collected by the university that is not contained in the Investigative Report.

The Investigative Report and any Relevant evidence must be kept private as detailed in Section IV of the Discriminatory and Sexual Misconduct Policy.

- c. After receiving notice of the identity of the Decisionmaker, the Complainant and Respondent will have three (3) business days to object to the appointment of the Decisionmaker based on either (i) a conflict of interest or (ii) bias for or against Complainants or Respondents generally, or the specific Complainant or Respondent. Any objection must be submitted in writing, not to exceed two (2) pages, by email to the

Office for Institutional Equity and Title IX. Any objection filed will be provided to both the Complainant and the Respondent. The Office for Institutional Equity and Title IX will review any objections and will determine whether a new Decisionmaker should be appointed and both the Complainant and Respondent will be notified of the decision.

3. Advisors

- a. Both the Complainant and Respondent have the right to have the Advisor of their choice present at any meetings conducted under these procedures. The Advisor is also permitted to access any Investigative Reports or other Relevant evidence provided to the parties.
- b. Advisors are not permitted to participate in any proceedings or speak on behalf of the Complainant or Respondent. Rather, Advisors are limited to providing advice to the party they are supporting.

4. Evaluation of Evidence

- a. The Decisionmaker will review the Investigative Report and any Relevant evidence collected by the university that is not contained in the Investigative Report.
- b. The Decisionmaker will provide the Complainant and Respondent with the opportunity to submit additional evidence to be considered by the Decisionmaker, subject to the Rules of Evidence in Section 4 of this procedure.
- c. The Decisionmaker will objectively evaluate all Relevant and not otherwise impermissible evidence as detailed in Section 4 of this procedure.
- d. To the extent the credibility of a party or witness is Relevant and in dispute, the Decisionmaker will make arrangements to question the Complainant, Respondent, and/or any witness in order for the Decisionmaker to adequately assess credibility. The Decisionmaker has discretion to determine the manner and format of such questioning, which may be conducted in a variety of ways, including but not limited to (i) written questions and answers, (ii) a meeting, phone call or video conference between the Decisionmaker and the individual to be questioned, and/or (iii) a group meeting involving the Complainant and Respondent where both parties are questioned by the Decisionmaker. The Complainant and Respondent may be accompanied by Advisor in any meeting under this section.
- e. Both parties have the right to decline to answer any question by the Decisionmaker. However, the Decisionmaker may choose to place less or no weight upon statements by a party or witness who refuses to respond to questions deemed Relevant and not impermissible. The Decisionmaker must not draw an inference about whether Prohibited

Conduct occurred based solely on a party's or witness's refusal to respond to such questions.

- f. Determination of Responsibility – After evaluating the Investigative Report, any other evidence that is deemed Relevant and not impermissible – both inculpatory and exculpatory, and, if necessary, evaluating the credibility of the parties/witnesses, the Decisionmaker will make findings of fact and a determination of responsibility with respect to each allegation using the Preponderance of the Evidence standard.
- g. If the Decisionmaker finds the Respondent is responsible for any allegation of Prohibited Conduct or alleged violation of other university policies, the Decisionmaker will coordinate with other university officials (e.g., an Employee's supervisor), as necessary for the Decisionmaker to determine appropriate Disciplinary Sanctions and/or Remedies consistent with the possible sanctions listed in Appendix A to the Policy.
- h. Preparation of Written Determination – The Decisionmaker will prepare a written determination regarding the findings of fact, the determination regarding responsibility for each allegation, and, if and as necessary, the Disciplinary Sanctions and/or whether Remedies will be provided. The written determination prepared by the Decisionmaker must include:
 - i. A description of the alleged Prohibited Conduct;
 - i. The Decisionmaker's evaluation of the Relevant and not otherwise impermissible evidence and determination whether Prohibited Conduct occurred (i.e., a rationale);
 - ii. Any applicable Disciplinary Sanctions and whether Remedies will be provided;
 - iii. The appeal procedures under Section VI.F of the Policy.
- j. After completing the written determination, the Decisionmaker will deliver the determination to the Office for Institutional Equity and Title IX.
- k. Issuance of Written Determination – The Office for Institutional Equity and Title IX is responsible for providing the Complainant and Respondent with a copy of the written determination. Both parties must be provided the written determination simultaneously.
- l. For Staff Respondents, a copy of the written determination will also be provided to the Office of Human Resources.

5. Appeals

The written determination of the Decisionmaker may be appealed as set forth in Section VI.F of the Policy.