

**MEMORANDUM**

**TO:** Faculty Senate

**FROM:** The Faculty Affairs Committee



**RE:** Changes to Section II.F.10.h of the *Faculty Manual*

**DATE:** January 27, 2022

The Faculty Affairs Committee was asked by the Office of Compliance and Civil Rights to update the language the *Faculty Manual* on pages 45 and 46 to reflect changes in the hearing process specified in Title IX. The Faculty Affairs Committee recommends to the Faculty Senate the following changes to Section II.F.10.h of the *Faculty Manual*, which apply to the paragraph starting at the bottom of page 45 and ending at the top of page 46.

**Edits to bottom of page 45 and top of page 46, Section II.F.10.h:**

**Clean Copy:**

**For hearings related to Title IX Sexual Harassment and jurisdiction, as defined in EP#15,** each party must be allowed an advisor. Advisors must be present. If the advisor is not able to be present, the university must provide an advisor free of charge to conduct the cross examination on that party's behalf. The advisor may or may not be an attorney. Advisors, but not the parties, may cross examine the other party and all witnesses who choose to participate in the hearing. The Hearing Committee will review cross-examination questions in advance to determine relevance and to explain any decisions about questions selected for exclusion. The sexual history of a complainant is not relevant or admissible in a hearing unless the complainant's sexual predisposition or prior sexual behavior is offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

**Red-Lined:**

**For hearings related to Title IX Sexual Harassment and jurisdiction, as defined in EP#15,** ~~hearsay evidence is not admissible. Witnesses, including parties, must submit to cross-examination for their written or verbal statements to be considered by the Hearing Committee.~~ Each party must be allowed an advisor. Advisors must be present. If the advisor is not able to be present, ~~and if not,~~ the university must provide an advisor free of charge to conduct the cross-examination on that party's behalf. The advisor may or may not be an attorney.

Advisors, but not the parties, ~~must be permitted to may~~ cross examine the other party and all witnesses who choose to participate in the hearing. The Hearing Committee will review cross-examination questions in advance to determine relevance, and to explain any decisions about questions selected for exclusion. The sexual history of a complainant is not relevant or admissible in a hearing unless the complainant's sexual predisposition or prior sexual behavior is offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

**Original:**

**For hearings related to Title IX Sexual Harassment and jurisdiction, as defined in EP#15**, hearsay evidence is not admissible. Witnesses, including parties, must submit to cross-examination for their written or verbal statements to be considered by the Hearing Committee. Each party must be allowed an advisor. Advisors must be present, and if not, the university must provide an advisor free of charge to conduct cross on that party's behalf. The advisor may or may not be an attorney. Advisors, but not the parties, must be permitted to cross examine the other party and all witnesses. The Hearing Committee will review cross-examination questions in advance to determine relevance, and to explain any decisions about questions selected for exclusion. The sexual history of a complainant is not relevant or admissible in a hearing unless the complainant's sexual predisposition or prior sexual behavior is offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.