



Title IX: Advisor Roles and Responsibilities

The following information is provided to clarify the role of an Advisor in the Western Kentucky University (WKU) Title IX investigation and hearing process, articulated in WKU's Sex and Gender-Based Discrimination, Harassment, and Retaliation Policy, No. 0.2070 ("Policy").

The Investigation is an Internal WKU Process

An investigation is part of the Administrative Resolution Process the University utilizes to determine whether the Policy has been violated. The investigation is not a legal proceeding and does not determine guilt or innocence or whether any local, state, or federal laws have been violated. All investigations will be limited to gathering evidence for consideration by a Hearing Officer/Decision-Maker who will determine whether a preponderance of evidence (e.g., more likely than not standard) shows a student or an employee engaged in conduct that violated WKU's *Sex and Gender-Based Discrimination, Harassment, and Retaliation Policy, No. 0.2070*.

Role of an Advisor During the Investigation Process

The parties to an investigation under this Policy, known as the complainant and respondent, have the right to have one individual of their choosing, serve as their Advisor throughout the investigation and hearing process. The Complainant and Respondent may choose anyone to serve as their Advisor, including but not limited to a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the reporting, investigation, and/or resolution process. If the parties do not have an Advisor, they can choose an Advisor from WKU's Title IX Advisor List.

The purpose of an Advisor is to assist during the investigative process, provide support during each phase of the process (e.g., meetings, interviews, pre-hearing conferences, and hearings) and to conduct cross-examination on behalf of their advisee at the formal administrative hearing, as set forth in the Policy.

To fulfill their investigation responsibilities and protect the integrity of an investigation, for the Complainant and Respondent, the Investigator(s) is/are interested in obtaining information directly from each party and providing them with an opportunity to respond to information directly, without impediment or undue interference.

As such, an Advisor is not allowed to speak or otherwise actively participate during the pre-hearing meetings or interviews. The Complainant or Respondent may request to confer privately with their Advisor during pre-hearing meetings and interviews; however,

Advisors may seek clarification regarding the investigative process and ask procedural or process questions. Prior to the formal administrative hearing, the Hearing Officer/Decision-Maker may convene a pre-hearing meeting with the parties and the advisors for the purpose of: (a) allowing parties to submit questions or topics they wish to discuss at the hearing, so the Hearing Officer/Decision-Maker can rule on their relevance or provide recommendations for more appropriate phrasing; (b) deciding in advance of the hearing, if certain witnesses can be excused from appearing at the hearing due to their testimony being adequately summarized in the investigation report and deemed not relevant (or directly related); and (c) hearing parties' arguments related to determinations in the final investigation report concerning the relevancy of evidence (e.g., relevant or not relevant, directly related but not relevant).

Advisors may also alert the Title IX Coordinator or Investigator(s) to acts of retaliation.

Role of an Advisor During the Hearing Process

The Complainant and Respondent must be accompanied by an Advisor during the hearing. A party may arrange for their Advisor of choice to attend the hearing at the party's own expense. Alternatively, if a Complainant or Respondent needs assistance with selecting an Advisor, they can choose an Advisor from the WKU's Title IX Advisor List. In either scenario, the Advisor may only participate in a hearing to the extent allowed under *WKU's Sex and Gender-Based Discrimination, Harassment, and Retaliation Policy, No. 0.2070*. The Advisor's role at the hearing shall consist of the following: (1) providing guidance to the party they are supporting and (2) conducting cross-examination (questioning) the opposing party and witnesses. The Advisor is not permitted to speak on behalf of the advisee and is not permitted to make any opening or closing statements during a hearing. An Advisor does not act as legal counsel during the process.

Communication Protocols

The University's communication protocol with the Complainant or Respondent does not permit going through a representative or other intermediary; the importance of direct communication with the Complainant or Respondent during the investigation process is described above. An Advisor may be copied on any correspondence or communication related to the investigation process, at the direction (and discretion) of the Complainant or Respondent.

The University's primary means of communication with the parties is via their University provided email addresses. Parties may also be communicated with via phone.

Responsibilities of an Advisor

Providing accurate information, in addition to appropriate assistance and support, are essential responsibilities of the Advisor; therefore, WKU recommends that advisors understand the investigation process and their respective role within the process. As such, advisors may contact the Title IX Coordinator or the Investigator(s) with questions regarding the investigation and hearing process to ensure an understanding of their role. The Title IX Coordinator or Investigator(s) will provide copies of applicable policies and

procedures to the Advisor upon request. Below, please find guidance regarding what an Advisor may and may not do:

An Advisor Must:

- Attend the Administrative Resolution hearing;
- Ask cross examination questions of the opposing party and any witnesses during the Administrative Resolution hearing that are provided by their respective advisee;

An Advisor May:

- May be a friend, mentor, family member, attorney, or any other individual a party chooses to advise, support, and/or consult with them throughout the reporting, investigation, and/or resolution process.
- Assist a Complainant or Respondent in understanding and navigating the investigation process;
- Accompany a Complainant or Respondent to any administrative meeting or conversation related to an investigation, including interviews and pre-hearing meetings;
- Review evidence and investigation reports;
- Seek clarification regarding the investigation process;
- Ask procedural or process questions;
- Provide support to the Complainant or Respondent throughout the process;
- Alert the Title IX Coordinator or Investigator(s) to acts of retaliation;
- Confer privately with the Complainant or Respondent upon request.

An Advisor May Not:

- Speak or act on behalf of a Complainant or Respondent, including answering questions for a Complainant or Respondent;
- Stand in for, or represent, a Complainant or Respondent;
- Distribute information (shared or learned throughout the investigation process) with anyone other than the Complainant or Respondent (for whom they serve as an Advisor), the Title IX Coordinator, or the Title IX Investigator(s);
- Act as, or represent themselves or another, as an Investigator for the Title IX process during the investigation;
- Ask cross examination questions not requested by the Complainant or Respondent;
- Determine a finding of responsibility under WKU policies and procedures;
- Contact a witness or other party participating in the investigation process;
- Impede the investigation process or act in a manner that obstructs the Investigator(s) or disrupts the investigation process.

Note: Advisors who act outside of their role, impede, obstruct, disseminate information to third party individuals or organizations, or represent themselves to others engaged in our process as having any other role than an Advisor in our process, may be excluded from all investigation-related proceedings.

Family Educational Rights and Privacy Act Waivers

Students who participate in the investigation process with an Advisor must complete a Family Educational Rights and Privacy Act ("FERPA") Waiver prior to participating in the interview process with an Advisor. Individuals who agree to act as an Advisor for a Complainant or Respondent must complete an Advisor Agreement and Statement of Understanding form.

Questions and Clarifications

If you have any questions, or would like additional clarifications regarding the investigation process, please contact the Title IX Coordinator, Ena Demir, via email at ena.demir@wku.edu or by phone at (270) 745-6867.