



STEPHENS COLLEGE

Sex- and Gender-Based Discrimination and Harassment Resolution Process

Claimant and Respondent Advisors Policy and Guidelines

Effective Date: 7/11/2018

A. POLICY STATEMENT

Stephens College is committed to creating and maintaining a process of equal dignity and due process for all parties involved in the resolution process of the Sex- and Gender-Based Discrimination and Harassment Policy.

Claimants and Respondents (the parties) are entitled to an advisor of their choosing to guide and accompany them throughout the campus resolution process. The term advisor refers to any individual who was not directly involved in an incident who is providing advice and/or support for a student during the sex- and gender-based discrimination and harassment investigation and adjudication process. The advisor may be a friend, mentor, family member, attorney (at the party's own expense), or any other supporter a party chooses to advise them. The College maintains a pool of trained (non-attorney) advisors who are available to the parties. The parties may choose advisors from outside the pool, or outside the campus community, but those advisors may not have the same level of insight and training on the campus process as do those trained by the College. Outside advisors are not eligible to be trained by the College.

The parties are entitled to be accompanied by their advisor in all meetings and interviews at which the party is entitled to be present, including intake, interviews, adjudication and appeals. Advisors should help their advisees prepare for each meeting, and are expected to advise ethically, with integrity and in good faith. Individuals involved in the investigation process are expected to communicate for themselves during any and all investigation and adjudication meetings. The advisor may only act in a support role, meaning the advisor will not be permitted to testify, serve as a witness, examine or cross-examine any witnesses, object in any manner, or provide a statement on behalf of the individual. The College cannot guarantee equal advisory rights, meaning that if one party selects an advisor who is an attorney, but the other party does not, or cannot afford an attorney, the College is not obligated to provide one.

All advisors are subject to the same campus rules, whether they are attorneys or not. Advisors may not address campus officials in a meeting, interview or adjudication unless authorized to do so by a member of the Title IX staff. Advisors may confer quietly with their advisees as necessary to suggest questions or assist the party in clarifying a response, as long as they do not disrupt the process. For longer or more involved discussions, the parties and their advisors should ask for breaks or step out of meetings to allow for private conversation. Advisors will typically be given an opportunity to meet in advance of the commencement of the resolution process with the administrative officials conducting the process. This pre-meeting will allow advisors to clarify any questions they may have, and allows the College an opportunity to review the policy and procedures with the advisor and to clarify the role the advisor is expected to take. Advisors are expected to refrain from interference with the College investigation and resolution. Any advisor who steps out of their role in any meeting under the campus resolution process will be verbally warned once and only once. If the advisor continues to disrupt or otherwise fails to respect the limits of the advisor role, the advisor will be asked to leave the meeting. When an advisor is removed from a meeting, that meeting will typically continue without the advisor present.

Subsequently, the Title IX Coordinator will determine whether the advisor may be reinstated, may be replaced by a different advisor, or whether the party will forfeit the right to an advisor for the remainder of the process.

The College expects that the parties will wish to share documentation related to the allegations with their advisors. The College provides a consent form that authorizes such sharing. The parties must complete this form before the College is able to share records with an advisor. Advisors are expected to maintain the privacy of the records shared with them. These records may not be shared with third parties, disclosed publicly, or used for purposes not explicitly authorized by the College. The College may seek to restrict the role of any advisor who does not respect the sensitive nature of the process or who fails to abide by the College's privacy expectations.

The College expects an advisor to adjust their schedule to allow them to attend College meetings when scheduled. The College does not typically change scheduled meetings to accommodate the advisor's inability to attend. The College will, however, make provisions to allow an advisor who cannot attend in person to attend a meeting by telephone, video and/or virtual meeting technologies as may be convenient and available.

A party may elect to change advisors during the process and is not locked into using the same advisor throughout.

Certain individuals may be disqualified from serving as advisors, including, but not limited to, administrators involved in the investigation, adjudication, appeals and resolution process; anyone who supervises one of the participants in the process; any potential witnesses; or anyone who is being strategically chosen to deprive another party of their likely advisor.

B. PURPOSE

The resolution process is not comparable to a court of law, criminal proceeding, or civil proceeding and therefore the role of the advocate is dissimilar. The College's process is not adversarial, its purpose is to educate and adjudicate acceptable standards of behavior on campus and to promote health, safety and welfare in the community.

C. SCOPE

This policy applies to all advisors to parties involved in the Sex- and Gender-Based Discrimination and Harassment Policy resolution process.

D. FREQUENTLY ASKED QUESTIONS

What is the standard of evidence in the College's Sex- and Gender-Based Discrimination and Harassment resolution process?

- The standard of evidence is the preponderance of the evidence presented.

Why would the College act on allegations of sexual assault prior to a criminal proceeding?

- The U.S. Department of Education Office of Civil Rights Guidelines requires a prompt response to allegations of sexual harassment – including sexual assault.

What will happen if my advisee refuses to participate in the College's resolution process?

- If the Respondent refuses to participate in the resolution process, the College investigation and adjudication process will take place in the absence of the Respondent. Because the process is meant to educate and adjudicate the standards of conduct within the campus community, the advisor will not be permitted to be present if the advisee chooses not to participate. If the Respondent chooses not to attend or not to present evidence during the investigation, the adjudicators will make a decision based on the evidence and information presented during the investigation. The Respondent may not use her or his refusal to participate as a later ground for appealing a decision.

Who makes the decision about my advisee's responsibility?

- The Vice President for Student Development will adjudicate and impose sanctions or corrective action(s) to address policy violations by students.
- The Vice President for Academic Affairs will adjudicate and impose sanctions or corrective action(s) to address policy violations by faculty.
- The Vice President for Finance and Administration and/or the supervising senior staff member will adjudicate and impose sanctions or corrective actions to address policy violations by staff.
- The President will adjudicate and impose sanctions or corrective actions to address policy violations by senior staff.
- The Board of Trustees will adjudicate and impose sanctions or corrective actions to address policy violations by the President.
- The Title IX Coordinators will adjudicate and impose sanctions or corrective actions to address policy violations by third parties.

Isn't the resolution process double jeopardy for someone who is also facing criminal charges?

- No. "Double jeopardy" is a legal concept that applies solely to criminal proceedings. The College's process is educational and administrative in nature.

What are the rights of appeal?

Both parties have equal rights of appeal. Written notice must be submitted to the President's Office within five (5) business days of the mailing date of the final outcome. A written memorandum detailing the grounds of the appeal must be filed within ten (10) business days of filing the notice of appeal. Appeals may only be made on the basis of:

- substantial violations of the procedures that prevented a fair process;
- the emergence of new, material information relevant to the alleged policy violations; and/or
- determining whether the sanction imposed, given the facts and circumstances, was excessive.

Upon receipt of the notice of appeal, the President will select an impartial and trained designee to serve as the appeals officer. The designee will review the appeal and inform the President of her or his findings in writing within 15 business days.

- If no basis for appeal is present, the appeal will be dismissed and the adjudicator's decision stands.



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- If the appeal is not dismissed, the President may order a new investigation and/or adjudication process, or may modify the sanctions previously assessed.
- The Claimant and the Respondent will be contemporaneously informed in writing of the outcome of the appeal.
- The decision of the President is final.
- Failure to appeal within the stipulated time shall constitute a waiver of such appeal.

E. CONTACT

All other questions or inquiries concerning the Party Advisor Policy and Guidelines may be referred to the Title IX Coordinator – Shannon Walls – (573) 876-7250, sbwalls@stephens.edu, LRW 342, Campus Box 2001.