



Association of  
Title IX Administrators

# **ATIXA Process Steps Checklist:**

## **Pre-Hearing, Hearing, and Appeal**

# Pre-Hearing

## PRE-HEARING PROCESS STEPS OUTLINED

1. Provide Notice of Hearing (location, time, hearing decision-maker identification, conflict check, individuals attending, specific charges) to all Parties/Advisors
2. Conduct Meetings between Chair/Decision-maker and Parties/Advisors (optional; see next page)
3. Make Evidence and/or Question Rulings by Chair/Decision-Maker; Circulate to all Parties/Advisors (optional)
4. Revise/Disseminate Materials to Parties/Panel
5. Review of Investigation Reports/Materials by Decision-maker
6. Witness, Party, Decision-maker Logistics
7. Technology Arrangements
8. Technology Test
9. Obtain Assurance that Advisors are in Place and Willing to Cross-Examine
10. Determine whether any Parties/Witnesses may Refuse to Testify at Hearing
11. Arrange for any Necessary Alternates (Decision-makers and/or Advisors)
12. Allow Challenge to any Decision-Maker on Basis of Bias/Conflict and Opportunity for Self-Recusal by any Decision-maker
13. Prepare and Refine Hearing Script
14. Prepare Questions from Decision-maker
15. Prepare Checklist of all Applicable Policy Elements
16. Set an “Order of Go” for Witness Testimony
17. Review Logistics with Parties, Advisors, Witnesses, Decision-maker, Sanctioning Authorities (if applicable), and/or Hearing Facilitator/Case Manager (if any)
18. Arrange for any Directly Related Evidence to be Available at Hearing
19. Inform Parties to Prepare Impact Statements for Submission at Start of Hearing
20. Check in with Parties for any Access, Accommodation, Interpreter Needs, Etc.
21. Review and Complete any Step above that was not Accomplished Pre-Hearing

# Pre-Hearing

## Pre-Hearing Meeting Checklist (Optional)

### CHECKLIST

*If your process includes an opportunity for a Pre-Hearing Meeting, use the list below as a guide for topics to cover in that meeting.*

- A. Go over any technology logistics of the hearing and clarify how the parties will communicate remotely with their advisors during the hearing
  - A1. Discuss need to be seen/heard/not to see themselves
  - A2. Discuss recording
- B. Cover the structure and flow of the hearing with the parties and their advisors
  - B1. Discuss comfort at hearing: refreshments, breaks, etc.
- C. Ask if the parties/advisors have any challenges to any of the Decision-makers on the basis of bias or a conflict of interest
- D. Review the rules and decorum expected at the hearing, emphasizing what behaviors will and will not be allowed
- E. Explain applicable rules of evidence and admissibility
- F. Rule on the relevance of any pre-submitted cross-examination questions
  - F1. If a question is deemed to not be relevant, the Chair will want to formally document the rationale for that decision
- G. Rule on any pre-hearing efforts by parties to have evidence from the investigation declared relevant, irrelevant, or directly related
  - G1. Circulate all decisions in writing to the parties and their advisors after the conclusion of all pre-hearing meetings
- H. Ascertain if any party or witness intends to not attend or to not submit to cross-examination, and explain the effect this will have
  - H1. Ascertain whether each party has arranged to have an advisor present
- I. Determine if there are any witnesses the parties do not intend to cross-examine during the hearing
- J. Discuss ordering of witnesses for the hearing
- K. Clarify what materials/exhibits will be needed/available during the hearing and how they will be distributed
- L. Determine if any participant will need any accommodations, interpretation, etc.
- M. Educate the parties on preparation of impact statements, when they are to be submitted, and how they will be used
- N. Answer any questions the parties/advisors may have

# Hearing

## HEARING PROCESS STEPS (CONTINUING FROM PRE-HEARING STEPS)

22. Turn on Recording Equipment and make sure it is Functioning Properly
23. Introduce All Participants
24. Review and Clarify Applicable Procedures; Answer Any Procedural Questions
25. Solicit Impact Statements from Parties
26. Swear in Witnesses/Parties or Provide Reminder of Applicable Policy on Truthful Testimony/Honor Code
27. Disseminate/Distribute Materials as Necessary
28. Make any Evidence Rulings Necessary (Relevant v. Directly Related)
29. Read Hearing Script
30. Invite Testimony from Investigator(s)
31. Decision-maker Questioning of Investigator(s)
32. Advisors Questioning of Investigator(s) (Complainant, Respondent, and then any additional Follow-up)
33. Rulings on Questions/Testimony by Chair/Decision-maker (applies to 29-31)
34. Take Break
35. Invite Testimony from Complainant (Opening Statement allowed?)
36. Decision-maker Questioning of Complainant
37. Advisors Questioning of Complainant (Respondent, Complainant, and then any Additional Follow-up)
38. Rulings on Questions/Testimony by Chair/Decision-maker (applies to 34-36)
39. Take Break
40. Invite Testimony from Respondent (Opening Statement allowed? Can also slot after Complainant's opening statement, if preferred)
41. Decision-maker Questioning of Respondent
42. Advisors Questioning of Respondent (Complainant, Respondent, and Then Any Additional Follow-up)
43. Rulings on Questions/Testimony by Chair/Decision-maker (applies to 39-42)
44. Take Break
45. Invite Testimony from Witnesses (try to order this list logically if possible)

# Hearing

## HEARING PROCESS STEPS (CONTINUING ON FROM PRE-HEARING STEPS) (CONT.)

46. Decision-maker Questioning of Witnesses
47. Advisors Questioning of Witnesses (Respondent, Complainant, and then any additional Follow-up)
48. Rulings on Questions/Testimony by Chair/Decision-maker (applies to 44-46)
49. Any Remaining Questions for Complainant (Decision-maker, Respondent Advisor, and Complainant Advisor)
50. Any Remaining Questions for Respondent (Decision-maker, Complainant Advisor, and Respondent Advisor)
51. Take Break
52. Closing Statements (Complainant, Respondent)
53. Dismiss Parties/Advisors for Deliberation
54. Deliberate (Closed Session)
55. Make Finding
56. Make Responsibility Determination by Standard of Proof
57. Prepare Summary of Rationale
58. Review Impact Statements; Chair/Decision-maker Confer as Necessary with Sanctioning Authorities (if necessary)
59. Draft Notice of Outcome
60. Circulate Draft Notice of Outcome to Title IX Coordinator/Legal Counsel/Etc. (optional; avoid conflicts)
61. Share Notice of Outcome with the Parties/Advisors
62. Maintain Recordkeeping Protocol

# Appeal

## APPEAL PROCESS STEPS (CONTINUING ON FROM HEARING STEPS)

63. Accept Timely Appeal Requests from Parties
64. Submit Timely Appeal Requests for Review by Appropriate Appeal Decision-maker
65. Notify the Other Party in Writing That a Timely Appeal was Filed and Invite Them to Submit a Written Statement in Support of, or Challenging, the Outcome
66. Consider Valid Appeal Grounds and Determine which, if any, Are Met (by standard of proof)
67. Review Any Written Statements Received from the Parties
68. Grant or Deny Appeal
69. If Granted, Direct Remand or Other Appropriate Action, Accordingly
70. Draft Notice of Outcome
71. Circulate Draft Notice of Outcome to Title IX Coordinator/Legal Counsel/Etc. (optional; avoid conflicts)
72. Share Notice of Outcome with the Parties/Advisors