

Title IX Grievance Process Frequently Asked Questions (FAQ)

This FAQ resource was developed to help students and employees to understand and navigate the Florida SouthWestern State College Title IX Grievance Process.

Q: How does a Complainant initiate the process?

A: To initiate the process, file a formal complaint, either in person or online, with the Title IX & Equity Office, Lee campus, Building S, room 213, by calling 239-489-9051, emailing equity@fsw.edu or completing the online report at www.fsw.edu/reportviolence.

Q: What happens after a Complainant files a complaint?

A: Once the Title IX & Equity Office receives a complaint, several steps happen:

- The Title IX Coordinator will reach out to the Complainant to offer supportive measures.
- The Title IX Coordinator will ensure that the complaint is filed with the correct process or refer it to the correct process.
- The Title IX Coordinator will determine whether emergency removal of the Respondent is necessary.
- The Title IX Coordinator will notify the Respondent of the complaint, in writing, also copying the Complainant.
- The Title IX Coordinator will notify each party of their rights, including the right to an Advisor of their choice in the process.
- The Title IX Coordinator will initiate an investigation, if appropriate.

Q: If a Complainant wants to withdraw the complaint, is that possible?

A: Yes, the Title IX & Equity Office has a procedure for the Complainant to request to withdraw a complaint, in whole or in part. Contact Jana Sabo at 239-489-9051 or email equity@fsw.edu for more information.

Q: If a Respondent receives notice of a complaint and decides to withdraw as a student or resign as an employee, is that permitted?

A: Yes, and if that happens, supportive measures will continued to be offered to the Complainant and the investigation will resume if the student re-enrolls or the employee is rehired.

Q: If I am a party to the complaint (Complainant or Respondent), do I have to participate in the investigation?

A: No, you are not required to participate, but FSW hopes that the parties and witnesses will be willing to share what they know, to ensure the investigation is as thorough and accurate as possible.

Q: What is involved in the investigation?

A: If you are a party or a witness, the Title IX & Equity Office will contact you to schedule an investigation interview with the neutral, impartial Investigator(s). The parties can prepare for the interview with their Advisor in advance, if they wish. There is no need to prepare a written statement in advance. The Investigator(s) will take a statement from each interviewee during the interview. Interviewees don't have to answer every question that is asked, but they should try to remember as much as they can and provide complete answers. Interviewees should bring any evidence they have (texts, snaps, physical evidence, video, etc.) with them to the interview. Each party may also be accompanied by an Advisor at the interview (witnesses cannot have an Advisor), so they may want to

choose an Advisor before being interviewed. Parties who wish to have an Advisor appointed by FSW, please contact the Title IX & Equity Office and an Advisor will be assigned. Parties and witnesses may be interviewed more than once. Interviews may take place in person or may be conducted remotely. Most interviews last approximately one hour, though some can be longer, and some can be shorter.

Q: What happens after an interview?

A: The Investigator(s) will compile their notes or transcribe the recording of the interview into a statement for the interviewee to review and verify, to ensure accuracy. Each interviewee will receive a message inviting them to do so and will be provided instructions regarding making any edits or changes. After signing the statement and returning it to the Investigator(s), the statement will be included in the investigation report.

Q: What happens next?

A: Once the Investigator(s) complete a draft of the investigation report, a copy will be provided to each party and their Advisor. Any evidence excluded from the report as not relevant will be provided in a separate file. The parties will have ten (10) business days to review and comment on the report and evidence file to ensure the report is complete and accurate. The Investigator will explain the process by which your review and comment is solicited and incorporated. The investigator(s) will then issue a final report (and final evidence file), providing copies to the parties and Advisors. The report will then be referred for a hearing.

Q: How soon does the hearing occur?

A: It depends on schedules, but the hearing typically does not occur for a least ten (10) business days after the final investigation report is shared with the parties. This provides adequate time to prepare for the hearing, and also allows for additional review and comment by the parties and their Advisors, if they wish to do so. The hearing Decision-maker may facilitate a pre-hearing opportunity specifically for this purpose, or the parties review and comments may be submitted at the hearing.

Q: Are the parties and witnesses required to attend the hearing?

A: No, but if any party or witness does not attend, none of their prior statements to the Investigator(s) will be relied upon by the hearing Decision-maker.

Q: Are the parties and witnesses required to answer questions at the hearing?

A: No, but if any party or witness refuses to submit to cross-examination at the hearing, none of their prior statements to the Investigator(s) or at the hearing will be relied upon by the hearing Decision-maker.

Q: Can an Advisor assist at the hearing?

A: Yes, parties can be assisted by their Advisor throughout the hearing. The Advisor is also expected to conduct any cross-examination of the parties or witnesses at the hearing. If a party does not have an Advisor to do so, and wishes to conduct cross-examination at the hearing, they must notify the Title IX & Equity Office prior to the hearing, and the staff will assist them in selecting an Advisor or the Title IX & Equity Office can appoint a trained advisor for the party.

Q: How does the hearing work?

A: The parties can make opening statements, and the Investigator(s) will also usually do so. The parties, Investigator(s), and witnesses are all questioned by the Decision-maker and hearing panel. The Advisors then conduct cross-examination of the parties and witnesses. The parties can then make closing

statements. The Decision-maker and hearing panel then privately deliberates, evaluates the relevant evidence, assesses credibility, and determines by a preponderance of the evidence (whether it is more likely than not) whether policy was violated. The parties are then informed simultaneously, in writing, of the outcome and the rationale for the decision.

Q: Will each party ask the other party questions during cross-examination?

A: No, the parties do not directly communicate with each other during the hearing, intentionally. All questions are either posed by the Decision-maker, hearing panel member or proposed by a party's Advisor as part of cross-examination. Once a question is suggested by an Advisor, the Decision-maker determines whether the question is relevant and will tell the person being questioned whether to answer it or not. Of course, anyone can refuse to answer a question, but the effect will be that all of that person's statements will not be relied upon by the Decision-maker in making their determination.

Q: How long will the hearing take?

A: Hearings are usually at least a few hours long and may take much longer if a complaint is complex. Florida SouthWestern State College tries to limit hearings to 4 hours, so that the participants are not exhausted. If it looks like more time is needed, a hearing may take place over more than one day. Breaks are also taken during the hearing, as needed. Parties and Advisors may want to have a snack and drinks available during breaks.

Q: What happens after the hearing?

A: After the parties are notified of the outcome, any assigned sanctions become effective unless any or all parties elect to request an appeal. All parties have the right to request an appeal. The outcome letter from the hearing Decision-maker will detail the procedures for appeal.

Q: How does the appeal work?

A: If any or all parties appeal, an Appeal Decision-maker is appointed to consider all permissible arguments for appeal. All appeals are conducted by a written exchange of materials, not in person. Parties can submit their statements for or against appeal, and those statements will be exchanged between the parties and the Investigator(s) or hearing Decision-maker, if applicable. The Appeal Decision-maker will then decide (by preponderance of the evidence) whether the appeal is granted and will notify the parties in writing of the decision and rationale.

As a result of the appeal, the hearing outcome can be upheld. If it is not, the Appeal Decision-maker will likely remand the decision back to the Investigator(s) and/or hearing Decision-maker, to revise the investigation and/or hearing outcome in light of the appeal decision. In some cases, a new hearing may be required. Then, a final determination is made, and all parties are informed simultaneously in writing. The process is then at an end, and any sanctions and/or remedies are put in place and become final.

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