

Interim Policy Update

2020-21 Training for the Grievance Process Pool

November 6 - PART TWO

Agenda

- Welcome Andres
- Evidentiary Standard Review
- ATIXA playbook
- Sanctioning
- Appeals
- Hearing Process
- Discussion

Preponderance of Evidence

- The standard used universally in civil rights resolutions
- Policy offense if determined to have been more likely than not
 - 50% plus a feather
 - Decision based on what can be proved or shown by the evidence (no “gut feeling”)
- If no “feather”, result is finding of not responsible

ATIXA Playbook

- Technically written to supplement Model Policy (aka our old policy)
- Model of Proof and Rubrics still helpful for thinking through decision making
- Helpful to review and focus on key points, how to break down decision making
- One of various resources to help frame our thinking
 - Hostile environment, incapacitation, kink, retaliation...etc.

Sanctioning

- General principles
 - Educational mission, with strong accountability
 - Progressive discipline
 - Consistency in decision making, with flexibility based on case
- General considerations
 - “Level”/nature of offense
 - Sanction level should match level of offense in general terms
 - Impact on person/community
 - Could have impact statements from both parties
 - Weight of proof/evidence
 - Previous conduct/discipline
 - Evidence of pattern (if present)
 - Level of acknowledgement or remorse
 - Primary versus Secondary sanctions

Appeals

- You will first review on grounds for appeal...THEN on actual appeal
- Grounds for appeal:
 - Procedural irregularity that affected the outcome of the matter;
 - New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
 - The EOC Coordinator, Investigator(s), or Decision-maker(s) had a conflict of interest or bias for or against Complainants or Respondents generally or the specific Complainant or Respondent that affected the outcome of the matter; and
 - The sanctions imposed fall outside the range of sanctions that Hope College has designated for this offense and the cumulative record of the Respondent.

Appeals

- Use policy and ATIXA Playbook as guide for review
- Verify clear understanding of ground(s) for appeal and review on that/those grounds
- Connect with Sara if feel case should go back to hearing and/or investigation
- Be prepared to articulate reasoning in written finding

Hearing Process

- Chair will follow script
- Chair will manage decorum
- Visualize set up
- Advisor role
 - Ask questions created by party
 - May provide support/advice, but not your job to create questions or determine relevance
- Currently not likely to allow for “objections”
- Considering evidence if a party doesn’t show up to hearing or submit to cross-examination
- What questions do you still have?
 - What questions came up for you during B&T training?

Questions raised during B&T training

- Connection between our process and criminal justice process
- Understanding burden of proof on institution
- Anyone remember anything else?

Other questions raised

- Matt asked if people understand potential if case goes to civil court:
 - Could GPP be called as witness in court?
 - Could GPP be sued?
- Are there other concerns about lawyers are involved?

Other Questions?
