

## Role of an Advisor in the Title IX/Sex and Gender Discrimination Investigation and Resolution Process

Any involved party who is involved in the investigation of an alleged violation of Texas Lutheran University's *Civil Rights Equity Resolution Policy and Procedures (ERP)* has the right to have an individual accompany them for all meetings, interviews, and hearings within the resolution process, if they so choose. This person serves as an advisor.

It is important that involved parties electing to have an advisor present at meetings understand the role that the advisor has in the process. The following are important things to know:

### Selecting an Advisor

- **An advisor may be a friend, mentor, family member, attorney, or any other individual an involved party chooses to advise, support, and/or consult with them throughout the resolution process.** The parties may choose an advisor from inside or outside of the University community.
- **The Title IX Coordinator, or designee, will also offer to assign a trained advisor to any party if the party so chooses.** If the parties choose an advisor from the pool available from the University, the advisor will have been trained by the University and be familiar with the University's resolution process.
- **Parties also have the right to choose not to have an advisor in the initial stages of the resolution process, prior to a hearing.** In the event of a formal Title IX investigation, however, both the complainant and respondent must choose an advisor for the hearing, or the University will assign a trained advisor from the University pool. Note that the University 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 University is not obligated to provide an attorney.
- **Choosing an advisor who is also a witness in the process creates potential for bias and conflict-of-interest.** Investigators may ask an advisor who is also a witness to step out of a meeting momentarily if they need to discuss issues that could lead to bias or conflict-of-interest. In addition, a party who chooses an advisor who is also a witness can anticipate that issues of potential bias will be explored by the hearing decision-maker(s).
- **A party may elect to change advisors during the process and is not obligated to use the same advisor throughout.** The parties are expected to inform the Investigators or process administrators of the identity of their advisor at least two (2) business days before the date of any meeting, interview, or hearing.

### Advisors and Privacy

- **The involved party will need to sign an *Authorization and Release* form for the advisor to be present at any meeting, interview, or hearing.** The form allows Title IX Services or process administrators to speak freely about the party's case when the advisor is present. The party can revoke the release form, in writing, if they choose to no longer have the individual serve as their advisor or have access to their disciplinary matter. If a party requests that all communication be made through their advisor (attorney or not), the University will not comply with that request. All communication to the involved parties will go directly to the student(s) and/or employee(s).
- **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 University. The University may restrict the role of any advisor who does not respect the sensitive nature of the process or who fails to abide by the University's privacy expectations.

## Role of the Advisor

- **Advisors should help the parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith.**
- **Advisors may request to meet with the administrative officials conducting interviews/meetings in advance of these interviews or meetings.** This pre-meeting allows advisors to clarify and understand their role and University's policies and procedures.
- **The parties are expected to ask and respond to questions on their own behalf throughout the investigation phase of the resolution process.** Although the advisor generally may not speak on behalf of their advisee, the advisor may consult with their advisee, either privately as needed, or by conferring or passing notes during any resolution process meeting or interview. For longer or more involved discussions, the parties and their advisors should ask for breaks to allow for private consultation.
- **Under U.S. Department of Education regulations for formal Title IX hearings, a form of indirect questioning is required during the hearing but must be conducted by the parties' advisors.** The parties are not permitted to directly question each other or any witnesses. If a party does not have an advisor for a hearing, the University will appoint a trained advisor for the limited purpose of conducting any questioning of the other party and witnesses.

## Expectations of Advisors

- **The University generally expects an advisor to adjust their schedule to allow them to attend University meetings when planned,** but the University may change scheduled meetings to accommodate an advisor's inability to attend, if doing so does not cause an unreasonable delay. The University may also make reasonable provisions to allow an advisor who cannot be present in person to attend a meeting by telephone, video conferencing, or other similar technologies as may be convenient and available.
- **All advisors are subject to the same University policies and procedures, whether they are attorneys or not, and whether they are selected by a party or assigned by the University.** Advisors are expected to advise their advisees without disrupting proceedings. Advisors should not address University officials in a meeting or interview unless invited to do so (e.g., asking procedural questions). The advisor may not make a presentation or represent their advisee during any meeting or proceeding and may not speak on behalf of the advisee to the Investigators or other decision-maker(s) except during a hearing proceeding during cross-examination. Any advisor who oversteps their role as defined by this policy will be warned only once. If the advisor continues to disrupt or otherwise fails to respect the limits of the advisor role, the meeting/interview/hearing will be ended, or other appropriate measures implemented.
- **If the party's advisor in a meeting or interview is an attorney, then Title IX Services/the Investigators may also be accompanied by an attorney.**

For legal representation, respondents may wish to contact organizations such as:

- FACE (<http://www.facecampusequality.org>)
- SAVE (<http://www.saveservices.org>)

For legal representation, complainants may wish to contact organizations such as:

- The Victim Rights Law Center (<http://www.victimrights.org>)
- The National Center for Victims of Crime (<http://www.victimsofcrime.org>), which maintains the Crime Victims' Bar Association.
- The Time's Up Legal Defense Fund: <https://nwlc.org/times-up-legal-defense-fund/>

If you have any questions regarding the role of an advisor or the Title IX/Sex and Gender Discrimination investigation and resolution process, itself, please call **Title IX Services** at **830-372-6327**.