

Frequently Asked Questions: Virtual Panel Hearings/Meetings

What technology is required to participate in a Virtual Panel Hearing?

The Office of Equity uses Zoom for investigations and hearings/meetings. Every participant will need a computer, laptop, tablet, or smart phone with a camera and an internet connection. If you do not have access to this technology, please contact the Office of Equity as soon as possible after receiving a Notice of Hearing/Meeting at equity@case.edu, and preferably within 72 hours, so that we can work with you to provide access to the necessary technology.

The hearing facilitator will send a password-protected Zoom meeting invite in advance of the Panel Hearing/Meeting to each party, the party's advisor (if applicable), the Panel members, and any participating witnesses (if applicable). The hearing facilitator will provide support with technology throughout the Hearing/Meeting.

Who will be present during the virtual Panel Hearing?

The individuals in attendance at the virtual hearing/meeting will be: (1) three voting Panel members, (2) alternate panel member, (3) the hearing facilitator, (4) the parties and their respective advisor, (5) investigators and (6) representative from the Office of General Counsel. Witnesses will present during their respective questioning.

Can the parties have anyone else present with them in the virtual Hearing?

The parties may only have one advisor present with them during the Panel Hearing. However, the Chair will provide breaks to the parties as necessary and as requested to access support and other resources.

Am I required to attend the virtual Review Panel Hearing/Meeting?

No. Participation is voluntary, and any party or witness may elect not to participate in the Panel Hearing. However, the University will convene the Hearing Panel Hearing even if a party or parties elects not to participate.

Will a party or witness's testimony be considered if they do not wish to participate?

No. Pursuant to the Title IX regulations 106.45, if a party or witness chooses not to submit to cross-examination at the hearing, either because they do not attend the hearing, or they attend but refuse to participate in questioning, then the Decision-maker(s) may not rely on any prior statement made by that party or witness at the hearing (including those contained in the investigation report) in the ultimate determination of responsibility. Cross-examination is an all or nothing proposition, meaning that if any question is refused, no statements of that party or witness are admissible. Only if a party or witness is willing to submit to cross examination, and answers all questions, will their statements prior to or at the hearing be fully admissible. The Decision-maker(s) must disregard all statements.

Under Process B, the information will still be used in the hearing even if the parties or witnesses do not participate.

No adverse inference will be drawn by the Panel with respect to a party's election not to participate.

Can I record the Panel Hearing/Meeting?

No. The Office of Equity will record the Panel Hearing. A party may request a copy of the transcript/recording at the conclusion of the Panel Hearing, which will be provided to them through electronic program Box. The recording/transcript, if requested, will be provided at no cost or fee.

Will I be able to confer privately with my advisor?

Yes. Each party will be provided a private Breakout Room in Zoom that can be used to confer privately with their advisor. The hearing facilitator is the only person who can access the Breakout Rooms during the proceedings and will make an announcement before doing so. In addition, the Chair will provide the parties breaks to confer with their advisor upon request.

How will I communicate with the Chair during the Review Panel Hearing?

All parties and their advisors will communicate any questions by emailing both the Chair at their email address and equity@case.edu. In addition, the parties and their advisors may communicate with the Chair verbally if they need a pause or break or may privately message the Chair in the Zoom chat function (please be advised, if using the zoom chat function, be aware to specify the recipient of the chat message).

What steps is the University taking to ensure that individuals who should not have access to the Panel Hearing cannot intrude (e.g., Zoom bombing)?

All video conference hearings are password-protected. The password will only be provided to participants in the Hearing. The hearing facilitator will monitor the participants and chat function to ensure that no unauthorized individuals access the hearing. Furthermore, witnesses and other participants will be placed in a Zoom waiting room prior to entry, and will be added by the hearing facilitator.

Will I be able to ask questions of the other party and witnesses?

Yes. For Process A only, your advisor of choice will ask questions on your behalf to the other party and witnesses. The Advisor will remain seated during questioning, will pose the proposed question orally, electronically, or in writing (orally is the default, but other means of submission may be permitted by the Chair of the panel upon request or agreed to by the parties and the Chair), the proceeding will pause to allow the Chair of the panel to consider it, and the Chair will determine whether the question will be permitted, disallowed, or rephrased. For Process B, questions will be submitted to the chair and the chair will ask the questions of the other party and witnesses.

How long will the Panel Hearing last?

The timing is largely dependent on the complexity of the matter, the number of questions the Panel or parties have, the number of witnesses (if any), and the amount of time necessary for deliberations. All parties should plan for a full day of availability; however, there will be opportunities for breaks. At any time, a party may elect to no longer participate. If absolutely needed, a hearing may take longer than a day. After the Hearing has concluded and the panel has had time to deliberate and come to a decision, the parties will be informed in writing the decision of the panel.

What if I need accommodations for a disability?

If you or another individual needs reasonable accommodations due to a qualifying disability in order to fully and meaningfully participate in this process, please contact the Office of Disability Resources at 216.368.5230 (students) and Office of Equity at 216.368.3066 (faculty and staff) prior to any meeting or interview in which reasonable accommodations may be needed.

Why are in-person Review Hearings not being offered?

The Office of Equity has modified its procedures to permit virtual hearings/meetings, at the discretion of the Title IX Coordinator. At this time during the COVID Pandemic, and pursuant to national, state, local, and medical guidance, the University is limited in its in-person activities. Like many federal, state, and local courts, the University has moved its hearings/meetings to a virtual environment to ensure we continue to comply with the necessary safety and physical distancing standards while also resolving pending matters. Virtual hearings/meetings allow the parties to see and hear the Panel members and other parties in a comparable format to the in-person hearings/meetings with the comparable level of opportunities to participate as if it was in-person.

How do the new Title IX regulations impact virtual hearings?

On May 6, 2020, the Department of Education published new Title IX regulations that went into effect as of August 14, 2020. While these regulations govern conduct defined in the regulations, the regulations do not restrict the University's ability to investigate and resolve conduct that occurs outside of the Title IX definitions. As such, while conduct at issue in a pending matter may fall outside the definition of sexual harassment in the new Title IX regulations, the University nonetheless would retain the authority to investigate and resolve such matters.

The University will continue to equitably process reports of this nature that fall outside the new Title IX definition of sexual harassment both before and after August 14, 2020, ensuring appropriate resolution.

Adapted from the University of Virginia (2020)