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?