

THE ROLE OF AN ADVISOR

EQUAL OPPORTUNITY OFFICE

Complainants
and
Respondents
must
designate
their advisor
to EOO by
completing
the Advisor
Designation
Form.

This form is
found online
at bu.edu/eoo.



THE FOLLOWING INFORMATION IS PROVIDED TO CLARIFY THE ROLE OF AN ADVISOR IN ALL STAGES OF PROCEEDINGS ARISING OUT OF POLICIES AND PROCEDURES ADMINISTERED BY THE EQUAL OPPORTUNITY OFFICE, INCLUDING THE SEXUAL MISCONDUCT POLICY AND EQUAL OPPORTUNITY/AFFIRMATIVE ACTION POLICY.

THE UNIVERSITY'S EQUAL OPPORTUNITY OFFICE (EOO) IS RESPONSIBLE FOR ADMINISTERING THE INTERNAL COMPLAINT RESOLUTION PROCESSES USED TO DETERMINE WHETHER THE INTERIM EQUAL OPPORTUNITY AND TITLE IX POLICY HAS BEEN VIOLATED BY A MEMBER OF OUR CAMPUS COMMUNITY. THE COMPLAINT RESOLUTION PROCESSES THAT ARE ADMINISTERED BY EOO AND CONDUCTED UNDER UNIVERSITY PROCEDURES, INCLUDING ANY INVESTIGATION OR HEARING, ARE NOT LEGAL OR COURT PROCEEDINGS AND DO NOT DETERMINE GUILT OR INNOCENCE RELATIVE TO ANY LOCAL, STATE, OR FEDERAL LAW.

INDIVIDUALS BRINGING FORWARD ALLEGATIONS ("COMPLAINANTS") AND INDIVIDUALS RESPONDING TO ALLEGATIONS ("RESPONDENTS") WHO PARTICIPATE IN AN EOO COMPLAINT RESOLUTION PROCESS ADMINISTERED BY EOO HAVE THE OPPORTUNITY TO HAVE ONE INDIVIDUAL OF THEIR CHOOSING SERVE AS THEIR ADVISOR IN ALL STAGES OF EOO PROCEEDINGS, INCLUDING THE INVESTIGATION, INFORMAL RESOLUTION, OR FORMAL HEARING PROCESSES.

WHAT IS AN ADVISOR?

The term Advisor generally refers to any individual selected by a Complainant or Respondent to attend meetings, interviews, and similar events, and to provide advice and/or support for the party throughout the proceedings, including during any interview, meeting, investigation, informal resolution, formal hearing, or other event. While a party's Advisor may also be an attorney, that person's participation in EOO proceedings must be consistent with their role as Advisor. It is also recommended that an Advisor not be someone who is a witness in the same matter.

The role of an Advisor in an investigation interview or review of or response to information gathered during the investigation is limited as is described below. In an investigation conducted under the University's internal complaint resolution processes by the EOO investigator (or an outside investigator retained by EOO), the investigator is charged with gathering information (fact gathering) and, depending on which University policy and procedure is being followed, may also be charged with determining what occurred (fact finding). To fulfill their investigation responsibilities and to protect the integrity of the investigation for both the Complainant and Respondent, the investigator is tasked with obtaining information directly from the Complainant and Respondent and providing each with the opportunity to respond to information directly, without impediment or undue interference.

The role of the Advisor during a formal hearing under the Interim Equal Opportunity and Title IX Procedures is more active than during an investigation. Because the Complainant and Respondent are not permitted to question anyone during a formal hearing, the Advisor who attends the hearing (called a "Hearing Advisor") is responsible for questioning the other party and witnesses on behalf of their advisee during the formal hearing. They may be the same or different person than the Advisor utilized by a party during any meeting or other event related to an informal or formal proceeding within EOO, including appeals. The University may select a Hearing Advisor for the formal hearing if the Complainant or Respondent has not identified their own Hearing Advisor.

An Effective Advisor

In order to provide accurate information, appropriate assistance and support, it is recommended that the parties' Advisors understand the University internal complaint resolution processes and their role within that process. Advisors are encouraged to speak with a member of the Equal Opportunity Office about its resolution processes and review applicable University policies and procedures governing such processes.

WHAT ROLE MAY AN ADVISOR PLAY DURING THE UNIVERSITY'S INTERNAL COMPLAINT RESOLUTION PROCESS?

An Advisor May...

- accompany a Complainant or Respondent to any meeting or conversation related to an EOO proceeding, including the review, intake interview, investigation, informal resolution, formal hearing, or other resolution processes, as well as during any interviews with an investigator;
- consult with the party they are advising, verbally or in writing, at any time prior to or during the proceedings;
- serve as a Hearing Advisor during a formal hearing conducted under the University's Title IX Procedures, including questioning the parties and witnesses and consulting with the party they are advising, provided the person is not being questioned as a witness at that time;
- assist a Complainant or Respondent in understanding and navigating all stages of EOO proceedings;
- seek clarification regarding any aspect of the proceedings;
- ask procedural or process questions;
- support the Complainant or Respondent during the process; and,
- alert the investigator, Title IX Coordinator, or other University official to acts of retaliation.

An Advisor May Not...

- speak or act on behalf of a Complainant or Respondent during an interview, meeting, hearing, or other event, including answering questions for or on behalf of a Complainant or Respondent;
- stand-in for, or represent a Complainant or Respondent except for questioning parties and witnesses at a hearing required under the Sexual Misconduct Policy;
- disseminate by any medium or form any information shared or learned during the proceedings with anyone other than the party for whom they serve as an advisor, or the investigator or a representative of EOO;
- act as or represent themselves or another as an investigator or hearing panelist during any stage of the proceedings;
- contact a witness or other party participating in the EOO proceeding;
- impede or interfere with any EOO proceeding, or act in a manner that obstructs the investigator, hearing panelist, or EOO representative; or,
- disrupt or unduly delay any stage of the EOO proceedings, including the investigation, informal resolution, formal resolution process, or hearing.

If a member of EOO determines that an Advisor's presence is causing a delay, disruption, or other interference at any meeting, hearing or other event during an EOO proceeding, the Advisor will be given a verbal warning. If the Advisor continues to cause a disruption after a verbal warning has been given, the Advisor may be asked to leave the event. [CC1]

FERPA Waivers

Students who participate in the investigation process with an advisor must complete a Family Education Rights and Privacy Act (FERPA) waiver prior to participating in the interview process with an advisor. This waiver, called the Student Records Release Form, can be obtained by contacting a member of the Equal Opportunity Office.

Communication Protocols

EOO's communication protocol with the Complainant or Respondent does not permit going through a representative or other intermediary because of the importance of direct communication with the Complainant or Respondent throughout all stages of the proceedings.

EOO will refer attorneys representing a Complainant, Respondent, or a witness to the University's Office of the General Counsel if they receive communication that violates the communication protocol described above.

An Advisor may be copied on any correspondence or communication related to an EOO proceeding or event at the direction of the Complainant or Respondent and after the Complainant or Respondent completes the Advisor Designation Form referenced above.

QUESTIONS AND CLARIFICATION

IF YOU HAVE ANY QUESTIONS OR WOULD LIKE ADDITIONAL CLARIFICATION REGARDING ANY ASPECT OF EOO'S INTERNAL COMPLAINT RESOLUTION PROCESSES, PLEASE CONTACT THE EQUAL OPPORTUNITY OFFICE AT EOO@BU.EDU.