

WAC 495A-300-085 Investigation process—Required procedures.

During the investigation, the investigator:

(1) Will provide the parties with equal opportunity to present relevant statements, and other evidence in the form of fact or expert witnesses and inculpatory or exculpatory evidence.

(2) Will not restrict the ability of either party to discuss the allegations under investigation or gather and present relevant evidence, except when a no contact order has been imposed based on an individualized and fact specific determination that a party poses a threat to the health, safety, or welfare of another party and/or witness(es) or when contact with a party and/or witness(es) is prohibited by court order. A college-imposed no contact shall be no broader than is necessary to protect the threatened party or witness(es) and must provide the impacted party or their advisor with alternative means of gathering and presenting relevant evidence from the protected witness(es) and/or party.

(3) Will allow each party to be accompanied by an advisor of their choosing, who may be an attorney, to any grievance related meeting or interview. Advisors' roles during the investigation meetings or interviews will be limited to providing support and advice to the party. Advisors will not represent or otherwise advocate on behalf of the parties during the investigation process. An attorney representing a party must enter a notice of appearance with the Title IX coordinator and the investigator at least five workdays before the initial interview or meeting they plan to attend, so that the college can secure its own legal representation, if necessary.

(4) The investigator will provide both parties and their respective advisors with an equal opportunity to review the draft investigation report and to inspect and review any evidence obtained during the investigation that is directly related to the allegations raised in the formal complaint, including inculpatory or exculpatory evidence, regardless of its source, as well as evidence upon which the investigator does not intend to rely in the final investigation report. After disclosure, each party will receive ten workdays in which to submit a written response, which the investigator will consider prior to completion of the investigation report. If a party fails to submit a written response within ten workdays, the party will be deemed to have waived their right to submit comments, and the investigator will finalize the report without this information.

(5) The investigator will forward the final report to the Title IX coordinator, who will distribute the report and evidence to the parties, as well as the disciplinary authority responsible for determining whether pursuing disciplinary action is warranted.

[Statutory Authority: Chapter 34.05 RCW and RCW 28B.50.140(13); and 20 U.S.C. § 1092(f); Title IX of the Education Amendments of 1972, 20 U.S.C. § 1681 et seq. WSR 21-01-196, § 495A-300-085, filed 12/22/20, effective 1/22/21.]