

# FERRIS STATE UNIVERSITY

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Office of Student Conduct

## Sexual Misconduct Resolution Process Rules of Decorum

A conduct conference is a closed administrative process and not a legal proceeding. As a result, the following rules of conduct have been developed to facilitate a fair and efficient process for the parties involved. All participants are expected to comply with these rules in order to participate in the conduct conference. Failure to do so may result in the placement of limitations on an individual's participation in the conduct conference including removal from the conduct conference, adjustments to the manner of their participation, and/or result in postponement of the conduct conference. Responsibility for upholding these rules and the authority and discretion regarding their adherence, and implementation of consequences for a participant failing to do so, rests with the Decision-Maker.

The rules and standards apply equally to all Parties and their Advisors regardless of sex, gender, or other protected class, and regardless of whether they are in the role of Complainant or Respondent.

### **Conduct Conference Participation and Attendance**

The conduct conference is conducted with the conduct case manager, the parties, the advisors, witnesses, and other necessary University personnel.

1. If the conduct conference occurs in a virtual environment (such as Zoom) it is expected that:
  - a. The party will be the only person in the physical room from which they are joining virtually (unless they are with their advisor).
  - b. Only the advisor will be in the physical room from which they are joining virtually (unless they are with the party).
  - c. Each witness will be the only person in the physical room from which the witness

joins virtually.

- d. All participants will keep their electronic devices muted until asked to speak. The Decision-Maker (or University Official acting on their behalf) may mute a participant, if appropriate.
  - e. Participants will join the virtual conference from a device with a working camera and microphone.
  - f. Participants will remain on camera throughout the conduct conference.
  - g. It is recommended that individuals participate on a desktop or laptop computer and with reliable high speed internet as the screen-share function may not work properly on a phone or tablet.
2. During the conduct conference, parties and their advisors will communicate only with and at the direction of the conduct case manager. Except for communications between a party and their advisor during breaks, neither the parties nor their advisors are permitted to communicate with any other participant in the conduct conference, by any method or medium including verbally, in writing, or electronically (including by phone, text message, chat messages, social media messaging or posting). Similarly, witnesses may not communicate with any party, advisor, witness, or any person not a participant in the conduct conference regarding anything relating to the conduct conference, by any method or medium including verbally, in writing, or electronically (including by phone, text message, chat messages, social media messaging or posting).
  3. The only recording made of the conduct conference will be made by the University. Only the University may record the conduct conference or any portion of the conduct conference. Participants (parties and their advisor, witnesses, investigator) are prohibited from recording the conduct conference or any portion of the conduct conference.
  4. Abusive, intimidating, and obstructive conduct will not be tolerated. All participants at the conduct conference are expected to treat each other with respect. Participants may not physically or verbally intimidate any other participant in the conduct conference. Participants may not engage in obstructive behavior including interrupting other participants by interjecting, yelling, or making loud noises such as sighs, grunts, or laughter.
  5. Parties and advisors will refer to other parties, witnesses, advisors, and University staff using the name and gender used by the person they are addressing or to whom they

are referring and shall not intentionally mis-name or misgender another in their communications.

6. Participants may not use profanity or aggressive language unless such language is part of their statement or evidence.
7. The role of an advisor is limited. Advisors may only participate consistent with their role as outlined in section III of the Code of Student Community Standards including not speaking on behalf of a party except as necessary to perform their formal University-assigned conduct conference responsibilities.

## **Rules Governing Questioning of Parties and Witnesses**

The purpose of asking questions of parties and witnesses is to clarify and/or solicit information pertinent to the allegations and not to intimidate, insult, or harass a party or witness.

1. Questions by parties or advisors must be asked in a neutral tone and may not be argumentative, badgering, or intended to intimidate or otherwise attack other participants.
2. When the conduct case manager determines a question has been “asked and answered” or is otherwise not relevant, the advisor must move on.
3. Questions about a complainant’s sexual predisposition and behaviors are prohibited, except when:
  - a. a complainant’s prior behavior is offered to prove that someone other than the respondent committed the alleged sexual assault; or
  - b. the question or evidence concerns sexual behavior between the complainant and the respondent and is offered to prove consent.
4. All questions should be designed to obtain direct observations or facts, not opinion.
5. Advisors will not be allowed to make statements on behalf of the party through their own line of questioning.
6. The conduct case manager has the sole authority to determine relevancy of questions.
7. The Decision-Maker may determine that a question is not relevant as asked and may offer the opportunity to rephrase the question or restate the question in a manner

that complies with the rules (respectful, neutral and non-abusive).

8. While an advisor may be an attorney, no duty of zealous advocacy should be inferred or enforced within this forum.

## **Warning and Removal Process**

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1. The conduct case manager shall have sole discretion to determine if the Rules of Decorum have been violated. The conduct case manager will notify the offending person of any violation of the Rules.
2. Upon a second or further violation of the Rules, the conduct case manager shall have discretion to remove the offending person or allow them to continue participating in the conduct conference or other part of the process.
3. When the conduct case manager removes a party's advisor, the party may select a different advisor of their choice, or accept an advisor provided by the institution for the limited purpose of cross-examination at the conduct conference. Reasonable delays, including the temporary adjournment of the conduct conference, may be anticipated should an advisor be removed. A party cannot serve as their own advisor in this circumstance.
4. The conduct case manager shall document any decision to remove an advisor in the written determination regarding responsibility.
5. For flagrant, multiple, or continual violations of this Rule, in one or more proceedings, advisors may be prohibited from participating in future proceedings at the institution in the advisor role on a temporary or permanent basis.