



## ***Hearing – Proposed Review Panel Questions and Areas of Questioning Form***

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**Name of Party Completing Form:**

**Date Submitted:**

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***Parties are required to propose questions and/or areas of questioning.*** Parties who propose questions and/or areas of questioning may use this form and submit it electronically to the Hearing Officer by sending it to the Title IX Coordinator at [jessica.rhodes@marshall.edu](mailto:jessica.rhodes@marshall.edu).

*The parties have an opportunity to propose in writing:*

1. *Questions and areas of questioning for the witnesses. The parties may:*
  - a. *revise and supplement any questions and areas of questioning they already submitted; and*
  - b. *propose new questions and areas of questioning.*
2. *Questions and areas of questioning for themselves and the other party. The parties are not required to commit to testifying at this juncture but are encouraged to prepare for the eventuality that they and the other party would testify by submitting proposed questions and areas of questioning.*

***The deadline for submitting questions or areas of questioning is at least three (3) days before the pre-hearing conference.*** Failure to submit a request within the established deadline or any approved extension will result in a forfeiture of the right to do so later. Additional questions or areas of questioning to additional witnesses the other side will call as a witness must be submitted by the end of the day on the date of the Pre-Hearing conference. The Review Panel will determine whether the proposed questions or proposed areas of questioning are relevant. If they determine that they are not relevant, the parties will be informed of the reason. Further, additional questions or areas of questioning that were unanticipated and resulting from information given at the hearing will be allowed to be asked. Still, the Review Panel will have to determine whether the question is relevant before an answer is given, and any question or area of questioning determined not to be relevant will include the reasoning. You are not required to ask all the questions you submit.

***Important reminders:***

***Relevant questions vs irrelevant questions:***

*A relevant question asks whether the facts material to the allegations under investigation are more or less likely to be true.*

*An irrelevant question is generally not directly related to the allegations. Things may be interesting or surprising but not be relevant.*

***Questions regarding the following are considered not relevant under the Title IX Regulations:***

1. ***Questions about the Complainant's Prior Sexual Behavior or Sexual Predisposition***  
***Unless a) offered to prove that someone other than the Respondent committed the conduct; or***

- b) concern specific incidents of the Complainant’s prior sexual behavior with respect to the Respondent and are offered to prove consent
2. Questions regarding privileged information
  3. Questions about undisclosed medical records
  4. Duplicative questions

*Cross-examination during the hearing is not to cover every topic, question, or piece of evidence that has been submitted in the case. All parties have had the opportunity to provide evidence as well as review and comment on all of the evidence that has been gathered. Additionally, the Review Panel can ask direct questions of the witness. It is not necessary to repeat every fact from the case, but cross-examination is to highlight important facts, especially those that corroborate your narrative. At this point, use cross-examination to focus on the most critical points of the matter, especially if the Investigative Report is extensive.*

*Cross-examination can be the time to test the credibility of a particular witness, including both parties. Sample questions or areas of questioning include the following but are not limited to:*

1. The presence or absence of inconsistent statements and/or narratives;
2. A motive to deceive (or lack of one);
3. Conflicts of interest and bias (or lack of one); and
4. Whether the witness has received (or not received) a benefit.

*Examples of how to frame the questioning include the following but are not limited to:*

1. “You were at the party at 10 pm? And you said to the Title IX Investigator that you observed the Complainant at that time, and they appeared to be sober? What made you think that?”;
2. “You left the party after forty minutes? At around 10:40 pm? So, you did not actually see how the Complainant was acting around midnight?”; or
3. “You know the Respondent from the Cyber Defense Club? Would you say you are good friends?”

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This form has sections for five witnesses plus both parties. If you plan on having more than five witnesses, you may use additional pages to cover the information outlined below for witnesses.



**Witness Name #1 [For each witness on the witness list for whom you wish to propose questions and/or areas of questioning, provide the individual's name and answer the applicable question(s)]:**

- 1. Please list all specific questions you want to ask the witness and why.** [Use increasing numbers with each question. Attach additional sheets if necessary and indicate below how many additional pages will be attached to ensure complete receipt of your questions.]



- 2. Please suggest any areas of questioning you want to ask the witness and why.** [Use increasing numbers with each question. Attach additional sheets if necessary and indicate below how many additional pages will be attached to ensure complete receipt of your areas of questioning.]



**Witness Name #2 [For each witness on the witness list for whom you wish to propose questions and/or areas of questioning, provide the individual's name and answer the applicable question(s)]:**

- 1. Please list all specific questions you want to ask the witness and why.** [Use increasing numbers with each question. Attach additional sheets if necessary and indicate below how many additional pages will be attached to ensure complete receipt of your questions.]



- 2. Please suggest any areas of questioning you want to ask the witness and why.** [Use increasing numbers with each question. Attach additional sheets if necessary and indicate below how many additional pages will be attached to ensure complete receipt of your areas of questioning.]



**Witness Name #3 [For each witness on the witness list for whom you wish to propose questions and/or areas of questioning, provide the individual’s name and answer the applicable question(s)]:**

- 1. Please list all specific questions you want to ask the witness and why.** [Use increasing numbers with each question. Attach additional sheets if necessary and indicate below how many additional pages will be attached to ensure complete receipt of your questions.]



- 2. Please suggest any areas of questioning you want to ask the witness and why.** [Use increasing numbers with each question. Attach additional sheets if necessary and indicate below how many additional pages will be attached to ensure complete receipt of your areas of questioning.]





**Witness Name #4 [For each witness on the witness list for whom you wish to propose questions and/or areas of questioning, provide the individual’s name and answer the applicable question(s)]:**

- 1. Please list all specific questions you want to ask the witness and why.** [Use increasing numbers with each question. Attach additional sheets if necessary and indicate below how many additional pages will be attached to ensure complete receipt of your questions.]



- 2. Please suggest any areas of questioning you want to ask the witness and why.** [Use increasing numbers with each question. Attach additional sheets if necessary and indicate below how many additional pages will be attached to ensure complete receipt of your areas of questioning.]

**Witness Name #5 [For each witness on the witness list for whom you wish to propose questions and/or areas of questioning, provide the individual’s name and answer the applicable question(s)]:**

- 1. Please list all specific questions you want to ask the witness and why.** [Use increasing numbers with each question. Attach additional sheets if necessary and indicate below how many additional pages will be attached to ensure complete receipt of your questions.]



- 2. Please suggest any areas of questioning you want to ask the witness and why.** [Use increasing numbers with each question. Attach additional sheets if necessary and indicate below how many additional pages will be attached to ensure complete receipt of your areas of questioning.]



**If you choose to testify:**

- 1. Please list all specific questions you want to be asked and why.** [Use increasing numbers with each question. Attach additional sheets if necessary and indicate below how many additional pages will be attached to ensure complete receipt of your areas of questioning.]



2. **Please suggest any areas of questioning about which you want to be asked and why.** [Use increasing numbers with each question. Attach additional sheets if necessary and indicate below how many additional pages will be attached to ensure complete receipt of your areas of questioning.]



**If the other party chooses to testify:**

- 1. Please suggest any specific questions you want to ask the other party and why.** [Use increasing numbers with each question. Attach additional sheets if necessary and indicate below how many additional pages will be attached to ensure complete receipt of your areas of questioning.]



- 2. Please suggest any areas of questioning you want to ask the other party and why.** [Use increasing numbers with each question. Attach additional sheets if necessary and indicate below how many additional pages will be attached to ensure complete receipt of your areas of questioning.]

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Party Signature<sup>1</sup>

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<sup>1</sup> Signature may be electronic.