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# Title IX Refresher: Investigations & Live Hearings

North Dakota State College of  
Science

Martha Compton & Jessica Brown | July 2022

# Meet Your Facilitators



**Martha Compton**

*She/Her*

Director of Strategic Partnerships  
and Client Relations



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*She/Her*

Senior Solutions Specialist

# About Us

## Vision

We exist to help create safe and equitable work and educational environments.

## Mission

Bring systemic change to how school districts and institutions of higher education address their Clery Act & Title IX obligations.

## Core Values

- Responsive Partnership
- Innovation
- Accountability
- Transformation
- Integrity

# Agenda

1

**Title IX Regulations for Investigations and Hearings**

2

**Investigation Refresher**

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**Hearing Participants & Roles**

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**Pre-Hearing Tasks**

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**The Hearing**

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**Post-Hearing Tasks**

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# Title IX Requirements for Investigations & Hearings

01

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## Title IX of the Education Amendments Act of 1972

"No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance."



# The Title IX Regulations

Sexual Harassment Only

1. Narrows the definition of sexual harassment;
2. Narrows the scope of the institution's educational program or activity;
3. Narrows eligibility to file a complaint;
4. Develops procedural requirements for the investigation and adjudication of sexual harassment complaints, only.

# Section 106.30: Sexual Harassment

Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

- (1) An **employee** of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;
- (2) Unwelcome conduct determined by a reasonable person to be so **severe, pervasive, and objectively offensive** that it **effectively denies** a person equal access to the recipient's education program or activity; or
- (3) "**Sexual assault**" as defined in 20 U.S.C. 1092(f)(6)(A)(v), "**dating violence**" as defined in 34 U.S.C. 12291(a)(10), "**domestic violence**" as defined in 34 U.S.C. 12291(a)(8), or "**stalking**" as defined in 34 U.S.C. 12291(a)(30).



# AND... Only Covered, IF:

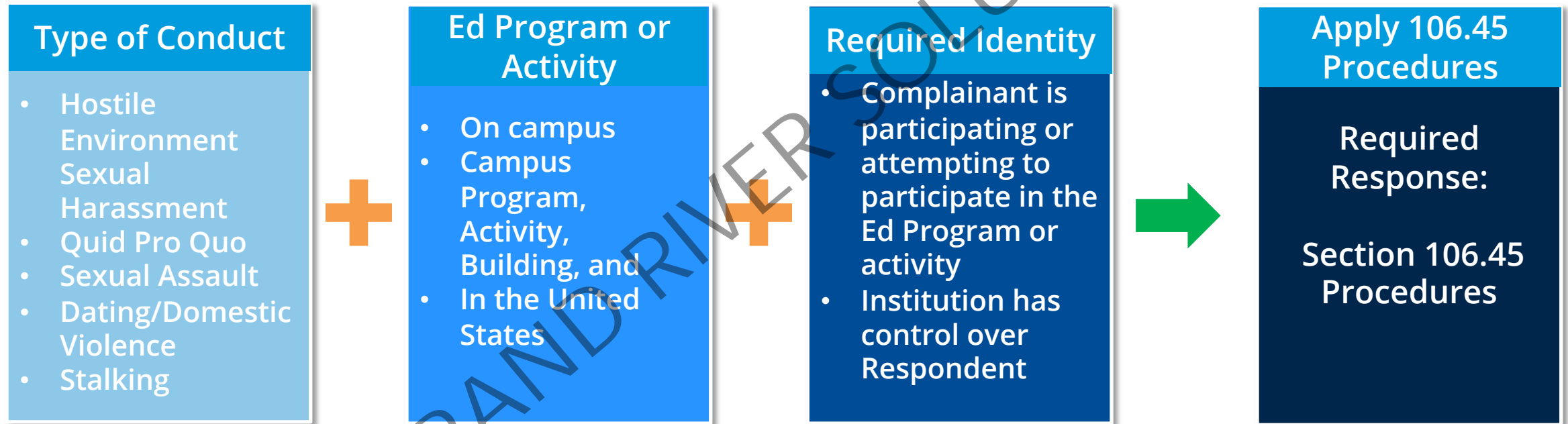
## Place of Conduct

- On campus and/or
- Campus Program, Activity, Building, and
- In the United States

## Required Identity

- Complainant participating/attempting to participate in Program or Activity, AND
- Control over Respondent

# Title IX Application Post May 2020 Regulations



# The Requirement of Impartiality

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# Section 106.45(b)(1)(iii)

The grievance process must require that any individual designated by the recipient as Title IX Coordinator, investigator, decision maker, or facilitator of informal resolution not to have a conflict of interest or bias

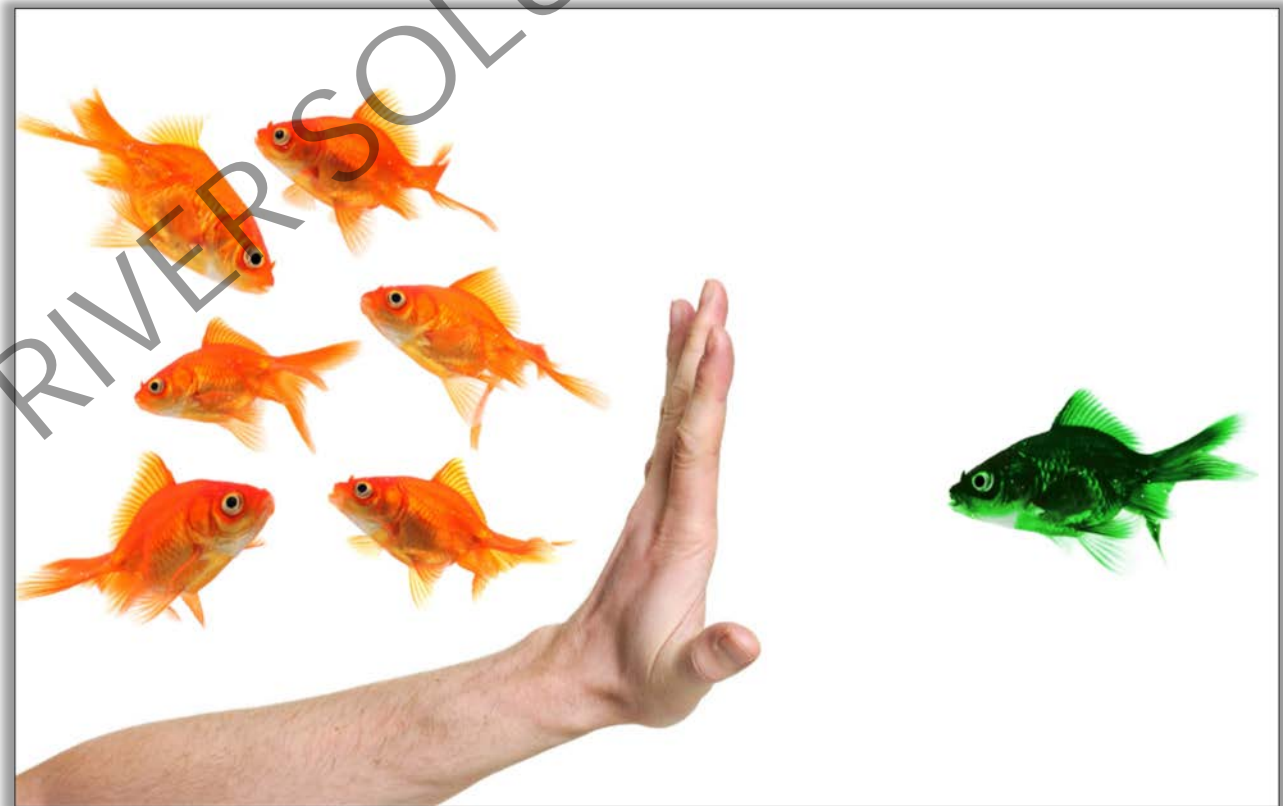
1. For or against complainants or respondents generally, or
2. An individual complainant or respondent

# What Constitutes Bias?

Conduct a fact-specific, objective inquiry based in common sense to determine bias.

## Includes:

- Decision-making that is grounded in stereotypes
- Different treatment based on a person's sex or other protected characteristic
- A decision based on something other than the facts



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## Impermissible Bias

Making a decision, determination, or finding that is based on something other than the evidence and specific facts of the case.



# Conflict of Interest





# Avoiding Prejudgment of the Facts

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Requires that the Title IX professional refrain from making a judgement on individual facts, the allegations, or whether a policy violation occurred until they have had the opportunity to consider all of the evidence.



# Impartial Investigations & Hearings are...

Not influenced by bias or conflict of interest.

Committed to decisions based on an objective view of the facts and evidence as you know them and as they evolve.

Truth seeking, not "your truth" confirming.

# Procedural Requirements for Investigations

Notice to both parties

Equal opportunity to present evidence

An advisor of choice

Written notification of meetings, etc., and sufficient time to prepare

Opportunity to review all evidence, and 10 days to submit a written response to the evidence prior to completion of the report

Report summarizing relevant evidence and 10 day review of report prior to hearing

# Notice Requirements

Notice of the allegations, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include:

the identities of the parties involved in the incident, if known,

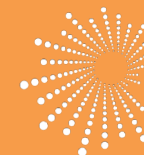
the conduct allegedly constituting sexual harassment under § 106.30,

and the date and location of the alleged incident, if known.

The written notice must include a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process.

The written notice must inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, under paragraph (b)(5)(iv) of this section, and may inspect and review evidence under paragraph (b)(5)(vi) of this section.

The written notice must inform the parties of any provision in the recipient's code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process



# Advisor of Choice During the Investigation

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The advisor can be anyone, including an attorney or a witness.

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Institutions cannot place restrictions on who can serve.

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Institutions can create rules and guidelines for participation in the investigation

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No specific training required.



# Written Notification of Meetings and Sufficient Time to Prepare

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SUN	MON	TUE	WED	THU	FRI	SAT
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

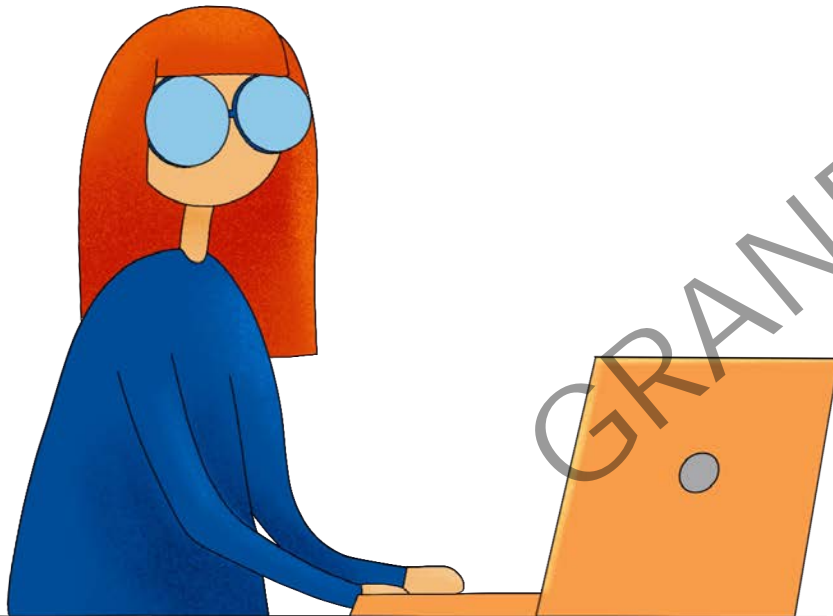
A close-up photograph of a stack of books. A green bookmark is visible between the pages. A metal fastener is attached to the books. The text "GRAND RIVER SOLUTIONS" is printed diagonally across the books. The main title "Equal Opportunity to Present Evidence" is overlaid in blue text.

# Equal Opportunity to Present Evidence

# Evidence Review

Parties must have equal opportunity to inspect and review evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint.

10 days to provide a written response.



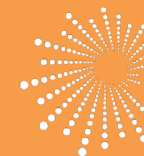
# Investigative Report and Review



After reviewing and considering the comments on the evidence, the investigator will generate a report that summarizes the relevant evidence.

That report will be shared with the parties and the parties will have another opportunity to respond in writing.

The hearing must occur at least 10 days after the release of the final report.





# Procedural Requirements for Hearings

Must be live, but can be conducted remotely

Cannot compel participation of parties or witnesses

Standard of proof used may be preponderance of the evidence or clear and convincing; standard must be the same for student and employee matters

Cross examination must be permitted and must be conducted by advisor of choice or provided by the institution

Decision maker determines relevancy of questions and evidence offered

Written decision must be issued that includes finding and sanction

# Purpose of the Hearing

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1

Review and  
Assess  
Evidence

2

Make Findings  
of Fact

3

Determine  
Responsibility/  
Findings of  
Responsibility

4

Determine  
Sanction and  
Remedy

# Hearing Technology: Requirements and Considerations



If hearings cannot be in person, or if someone chooses to participate remotely, must have a remote participation platform available.



All hearings must be recorded.



Participants must be able to communicate during the hearing

The parties with the decision maker(s)  
The parties with their advisors

# Evaluating the Evidence

Is it relevant?

Evidence is relevant if it has a tendency to make a material fact more or less likely to be true.



Is it authentic?

Is the item what it purports to be?



Is it credible?

Is it convincing?



Is it reliable?

Can you trust it or rely on it?



What weight, if any, should it be given?

Weight is determined by the finder of fact!

Trauma-informed practices provide tools/techniques for engaging with the Complainant, Respondent, and Witnesses.



Format/Structure of the Hearing



Format of Questions



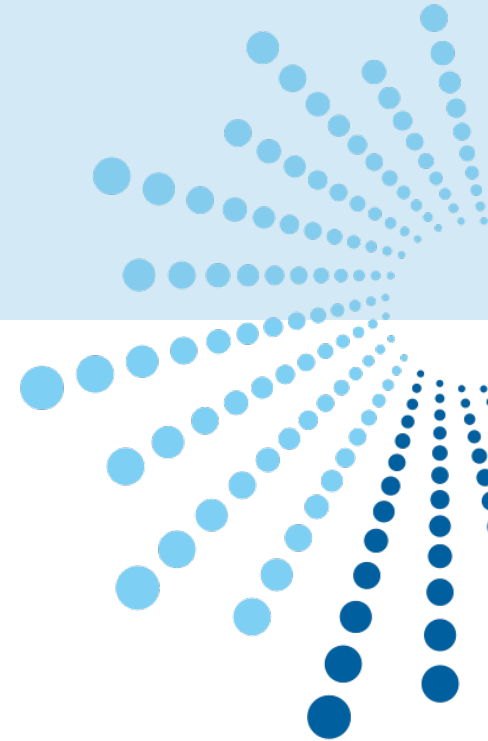
Approach to Clarification



# Investigation Refresher

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# Essential Steps of an Investigation



Formal Complaint and Notice of Allegations



Investigative Interviews



Evidence Collection



Evidence Review



Additional Evidence Collection/Follow-Up Interviews



The Investigative Report and Final Investigative Record

# The Products of Each Step of the Investigation



## Notice of Allegations

A document that frames the scope of the investigation



## Initial Interviews

Transcripts  
Summaries of Interviews  
Interview Notes



## Evidence Collection

Text messages  
Social media posts  
Medical/police records



## Evidence Review

Complainant's written response  
Respondent's written response



## Additional Evidence Collection/Follow-Up Interviews

More documentary evidence  
Additional interview transcripts/summaries



## The Investigative Report and Final Investigative File





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# Developing an Investigation Strategy

# Essential Steps of an Investigation



Review Notice of Allegations and Formal Complaint



Initial Interviews



Evidence Collection



Evidence Review



Additional Evidence Collection/Follow Up Interviews



Report Writing

# Identify the Claims and What Needs to be Proven

- What will the decision maker be asked to decide?
- What does the formal complaint allege?
- What are the elements of each act of prohibited conduct alleged?

**Rape.** The penetration, no matter how slight, of the vagina or anus, with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

1. Did Respondent penetrate Complainant's vagina or anus?
2. Without Complainant's affirmative consent?
  1. What is the ground for lack of consent
    1. Did respondent fail to seek and obtain Complainant's affirmative consent?
    2. Did Respondent force Complainant?
    3. Did Respondent coerce Complainant?
    4. Was Complainant incapacitated and therefore incapable of consent?

**Stalking.** Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:  
Fear for the person's safety or the safety of others; or  
Suffer substantial emotional distress.

1. Did Respondent engage in a course of conduct?
2. Was that course of conduct directed at Complainant?
3. Would Respondent's conduct cause a reasonable person to either
  1. Fear for their safety or the safety of others, or
  2. Suffer substantial emotional distress

# The Process

## Developing an Investigative Strategy



# Investigation Timeline

## Prior History

- Between the Parties?
- Of the Parties?

## Incident

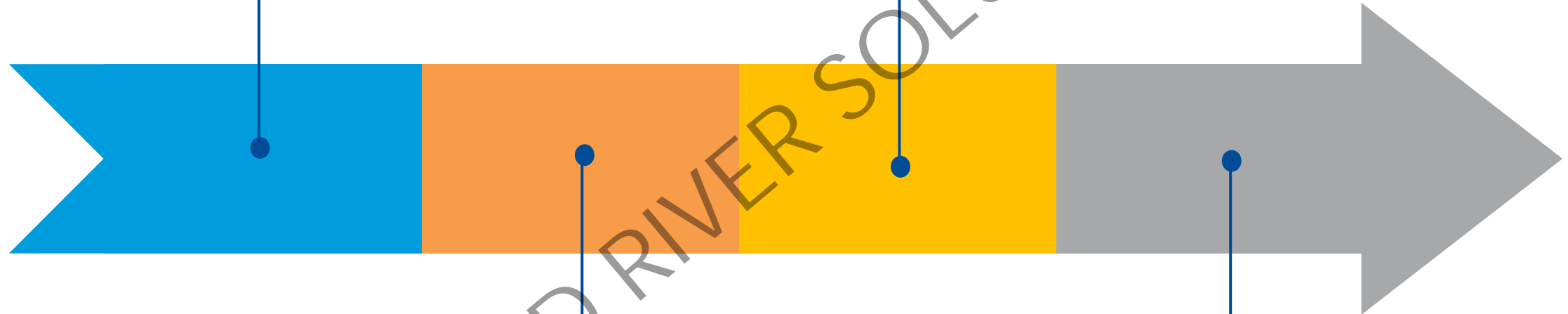
- Consent?
- Type of Contact?
- Injuries?

## Pre-Incident

- Communications?
- Interactions?
- Conduct?

## Post Incident

- Behaviors?
- Communications?



# Interview Objectives



## Connect

Build rapport  
Build trust  
Empower



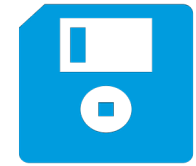
## Listen

Allow interviewee to  
share their experience



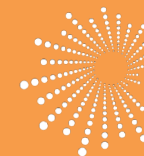
## Clarify

Understand what you  
have heard  
Seek additional  
information



## Evidence Preservation

Text Messages  
Photographs  
Names and contact info  
for witnesses





# Prior to the Interview



Secure an appropriate meeting location



Allow for enough time to conclude the meeting



If interviewing a party, inform them of their right to have an advisor present.



Prepare for the meeting

Areas of focus?

Other evidence?

Go back review what you have



Provide Written Notice of the Meeting

Advise the parties/witnesses that you will be collecting evidence

# Set Expectations

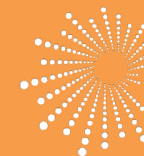
## What they should expect of you

- That you are neutral
- That you will listen, what they are saying is important to you
- That you will keep the information they share private
- What you will do with recording/notes
- That you may have to ask difficult questions
- Patience, respect, and appreciation
- This will not be their only opportunity to speak with you
- Prepare the parties for follow up interviews and the "shift"

## What you expect of them

- Honesty
- That they will seek clarity if needed (give them permission to do so)
- That they won't guess or fill in blanks

# Investigative Interviews



# Throughout the Interview



Explain your questions, especially the difficult ones.

How much did you drink? What they hear: this is your fault because you were drinking.



Do not ask leading questions.



Watch your tone.



Do not rush.



LISTEN!!!!!!!!!!



Pay attention to and document information that might lead to additional evidence.



Document questions asked. Especially when a response is not provided.

# At the Conclusion of the Interview



Discuss submission of evidence.



Explain statement review process.



Explain next steps in the process.



Keep the lines of communication open.



Review available support, privacy requirements,  
and prohibition against retaliation.

# After the Interview: Actions



Memorialize the Interview in writing.

Notes  
Summary  
Transcript



Provide opportunity for the party or witness to review it.



Provide opportunity for party or witness to provide a response.



Incorporate the response.

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# Follow Up Interviews



Seek clarification

Explore inconsistencies

Explore contradictory evidence

Explore difficult issues

Opportunity to respond

# Follow Up Interview Approach

1

Explain the purpose of the follow up.

2

Set the stage for the topics you will be covering.

3

Prepare the interviewee for "the shift."

4

Do not avoid asking the hard questions.

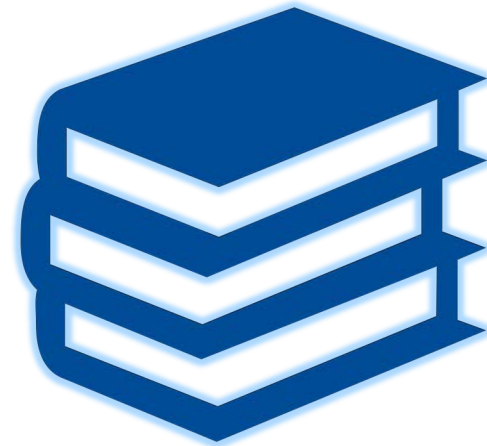


# Report and Evidence File

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Summary of the  
Evidence

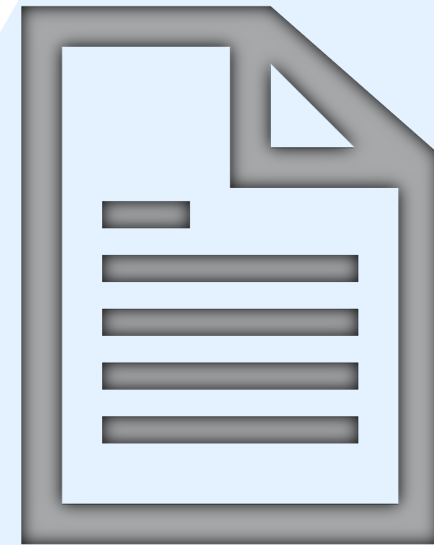


Compilation of the  
Evidence

The Investigator must create and provide to the Parties, their Advisors, and the Decision Maker(s) an investigative report that fairly summarizes relevant evidence.



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# The Purpose of the Investigation Report

- To ensure that the recipient gives the parties meaningful opportunity to understand what evidence the investigator has collected and believes is relevant,
- To allow the parties opportunity to advance their own interests for consideration by the decision-maker.
- To give the parties (and advisors who are providing assistance and advice to the parties) adequate time to review, assess, and respond to the investigative report in order to fairly prepare for the live hearing or submit arguments to a decision-maker where a hearing is not required or otherwise provided.
- To allow the decision maker to adequately prepare for the live hearing, where one is conducted.
- To reduce the likelihood of bias in the final outcome by providing the parties and the decision maker(s) an opportunity to identify and explore potential bias by the investigator

See 85 Fed. Reg. 30309 (May 19, 2020).



# The Investigative File

The Parties, their Advisors, and the Decision Maker(s) must be provided with a final compilation of all of the evidence gathered that is directly related to the allegations in the formal complaint. This includes evidence that Investigator deems relevant and evidence that the Investigator does not deem relevant.





# Hearing Process Participants

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# The Participants

## The Parties

### Complainant

An individual who is alleged to be the victim of conduct which could, after investigation, constitute sexual harassment.

### Respondent

An individual who has been reported to be responsible for conduct that could constitute sexual harassment.

# The Participants

## The Investigator

- May present a summary of the final investigation report, including items that are contested and those that are not;
- Submits to questioning by the Decisionmaker and the parties (through their Advisors).
- Can be present during the entire hearing process, but not during deliberations.
- Questions about their opinions on credibility, recommended findings, or determinations, are prohibited. If such information is introduced, the Chair will direct that it be disregarded.



- Can be anyone, including a lawyer, a parent, a friend, and a witness
- No particular training or experience required (institution appointed advisors should be trained)
- Can accompany their advisees at all meetings, interviews, and the hearing
- Advisors should help the Parties prepare for each meeting and are expected to advise ethically, with integrity, and in good faith
- May not speak on behalf of their advisee or otherwise participate, except that the advisor will conduct cross examination at the hearing.
- Advisors are expected to advise their advisees without disrupting proceedings

# The Participants

## Advisors

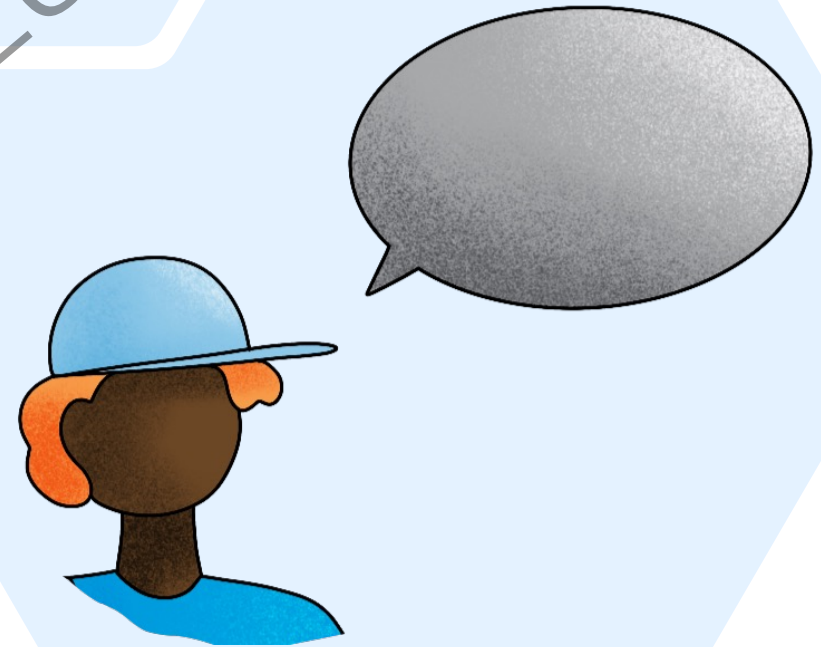




# The Participants

## Advisors: Prohibited Behavior

An Advisor who oversteps their role as defined by the policy should be warned once. If the Advisor continues to disrupt or otherwise fails to respect the limits of the Advisor role, the meeting may be ended, or other appropriate measures implemented. Subsequently, the Title IX Coordinator has the ability determine how to address the Advisor's non-compliance and future role.



# The Participants

## The Hearing Facilitator/Coordinator

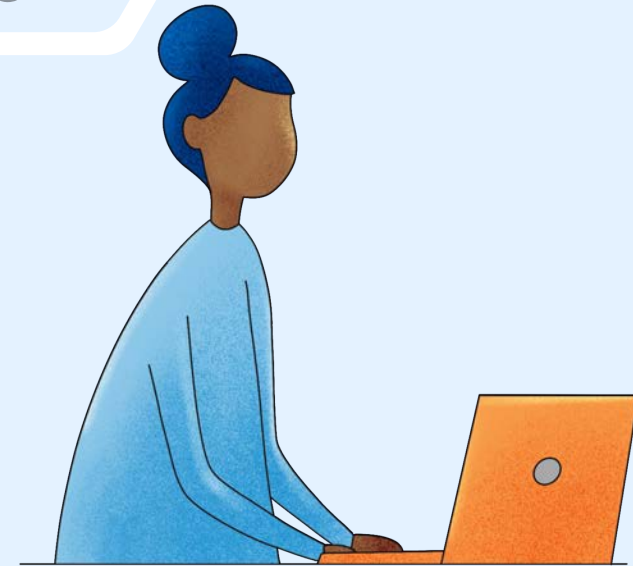
- Manages the recording, witness logistics, party logistics, curation of documents, separation of the parties, and other administrative elements of the hearing process
- Non-Voting
- *Optional, not required*



# The Participants

## The Decision-Maker

- Questions the parties and witnesses at the hearing
- Answers all procedural questions
- Makes rulings regarding relevancy of evidence, questions posed during cross examination
- Maintains decorum
- Determines responsibility and sanction(s), where appropriate
- Prepares the written deliberation statement





# Pre-Hearing Tasks: The Decision-Maker

What should be done in advance of the hearing

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# Pre-Hearing Meetings

Review the Logistics for the Hearing

Set expectations

- Format
- Roles of the parties
- Participation
- Decorum
- Impact of not following rules

Cross Examination/Questioning Format & Expectations

# Decision-Maker Tasks



Review evidence and report



Review applicable policy and procedures



Preliminary analysis of the evidence



Determine areas for further exploration



Develop questions of your own

# Decision-Maker Tasks



Compile questions



May convene a pre-hearing meeting



Review questions submitted by the parties



Anticipate challenges or issues



Become familiar with the script

# Common Areas of Exploration



Credibility?



Clarification on timeline?

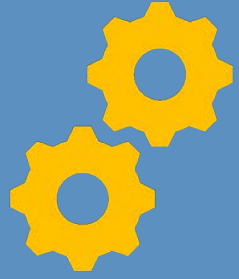


Thought process?



Inconsistencies?





# The Hearing

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# Typical Order of Proceedings

01

Introductions  
and instructions  
by the DM

02

Opening  
Statements

03

Presentation of  
information and  
questioning of  
the parties and  
witnesses

04

Closing  
Statements

05

Deliberation &  
Determination

# Presentation of Information & Questioning of the Parties

01

The DM will question Complainant first

02

Cross examination of Complainant will occur next

03

Follow up by the DM

04

The DM will question Respondent second

05

Cross examination of Respondent will occur next

06

Follow up by the DM

# Questioning of the Witnesses

01

The Chair will determine the order of questioning of witnesses

02

The Hearing Panel will question first

03

Advisor cross-examination will occur next (suggested: Complainant's advisor followed by Respondent's advisor)

04

Follow up by the Hearing Panel

# General Questioning Guidelines

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# Format of Questioning



The Hearing Panel or the advisor will remain seated during questioning



Questions will be posed orally



Questions must be relevant

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# What constitutes a relevant question?

The Department declines to define “relevant”, indicating that term “should be interpreted using [its] plain and ordinary meaning.”

*See, e.g.,* Federal Rule of Evidence 401 Test for Relevant Evidence:

“Evidence is relevant if:

- (a) it has any tendency to make a fact more or less probable than it would be without the evidence; and
- (b) the fact is of consequence in determining the action.”

# When is evidence relevant?

Logical connection between the evidence and facts at issue

Assists in coming to the conclusion – it is “of consequence”

Tends to make a fact more or less probable than it would be without that evidence





Information protected by an un-waived legal privilege

Medical treatment and care

Unduly repetitious or duplicative questions

Information that otherwise irrelevant

Complainant's prior sexual history, with limited exceptions.

Irrelevant and Impermissible Questions

# When Questioning....



Be efficient.



Explore areas where additional information or clarity is needed.



Listen to the answers.



Be prepared to go down a road that you hadn't considered or anticipated exploring.



Take your time. Be thoughtful. Take breaks if you need it.

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# Common Areas of Where Clarity or Additional Information is Needed

Details about the alleged misconduct

Facts related to the elements of the alleged policy violation

Relevancy of Certain Items of Evidence

Factual Basis for Opinions

Credibility

Reliability

Timelines

Inconsistencies

# Questioning to Assess Reliability

Inherent plausibility

Logic

Corroboration

Other indicia of reliability

# Questioning to Assess Credibility

**No formula exists, but consider asking questions about the following:**

opportunity to view

ability to recall

motive to fabricate

plausibility

consistency

character, background, experience, and training

coaching



# Opinion Evidence

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When might it be relevant?

How do you establish a foundation for opinion evidence so that the reliability of the opinion can be assessed?

# Asking Questions to Assess Authenticity

## Investigating the Products of the Investigation



Never assume that an item of evidence is authentic.



Ask questions, request proof.



Request further investigation of the authenticity if necessary.

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# What are the “Hard” Questions

Details about the sexual contact

Seemingly inconsistent behaviors

Inconsistent evidence/information

What they were wearing

Alcohol or drug consumption

Probing into reports of lack of memory



# How to Ask the Hard Questions

## Lay a foundation for the questions

- Explain why you are asking it
- Share the evidence that you are asking about, or that you are seeking a response to

## Be deliberate and mindful in your questions:

- Can you tell me what you were thinking when....
- Help me understand what you were feeling when...
- Are you able to tell me more about...

# Special Considerations for Questioning the Investigator

- The Investigator's participation in the hearing is as a fact witness;
- Questions directed towards the Investigator shall be limited to facts collected by the Investigator pertinent to the Investigation;
- Neither the Advisors nor the Decision-maker should ask the Investigator(s) their opinions on credibility, recommended findings, or determinations;
- The Investigators, Advisors, and parties will refrain from discussion of or questions about these assessments. If such information is introduced, the Chair will direct that it be disregarded.
- If bias is not in issue at the hearing, the Decision-maker should not permit irrelevant questions of the investigator that probe for bias.

# Cross Examination

Who does it?

Must be conducted  
by the advisor

If party does not  
appear or does not  
participate, advisor  
can appear and cross

If party does not  
have an advisor,  
institution must  
provide one

# The Role of the Decision Maker During Questioning by the Advisors

After the Advisor poses a question, the proceeding will pause to allow the Chair to consider it.

Chair will determine whether the question will be permitted, disallowed, or rephrased. The Chair may explore arguments regarding relevance with the Advisors.

The Chair will limit or disallow questions on the basis that they are irrelevant, unduly repetitious (and thus irrelevant), or abusive.

The Chair will state their decision on the question for the record and advise the Party/Witness to whom the question was directed, accordingly. The Chair will explain any decision to exclude a question as not relevant, or to reframe it for relevance.

The Chair has final say on all questions and determinations of relevance. The parties and their advisors are not permitted to make objections during the hearing. If they feel that ruling is incorrect, the proper forum to raise that objection is on appeal.

# When Assessing Relevance, the Decision Maker Can:

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Ask the Advisor why their question is relevant

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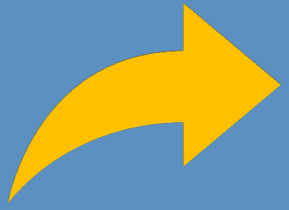
Take a break

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Ask their own questions of the party/witness

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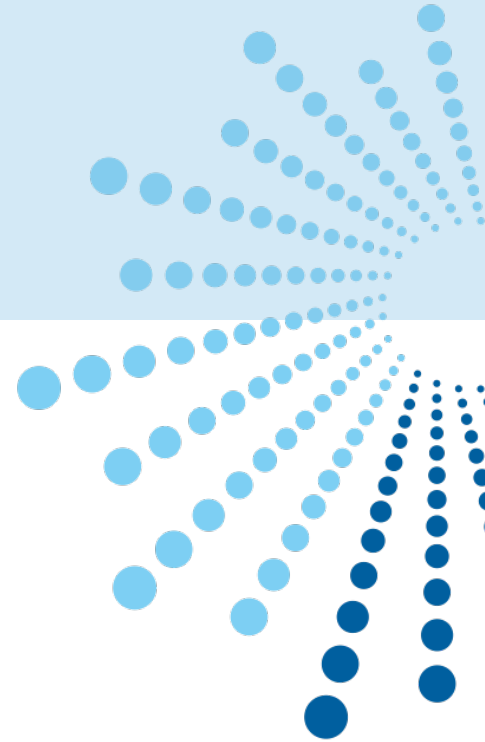
Review the hearing record



# After the Hearing

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# Deliberations

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# Preponderance of the Evidence

More likely than not

Does not mean 100% true or accurate

A finding of responsibility = There was sufficient reliable, credible evidence to support a finding, by a preponderance of the evidence, that the policy was violated

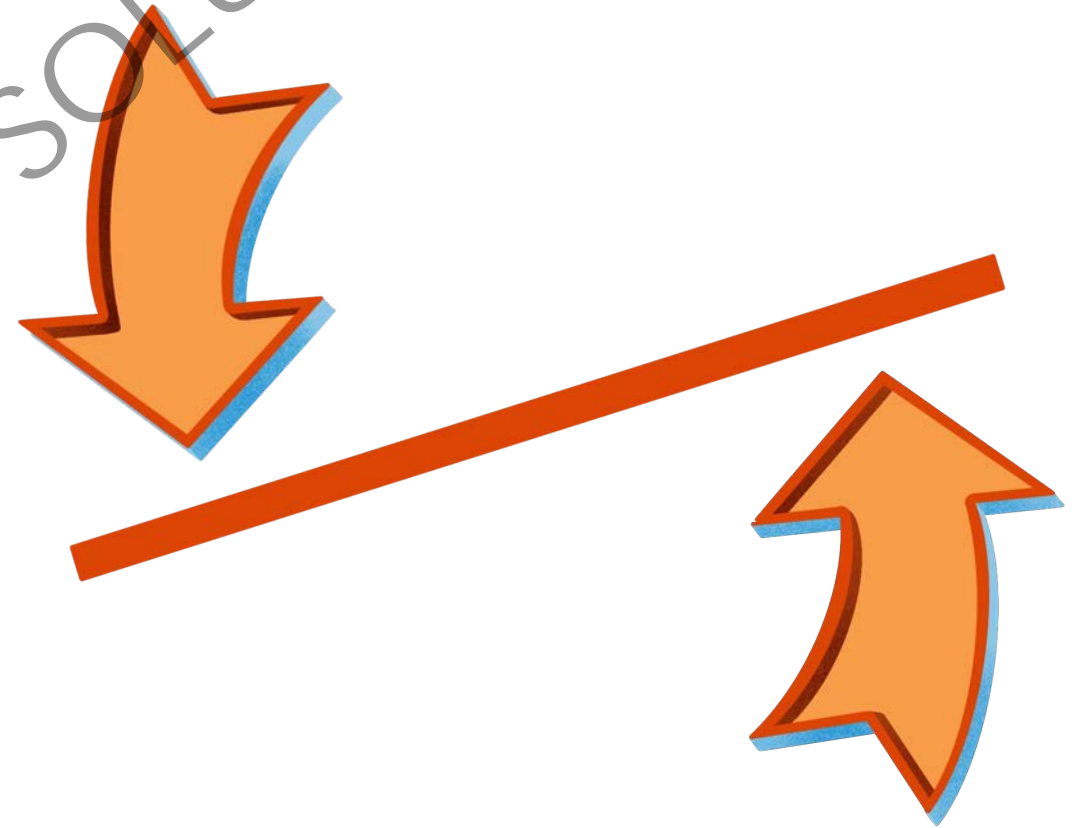
A finding of not responsible = There was not sufficient reliable, credible evidence to support a finding, by a preponderance of the evidence, that the policy was violated





# Weighing the Evidence & Making a Determination

1. Evaluate the relevant evidence collected to determine what weight, if any, you will afford that item of evidence in your final determination;
2. Apply the standard of proof and the evidence to each element of the alleged policy violation;
3. Make a determination as to whether or not there has been a policy violation.





# Findings of Fact

- **A "finding of fact"**
  - The decision whether events, actions, or conduct occurred, **or** a piece of evidence is what it purports to be
  - Based on available evidence and information
  - Determined by a preponderance of evidence standard
  - Determined by the fact finder(s)
- **For example...**
  - Complainant reports that they and Respondent ate ice cream prior to the incident
  - Respondent says that they did not eat ice cream
  - Witness 1 produces a timestamped photo of Respondent eating ice cream
- **Next steps?**



# Determining Credibility and Reliability

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Remember: There is No Formula!

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# Sufficiency of Detail and Specificity

Is the level of detail provided by the person reasonable and indicative of a genuine personal experience by the person?

# Internal Consistency/ Consistency Over Time

- Did the person share the same version of events in all settings, including interviews, in written and/or verbal statements and between documentary evidence?
- Are there any discrepancies or contradictions?
- Is there a sufficient explanation for any discrepancies?

# Consistency with Other Evidence or Testimony

- Is the testimony or evidence consistent with the other evidence?
- Is the testimony or evidence inconsistent with the other evidence?
- Is there a sufficient explanation for any inconsistencies?

# Corroboration

- Is there witness testimony (either by witnesses or people who saw the person soon after the alleged incident, or people who discussed the incidents with the person around the time they occurred) or documentary or physical evidence that corroborates the person's testimony?
- Is there witness testimony or documentary and/or physical evidence that are inconsistent with statements made during the interview or does not provide corroboration to the person's version of events?

# Inherent Plausibility

- Is the testimony believable on its face?
- Does it make sense?
- Could it have occurred?
- Does it make sense that this person knows this information?
  - What was their opportunity to view?



# Material Omission

- Did the person omit material information?
- If so, what?
  - e.g., submitted partial text messages, or omitted text messages that could be perceived as unfavorable
- Is there a reasonable reason for the material omission?

# Motive to Falsify

- Did the person have a reason to be untruthful other than the general desire to be believed, or to prevail?
- Did the witness openly volunteer information that is prejudicial to their interests or the Party?
- If so, does the declaration against interest bolster their credibility?
- Does the person have an articulable bias, interest or other motive? [e.g. an employee received a poor performance review, so she falsified a claim of sexual harassment against her boss].
- Alternatively, does the person have little personal gain in the outcome?
- What are the relationships between the parties?

# Past Record

- Is there a history of similar behavior in the past?
  - e.g., a supervisor had previous complaints of sexual misconduct
- If so, this might impact whether a statement should be believed.
  - For example, a respondent who states they never knew that a certain behavior was wrong, yet was written up for that same behavior, the history of similar past behavior makes the respondent's statement less believable and less reliable.

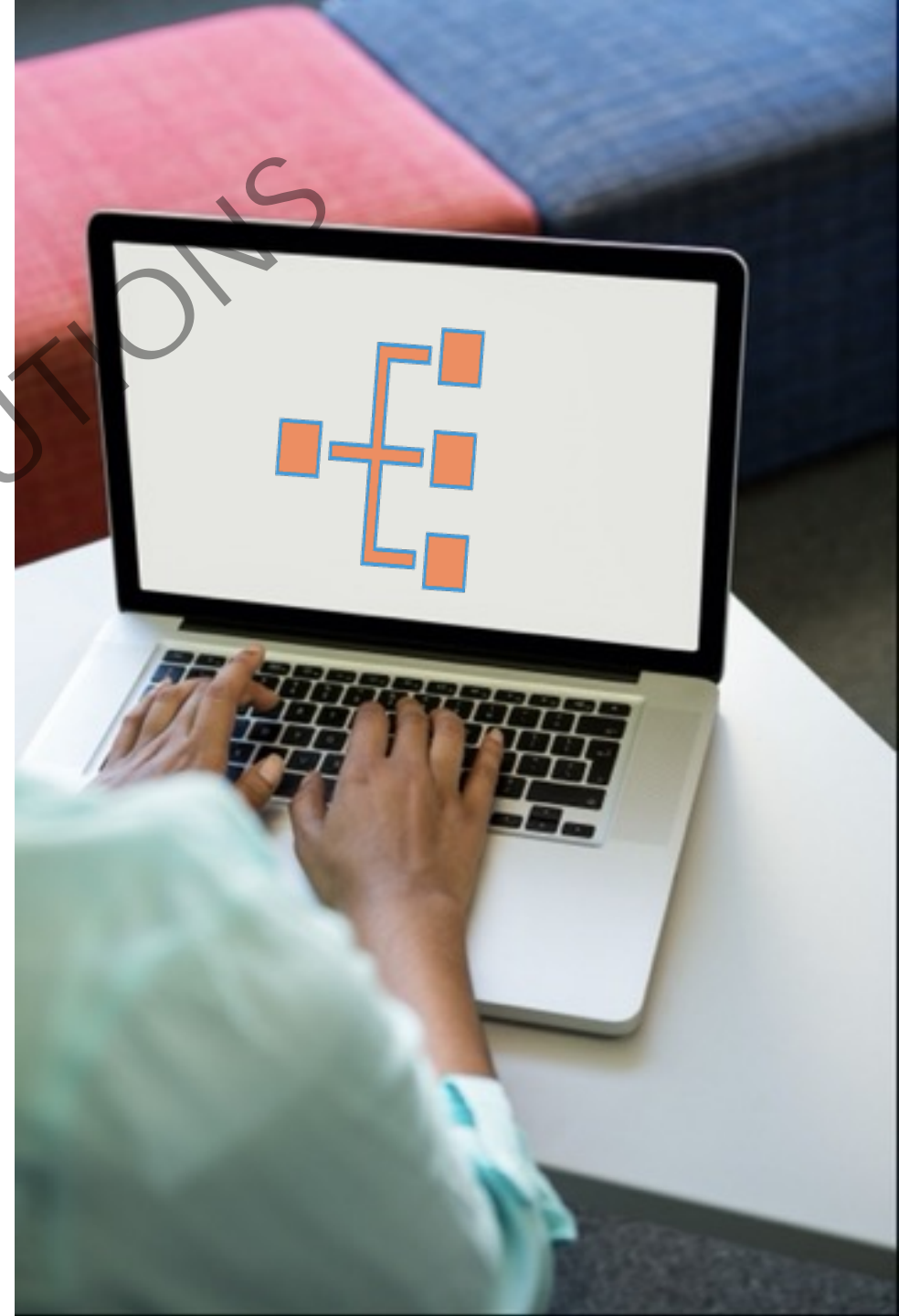
# Ability to Recollect Events

- What is the extent the person was able to perceive, recollect or communicate the version of events?
  - e.g., the person reported they were intoxicated, or the person reported they were sleeping

# Policy Analysis

- Break down the policy into elements
- Organize the facts by the element to which they relate

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# Allegation: Fondling




## Fondling is the:

- ❑ touching of the private body parts of another person
- ❑ for the purpose of sexual gratification,
- ❑ Forcibly and/or without the consent of the Complainant,
  - ❑ including instances where the Complainant is incapable of giving consent because of their age or **because of their temporary or permanent mental or physical incapacity.**

# Analysis Grid

Touching of the private body parts of another person	For the purpose of sexual gratification	Without consent due to lack of capacity
<p>Undisputed: Complainant and Respondent agree that there was contact between Respondent's hand and Complainant's vagina.</p>	<p>Respondent acknowledges and admits this element in their statement with investigators.</p> <p>"We were hooking up. Complainant started kissing me and was really into it. It went from there. Complainant guided my hand down her pants..."</p>	<p>Complainant: drank more than 12 drinks, vomited, no recall Respondent: C was aware and participating Witness 1: observed C vomit Witness 2: C was playing beer pong and could barely stand Witness 3: C was drunk but seemed fine Witness 4: carried C to the basement couch and left her there to sleep it off.</p>

# Apply Preponderance Standard to Each Element

Touching of the private body parts of another person	For the purpose of sexual gratification	Without consent due to lack of capacity
<p>Undisputed: Complainant and Respondent agree that there was contact between Respondent's hand and Complainant's vagina.</p> 	<p>Respondent acknowledges and admits this element in their statement with investigators.</p> <p>"We were looking up. Complainant started kissing me and was really into it. It went from there. Complainant guided my hand down her pants..."</p> 	<p>Complainant: drank more than 12 drinks, vomited, no recall Respondent: C was aware and participating Witness 1: observed C vomit Witness 2: C was playing beer pong and could barely stand Witness 3: C was drunk but seemed fine Witness 4: carried C to the basement couch and left her there to sleep it off.</p> 



# Did You Also Analyze...?

- On campus?
- Program or Activity?
- In a building owned/controlled by a recognized student organization?
- Substantial control over respondent and context?
- Complainant was attempting to access program/activity?

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# Final Report

- The allegations
- Description of all procedural steps
- Findings of fact supporting the determination
- Determination regarding responsibility for each allegation and rationale
- Sanctions and remedies and rationale
- Procedure for appeal



# Questions?

Send Feedback



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