

The background is a vibrant blue and purple gradient with various white line-art icons. These icons include a bookshelf, a document with horizontal lines, a scale of justice, a pie chart, a bar chart, and a graduation cap. There are also hexagonal patterns and bokeh light effects scattered throughout.

Understanding the Title IX Hearing Process

Training for:

Training Coordinators, Investigators, Decision-Makers, Hearing Chairs, Hearing Panel, Hearing Officers, Hearing Coordinators and those involved in the Formal and Informal Grievance Resolution Process



Welcome

Presented by

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Received her Juris Doctorate Degree from University of Arkansas School of Law and Bachelor of Arts in Political Science from Rhodes College.

Agenda - What This Training Will Cover and Include

- Title IX Fundamentals
- The Grievance Process
- Conducting Formal Hearings
- The Role of Hearing Participants
- Evidence and Relevance
- Questioning and Cross Examinations
- Hearing Decision Determinations and Appeals
- Record Retention Requirements
- Real World Scenarios
- Interactive Actual Hands-On Work
- Watching a Live Simulated Mock Hearing

Real World Scenario – Let's Discuss

On his way to the formal Title IX sexual harassment hearing, the Respondent who is a college faculty member stops and pulls his wife aside in the hallway and admits to her that he did what the student has accused him of in her complaint. He's been accused of making certain female students engage in demoralizing sexual activities including bondage and threesomes in exchange for good grades and extra credit. He tells his wife she won't like the questions that will be asked and what she'll hear during the hearing proceeding, so he just wanted to go ahead and confess. The Respondent isn't talking loud but he's not whispering either. He's speaking at a conversational level and several people hear him confessing to his wife.

What should happen next?



Title IX Fundamentals

What Is Title IX?



Title IX of the Education Amendments of 1972 is the federal law that prohibits sex discrimination against students and employees of educational institutions

Title IX specifically provides that:

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



What Is Title IX Sexual Harassment?

1. Quid pro quo offer based on sex: employee (not student) offers some kind of aid-benefit-service in exchange for unwelcome sexual conduct

1. Violence based on sex: sexual assault, dating violence, domestic violence and/or stalking, as defined in the *Clery Act* and the *Violence Against Women Act (VAWA)*

1. Hostile Environment Harassment

Unwelcome sexual conduct (or conduct based on sex) that is so severe AND pervasive AND objectively offensive that it effectively denies a person equal access to educational programs or activities

What Does Title IX Apply To?

Title IX applies to sexual harassment in the “education program or activity” of a federal funding recipient.

An education program or activity includes locations, events, or circumstances over which the school, college or university exercised substantial control over both the respondent and the context in which the sexual harassment occurs, and also includes any building owned or controlled by a student organization that is officially recognized by an educational institution. § 106.44(a)

What are Examples of Education Programs and Activities?

Admissions

Hiring

**Workplace
(Employed by
the school)**

**Off-campus trips
organized by the
institution**

In-person classes

**On campus
resident halls**

**Recreational
amenities on
campus**

**Sponsored
organization
activities**

**Sports teams &
Sports Events**

Virtual classes

**Performances
on campus**

**Anything else
that happens on
campus**

Title IX History and Timeline:

What Exactly Are the
New Regulations and
How Did We Get Here?

1972

Title IX passed by Congress and signed into law by the President.

1980

Department of Education is established and given oversight of Title IX compliance through the Office of Civil Rights (OCR)

**From the mid 1980's till 2016, court decisions and Department of Education policy guidance through several administrations expanded Title IX's reach*

1980

The year it was first established that sexual harassment in educational institutions was discrimination on the basis of sex in violation of Title IX.

Title IX History and Timeline:

What Exactly Are the
New Regulations and
How Did We Get Here?

2017

New administration Department of Education launched the rule-making process on Title IX and withdrew the previous administration's rules and guidance

2018

Department of Education announces proposed rule changes to federal guidance regarding the duties of colleges and universities to address sexual misconduct under Title IX

2020

Department of Education publishes the official version of its final Title IX rule.

Why Title IX Compliance is Crucial – Take a Look at the Following Examples

- The University of Tennessee reached a \$2.48 million settlement with eight women who accused the school of mishandling sexual assault allegations against male student athletes
- Dartmouth College settles sex harassment suit for \$14 million
- San Jose State Ordered to Pay \$1.6 Million in Sexual Harassment Case
- Federal officials withhold grant money from Chicago Public Schools, citing failure to protect students from sexual abuse
- Michigan State University (MSU) fined \$4.5 million by the US Department of Education and required the University to make major changes to its Title IX procedures following a determination of the school's systemic failure to protect students from sexual abuse

The Grievance Process

Key Concepts and Understandings

Complainant – The person who is alleged to be the victim of sexual harassment.

Respondent – The individual whom the allegations have been made against.



Grievance Process Must Treat Parties Equitably

- The Grievance process is the process by which a formal complaint of sexual harassment is addressed equitably and promptly under Title IX and in a manner that ensures due process for the complainant and the respondent.
- Educational institutions must ensure that all individuals involved in a sexual harassment claim receive a prompt, fair, equitable, and impartial grievance process.
- Bias and conflicts of interest by decision-makers that impact the outcome of a hearing decision are grounds for appeal.

Impartiality is integral to the Title IX formal grievance process

Serving impartially includes avoiding the following:

- Prejudgment of the facts at issue
- Conflicts of interest
- Bias

Bias, Conflict of Interest and Prejudgment

Title IX proceedings must avoid prejudgment of the facts at issue and ensure clear avoidance of sex stereotypes so that decisions are made on the basis of individualized facts and not on stereotypical notions of what 'men' or 'women' do or do not do.”

Avoid: Pre-judging the facts, conflicts of interest, and bias for/against any party

Conflict of Interest

A Conflict of Interest occurs when personal or private interests may compromise one's judgments, decisions, or actions.

Conflicts of Interest can take one of the following forms:

1) Potential Conflict

Potential conflict of interest arises when a personal interest or obligation could possibly conflict with one's official duties and responsibilities in the future.

Example of a potential conflict: The Title IX investigator and complainant co-chair a faculty committee and socialize outside of work on occasion.

2) Actual Conflict

Actual conflict of interest occurs when there's a direct conflict between one's Actual conflict.

Example: The Title IX decision-makers' niece is the complainant in a sexual assault case.

3) Perceived Conflict

Perceived conflict of interest is where it could reasonably be perceived that a competing interest improperly influenced the performance of one's official duties and responsibilities.

Example of a perceived conflict: A hearing panel member previously had a relationship with a family member of the respondent.

Let's Discuss

Debbie is an investigator for a 2-year college who conducts Title IX investigations. Debbie frequently makes statements to her colleagues regarding how provocatively female students on campus dress and that they are "asking" for others to catcall and give them attention. In the case at hand, a female Complainant, who often wears crop tops and short skirts to class, reported that her lab partner repeatedly makes sexually harassing comments to her during lab.

In terms of prejudgment of the facts, would you be concerned about Allie's impartiality?

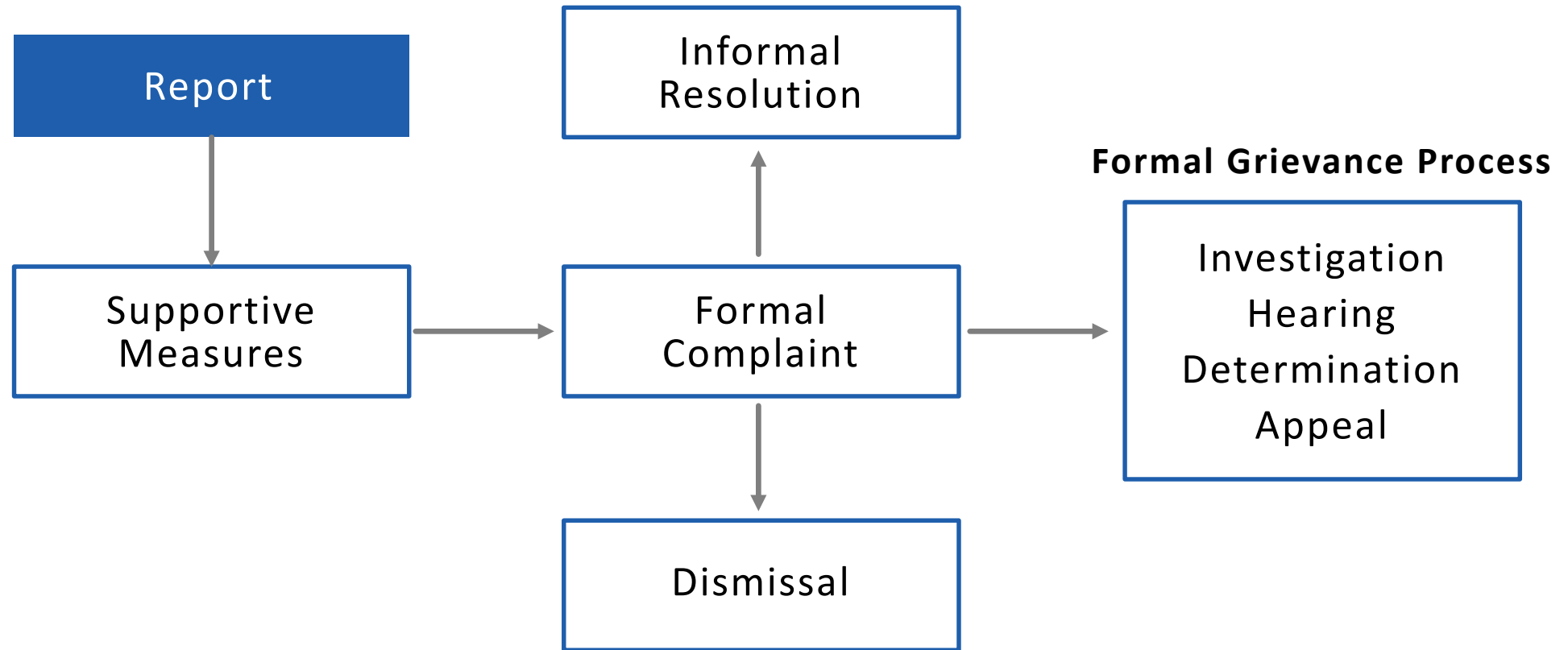
If investigators don't make decisions or rulings, what's the issue?

Let's Discuss

Betty is a hearing panel officer on a three-person hearing panel for a sexual harassment hearing that will begin in a couple of days. Betty is an academic advisor for the college and through her position strives to uphold the school's academic reputation standing. A student (with a 2.1 average GPA) made a formal complaint alleging that a classmate (with a 3.99 GPA) sexually harassed the student while completing work on a group assignment.

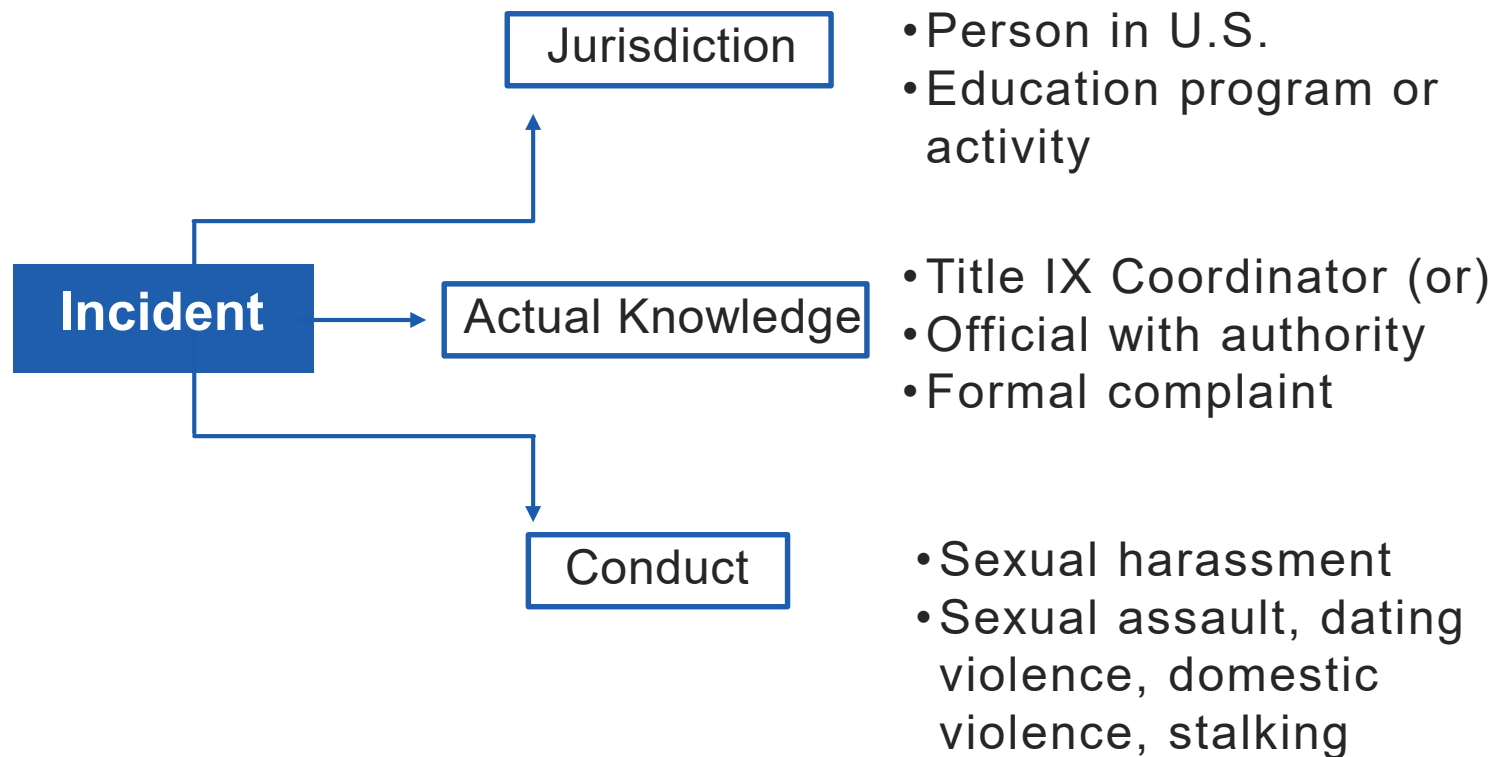
In terms of bias, would you be concerned about Betty's impartiality?

The Title IX Grievance Process Overview



- Formal complaint is filed in writing, including complainant's signature and date.
- A narrative report of alleged sexual misconduct must accompany the formal complaint.
- Presume that Respondent is not responsible until a determination is made

Title IX Coordinator – Completes Determination if Misconduct Falls Under Title IX



What Is Actual Knowledge?

Actual knowledge means notice of sexual harassment or allegations of sexual harassment to a recipient's Title IX Coordinator or any official of the recipient **who has authority to institute corrective measures on behalf of the recipient.**



Investigation Steps

- | | | | |
|-----------|---|-----------|--|
| 01 | Receive Formal Complaint | 07 | Draft report |
| 02 | Initial Assessment and Jurisdiction Determination | 08 | Meet with Title IX Coordinator to review draft report & evidence |
| 03 | Establish basis for investigation | 09 | Provide all evidence directly related to the allegations to parties and their advisors for inspection and review with 10 days for response |
| 04 | Notice of Formal Allegation to Parties | 10 | Complete final investigation report |
| 05 | Establish investigation strategy | | |
| 06 | Conduct witness interviews and evidence gathering | | |



Highlight of What the Investigation Report Should Include:

- Names of the complainant and respondent
- The specific sexual harassment allegations at hand
- The date the investigation commenced
- Summary of the investigation process
- Identification of the applicable policies in question
- Witness names and contact information
- Summary of evidence – documents and witness statements

Real World Scenario – Let's Discuss

After a formal complaint is filed against her, a student admits to sexually harassing a staff member at the college. She confesses because in her words, she wants to get it over and deal with whatever consequences are coming.

What should happen next?

Conducting Live Hearings



Hearing Panel /Decision-Maker:

- Does not have subpoena power – cannot compel a witness to attend
- No oath administered
- Witnesses should be brought into the hearing one at a time and leave at conclusion of testimony and questioning
- Nonverbal responses should be verbalized for the record
- If agreed upon, it is okay to have a witness phone or videoconference in Witnesses should be reminded to respect sensitive nature of proceeding

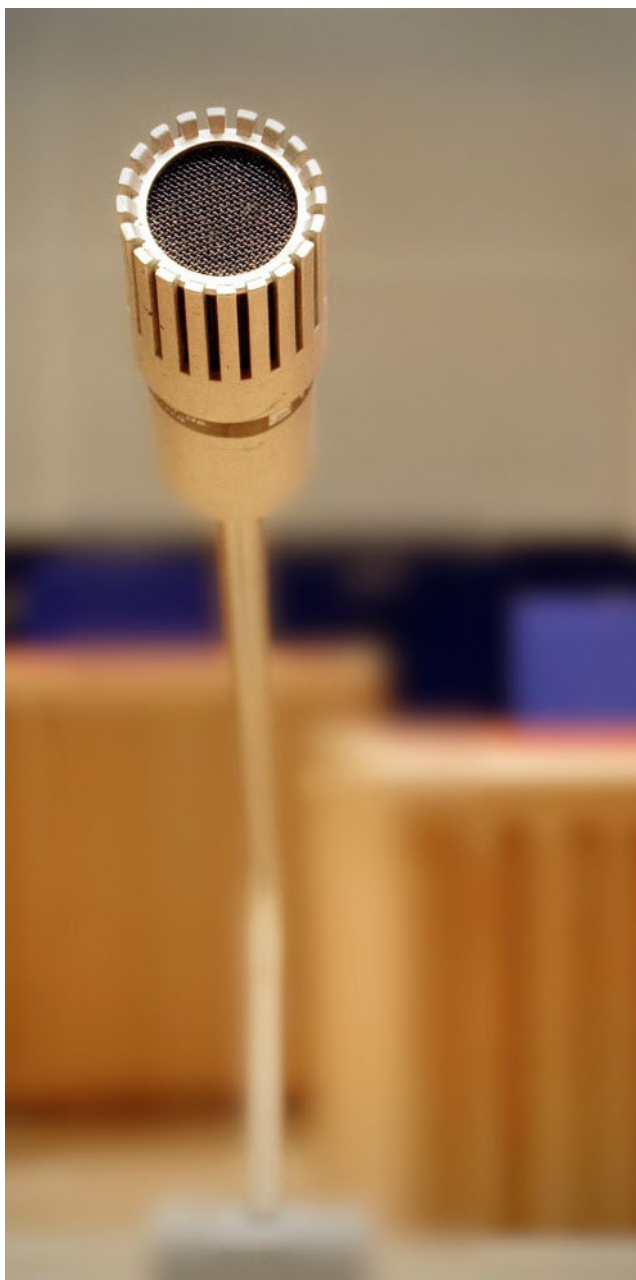
Purpose of the Hearing

**To Review
and Access
Facts**

**Make
Findings
of Fact**

**Determine
whether Respondent
violated sexual
harassment
policy**

**Issue
Sanctions
and
Remedies**



Which Cases Go to Live Hearing?

All Sexual Harassment and Sexual Misconduct cases that were formally investigated.

This is true for formal investigations involving:
students and employees
(including student/student,
employee/employee,
student/employee,
employee/guest, student/visitor, etc.)

Title IX Process vs. Legal Court System

Title IX Process
Not Responsible
Responsible
Complainant
Respondent
Policy Violation
Evidence (Must be relevant or directly related)
Witnesses not placed under oath. Relatively no consequences for providing false information

Legal System
Innocent
Guilty (Criminal) or Liable (Civil)
Plaintiff
Defendant
Civil or Criminal Law Violation
Evidence (Strict legal rules for admissibility)
Witnesses are placed under oath and can be held accountable for perjury – willfully providing false testimony.

Hearings

Live hearings are conducted by a Decision-maker or a hearing panel of Decision-makers who are trained in Title IX law and processes.

In person (Consider)

- Hearing location
- Break-out rooms
- Separation

*Must create an audio or audiovisual recording, or transcript, of any live hearing and make it available to the parties for inspection and review

Rights of the parties

Online/Virtual

- Ensure hearing officers are trained on technology
- Offer same options, steps to virtual parties as in person

*Presumption that respondent is not responsible until determination is reached

Other considerations

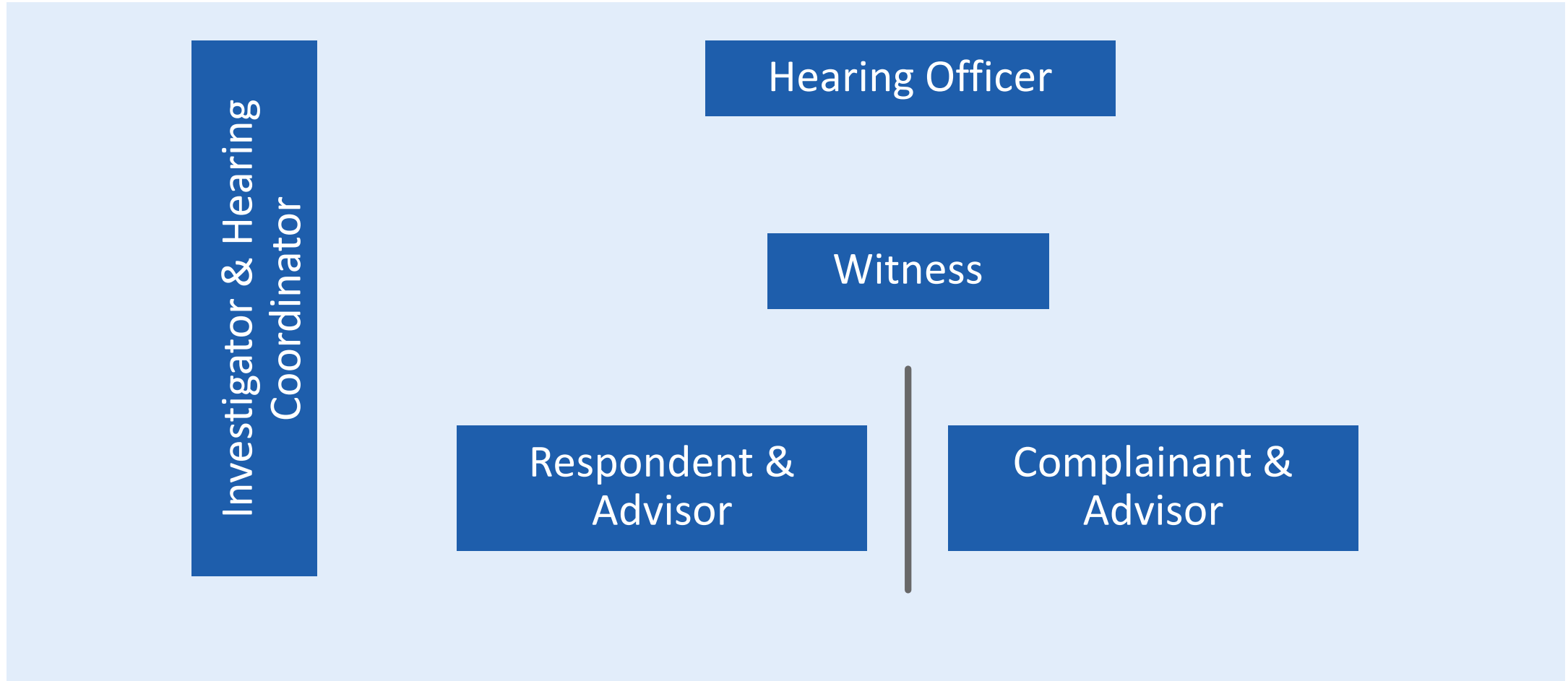
- Hallway traffic
- Witness arrival/departure
- Ability to consult with advisors



Hearing Participants

- Complainant
- Respondent
- Advisors
- Investigator
- Witnesses
- Decision-Maker
- Hearing Panel/Hearing Officers
- Hearing Coordinator

Hearing Room Configuration Example





Hearing Chair Preliminary Duties

1. Check for potential conflicts of interest.
2. Gather investigation materials from the Title IX Coordinator.
3. Conduct preliminary review of investigation materials.
4. Ensure all pre-hearing procedures have occurred.

Hearing Chair and Decision-Makers

New Title IX regulations require a “decision-maker” to determine whether a Respondent has violated policy.

May be a single person. Thus, that individual would be both the Decision-maker and Hearing Chair by default.

Or, may be a panel of decision-makers (often three), with one voting member as Hearing Chair to make all rulings on evidence and questions

Chair should always be a voting hearing panel member.

May be internal or external individuals (third-party neutrals).

✓ Pre-Hearing Checklist



1. Did the Title IX Coordinator issue written notice of hearing to both parties?
2. Was a copy of the Investigation Report enclosed with the hearing notice or otherwise provided to the parties at least ten (10) business days prior to the hearing?
3. Did either party request a substitution of the decision maker or hearing panel officer?
If yes, what was the outcome of that request? Is the decision documented in writing?
4. Did either party request that the hearing be conducted virtually or with the parties in separate rooms?
If yes, confer with the Title IX Coordinator to ensure proper arrangements have been made.
5. Do both parties have an advisor to conduct cross-examination during the hearing?
*If a party is in need of an appointed advisor, confirm that the appointment has been made.



Opening Instructions By Hearing Chair

- Set the stage
- Reiterate charges
- Reiterate rules and expectations
- Reiterate logistics for the day

Hearing Chair Procedural Question Steps and Actions to Decide

Will the Chair state a rationale for whether a question is relevant or irrelevant?

Will the Chair allow Advisors to make a case for why a question should be permitted or not permitted?

How will the Chair address evidence that the Decisionmakers should not rely upon?

When will Decision-maker questions take place? Before cross-examination, after, or both?

Hearing Order Example

- Opening by Decision Maker
- Opening statements by both parties (optional)
- Summary of the Investigation Report by the Investigator (questioning by the hearing panel and by both parties)
- Questioning of the Complainant
 - By the hearing panel and chair
 - Cross-examination by other party (through their advisor)
- Questioning of the Respondent
 - By the hearing panel and chair
 - Cross-examination by the other party (through their advisor)
- Questioning of any Witness
 - By the hearing panel or hearing chair
 - By other party (through their advisor or hearing panel/chair)
- Final/Follow-up questioning by both parties
- Closing by Decision Maker

Key Hearing Role – Advisors

- An advisor is an individual selected by a complainant or respondent to assist throughout the Title IX grievance process.
- May be a staff member, student, parent, community member, friend, clergy, attorney—it's each party's choice.
- The advisor's role consists of providing advice, support and guidance and questioning the opposing party and other witnesses at the live hearing.
- If the complainant or respondent does not have an advisor, the educational institution is required to provide one.

Let's Discuss

During a college's Title IX sexual harassment/ sexual violations hearing proceedings, witnesses, as well as the Complainant and the Respondent are all sworn in before they are questioned and asked to raise their right hand and repeat the oath "I solemnly swear to tell the truth, the whole truth and nothing but the truth..."

Is the college following the correct procedure? Is administering this oath required in Title IX hearings?

Why or Why Not?



Questioning

At the hearing, the complainant, respondent, and third-party witnesses will submit to questioning by the hearing panel, starting with the complainant and continuing in the order determined by the hearing chair.

After cross-examination is finished, the hearing chair will call the next party/witness to submit to questioning, provided that the panel may ask additional questions to any party or witness at any time prior to the completion of the hearing.

Skill Questioning

- Go from broad to narrow.
- Do not move from the topic until you've explored all necessary detail.
- Do not move from a question until it's been answered—actively listen.
- No apologies for hard questions—keep the flow moving.
- Don't judge—be careful with why? questions.

Developing Questions

- Outline questions by topic – Write out areas to cover.
- Drill down for details using the who, what, where, when, why, how, and describe method.
- Outline by chronology – Ask questions in order of the event.
- Drill down.
- Confront inconsistencies when they come up as you ask questions; confront as a neutral fact gatherer — tone, language, and diplomacy
- Think of question asking like an organized conversation.
- You control the organization.
- The witness controls the answer.

Cross-Examination



What is a Cross-Examination? The examination of a witness who has already testified to check or discredit the witness's testimony, knowledge, or credibility.

Purpose for Cross-Examinations?

- Credibility/trustworthiness
- Memory and ability to remember facts of case
- Background
- Bias/conflicts of witness

Cross-examinations must be conducted directly, orally, and in real time by the party's advisor of choice and not by a party personally.

Major Title IX Live Hearing Change!

Pursuant to the court's ruling in Victim Rights Law Center, et al. v. Cardona, the Department of Education Office for Civil Rights (OCR) issued [a letter on August 24, 2021](#), and announced that, “[i]n accordance with the court’s order, the Department would **immediately cease enforcement** of the part of 106.45(b)(6)(i) regarding the prohibition against statements not subject to cross-examination.”

Here’s the breakdown of what this means: A decision-maker at a postsecondary institution may now consider statements made by the parties and witnesses during the investigation, emails or text exchanges between the parties leading up to the alleged sexual harassment, and statements about the alleged sexual harassment that satisfy the regulation’s relevance rules, regardless of whether the parties or witnesses submit to cross-examination at the live hearing or even show up at the live hearing.

Relevancy

- Only relevant cross-examination and other questions may be asked of a party or witness.
- Before a party or witness answers a cross-examination question, the Hearing Officer must first determine whether the question is relevant and explain any decision to exclude it.
- You may allow the advisors to conduct cross examination without pausing for an affirmative ruling on relevance, only interjecting when there are relevance concerns.



Title IX Excludes Certain Types of Evidence and Questions as not Relevant:

Rape Shield Provisions – Title IX's Rape Shield Protection relates to a complainant's sexual history and provides that questions and/or evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant and should not be considered or allowed.

However, there are two, narrow exceptions to this rule. Questions and/or evidence about a complainant's sexual predisposition or prior sexual history may be considered when:

1. The questions and/or evidence are offered to prove that someone other than the respondent committed the conduct alleged by the complainant; or
2. The questions and/or evidence relate to specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

Relevance, Evidence and Cross Examination

Key Concepts and Understandings

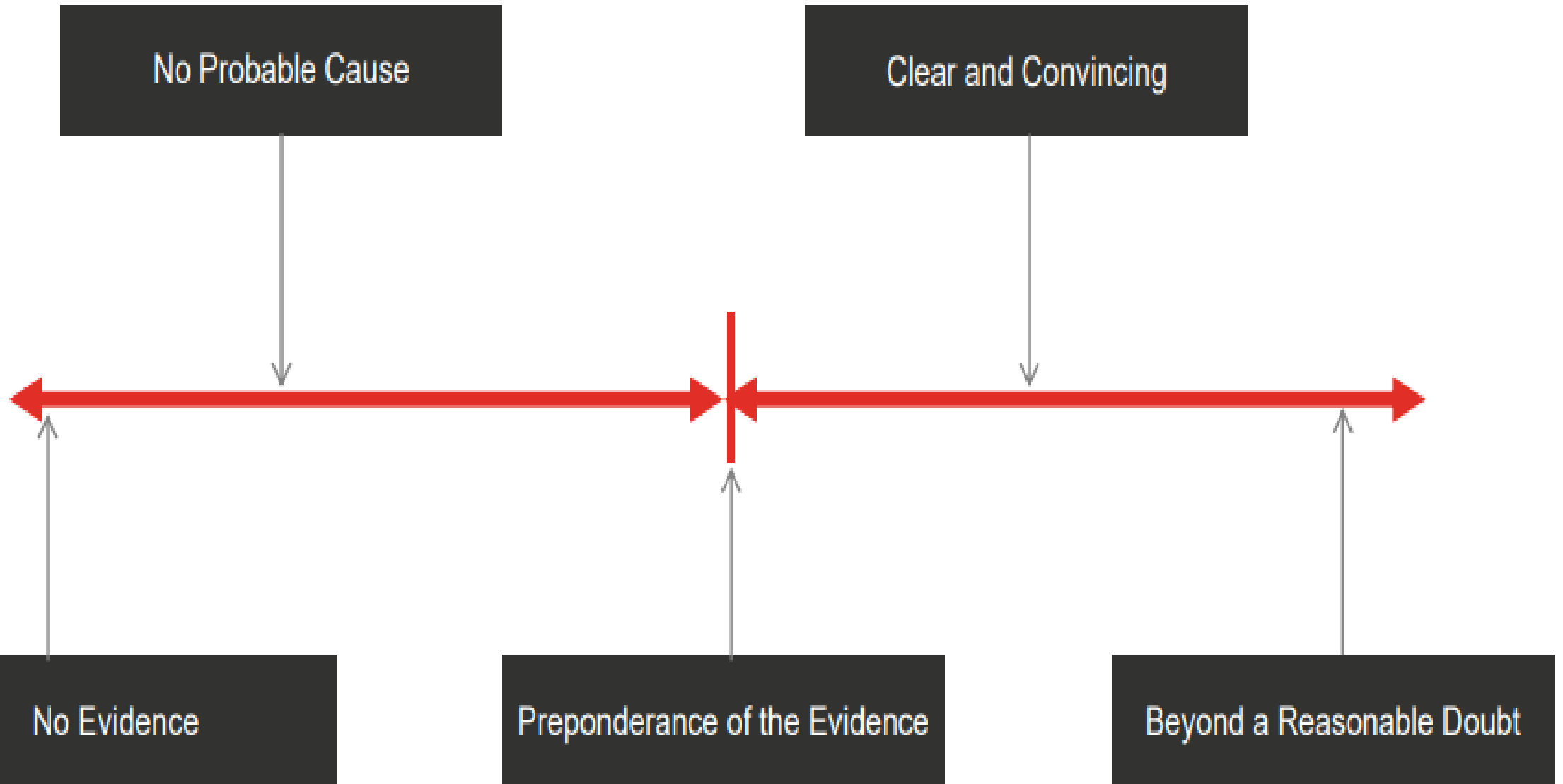
Relevant Evidence – Evidence pertinent to proving whether facts material to the allegations are more or less likely to be true.

Inculpatory Evidence – Evidence that shows, or tends to show, a respondent's responsibility for alleged misconduct.

Exculpatory Evidence – Evidence that shows or tends to show the respondent is not responsible for the alleged misconduct.

Burden of Proof – The “burden of proof” is the responsibility to establish or prove facts in dispute. When investigating a Title IX allegation and throughout the grievance process, the educational institution has the “burden of proof” and the burden of collecting sufficient evidence to establish responsibility.

Evidentiary Standards Guide





Determine Evidence Relevancy

How to Determine Relevancy: Questions to Consider

1. Review the evidence being offered
2. Consider the allegations of the Title IX sexual harassment complaint
3. Does the evidence help to prove or disprove anything material to the investigation or complaint?
4. Is the evidence helpful in making a determination as to whether or not a fact is more or less likely to be true?

Relevancy and Allowed or Disallowed Questions

The hearing officer will provide a brief explanation for each ruling on whether a question will be permitted • Title IX regulations do not require a hearing officer to give a lengthy or complicated explanation of a ruling on whether a question will be allowed • Instead, it is sufficient, for example, for a decision-maker to explain

- 1) That a question is irrelevant because the question calls for prior sexual behavior information without satisfying one of the two applicable exceptions, or
- 2) That, because the question asks about a detail that is not probative of any material fact concerning the allegations, it is irrelevant.

Standard of Evidence



- 1. The preponderance of the evidence standard:** The *preponderance of the evidence standard* - the evidence in a formal complaint hearing supports a conclusion that it is more than 50% likely that the respondent caused the alleged sexual harassment harm.
- 2. The clear and convincing evidence standard –** *The clear and convincing evidence standard* requires a determination that it is reasonably certain and significantly and substantially more than 50 percent probable that the sexual harassment occurred.

Understanding and Correctly Considering Evidence

- Decision-maker may consider and assign weight to different types of evidence, when relevant and credible:
 - Documentary evidence (e.g. supportive writings or documents).
 - Electronic evidence (e.g. photos, text messages, and videos).
 - Real evidence (i.e. physical objects).
 - Direct or testimonial evidence (e.g. personal observation or experience).
 - Circumstantial evidence (i.e. not eyewitness, but compelling).
 - Hearsay evidence (e.g. statement made outside the hearing but presented as important information).
 - Character evidence (subject to a relevance determination, but often does not prove or disprove the underlying allegation).
- Decision-makers should typically disregard:
 - Impact statements (typically only relevant in sanctioning).

Relevance Exercise

Scenario:

Bella Timmons, a sophomore member of the women's softball team, made a Title IX report directly to the Title IX Coordinator. On the morning of October 3, her teammate, who was checking her email in the computer lab, yelled for Bella to come and look at something on the computer. Bella saw an email sent from the men's baseball team email address, which said "greetings new students, meet the girl next door." The email included a photo of Bella's face photoshopped onto a naked body with huge breasts. Everyone in the lab knew it wasn't Bella, but they all laughed anyway. Juanita ran from the room crying, embarrassed that others would think it was her. She immediately called Drew, a member of the men's baseball team, who she believed sent the email. During the first two weeks of the new term, Drew asked her multiple times, but she wasn't interested and while she knows it wasn't nice, she called him a total loser in front of his friends. She knows that he sent the email to hurt and embarrass her. Drew told the investigator that he believes Bella is blowing the whole matter out of proportion. He admits to creating the photo for a class project. He reports: "It was only meant to be a joke. I never put her name on it, so what's the big deal? This is a work of art that I created for my class, not a porn picture or anything. I only showed my artwork, which by the way is protected by the First Amendment, to a few of my teammates. I know my First Amendment freedom of speech rights very well, since my nana (his grandma) is a lawyer and a state representative."

Drew stated that he showed the photo to a couple of teammates but did not send the email. The email account is for official team business. The coaches and captains have the password; one captain has shared it broadly with all the seniors on the baseball team. The investigator also consulted with Roy Engleson, assistant director of information technology. Roy was able to confirm that someone using the computer lab computer sent the picture from the men's baseball team email account. The picture was inserted into the email via a flash drive, and he was unable to determine which student had logged in. Roy received Drew's consent to inspect his laptop. The photo was on his hard drive but was not sent out via email to anyone. He said that when he doesn't have his laptop with him, it is typically inside his locker. Ivan also told him that he hasn't given anyone else his laptop password. Drew was notified via the institution's NOIA (Notice of Investigations and Allegations) letter that it is alleged that he violated the institution's sexual harassment policy, specifically the hostile environment provision.

*The definition of Sexual Harassment is: unwelcome conduct, determined by a reasonable person, to be so severe, and pervasive, and, objectively offensive, that it effectively denies a person equal access to the Recipient's education program or activity.

Relevance Ruling: You are the Chair of the Hearing Panel. You must determine whether the following questions seek relevant information and/or whether the specific piece of evidence is relevant.

Let's start with some of the evidence from the investigation report.

Is it relevant that:

- Drew is a member of the men's baseball team?
- Bella is a member of the women's softball team?
- There's short "history" between Drew and Bella? (That he recently asked her out) and
- Bella called Drew "a loser" earlier in the year in front of his friends?
- Drew admitted to creating the image for his class?
- Drew showed the image to a few teammates?
- The image was sent from a computer lab computer?
- Drew consented to letting Roy from IT inspect his laptop?

Relevant or Related

Consider whether the following pieces of evidence, if part of the fact-pattern originally provided from the investigation report, would be relevant:

- Bella's advisor's daughter, her name is Katie, is in the same art class with Drew and Katie stated that she has not had an assignment like Drew was speaking of for class.
- Drew's friend, Harry, states that Bella really is not bothered by the photo because he observed occasions in the previous school year where Bella flashed her breasts.
- Bella also told Drew and Harry that she wanted breast and butt implants so she could look Kim Kardashian.
- Drew's high school track coach has prepared a written character reference for Drew, stating that he was an upstanding member of his high school cross country track team and community, he's an all-around athlete, a baseball player and a track star and volunteered many times with his little league baseball team's summer camps and has been a wonderful role model for the little league ball players.
- Drew stated that at the time that the email was sent, he was attending his sociology class, which had an in-class exam on that day. However, Bella provided a screenshot of Drew's Twitter feed, which showed that he retweeted an announcement about an upcoming new action movie on Netflix just two minutes prior to the precise time that the email was sent.
- Drew's advisor wants to ask Bella about some academic trouble she was allegedly in this term.
- Drew and his advisor believe that Bella was caught cheating on an exam.

A wooden balance scale with two pans hanging from a horizontal beam, resting on a wooden surface. A gavel is partially visible in the foreground. The background is blurred, showing what appears to be a window or a wall.

Hearing Determination Decision

Post-Hearing Process

Determination regarding responsibility – After the hearing, the decision-maker/hearing panel will make a determination regarding responsibility as to whether the respondent violated policy and create the written determination/notice of outcome.

The Written Decision Determination Must Include

- A description of the procedural steps taken from the receipt of the formal complaint through the determination decision, including notifications to the parties, the selection of the investigator, interviews with parties and witnesses, methods used to gather evidence, the formal hearing process and whether a single decision maker or hearing panel was used.
- Findings of fact supporting the determination.
- Conclusions regarding the application of the college's Title IX policy to the facts and the rationale concerning the allegations.
- The result (and rationale) as to each allegation, including a determination regarding responsibility.
- Any disciplinary sanctions the institution imposes on the respondent.
- Any remedies provided to the complainant; and
- The procedures and permissible bases for an appeal

Remedies

Provided to a complainant where a determination of responsibility for sexual harassment has been made against the respondent.

Remedies must be without fee or charge to the complainant and must be designed to restore or preserve the complainant's equal access to the college's education program or activity.

Remedies may be the same individualized services as described as supportive measures.

If remedies will be provided, this should be referenced in the final determination decision letter. Need not describe remedies only that they are being provided.

The Title IX Coordinator is responsible for coordinating the effective implementation of remedies.

Sanctions

Respondents found responsible for sexual harassment will be subject to disciplinary sanctions. Sanctions for a finding of responsibility will depend upon the nature and gravity of the misconduct, any record of prior discipline for similar and past behavior and whether a given sanction will bring an end to the violation in question, reasonably prevent a recurrence of a similar violation and remedy the effects of the policy violation. The range of possible sanctions includes, but is not limited to:

- Warning
- Probation
- Suspension
- Expulsion (Student)
- Termination (Employee)



Recordkeeping

The Title IX Coordinator must keep written records for 7 years of all of the following:

Title IX complaints, including:

- Supportive measures provided
- If no supportive measures provided, document why not warranted
- Basis for school's conclusion that its response was not deliberately indifferent
- Documentation of measures designed to restore or preserve equal access for the complainant
- Investigation reports and records
- Recordings/transcripts of hearings (if any)
- Written determinations regarding responsibility
- Disciplinary consequences (if any)
- Appeals
- Informal Resolutions



Appeals

Either party can appeal:

- The determination of responsibility, OR
- School's decision to dismiss complaint

Basis for appeal:

- 1). Procedural irregularity that *affected the outcome*
- 2). New evidence not reasonably available previously that *could affect outcome*
- 3). That Title IX Coordinator OR Investigator(s) OR Decision-maker(s) had a bias or conflict of interest that *affected the outcome*





Questions?