

# Hearing Officer & Decision-Maker Training

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*Office of Title IX Compliance*

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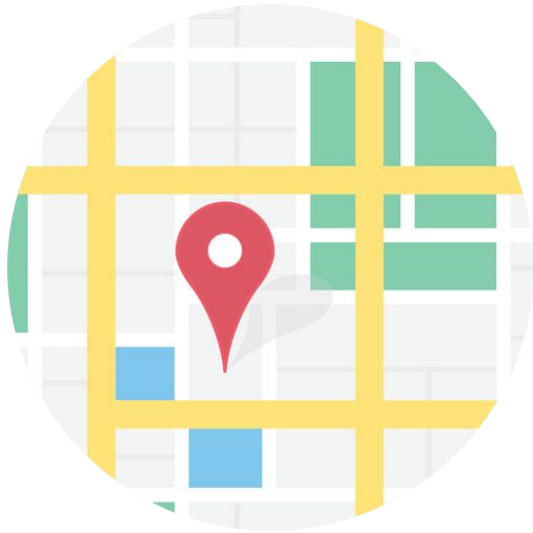
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# Roadmap

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**01.** Introduction

**02.** Decision-Maker's Role

**03.** Pre-Hearing

**04.** Hearing

**05.** Post-Hearing



# 01. Introduction

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- Refresher: What is Title IX?
- Refresher: What is Prohibited Conduct?

# ● Title IX of the Education Amendments 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.”

“On the basis of sex” – The current federal understanding, based on the Supreme Court of the United States’ ruling in *Bostock v. Clayton County, Georgia*, 140 S.Ct. 1731 (2020), is that protections guaranteed “on the basis of sex” shall cover **gender, gender identity, and sexual orientation**.





# Range of Prohibited Conduct

- **Title IX Prohibited Conduct** is the following misconduct that occurred in the **United States** and in the **University's education program or activity**.
  - **Education Program or Activity:** Includes locations, events, or circumstances over which the University exercises substantial control over both the Respondent and the context in which the Prohibited Conduct occurred, and also includes any building owned or controlled by a student organization that is officially recognized by Appalachian State University.
- **Sex/Gender-Based Prohibited Conduct** that is **not regulated by Title IX** due to the **location or nature** of the incident is also prohibited by Appalachian.



## Prohibited Conduct - Title IX

- **Quid Pro Quo Harassment** - employee conditions a benefit
- **Sexual Harassment** - unwelcome conduct that is so severe, pervasive, *and* objectively offensive
- **Sexual Assault** - sexual act without consent; includes fondling
- **Dating & Domestic Violence** - specific relationship requirements; violence or the threat of violence
- **Sex-Based Stalking** - course of conduct that creates fear and/or severe emotional distress



## Prohibited Conduct – *Sex/Gender-Based*

- **Sex-Based Discrimination** – preferential/detrimental treatment
- **Sex/Gender-Based *Quid Pro Quo*** – employee or student conditions benefit
- **Sex/Gender-Based Hostile Environment** – unwelcome conduct that is so severe, pervasive, or objectively offensive
- **Non-Consensual Sexual Contact or Intercourse** – sexual act w/o consent
- **Sexual Exploitation** – abusive sexual advantage
- **Intimate Partner Violence** – violence or the threat of violence
- **Stalking** – course of conduct that creates fear and/or severe emotional distress



## Prohibited Conduct - *Retaliation*



- No University community member may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by these procedures, or because the individual has made a referral or complaint, provided information regarding a referral or complaint, assisted, participated or refused to participate in any manner in an investigation, proceeding, or hearing under these procedures.
- Exercise of rights protected under the First Amendment does not constitute retaliation.



## 02. Decision-Maker's Role

- What is the purpose of a Decision-Maker?
- Who can be a Decision-Maker?
- Where does the Decision-Maker fit within the Grievance Process?



# Role of Decision-Makers

- **Decision-Maker:** An individual present at a hearing to evaluate all relevant evidence and reach a determination regarding *responsibility*
- **Hearing Officer:** *In addition to being a Decision-Maker*, this individual renders decisions on admissibility and relevance of evidence at a hearing. The Hearing Officer also ensures that a hearing proceeds in accordance with the procedures.

**Note:** A Hearing Officer is a Decision-Maker with additional responsibilities.

# ● Who May Serve as a Decision-Maker

- There is no legal training required, you just have to act in good faith.
- You don't have to be an expert. If you have questions, you can ask our office.
- *You can do this!*





# Conflict of Interest/Bias Check

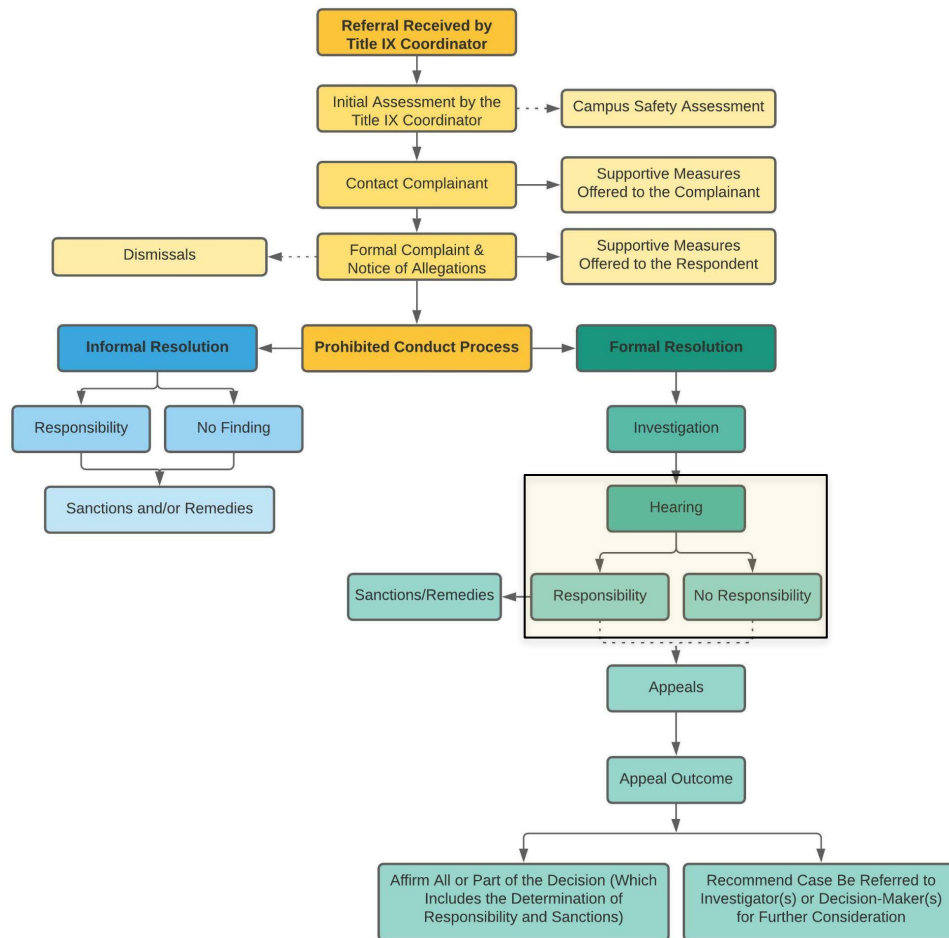


- Must be impartial and unbiased to uphold the integrity of the process.
- The Respondent is **presumed not responsible** until a final determination is made.
- Determination should always be made based on **evidence** - not presumptions, sex and/or gender bias/stereotypes.

**Very Important:** If at any point you realize that you may have a conflict of interest or bias related to the case and/or parties, please notify the Title IX Coordinator immediately.



# Where does the Decision-Maker fit within the Grievance Process?





## Grievance Process - *Useful Terms*

- **Complainant:** An individual who is alleged to be the victim of Prohibited Conduct.
- **Formal Complaint:** A document filed and signed by the Complainant alleging Prohibited Conduct.
- **Respondent:** An individual who has been reported to be the alleged perpetrator of Prohibited Conduct.
- **Investigator:** A neutral fact-finder tasked with gathering testimonial and documentary evidence about the allegation(s) and compiling the information into an investigative report.
- **Advisor:** A person chosen by a party or appointed by Appalachian to accompany the party to meetings related to these procedures, to advise the party on the process, and to conduct cross-examination for the party at a hearing.



# Grievance Process...*in a nutshell*



Assessment



Informal or Formal



Investigation



Hearing



Final Determination



Appeal & Response



# The Investigative Process - *A Closer Look*



01. Investigation Initiated
02. Rights Reviewed
03. Interviews & Evidence Collection
04. Investigative Report Review
05. Report Forwarded





## **The Investigative Process – *Role of Advisors***

- The primary role of the Advisor is ultimately two-fold.
- First, Advisors are to accompany their party for meetings within the Office's processes and serve as a support person to advise their party as well.
- Second, Advisors are required to conduct cross-examination on behalf of their party should the matter proceed to a hearing with you all as Hearing Officers and Decision-Makers.
  - Parties and Advisors are fully aware that the only active speaking role the Advisor has is when the Advisor is conducting cross-examination.

# The Investigative Process - *Timeline*



## **1** Complaint Filed

The process begins after a written complaint of sex-based misconduct is received by Appalachian either authored by the Complainant or Title IX Coordinator. The Title IX Coordinator will provide supportive measures throughout the process.



## **2** Complaint Reviewed

The Title IX Coordinator will review the complaint and offer options for informal or formal resolution processes. If moving forward with a formal resolution process an Investigator will be assigned to investigate the matter further. An informal process may be requested by either party at any time during the process, but must be agreed upon.



## **3** Investigation Initiated

The Notice of Investigation and Allegation letter will be sent to both Parties via University email. This Notice will include a proposed date and time for the first interview.



# The Investigative Process – *Timeline*



## **6** Evidence Collected

Additional evidence will be collected and examined, including witness testimony, medical documents, emails, text messages, and police reports, when available. Parties may suggest additional witnesses and evidence at any point.



## **5** Interviews Facilitated

The Investigator will meet individually with relevant people for the investigation. All interviews are recorded for the purpose of transcription. Interviewees will have the opportunity to review a transcript of their interview electronically within one week of the interview.



## **4** Rights Reviewed

During the first interview, the Investigator will review the Rights with the Party, including the right to a prompt, equitable investigation. Investigations typically completed in 60 business days. The Investigator will supply updates as the process continues.

## The Investigative Process – *Timeline*



### **7** Follow-Up Interviews

The Investigator will conduct additional interviews with the Complainant, Respondent, and follow up with any additional witnesses.



### **8** Report Reviewed

Upon completion, the Parties will be able to review and respond to the Preliminary Investigative Report, including providing additional information or questions for the Investigator's consideration.



### **9** Investigation Forwarded

Upon completion, the Final Investigative Report is forwarded to the Title IX Coordinator who will initiate the adjudication process through a formal or informal resolution process.

## Section 02. Decision-Maker's Role - *Review*

- Role of Decision-Makers
- Conflict Check
- Overview of the Grievance Process
- Investigative Process
- Role of Advisors



## 03. Pre-Hearing

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- What is the Investigative Report?
- How does the Pre-Hearing meeting work?
- How should I prepare for the Hearing?



# The Investigative Report

1	October 1, 2021	
2		
3	<b>FINAL INVESTIGATIVE REPORT</b>	
4	Prepared by Anita McGowan, Civil Rights Investigator   Office of Title IX Compliance	
5	<b>Table of Contents</b>	
6	Involved Parties .....	2
7	Procedural History .....	2
8	Applicable Policies .....	3
9	Evidentiary Standard .....	4
10	Summary of Allegations .....	4
11	Information Considered .....	5
12	Interview Summaries and Documentary Evidence .....	5
13	Background .....	5
14	Party Interactions Prior to Respondent's Entering Complainant's Residence on August 7, 2021 .....	6
15	Complainant's Account .....	6
16	Respondent's Account .....	11

At the conclusion of an investigation, the final investigative report will be sent to all parties, their Advisors, and Decision-Maker(s) at least **ten (10) days** prior to a hearing.

This report consists of all relevant materials related to the case, including summaries of interviews with parties and witnesses, and a description of evidence collected.



# The Investigative Report - *Contents*

1. **Involved Parties** - identifying information
2. **Procedural History** - brief timeline
3. **Applicable Policies** - alleged Appalachian policy violation(s)
4. **Evidentiary Standard** - preponderance standard
5. **Summary of Allegations** - short synopsis





# The Investigative Report - *Contents*

6. **Information Considered** – interview transcripts, attachments, etc.
7. **Interview Summaries & Documentary Evidence** – bulk of the evidence; requires careful attention
8. **Information Not in Dispute** – no need to reevaluate at the hearing
9. **Facts Still in Dispute** – requires rigorous evaluation
10. **Footnotes** – often references where to find the information in the Evidence File



## Language to Consider

<b>Institutional Process</b>	<b>Criminal Process</b>
Determines violation(s) of University policy	Determines violation(s) of law
Educational, administrative process	Punitive, legal process
“Preponderance of the Evidence”	“Beyond a Reasonable Doubt”
Responsible / Not Responsible	Guilty / Not Guilty
Complainant / Respondent	Plaintiff / Defendant
Advisor	Attorney
Sanctions	Sentences
Procedural due process	Substantive due process



## The Investigative Report – *Evidence File*

The Evidence File contains all of the relevant information that was submitted during the investigation. This information can include:

- **Transcripts** from interviews and any necessary follow-up interviews with the Complainant, Respondent, and Witnesses,
- **Documentary information**, e.g. text messages, social media posts/communication, emails, etc.

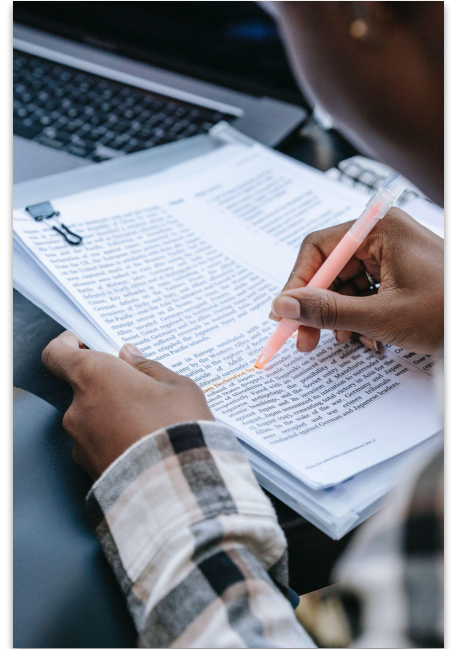
Information within the file may be redacted; however, a redaction key to identify the specific individuals will be provided.





## The Investigative Report - Review

- Thoroughly review the report independently.
- Brainstorm questions you may still have either for the investigator and/or the parties to reach a final determination.
- Consider what does it take to establish a policy violation?
  - Identify elements of each allegation.
  - Ex. Sexual Assault
    - (1) any sexual act directed against another person
    - (2) without the consent of the Complainant
- You will get to ask **relevant** questions at the hearing.



# Pre-Hearing Meeting



After a review of the report, the Hearing Officer will **convene a pre-hearing meeting** with the parties and their Advisors to generally discuss the hearing procedures, address any concerns or questions about the process, and review the Civility Agreement for signatures.

**Reminder:** Advisors are there to support their advisee. Often the advisor accompanies a party to interviews, reviews transcripts and the investigative report, and will likely have questions for you about the hearing process.



## **Pre-Hearing Meeting - Civility Agreement**

The Civility Agreement is provided to all participants in the process to complete. By completing the Civility Agreement, each individual is pledging to the following:

- **Respect All Participants** – Treat each other professionally and courteously, especially amid disagreement;
- **Uphold Privacy** – For the integrity of the process, it is urged that each participant maintain privacy and avoid disclosing information with uninvolved individuals;
- **Listen Carefully** – Listen when someone else is speaking;
- **Tell the Truth** – Tell only the truth and not knowingly misrepresent, mischaracterize, or misquote information;
- **Take Responsibility** – Take responsibility for one's own actions;
- **Recognize the Hearing Officer's Role** – Acknowledge and understand the Hearing Officer will lead the proceedings, and their decisions will govern the pre-hearing and hearing process.

## Pre-Hearing Meeting - Questions

The Hearing Officer may rule on the relevance of proposed questions for the hearing ahead of time or provide recommendations for more appropriate phrasing.

### *What is considered relevant?*

- Relevant if question has value in proving or disproving a fact at issue.
- Consider whether the question will bring forth information that will be helpful in evaluating the case.





# Pre-Hearing Meeting - Questions

*What is considered **not** relevant?*

- Evidence of **Complainant's sexual behavior** or predisposition is irrelevant unless:
  - **Identity** – Offered to prove that someone other than Respondent committed the conduct alleged, or
  - **Consent** – Concerns specific incidents of Complainant's sexual behavior with respect to the Respondent and is offered to prove consent.
- **Privileged Information** – medical records made/maintained by a physician, psychiatrist, etc.
- **Duplicative Questions** – those that inquire about information that has already been asked and/or seek to provide information already provided in the hearing testimony.





## Pre-Hearing Meeting - Questions

**Relevance Rationales** – Hearing Chair does not need to "give a lengthy or complicated explanation" in support of a relevance determination. Instead, it is sufficient to provide a simple explanation such as:

- "The proposed question is irrelevant because it calls for prior sexual behavior information without meeting one of the two exceptions." (*identity or consent*)
  - "The question is relevant because although it calls for prior sexual behavior information about the Complainant, it meets one of the two exceptions to the rape shield protections, and it tends to prove that a material fact at issue is more or less likely to be true." (*explain the applicable exception*)
- "The question asks about a detail that is not probative of any material fact concerning the allegations." *or* "The question is relevant because it asks whether a fact material to complain is more or less likely to be true."



# Pre-Hearing Meeting - Questions

## Relevance Rationales Continued

- "The question is irrelevant because it calls for information regarding a party's medical, psychological, or similar record without that party's voluntary, written consent."
- "The question is irrelevant because it is duplicative of a question that was asked and answered."

**Note:** If an Advisor has an objection to the rationale, they bring it up during the hearing for reconsideration.

## Pre-Hearing Meeting - Questions

This advance review opportunity *does not preclude* the Advisors from asking a question for the first time at the hearing or from asking for a reconsideration based on any new information or testimony offered at the hearing.

**Reminder:** The Hearing Officer *must still* share their rationale for any exclusion or inclusion of a question during the live hearing.





## Pre-Hearing Meeting - *Additional Points*

- **Witnesses.** Parties may request the presence of any witness they deem relevant to the determination of responsibility.
  - With the full agreement of the parties, the Hearing Officer may decide in advance of the hearing that certain witnesses do not need to be present if their testimony can be adequately summarized by the Investigative Report.
  - Unless all parties and the Hearing Officer otherwise assent to the witness's participation, any witness scheduled to participate in the hearing **must** have been interviewed by the Investigator, have offered a written statement to the Investigator, or answered written questions posed by the Investigator.
- **New Evidence.** If the parties and Hearing Officer do not assent to the admission of new evidence at the hearing, the Hearing Officer may delay the hearing and request the investigation to be reopened to consider that evidence.



## Final Pre-Hearing Preparations

- Review the Investigative Report (*again*) and the alleged policy violation(s).
- Continue to think about the elements necessary for a violation.
  - Ex. Sex-Based Stalking – conduct on the basis of sex defined as engaging in a course of conduct directed at a specific person that would cause a reasonable person to (i) fear for their safety or the safety of others or (ii) suffer substantial emotional distress.
    - **Stalking** = Course of Conduct + (Fear or Emotional Distress)
- “What do I still need to know to make a determination?” and “How should I ask that question?”
- Finally, make sure you are comfortable using Zoom, the technology used for the hearing, and reach out with any questions. A member of the Title IX Team will be at the hearing to provide technical assistance.

## Section 03. Pre-Hearing - *Review*

- The Investigative Report – Contents & Review
- Pre-Hearing Meeting
- What Makes a Question Relevant
- Final Preparations



## 04. Hearing

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- How does the Hearing process work?
- Will I have assistance at the Hearing?
- What if someone objects to a relevance determination?
- How will I know whether evidence is reliable?



# Hearing Process...*in a nutshell*



Introductory  
Statements



Allegations



Opening Remarks



Questions by the  
Decision-Maker(s)



Questions by the  
Advisors



Closing Remarks



## Hearing Decorum

- Ensure that your phone is turned off and put away.
- Maintain good eye contact and nod affirmatively.
- Use a professional tone when questioning (this is not an interrogation).
- Listen closely and do not go down irrelevant rabbit holes.
- Avoid fidgeting, giving “looks” to another Decision-Maker, or expressing emotions, such as shock or disgust.
- Overall, be respectful towards everyone involved.





# Support at the Hearing

## Hearing Procedures & Script for Hearing Officer/Decision-Maker(s)

Case # \_\_\_\_\_

### *Hearing Beginning (start recording)*

1. Good morning/afternoon. It is [Enter Time Here] on [Enter Date Here], and we are here to discuss Case # \_\_\_\_\_ regarding Respondent [Enter Respondent's Full Name Here] and alleged violation(s) of Appalachian State University's [Enter Policy Number and Name Here].
2. My name is [Enter Hearing Officer Full Name Here], and I will be serving as the Hearing Officer for today's hearing. My role is to ensure a fundamentally fair process; protect the rights of the Complainant and the Respondent; and ensure that participants are treated with respect. In this role, I have the authority to conduct the hearing in a manner to effectively and efficiently elicit information needed for the Decision Maker(s) to make a determination, review the admissibility of any information and questions, facilitate cross-examination, limit the length of testimony of any participant if the testimony appears to be repetitious or irrelevant, and remove any participant who is unruly or disruptive in accordance with the Civility Agreement.
3. This hearing is closed to the public. Only those persons directly involved with the case may remain for the proceedings, including the Complainant, the Respondent, the Complainant's and Respondent's Advisors, the Investigator, the Decision Maker(s) and the Hearing Facilitator.
4. Today's Hearing Facilitator is [Enter Hearing Facilitator Full Name Here]. Their role is to help the hearing process run smoothly for all parties involved. If you are having technology issues, feel free to use the chat to message [Enter Hearing Facilitator First Name Here].
5. Today's proceedings are confidential. It is a violation of the *Title IX and Sex/Gender Based Policy and Procedures* and federal law to disclose the content of this hearing, unless an exception is given

- Hearing Script to Guide the Procedures and Order
- Office of Title IX Staff for Logistics and Technical Assistance
- General Counsel for Objections
- Other Decision-Makers
- The Civility Agreement



# Questioning - *By Decision-Makers*

Forming and asking questions can be a challenge for Decision-Makers. How do we know a good way to form effective questions?

- **Open-Ended:** Results in more than a one-word answer
- **Closed-Ended:** Traditionally results in one-word answers
- **Probing:** Allows for clarification or to dig deeper on information
- **Funnel:** Sequencing of questions to better understand information shared
- **Timeline:** Allows for better understanding of order of events (if needed)

**Reminder:** The Hearing Officer will have to deem the question is relevant before the Party will be asked to answer it. The Hearing Officer may ask for you to rephrase the question prior to determining its relevance.





# Questioning - *By Decision-Makers*

Knowing what are effective types of questions, what may be ineffective questions?

- ◉ **Leading:** Encourages individuals to respond with a desired answer by the person asking the question
- ◉ **Multiple Choice:** Encourages individuals to select from a list of answers developed by the person asking the question
- ◉ **Compound:** Asks individuals more than one thing at a time
- ◉ **Repeat:** Asks individuals about information already answered
- ◉ **Determination:** Asking individuals what they think regarding another individual's credibility, what they think about the outcome, etc.



**Reminder:** The Hearing Officer will have to deem the question is relevant before the Party will be asked to answer it. The Hearing Officer may ask for you to rephrase the question prior to determining its relevance.



## Questioning - *By Advisors*

After the Decision-Makers have asked their questions of the Party, then the Parties' Advisors will have the ability to ask questions.

- **Note:** The Advisor for the Complainant will ask questions first and then the Advisor for the Respondent will have the ability to ask questions.

The Advisor will pose each individual question to the Hearing Officer so that the Hearing Officer can make a determination of relevance.

The Hearing Officer will permit the Party to answer the question, ask the Advisor to rephrase the question, or determine the question is not relevant.

- **Note:** The Hearing Officer may invite the Advisor to provide statements as to help determine relevance.

If the Hearing Officer deems the question to be irrelevant, unduly repetitious, or abusive, the Hearing Officer will not permit the question to be answered and will explain the rationale for that determination.



# Relevance Rationales

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**Reminder:** Hearing Officers must give a relevance rationale for including/excluding a question before it's answered.

## *Other Considerations*

- **Embarrassing/Sensitive Issues** – At times, advisors may insist that a question should be excluded because of unfair prejudice to a party. However, every question must be considered for relevance, even those involving embarrassing and/or sensitive matters.
- **Argumentative** – If a question is relevant but offered in an abusive or argumentative manner, the Hearing Officer has the discretion to ask the advisor to rephrase the question in an appropriate manner.



# Objections

- Advisors, on behalf of their parties, may object.
- They will be given an opportunity to explain their objection.
- The Hearing Officer may then, after private consultation with either other **Decision-Maker(s)** and **General Counsel**, maintain or modify their original relevancy determination.
- Determination is then final, and the hearing will proceed.

**Note:** If an Advisor is suspected to be merely objecting relevancy determinations in an effort to prolong and/or disrupt the hearing, the Advisor will be removed from the hearing under the Civility Agreement.





# Credibility Assessments

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- Credibility is a person's capability to elicit belief from others.
- When assessing an individual's credibility, does this testimony match what they told the Investigator? Does the information make sense?
  - Focus on the totality of the information shared, not so much on minute inconsistencies.
  - Keep in mind, even if you think you're good at it, humans are notoriously awful at telling whether someone is lying!
- The credibility of any party and/or witness can be reviewed through the asking of questions.
- Are there potential allegiances with witnesses or motives to provide false information?
  - Are there direct similarities with the statements of multiple individuals involved?





# Credibility Assessments

- When asking yourself whether someone's testimony makes sense, be careful to **avoid biases**.
  - Behaviors that can be correlated with deception but lack bearing are:
    - Having a high-pitched voice, fewer details in provided statements, increased eye blinking, etc.
  - Behaviors that are misconceptions that have been related to deception are:
    - Eye contact or lack thereof, looking up and to the left, shrugging shoulders, etc.
- **Corroborating and/or contradicting evidence** can be very helpful!
  - Witness describes a conversation and has screenshots.
  - Party says they took an Uber home the next morning and has the receipt.

## Section 04. Hearing - *Review*

- Overview of the Hearing Process
- Support at the Hearing
- Providing a Relevance Rationale
- How to Handle Objections
- Credibility Assessments



## 05. Post-Hearing

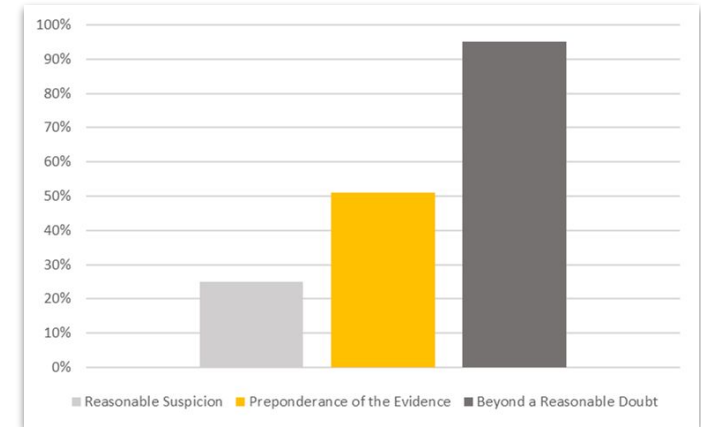
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- How do I evaluate evidence?
- What is the deliberation process?
- What if a Respondent is found responsible?
- Can a party appeal the findings?



## Evidence - *Preponderance of the Evidence*

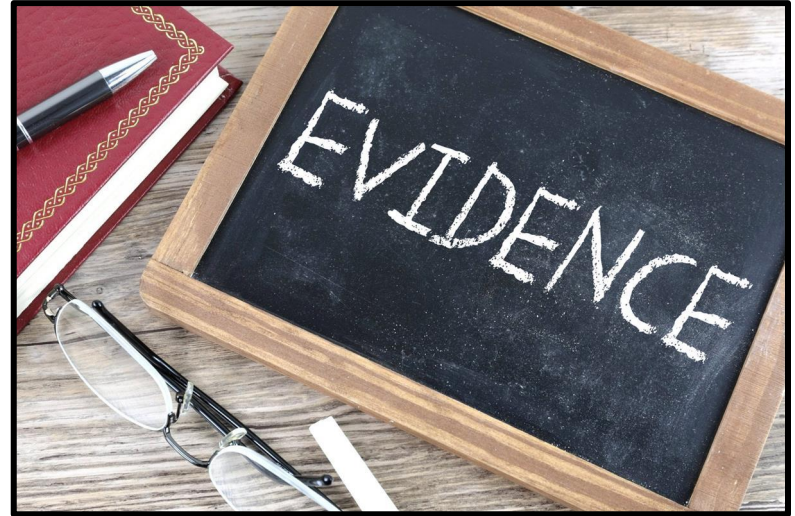
- A determination based on facts that are more likely true than not. The “tipped scale.”
- Where the evidence reflects a **greater than 50%** chance that the allegations are true, the preponderance of evidence standard results in a finding that the Respondent is responsible.
- Determination must be **based solely on the info presented**, which may include pertinent records (e.g., Formal Complaints, police reports, investigation reports), exhibits (e.g., photographs, audio/video information, electronic communications including social media), and written or oral statements.





## Evidence - General Overview

- The Evidence File will have all of the information that was provided and submitted to the Investigator during the investigation.
- The parties at the hearing will have the opportunity to discuss information that was included in the Evidence File.
- As Hearing Officers and Decision-Makers, you will be tasked with reviewing and weighing the importance of the evidence as part of the hearing in making your determinations if there is a preponderance of the evidence to find the Responding party responsible for the alleged policy violations.



## ● Evidence - *Relevant and Directly Related*



- Evidence that is relevant and directly related to the complaint is evidence that tends to prove (that means it is inculpatory) or disprove (that means it is exculpatory) a specific aspect of the complaint.
- Evidence is relevant if there is a tendency to have the allegation be more or less likely to have occurred than if the evidence was not present.
- As Hearing Officers and/or Decision-Makers, you will need to reference these specific items of evidence when drafting your written determination and rationale. The written determination and rationale will be discussed in the upcoming slides.



## **Evidence - *Inadmissible and/or Privileged***

- There is evidence that the Final Regulations have deemed inadmissible for our processes.
- These types of evidence include:
  - A party's medical treatment records (unless the party has provided written consent to the records being shared),
  - Information protected by a legally recognized privilege,
  - Questions or evidence about a Reporting party's sexual predisposition
  - Questions or evidence about a Reporting party's sexual history unless
    - **The information offered is to prove that someone other than the Responding party committed the alleged act(s),**
    - **The question or evidence concerns sexual behavior between the Reporting and Responding parties and is discussed in order to prove consent.**



## Deliberation Process - Overview



- Once the hearing has ended, all Parties and Advisors will be dismissed.
- At that point, the Decision-Makers will determine whether to begin deliberations or to schedule a follow up day and time to deliberate.
- The Decision-Makers will have to make a determination regarding responsibility for each policy violation alleged against the Respondent.
- During deliberations, the Decision-Makers can review any and all information that was included in the hearing, even watching/listening to the hearing recording.
- Determinations are made through a majority vote; unanimity is not required.





## **Deliberation Process - *Written Determination***

- In developing the written determination, there are important pieces of information that will need to be included for each alleged policy violation:
  - The specific sections of the policy alleged to have been violated;
  - The determination of responsibility utilizing the “preponderance of the evidence” standard;
  - The rationale for the determination, to include:
    - The findings of fact tending to support or refute the determination;
    - The specific information/evidence that led the Decision-Makers to make their determination
- This information will be included with the description of the procedural steps taken to then be provided to the applicable office for sanctioning determination.



## Referral for Sanctions

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- The next steps in the process will be determined based on the decision by the Decision-Makers.
- If the Respondent is found Not Responsible for all alleged policy violations, the determination will be communicated to both the Complainant and Respondent simultaneously. The communication will also include available appeal options for both parties.
- If the Respondent is found Responsible for minimally one of the alleged policy violations, the determination will be forwarded to the respective Office for sanctioning.
  - If the Respondent is a student, sanctions will be determined by the Office of Student Affairs, or designee;
  - If the Respondent is a faculty member, sanctions will be determined by the Provost, or designee;
  - If the Respondent is a staff member, sanctions will be determined by the Director of the Office of Human Resources, or designee.



# Appeal Process

## *Grounds for Appeal.*

- Procedural irregularity;
- New evidence that was not reasonably available at the time of the determination; and
- Conflict of interest or bias.

## **Appellate Officer has the authority to:**

- (i) affirm all or part of the decision (which includes the determination of responsibility, as well as the sanction(s)); and/or
- (ii) recommend the case be referred to the same or new Investigator(s) or Decision-Maker(s) for further consideration.



## Section 05. Post-Hearing - *Review*

- Preponderance of the Evidence
- Determining Whether There's Been a Violation
- Assessing Sanctions
- Understanding the Appeal Process

# Thank you for your time!

And we encourage you to participate in supplemental trainings that will be given out periodically.

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