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# UNIVERSITY OF VIRGINIA TITLE IX ADVISOR TRAINING

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FEDERAL LAW

TITLE IX

VAWA

CLERY

IMPLEMENTING  
REGULATIONS

HISTORY

2020 TITLE IX SEXUAL  
HARASSMENT  
REGULATIONS

STATE LAW

# LEGAL FRAMEWORK

# TITLE IX OF THE EDUCATION AMENDMENTS OF 1972

*No person in the United States shall, based on 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.*

# MAJOR TITLE IX DECISIONS

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- *Cannon v. Univ. of Chicago*, 441 U.S. 677 (1979) – Private right of action under Title IX
- *Gebser v. Lago Vista Indep. Sch. Dist.*, 524 U.S. 274 (1998) - liability under Title IX where a recipient (i.e., school) has actual knowledge of sexual harassment but responds with deliberate indifference
- *Davis v. Monroe County Bd. of Educ.*, 526 U.S. 629 (1999) – defining sexual harassment as unwelcome conduct on the basis of sex that is “so severe, pervasive, and objectively offensive that it can be said to deprive the victims of access to the educational opportunities or benefits provided by the school.”

# CLERY ACT

- Requires colleges to report crimes that occur “on campus”
- Requires schools to send timely warnings to the community when there are known risks to public safety
- Requires publication of annual security report
- Created additional training and educational requirements
- Enforced by Department of Education

# VIOLENCE AGAINST WOMEN ACT (VAWA) REAUTHORIZATION 2013

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- Amended Clery Act to require reporting of domestic violence, dating violence, and stalking
- Prohibited retaliation
- Expanded training requirements
- Provided prescriptions related to certain defined terms:
  - sexual assault
  - domestic violence
  - dating violence
  - stalking

# HISTORY OF TITLE IX IMPLEMENTATION

- Prior to 2020, Department of Education issued a series of significant guidance documents
  - 1997 Sexual Harassment Guidance
  - 2001 Revised Sexual Harassment Guidance
  - 2011 Dear Colleague Letter
  - 2014 Q&A
- This guidance clarified schools' responsibilities in responding to complaints of sexual harassment, and advises on the implementation of a grievance process
- Much of this guidance has been superseded by the 2020 Regulations

# 2020 REGULATIONS - OVERVIEW

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- Promulgated on May 6, 2020; effective for complaints after August 14, 2020
- Codified substantive definition of “sexual harassment” under Title IX
- Outlined jurisdictional scope of institutional mandate to respond
- Imposed “actual knowledge” and “deliberate indifference” notice/response standards from *Gebser/Davis*
- Specified requirements of a grievance process, including a live hearing
- Mandated the option of an appeal

# 2020 REGULATIONS – SCOPE OF TITLE IX

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- The Final Rule requires institutions to respond when sexual harassment occurs in the school's education program or activity, against a person in the United States
- Education program or activity includes locations, events, or circumstances over which the school exercised substantial control over both the respondent and the context in which the sexual harassment occurred, and also includes any building owned or controlled by a student organization that is officially recognized by a postsecondary institution (such as a fraternity or sorority house)
- School may address sexual harassment affecting its students or employees that falls outside Title IX jurisdiction in any manner the school chooses

- Mandated live hearing at postsecondary institutions
- Decision-maker must be present during the hearing
- Enhanced the role of party-advisors
  - Parties must be permitted to be accompanied by the advisor of their choice
  - Institutions must appoint advisor for parties that fail to provide one themselves
- Advisors permitted to conduct cross-examination and ask all relevant questions
- Statements made by witnesses who decline to answer relevant questions shall be disregarded by decision-maker

## 2020 REGULATIONS – GRIEVANCE PROCESS

# STATE LAW

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- Virginia Reporting Statute, Va. Code § 23.1-806
  - Requires University to assess potential threats to health and safety in response to reports of acts of sexual violence
  - If, based on that assessment, a threat to health and safety is identified, or if the reported conduct would constitute the commission of certain felonies, the University is required to report to law enforcement/Commonwealth Attorney
- Title 18.2
  - Obviously, some conduct in Title IX matters may also implicate criminal statutes
- Important to delineate between legal counsel and administrative proceeding

UNIVERSITY'S POLICY ON TITLE IX  
HARASSMENT AND SEXUAL AND  
GENDER-BASED MISCONDUCT  
("SEXUAL MISCONDUCT POLICY")

TITLE IX GRIEVANCE PROCESS  
RULES OF DECORUM

# UNIVERSITY POLICY, PROCESS, AND PROTOCOLS

# SEXUAL MISCONDUCT POLICY - OVERVIEW

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- Revised following the 2020 Title IX Regulations
- Proscribes two sets of prohibited conduct:
  - Title IX Prohibited Conduct
    - Conduct within the scope of the 2020 Title IX Regulations
  - Sexual or Gender-Based Prohibited Conduct
    - Conduct that does not meet the definition of Title IX Prohibited Conduct
    - Occurring on University property, in the context of a University employment or education program or activity, at the residence of a University community member or in Charlottesville, Albemarle, or the city/county of another UVA campus, OR has continuing effects on University or creates a hostile environment for University
- Each of those two sets of prohibited conduct is investigated and adjudicated under a separate process

# THE TWO DIFFERENT TYPES OF PROHIBITED CONDUCT, EXPLAINED

- Sexual and Gender-Based Prohibited Conduct definitions exclude Title IX Prohibited Conduct
  - Intended to capture sexual harassment outside the scope of Title IX Regulations
- Two different procedures for adjudicating two different types of Prohibited Conduct
  - Title IX Prohibited Conduct adjudicated using Title IX Grievance Process (Students and Employees)
  - Sexual and Gender-Based Prohibited Conduct adjudicated using Procedures (Appendix B)
  - If multiple types of misconduct, Title IX Coordinator may direct single investigation

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# TITLE IX PROHIBITED CONDUCT

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ADJUDICATED UNDER THE TITLE IX GRIEVANCE PROCESS

- *Quid Pro Quo* Harassment (Employee-Student)
- Sexual Harassment
- Sexual Assault
- Dating Violence
- Domestic Violence
- Stalking

# TITLE IX PROHIBITED CONDUCT



# *QUID PRO QUO* SEXUAL HARASSMENT (STUDENT- EMPLOYEE)

- Conduct where
  1. An employee of the University
  2. Conditions the provision of an aid, benefit, or service
  3. On a student's participating in
  4. Unwelcome sexual conduct

# SEXUAL HARASSMENT

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1. Unwelcome conduct
2. On the basis of sex
3. That a reasonable person would determine is so
  - i. Severe;
  - ii. Pervasive;AND
  - iii. Objectively Offensive
4. That it effectively denies a person to the University's education programs or activities.
  - Includes both conduct of a sexual nature and conduct based on sex or sex stereotyping.

# SEXUAL HARASSMENT

## FACTORS FOR EVALUATING HOSTILE ENVIRONMENT

- The frequency, nature, and severity of the conduct;
- The age, disability status, and other characteristics of the parties;
- Whether the conduct was physically threatening;
- The effect of the conduct on the Complainant's mental or emotional state;
- Whether the conduct was directed at more than one person;
- Whether the conduct arose in the context of other discriminatory conduct; and
- Whether the conduct unreasonably interfered with the Complainant's educational or work performance and/or University programs or activities

# SEXUAL HARASSMENT (CONTINUED)

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- Does not require complete or physical exclusion from activities or a specific manifestation of trauma
- Where speech or expression is involved in allegedly unwelcome conduct, First Amendment implications arise

# SEXUAL ASSAULT

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- Defined as a series of forcible and non-forcible sex offenses, as listed in Clery Act/VAWA:
  - Forcible Rape
  - Forcible Sodomy
  - Sexual Assault with an Object
  - Forcible Fondling
  - Incest
  - Statutory Rape
- Consent standard for all such offenses is “Affirmative Consent.”
- Note that these are similar to but not identical to criminal statutes

# SEXUAL ASSAULT: FORCIBLE RAPE

1. Penetration,
2. No matter how slight,
3. Of the vagina or anus with any body part or object,
4. Or oral penetration by a sex organ of another person,
5. Without the consent of the Complainant.

# SEXUAL ASSAULT: FORCIBLE SODOMY

1. Oral or anal sexual intercourse with another person,
2. Forcibly
3. And/or against that person's will (non-consensually) or
4. Not forcibly or against the person's will (non-consensually) in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

1. The use of an object or instrument to penetrate,
2. However slightly,
3. The genital or anal opening of the body of another person,
4. Forcibly,
5. And/or against that person's will (non-consensually)
6. Or not forcibly or against the person's will (non-consensually) in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

## SEXUAL ASSAULT WITH AN OBJECT

# SEXUAL ASSAULT – FORCIBLE FONDLING

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1. The touching of the private body parts of another person (buttocks, groin, breasts),
2. For the purpose of sexual gratification,
3. Forcibly,
4. And/or against that person's will (non-consensually),
5. Or not forcibly or against the person's will in instances where the Complainant is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

## SEXUAL ASSAULT: INCEST

1. Nonforcible sexual intercourse,
2. Between persons who are related to each other within the degrees wherein marriage is prohibited by Virginia law.

1. Nonforcible sexual intercourse,
2. With a person who is under the statutory age of consent in the Commonwealth of Virginia, which is 17.

## SEXUAL ASSAULT: STATUTORY RAPE

# SEXUAL ASSAULT – AFFIRMATIVE CONSENT

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- Informed (knowing)
- Voluntary (freely given)
- Active (not passive), meaning that, through the demonstration of clear words or actions, a person has indicated permission to engage in mutually agreed-upon sexual activity

# AFFIRMATIVE CONSENT (CONTINUED)

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- Affirmative Consent cannot be obtained by force, including
  - Physical violence
  - Threats
  - Intimidation
  - Coercion

# AFFIRMATIVE CONSENT - CONTINUED

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- Affirmative Consent cannot be gained by taking advantage of the incapacitation of another, where the person initiating sexual activity knew or reasonably should have known that the other was incapacitated.
- Incapacitation: a person lacks the ability to make informed, rational judgment about whether or not to engage in sexual activity

# AFFIRMATIVE CONSENT AND INCAPACITATION

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- Can arise from
  - Mental or physical helplessness
  - Sleep
  - Unconsciousness
  - Lack of awareness of sexual activity
- A person may be incapacitated
  - By drug/alcohol consumption
  - Temporary or permanent mental or physical health condition

# AFFIRMATIVE CONSENT AND INCAPACITATION CONTINUED

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- A person who wants to engage in specific sexual activity is responsible for obtaining affirmative consent
- Lack of protest, silence, passivity, lack of resistance  $\neq$  affirmative consent
- While it can be indicated without words, non-verbal communications may be misunderstood
- Affirmative consent for one activity  $\neq$  affirmative consent for a different activity
- Affirmative consent may be withdrawn
- Will be evaluated in the context of any relationship at issue

# AFFIRMATIVE CONSENT AND INCAPACITATION CONTINUED

- Two questions to determine incapacitation:
  - Did the person initiating sexual activity know that the other party was incapacitated?
  - IF NOT, should a sober, reasonable person in the same situation have known that the other party was incapacitated?
- Incapacitation is a state beyond drunkenness or intoxication
- Not an expert issue
- Certain common warning signs
- Impairment ≠ defense

# DATING VIOLENCE

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- Violence on the basis of sex
- Committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant

## DATING VIOLENCE:

WAS THERE AN  
INTIMATE OR  
ROMANTIC  
SOCIAL  
RELATIONSHIP?

The existence of such a relationship shall be determined based on a consideration of the following factors:

- Length of relationship
- Type of relationship
- Frequency of interaction between the persons involved in the relationship

# DOMESTIC VIOLENCE

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- Violence on the basis of sex
- Committed by
  - Current or former spouse
  - Co-parent
  - Co-habitation partner
  - Person situated similarly to a spouse under the domestic or family violence laws of Virginia, or
  - Any other person, where conduct is committed against an adult or youth Complainant protected by laws of Virginia

# STALKING

- On the basis of sex
- Engaging in a course of conduct
- Directed at a specific person
- That would cause a reasonable person to
  - Fear for their safety or the safety of others or
  - Suffer substantial emotional distress

# SEXUAL AND GENDER-BASED MISCONDUCT

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# SEXUAL AND GENDER BASED PROHIBITED CONDUCT

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- *Quid Pro Quo* Harassment
- Hostile Environment Harassment
- Non-consensual Sexual Contact
- Non-consensual Sexual Intercourse
- Sexual Exploitation
- Intimate Partner Violence
- Stalking
- Retaliation
- Complicity

# NON TITLE IX: *QUID PRO QUO* HARASSMENT

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- Involves Employee-Employee or Student-Employee *quid pro quo* harassment
- Might also involve student-student *quid pro quo* harassment in the context of educational program or activity

# NON TITLE IX: HOSTILE ENVIRONMENT HARASSMENT

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- On the basis of sex, sexual orientation, gender identity or expression, or pregnancy
- Sufficiently severe, persistent OR pervasive
- Such that it unreasonably interferes with, limits, or deprives an individual from participating in or benefitting from the University's programs and/or activities
- Subjective and objective basis

# NON-TITLE IX: NON- CONSENSUAL SEXUAL CONTACT

1. Any intentional (not incidental or accidental),
2. Sexual, touching,
3. However slight,
4. With any object or body part (as described below),
5. Performed by a person upon another such person, without Affirmative Consent.

# NON-TITLE IX: NON-CONSENSUAL SEXUAL INTERCOURSE

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1. Any penetration,
2. However, slight,
3. With any object or body part (as described below),
4. Performed by a person upon another person,
5. Without Affirmative Consent.

## NON-TITLE IX: AFFIRMATIVE CONSENT

- Standard is affirmative consent here as well
- Guidance is very similar to Title IX Sexual Assault

# NON-TITLE IX: SEXUAL EXPLOITATION

- Taking non-consensual or abusive sexual advantage of another for one's own benefit or for the benefit of anyone other than the person being exploited, when that conduct does not otherwise constitute Prohibited Conduct under this Policy.

# SEXUAL EXPLOITATION: EXAMPLES

- Causing incapacitation for purpose of compromising affirmative consent
- Allowing third parties to observe private sexual activity
- Voyeurism
- Recording sexual activity without consent
- Prostituting another person
- Exposing another to an STI without their knowledge

# NON-TITLE IX: INTIMATE PARTNER VIOLENCE

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- any act of violence or threatened act of violence that occurs between individuals who are involved or have been involved in a sexual, dating, spousal, domestic, or other intimate relationship

# NON-TITLE IX: STALKING

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- Course of conduct
- Directed at a specific person
- Under circumstances that would cause a reasonable person to fear bodily injury or experience substantial emotional distress

# NON-TITLE IX: RETALIATION

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- Any adverse action or any action likely to deter a person from engaging in future protected activity
- Taken against a person for
  - Reporting prohibited conduct in good faith
  - Participating in a proceeding under the policy
  - Acting in good faith to oppose prohibited conduct
- Can occur even in cases where “no responsibility” found on initial investigation of substantive violation
- Does not include good faith actions lawfully pursued

# COMPLICITY

- Any act taken with the purpose of aiding, facilitating, promoting or encouraging the commission of prohibited conduct by another person

# ONLINE HARASSMENT AND MISCONDUCT

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Both Title IX Prohibited Conduct and Non-Title IX Prohibited Conduct will be interpreted to include online and cyber manifestations of this conduct when it otherwise meets policy definitions.



Where online conduct occurs completely outside University control, it will be subject to policy only where it can be shown to cause substantial in-program disruption



Consider whether employee's speech is made in official or work-related capacity

# TITLE IX GRIEVANCE PROCESS

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- Expectations of Parties
- The Role of an Advisor
- Presumption of Non-Responsibility
- Relevance and its exceptions
- Participation of parties and Witnesses
- Investigation Process – Reports and Responses
- Hearing Process
- Appeal

# GRIEVANCE PROCESS: EXPECTATIONS OF PARTIES

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- Prompt and equitable resolution
- Privacy
- Supportive measures
- Freedom from retaliation
- Responsibility to refrain from retaliation
- Responsibility to provide truthful information
- Reasonable accommodations for disability/language
- Timely notice of complaints, meetings, or proceedings
- Opportunity to choose an advisor
- Opportunity to have an advisor appointed
- Challenge bias or conflict of interest in investigator or decision-maker
- Offer information, present evidence, identify witnesses
- Opportunity to be heard
- Access to information to be used during resolution
- Reasonable time to prepare responses
- Written notice of extension of time frames
- Written notice of outcomes
- Opportunity to appeal

# PRESUMPTION OF NON-RESPONSIBILITY

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- The investigation is a neutral fact-gathering process. The Respondent is presumed to be not responsible; this presumption may be overcome only where the Decision Maker concludes that there is sufficient evidence, by a Preponderance of the Evidence, to support a finding that the Respondent violated the Sexual Misconduct Policy.
- Note that this is not a burden on Complainant, but instead on University

# THE INVESTIGATION – INITIATION TO DRAFT REPORT

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- Title IX Coordinator designates investigator(s)
- Investigator seeks information and statements from parties and witnesses, reviews documents and records, and collects other evidence (e.g., site visits, University records, experts, law enforcement)
- Investigator transmits draft investigation report to parties
  - Will include all information collected not protected by privilege
  - Will NOT recommend a finding
- Parties have 10 days to respond with comments, identify additional evidence, request further investigation on particular topics

# INVESTIGATOR'S DETERMINATION OF RELEVANCE

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Investigator has the discretion to determine the relevance of any proffered evidence, and to include or exclude certain types of evidence



In general, will not consider statements of personal opinion, rather than direct observations or reasonable inferences from the facts, or statements as to any party's general reputation for a character trait



Notwithstanding the investigator's discretion, all collected information – including irrelevant information – is shared with parties and decision maker, and may be considered at the hearing

# PRIOR OR SUBSEQUENT CONDUCT

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May be considered in determining pattern, knowledge, intent, motive, or absence of mistake

Determination during investigation made by investigator, and parties will be informed

# PRIOR SEXUAL HISTORY

- Sexual history or sexual predisposition of a party will never be used to prove character or reputation
- Generally not relevant to the determination of a violation
- Only considered when offered to prove
  - Someone other than Respondent committed the conduct in question
  - Consent in light of specific incidents of prior sexual history between the parties

# THE INVESTIGATION – FINAL INVESTIGATION REPORT

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**Investigator reviews responses from parties and identifies additional investigative steps**



**Investigator prepares final investigation report**

WILL include recommended finding  
Recommendation is non-binding, decision-maker will come to independent decision at hearing



**Investigator transmits to parties; includes initial information about hearing process**



**Parties may submit response within 10 days**



**Total investigation timeframe approximately 75 days**

# IMPACT/MITIGATION STATEMENTS

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- May be in conjunction with, in addition to, or in lieu of substantive response to Final Investigation Report
- Complainant may describe impact of prohibited conduct, express opinion on sanctions, and describe other information
- Respondent may explain factors that should mitigate or otherwise be considered
- Will be provided to decision maker at the appropriate time

# PARTICIPATION OF PARTIES AND WITNESSES

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No one is required to participate; findings of responsibility will not be based solely on a party's decision not to participate

Lack of or limited participation may limit the ability of the University to thoroughly investigate and resolve

Parties are expected to speak for themselves throughout the investigation, except for cross-examination at the hearing

If a witness could have been identified before final report, or declines to participate, that witness' statements cannot be considered by the decision maker

# ROLE OF AN ADVISOR - BASICS

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Can be advisor of choice, but caution where advisor is also a witness

Upon written request, party may request appointment of advisor by University

Advisor may accompany party at any meeting or proceeding

Advisor provides support and advice at any meeting or proceeding but cannot participate EXCEPT to conduct hearing cross-examination

University will communicate directly with party and copy advisor on all communications

# THE HEARING - BASICS

- Title IX Coordinator appoints a decision-maker from standing pool of trained/experienced individuals
- Decision Maker receives Final Investigation Report and all evidence collected which is not protected by privilege
- Presumption of non-responsibility still applies until Decision Maker concludes that there is sufficient evidence by a preponderance of the evidence to support a finding of a violation
- Can be conducted in a physical hearing room/rooms or virtually with real-time audio and video participation

# PRE-HEARING CONFERENCE

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At the discretion of the Decision Maker

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Parties will be provided advance written notice

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Forum for discussion of preliminary matters  
related to the Hearing

- Complainant and Respondent have the right to be present at the Hearing
- Hearing may proceed and sanctions may be imposed even if a party, upon proper notice, does not attend or participate in the Hearing
- The Decision Maker or a party may request the attendance of the Investigator or any witness
  - No one is required to participate but declining to appear or submit to cross-examination will prohibit Decision Maker from considering statements
- If no one requests a particular witness' presence, that witness' statements may still be considered without cross-examination

## PARTICIPATION IN THE HEARING

# FORMAT

- Subject to the discretion of the Decision Maker
- May include
  - Opening remarks by parties (10 minutes each)
  - Questions for Complainant
  - Questions for Respondent
  - Questions for Witnesses
  - Closing remarks by parties (10 minutes each)
- Format generally recognizes administrative nature of proceeding
- Proceeding will be held in a professional manner but will not adopt formality of civil/criminal litigation
- Will be recorded/transcribed

# DIRECT EXAMINATION BY DECISION MAKER

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- Only by Decision Maker, not by party or advisor
- May ask questions and elicit information to aid
  - findings of fact
  - conclusions regarding application of Policy to facts
  - Determination of responsibility
  - Sanctions

# CROSS EXAMINATION AT THE HEARING

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**Parties may NOT question each other or any witness**



**Cross-examination performed by party's advisor**

Directly

Orally

In real time



**Advisor may ask all relevant questions and follow-up questions designed to test the veracity and accuracy of each party or witness' statements, including questions challenging credibility**

# EXCLUSION OF STATEMENTS

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- If a party or witness does not submit to cross-examination at the Hearing, the Decision Maker will not rely on any statement of that party or witness in reaching a determination regarding responsibility
- Exclusion of statements applies to
  - Investigator's interview
  - Verbal or written statements to any person
- Decision Maker cannot draw an inference about the determination regarding responsibility based solely on a party's or witnesses' absence from the Hearing or refusal to answer cross-examination or other questions



# EXCLUSION OF STATEMENTS

- This includes statements made in documents and records
  - Text messages
  - Emails
  - Medical reports
  - Police reports
- Does not apply where statements themselves constitute conduct forming the basis of the alleged violation

# RELEVANCE OF CROSS-EXAMINATION QUESTIONS

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- Relevance determined in real time by Decision Maker
- Determined by logic and common sense, not rules of evidence
- Examples of irrelevant questions include:
  - Questions calling for privileged information
  - Questions calling for medical information without consent
  - Questions regarding sexual predisposition or behavior as described in Grievance Process
  - Questions calling for one witness to testify about statements excluded due to another witness' failure to submit to cross-examination
- Where relevant, Decision Maker will permit questions regarding character/prior history, but may evaluate weight or credibility

# RELEVANCE DETERMINATION PROCESS

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Advisor asks question

Decision Maker will state whether question is relevant or irrelevant

Decision Maker may seek input from parties regarding relevance determination

Decision Maker will make a final decision regarding relevance, and state the basis for the decision to find any particular question irrelevant

Decision Maker will direct witness to answer relevant question

# GUIDELINES FOR CROSS- EXAMINATION

- Advisor **MUST** conduct cross-examination of witnesses on behalf of party
- Cross examination must be relevant, respectful, and non-abusive
- Must use neutral and respectful tone
  - Decision Maker will permit advisor to rephrase question
- Do not approach party or witness during cross-examination without permission from Decision Maker
- Repetitive or cumulative questions are irrelevant

# THE DETERMINATION

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- Decision Maker objectively evaluates all relevant non-excluded evidence
- Determines whether there is sufficient evidence to support a finding of responsibility on the part of Respondent for each allegation under investigation
- NO deference to recommended findings in Final Investigation Report
- Can order additional investigation
- If evidence is sufficient, Decision Maker will determine appropriate sanction
- If evidence is insufficient, Decision Maker may provide for still provide remedies, and Title IX Coordinator may ensure supportive measures

# THE DETERMINATION, CONTINUED

- Decision Maker will simultaneously issue a Written Determination to both parties within ten business days following the Hearing (with extensions for good cause)
- Both parties have the right to appeal, pursuant to grievance process, with notice submitted to Title IX Coordinator within five business days of receipt of Written Determination

# SANCTIONS – STUDENT CASES

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- Expulsion
- Suspension
- Suspension in Abeyance
- Restitution
- Disciplinary Probation
- Reprimand
- Coaching
- Training
- Warning
- Withhold diploma
- Degree revocation
- Organizational Sanctions

- Termination
- Suspension
- Demotion
- Removal of administrative appointment
- Progressive discipline
- Coaching
- Training/Education

# SANCTIONS – EMPLOYEE CASES

# REMEDIES

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# CONSIDERATIONS FOR SANCTIONING

- Severity, persistence, pervasiveness
- Violence (if any)
- Impact on Complainant
- Impact on community
- Prior misconduct
- Acceptance of responsibility
- Maintenance of safe, nondiscriminatory, respectful environment
- Aggravating, mitigating, compelling factors

# SANCTIONING INFORMATION

- Impact and mitigation statements provided to Decision Maker after conclusion regarding responsibility
- May also include information regarding Respondent's criminal and University disciplinary history
- Decision Maker may consult with other University officials, but decision is solely and independently made by Decision Maker

# APPEALS

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Both parties have the right to appeal Written Determination



Reviewed by internal Appeals Officers



Adjudicated on four specific bases

# BASES FOR APPEAL

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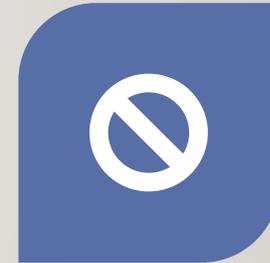
PROCEDURAL  
IRREGULARITY AFFECTED  
THE OUTCOME OF THE  
FORMAL COMPLAINT



NEW EVIDENCE NOT  
REASONABLY AVAILABLE



BIAS OR ACTUAL  
CONFLICT OF INTEREST



INAPPROPRIATE  
SANCTION