

James Madison University: Annual Title IX and related issues Training

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Disclaimers



- I am not giving you legal advice
- Consult with your legal counsel regarding how best to address a specific situation
- Feel free to ask general questions and hypotheticals
- Ask Questions
- Hypos are not based on specific cases. Similarities are coincidental.
- These slides include some statistics. Statistics help us understand the way these crimes may affect the individuals involved, as well as our community. Statistics should never influence your decisions with regard to handling a specific case.

Training Requirements (Clery)



From the Clery regulations:

Proceedings involving sexual assault, dating violence, domestic violence, and stalking must –

- “Be conducted by officials who, at minimum, **receive annual training** on the issues related to dating violence, domestic violence, sexual assault, and stalking, and on how to conduct an investigation and hearing process that protects the safety of victims and promotes accountability”

We will discuss safety for all parties – not just victims – and our community.

Training Requirements (Title IX)(1)



“A recipient must ensure that

- Title IX Coordinators,
- investigators,
- decision-makers, and
- any person who facilitates an informal resolution process...”

Training Requirements (Title IX)(2)



- “...receive training on...
 - the definition of **sexual harassment** in §106.30,
 - the scope of the recipient’s **education program or activity**,
 - how to **conduct an investigation and grievance process including hearings, appeals, and informal resolution process, as applicable**, and
 - how to serve **impartially**, including
 - avoiding prejudgment of the facts at issue,
 - [avoiding] conflicts of interest, and
 - [avoiding] bias.”

Training Requirements (Title IX)(3)



- Investigators:
 - Issues of relevance to create an investigative report that fairly summarizes relevant evidence
- Decision Makers:
 - Technology to be used at a live hearing,
 - Issues of relevance of questions and evidence
 - Including rape shield provisions in §106.45(b)(6)

Topics for This Training



- Definitions of Sexual Harassment (including Quid Pro Quo and Unwelcome Conduct Sexual Harassment; Sexual Assault; Dating/Domestic Violence; and Stalking)(Title IX and Clery)
- An overview of prohibited conduct under the OEO Policy & Title VI
- Scope of the Education Program or Activity
- Relevance
- How to Conduct an Investigation & Grievance Process (and an overview of the same)
- Impartiality and Avoiding Bias, Conflict, and Stereotypes

Prohibited Conduct

Title IX Sexual Harassment



- 3 Classifications

- [Sexual harassment](#) means conduct on the basis of sex that satisfies one or more of the following:
 - [[Quid pro quo](#)] An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;
 - [[Unwelcome conduct](#)] Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity; or
 - [[Clery crimes](#)] Sexual assault, dating violence, domestic violence, or stalking

Sexual Assault



Sexual assault is defined as “an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation”

Appendix A (Clery) includes definitions from the FBI’s Summary Reporting System (SRS), which was phased out effective December 31, 2020. The FBI now uses *NIBRS*.

The Policy must include in its definition the conduct not permitted by NIBRS, but can be worded differently.

Sexual Assault Types



Forcible:

- Rape
- Sodomy*
- Sexual Assault with an Object*
- Fondling*

Non-forcible

- Statutory rape
- Incest

*NIBRS Update 2025

NEW: A Note on NIBRS



The NIBRS User Manual was updated on June 23, 2025.

Key Updates:

- “Fondling” → “Criminal Sexual Contact” (see, pp. 8, 73)
- “Rape” reverted to prior definition under SRS (see, pp. 72-73)(Next slide)
- “Sexual Assault with an object” + “Sodomy” now counted as part of “Rape” definition. (see, pp. 72-73)

Sexual Assault: Rape



NIBRS Update 2025: “Penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, or by a sex-related object. This definition also includes instances in which the victim is incapable of giving consent because of temporary or permanent mental or physical incapacity (including due to the influence of drugs or alcohol) or because of age. Physical resistance is not required on the part of the victim to demonstrate lack of consent.”

Sexual Assault: Sodomy



NIBRS 2025 update: “[Sodomy] and [Sexual Assault with an object] may still be reported to the FBI’s UCR Program and will be reclassified and recoded under the broader category of [Rape]”

OLD: Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is unable to give consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.

Sexual Assault with an Object



NIBRS 2025 update: “[Sodomy] and [Sexual Assault with an object] may still be reported to the FBI’s UCR Program and will be reclassified and recoded under the broader category of [Rape]”

OLD:

To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is unable to give consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.

An “object” or “instrument” is anything used by the offender other than the offender’s genitalia, e.g., a finger, bottle, handgun, stick.

Sexual Assault: Fondling



NIBRS Update 2025:

The intentional touching of the clothed or unclothed body parts without consent of the victim for the purpose of sexual degradation, sexual gratification, or sexual humiliation.

The forced touching by the victim of the actor's clothed or unclothed body parts, without consent of the victim for the purpose of sexual degradation, sexual gratification, or sexual humiliation.

This offense includes instances where the victim is incapable of giving consent because of age or incapacity due to temporary or permanent mental or physical impairment or intoxication for the purpose of sexual degradation, sexual gratification, or sexual humiliation.

Old: The touching of the **private body parts** of another person **for the purpose of sexual gratification**, without the consent of the victim, including instances where the victim is unable to give consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.

Sexual Assault: Attempt



Note that **attempted** sexual assault is considered to be sexual assault under the UCR.

What constitutes “attempt”?

Ohio Revised Code Section 2923.02(A) gives some guidance: “engag[ing] in conduct that, if successful, would constitute or result in the offense.”

Sexual Assault: Common Concerns



Be cautious of questions that appear to blame the party for what happened or they will shut down and stop engaging.

Better options:

- Explain why you need information on alcohol/drug use, what the party was wearing, etc. before you ask the questions.
- Explain the concept of consent to the parties so that they can understand why you need detailed information on the sexual encounter.
- Check your tone constantly so as to encourage continued sharing of information.

Sexual Assault Data

Women and Men



More than **half of women** and nearly **1 in 3 men** have experienced sexual violence involving physical contact during their lifetimes.

1 in 4 women and about **1 in 26 men** will experience completed or attempted rape during their lifetimes.

Nearly **1 in 9 men** were made to penetrate someone (completed or attempted) during his lifetime.

Sexual Assault Data: Timing



Prevalence Data for Postsecondary Institutions

More than 50 % of college sexual assaults occur in August, September, October, or November, and students are at an increased risk during the first few months of their first and second semesters in college.

For the 2014-2015 academic year, a large portion of incidents reported by females occurred in September or October, particularly for first year students.

Statistic one: "Rape, Abuse & Incest National Network (RAINN), *Campus Sexual Violence: Statistics.*" RAINN
Sourced from: "Campus Sexual Assault Study, 2007; Matthew Kimble, Andrada Neacsiu, et. Al, *Risk of Unwanted Sex for College Women: Evidence for a Red Zone*, Journal of American College Health (2008)."

Statistic two: Campus Climate Survey Validation Study (CCSVS), 2015

Sexual Assault Data:

Alcohol/Drug Use



“About half of sexual assaults involve survivors drinking alcohol before the assault.”

“Survivors impaired by alcohol are more likely to disclose to informal, but not formal support sources than are non-impaired victims.”

Lorenz, Katherine, and Sarah E Ullman. “Exploring Correlates of Alcohol-Specific Social Reactions in Alcohol-Involved Sexual Assaults.” *Journal of aggression, maltreatment & trauma* vol. 25,10 (2016): 1058-1078.
doi:10.1080/10926771.2016.1219801.

Data and Statistics:

Reporting Data



About **65 percent** of surveyed rape victims reported the incident to a friend, a family member, or roommate but only **ten percent** reported to police or campus officials.

Preamble, p. 30082 (Official) notes that “Commenters cited: U.S. Dep’t of Justice, Office of Justice Programs, Office for Victims of Crime, *2017 National Crime Victims’ Rights Week Resource Guide: Crime and Victimization Fact Sheets* (2017).”

Sexual Harassment: Dating Violence



“Dating Violence” means violence committed by a person on the basis of sex who is or has been in a romantic or intimate relationship with the complainant. The existence of such a romantic or intimate relationship is determined by the length of the relationship, the type of relationship, and the frequency of interactions between the individuals involved in the relationship.

Sexual Harassment: Domestic Violence



“Domestic violence” is felony or misdemeanor crime committed on the basis of sex by:

A current or former spouse or intimate partner of the complainant;

A person with whom the complainant shares a child in common;

A person who is cohabitating with, or has cohabitated with, the complainant as a spouse or intimate partner;

A person similarly situated to a spouse of the victim under the domestic/family violence laws of the jurisdiction;

Any other person against an adult or youth victim who is protected from that person’s acts under the domestic/family violence laws of the jurisdiction

Common Concerns in IPV Situations



Supportive measures are important to ensure the parties can be separate and feel safe

Retaliation is often a critical concern – parties may still have a relationship

Consider whether parties need contingency plans as part of their supportive measures if safety concerns arise

Balancing third-party reports of violence and safety concerns with complainant's refusal to participate in the process

No contact order violations as continued evidence of underlying policy violation allegation

It is not uncommon for both parties to be complainants and respondents. Watch for this scenario and ensure you provide appropriate intake for both.

Sexual Harassment: Stalking



“Stalking” is engaging in a course of conduct directed at a specific person on the basis of sex that would cause a reasonable person with similar characteristics under similar circumstances to:

Fear for the person’s safety or the safety of others; or

Suffer substantial emotional distress.

As mentioned before, to qualify under Title IX, it must be sex-based stalking. (30172 fn. 772)

Stalking Data



3.4 million individuals aged 16 or older (1.3%) were stalked during 2019. This represents a slight drop from 2016 (1.5%). Females were stalked more than twice as often as males.

1 in 6 women and **1 in 17** men have been stalked at some point in their lives.

Nearly **54%** of female victims and **41%** of male victims experienced stalking before the age of 25.

First statistic: U.S. Department of Justice, Bureau of Justice Statistics, "Stalking Victimization, 2019" published February 2022.

Second and Third statistics: CDC "Preventing Stalking" fact sheet, accessed October 29, 2022.

Retaliation & Jurisdiction



- (a) *Retaliation prohibited.* No recipient or other person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX or this part, or because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation proceeding, or hearing under this part. Intimidation, threats, coercion, or discrimination, including charges against an individual for code of conduct violations that do not involve sex discrimination or sexual harassment, but arise out of the same facts or circumstances as a report or formal complaint of sexual harassment, for the purpose of interfering with any right or privilege secured by Title IX or this part, constitutes retaliation.

JMU Policies



- EEO/Non-Discrimination
 - Policy 1302 – Equal Opportunity and Non-Discrimination
 - Policy 1324 - Discrimination and Retaliation Complaint Procedures (Other than Title IX Sexual Harassment (Policy 1346) and Sexual Misconduct (Policy 1340))
- Sexual Misconduct/Harassment
 - Policy 1340 – Sexual Misconduct Policy
 - Policy 1346 – Title IX Sexual Harassment

Title IX Sexual Harassment (1346)



Sexual Assault (including: Rape, fondling, incest, statutory rape)

Sexual Harassment (including: Quid pro quo, unwelcome conduct, and sexual assault, dating violence, domestic violence, stalking)

Retaliation

Sexual Misconduct (Policy 1340)



Sexual Assault (including: Rape, fondling, incest, statutory rape)

Sexual Harassment (including: Quid pro quo, unwelcome conduct, and sexual assault, dating violence, domestic violence, stalking)

Non-consensual sexual relationships

Sexual exploitation

Sexual violence

Retaliation

OEO Policy – Prohibited Conduct



Discrimination

Harassment (including hostile environment and term or condition)

Retaliation

Harassment (1324)



Harassment Conduct based upon a person's protected characteristic that is so sufficiently severe, persistent, or pervasive, and objectively offensive that it interferes with the person's work or academic performance or participation in university activities, or creates a working or learning environment that a reasonable person would find hostile, threatening, or intimidating. The conduct can include oral, written, graphic, physical or other conduct. Harassment may also include behavior directed toward stereotypical notions of how a person in a protected classification should appear or behave, or a failure to conform to stereotypes. Harassment is prohibited in the following situations:

1. Term or condition of employment or education. This type of harassment occurs when the terms or conditions of employment, educational benefits, academic grades or opportunities, living environment or participation in a university activity are conditioned upon, either explicitly or implicitly, submission to or rejection of unwelcome conduct, or such submission or rejection is a factor in decisions affecting that individual's employment, education, living environment, or participation in a university program or activity.
2. Hostile environment. This type of harassment occurs when the actions of another create a hostile environment, as defined herein.

Hostile Environment (1324)



A hostile environment is created by oral, written, graphic, physical, or other conduct that is sufficiently severe, persistent, or pervasive, or objectively offensive that it interferes with, limits or denies the ability of a person to participate in or benefit from the institution's educational programs, services, opportunities, or activities or the individual's employment access, benefits or opportunities. Mere subjective offensiveness is not enough to create a hostile environment. In determining whether conduct is severe, persistent or pervasive, and thus creates a hostile environment, the following factors will be considered: (a) the degree to which the conduct affected one or more individuals' education or employment; (b) the nature, scope, frequency, duration, and location of the incident(s); (c) the identity, number, and relationships of persons involved; (d) the perspective of a "reasonable person" in the same situation as the person subjected to the conduct, and (e) the nature of higher education. A hostile environment for a member of the university community can be created by the actions of an employee, a student, an affiliate or a visitor.

Discrimination



Inequitable treatment that conditions any element of a person's employment, enrollment as a student, receipt of student financial aid, or participation in university activities on that person's Protected Characteristics in violation of applicable law.

Discrimination also includes denial of a reasonable accommodation for a disability. As used in this policy, discrimination includes harassment and hostile environment

Retaliation



Intimidation, interference, threats, coercion, or discrimination against any individual for the purpose of interfering with any right or privilege under this policy, or because the individual has made a report or complaint, or has participated or refused to participate in any manner under this policy. Retaliation also includes bringing charges against an individual for policy violations that do not involve discrimination or retaliation, but arise out of the same facts or circumstances as a report or complaint of discrimination or retaliation, or a report or complaint of discrimination or retaliation, for the purpose of interfering with any right or privilege under this policy

A Note on Title IV



- “No person in the United States shall, on the ground of **race, color, or national origin**, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any **program or activity** receiving federal financial assistance.” (42 USC 2000d).
- Includes actual or perceived race, color, or national origin.
- Also includes: Ethnic characteristics; Shared ancestry - Country, world region, or place where a person or their ancestors come from; Citizenship or residency in a country with a dominant religion or distinct religious identity; Person’s limited English proficiency or status as an English learner; Appearance or manner of dress; Accent/English fluency

Three Types of Discrimination Under TVI



Disparate Treatment Discrimination – Intentional differential treatment because of race, color, national origin.

Disparate Impact Discrimination – Facially neutral policy has an adverse outcome that disproportionately falls on a group based on race, color, or national origin.***

Hostile Environment Harassment - Unwelcome conduct that, based on the totality of the circumstances, is:

- Subjectively and objectively offensive; and
- Is so severe or pervasive that it;
- Limits or denies a person's ability to participate in or benefit from a recipient's education program or activity.

Retaliation

Issue Spotting – Prohibited Conduct (Title IX/Sexual Harassment)



Yes, No, Need More Information?

1. Complainant reports Respondent touched their left knee while sitting next to them on the park bench.
2. Complainant reported that Respondent performed oral sex on Complainant when Complainant was sleeping. Complainant reported waking up to the behavior.
3. Complainant reported Respondent kissed their forehead while giving them a hug.
4. Complainant reported Respondent smacked their buttocks on the basketball court.
5. Complainant reported Respondent smacked their buttocks on the way to the dance floor.
6. Complainant reported Respondent stood outside of their residence hall door on three occasions.
7. Complainant reported Respondent, who Complainant met on two occasions, pushed Complainant into a wall.

Issue Spotting – OEO/TVI



Covered under OEO Policy? Title VI? Need more information?

1. Complainant reported Respondent posted on social media that he “hates” all members of a particular racial group.
2. Complainant, who is Jewish, reported Respondent, who is a known supporter of Gaza, put a poster on the door of Complainant’s residence hall room with a graphic depicting common stereotypes of Jewish people. Respondent also frequently stares at Complainant.
3. Complainant, who is Palestinian, reported Respondent, who is Israeli, gave Complainant a failing grade in Respondent’s Journalism class after Complainant wrote about current events in Gaza.
4. Complainant reported Respondent called Complainant a racial slur on three separate occasions. Complainant is a member of the racial group associated with the slur.
5. Complainant reported that Respondent called them a “fake-Christian” because they “wear a cross necklace and don’t actually go to church.”
6. Complainant reported that a student organization hosted a vigil for a black person killed by police. The student organization said Complainant, a white student, was not allowed to attend.

Education Program or Activity

Jurisdiction for TIX Sexual Harassment



“Education program or activity”

“includes locations, events, or circumstances over which the recipient 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 a postsecondary institution. “

§106.30(a)

Education Program or Activity



Locations, events, or circumstances with substantial control
– the easy ones:

- Residence halls
- Classrooms
- Dining halls

Not an Education Program or Activity



Locations, events, or circumstances without substantial control:

- **Anything** outside of the United States;
- Privately-owned off campus apartments and residences that do not otherwise fall under the control of the postsecondary institution (example: privately owned apartment complex not run by a student organization)

Substantial Control?

Depends on fact-analysis under “substantial control”:

- Conventions in the United States?
- Holiday party for an academic department?
- Professor has students over to house?

Jurisdiction and *Mandatory* Dismissal (Title IX)



“... then the recipient must dismiss the formal complaint with regard to that conduct for purposes of sexual harassment under title IX or this part; such a dismissal does not preclude action under another provision of the recipient’s code of conduct.”

Mandatory Dismissal & Exit Ramps



- Although you may be required to dismiss a Formal Complaint
- Doesn't preclude the institution from taking action under other policies
- Know your exit ramps
 - Examples:
 - Human Resources
 - Student Conduct
 - Provost's Office

Discretionary Dismissal (Title IX)



Dismissal of a formal complaint per §106.45(b)(3)(ii)

- “The recipient may dismiss the formal complaint or any allegations therein, if at the time during the investigation or hearing:
 - A complainant notifies the TIXC in writing that the complainant would like to withdraw the formal complaint or any allegations therein;
 - The respondent is no longer enrolled or employed by the recipient; or
 - Specific circumstances prevent the recipient from gathering evidence sufficient to reach a determination as to the formal complaint or allegations therein.

Dismissal Notice & Timing

34 CFR § 106.45(b)(3)(iii)

- Must promptly send written **notice** of dismissal/**reasons** simultaneously to the parties
- Jurisdictional issues can arise **at any time**, even during the investigation

Relevance

What is Relevant? Policy 1346 and Policy 1324



Evidence is relevant if it has any tendency to make a fact more or less probable than it would be without the evidence, and the fact is of consequence in determining the outcome of the case. Relevant evidence includes evidence concerning the credibility of a party or witness.

What is Relevant?

Preponderance of the Evidence

Does this question, topic, evidence help **move the dial** under the standard of evidence?

Does this help me in deciding if a fact is more likely than not true?

Does it make it more or less likely to be true?

Why or why not?



Issues of Relevancy (Title IX) What isn't relevant?



Party's medical, psychological, and similar records (unless voluntary written consent)



Information protected by a legally recognized privilege

Relevancy (Title IX): Legally Privileged Information



Section 106.45(b)(1)(x):

- A **recipient's** grievance process **must...not require, allow, rely upon, or otherwise use questions or evidence that constitute, or seek disclosure of**, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege.

Issues of Relevancy (Title IX): What isn't relevant? – Rape Shield Provision



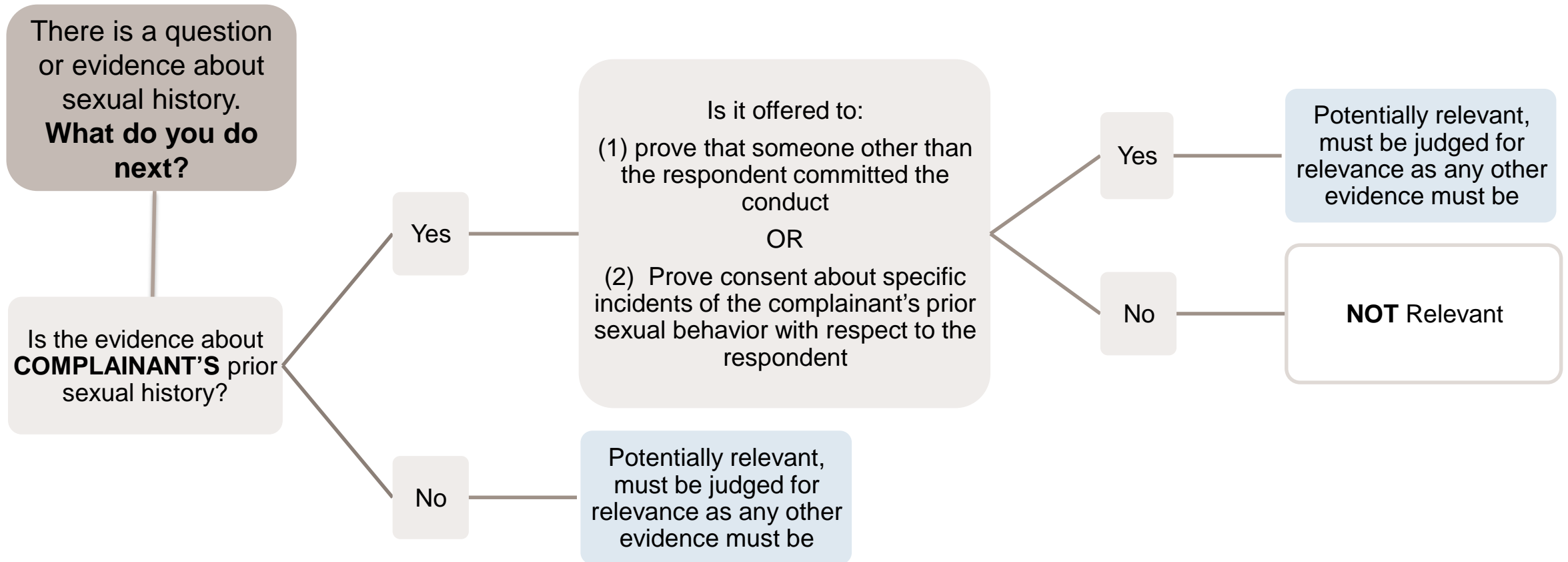
- Evidence about complainant's prior sexual history (must exclude) unless such questions/ evidence:
 - are offered to prove that someone other than the respondent committed the conduct, or
 - if the questions/evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

Issues of Relevancy (Title IX): What isn't relevant? – Rape Shield Provision



- Rape shield protections do not apply to Respondents
 - “The Department reiterates that the rape shield language . . . does not pertain to the sexual predisposition or sexual behavior of **respondents**, so evidence of a pattern of inappropriate behavior by an alleged harasser must be judged for relevance as any other evidence must be.”
- See Also, JMU’s Sexual Misconduct Accountability Process
 - “Evidence of a pattern of conduct similar in nature by the Responding Party, either prior to or subsequent to the conduct in question may be relevant. Pattern evidence may be deemed relevant if the previous or subsequent incident(s) was substantially similar to the present allegation and the information indicates a pattern of behavior by the Responding Party”

Rape Shield Provision Flowchart



Relevancy and the Investigator



The gatherer of all relevant evidence

“

Recipient must ensure that “all *relevant* questions and evidence are admitted and considered (though varying weight or credibility may of course be given to particular evidence by the decision-maker).”

”

2020 Title IX Preamble, 30331

Relevancy and the Investigation and Report



Summarize



Evaluate



The requirement for **recipients to summarize and evaluate relevant evidence**, and specification of certain types of evidence that must be deemed not relevant or are otherwise inadmissible in a grievance process pursuant to section 106.45, appropriately direct **recipients to focus investigations and adjudications on evidence pertinent to proving whether facts material to the allegations under investigation are more or less likely to be true (i.e., on that is relevant.)**



Relevancy Recap

- Does the evidence speak to a fact in dispute?
- Does the evidence speak to credibility/consistency/plausibility?
- Does the witness have personal knowledge?
 - If no personal knowledge, is the witness an outcry witness (i.e., did Complainant or Respondent speak to the witness about their experience)? Or does the witness speak to credibility/consistency/plausibility?
- Is the evidence repetitive or duplicative, but still relevant? i.e., is there a possibility that the evidence could provide an account that corroborates or refutes another account? Does the evidence shows that the party has been consistent or inconsistent over time?
- *Must* the evidence be excluded?

Relevancy Recap

Relevance



Weight

Relevance Practice

Let's Practice... 1

- In a Title IX Sexual Assault case, Respondent has submitted a polygraph examination. The Report includes a statement Respondent provided to the examiner. The Report also includes the examiner's conclusions about Respondent's truthfulness.

Let's Practice... 2



- In a race-based harassment report, Complainant has submitted pages of tweets from Respondent showing Respondent using slurs online. Respondent said the tweets are not relevant because they are outside the scope of the education program. Respondent disputes that he used slurs as alleged by Complainant in the complaint.

Let's Practice... 3



- In a race-based discrimination report, in which Complainant is alleging that they did not receive a promotion due to their national origin, Complainant requested that the investigator gather the hiring pools of all vacant positions within a particular department for the last five years.
- Respondent was hired three years ago.

Let's Practice... 4



- In a dating violence case, Complainant has submitted copies of all text messages she and Respondent exchanged over a period of five years. The texts amount to several hundred pages of material. The incident of dating violence occurred in January of 2025.

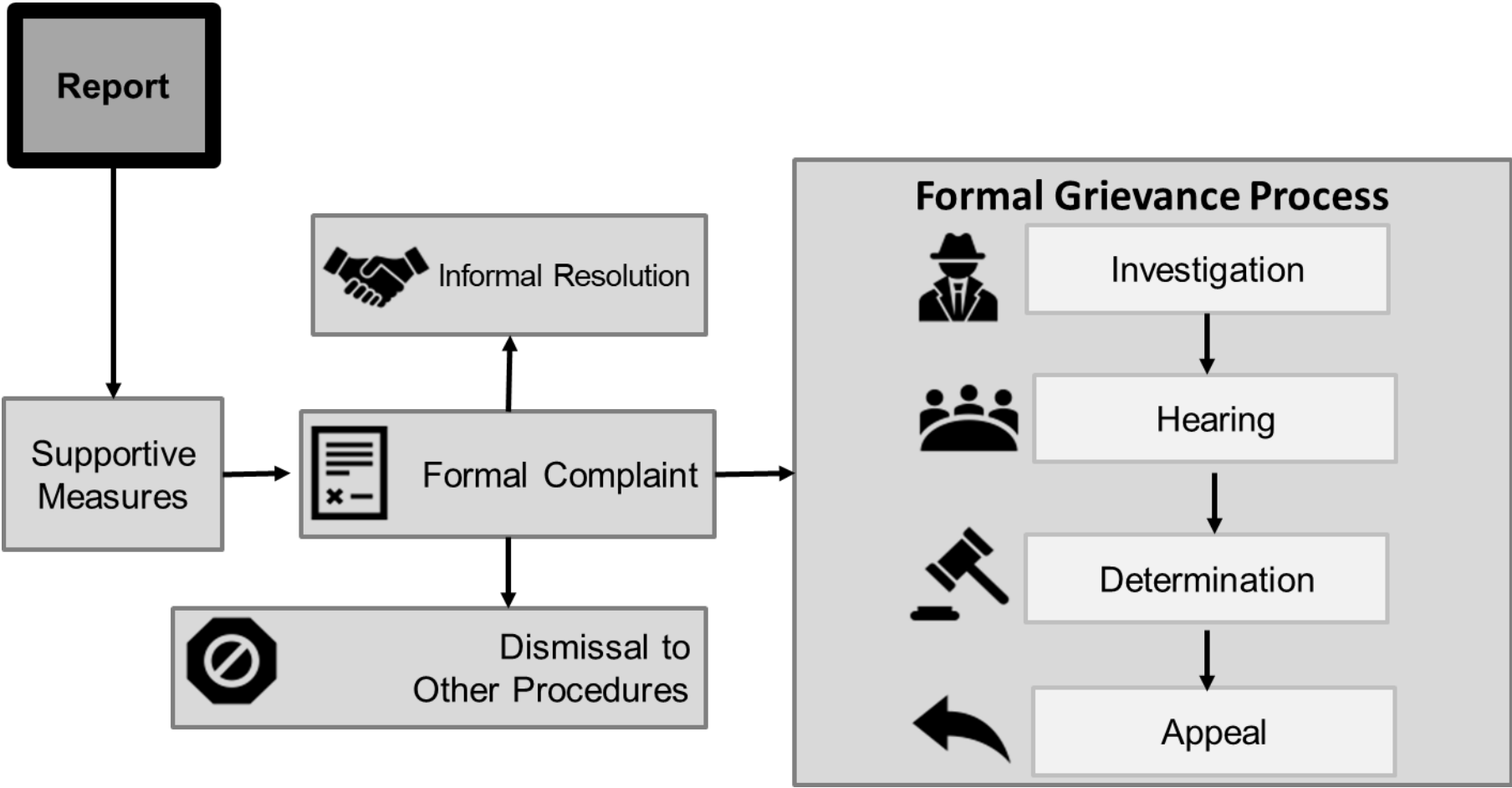
Let's Practice... 5



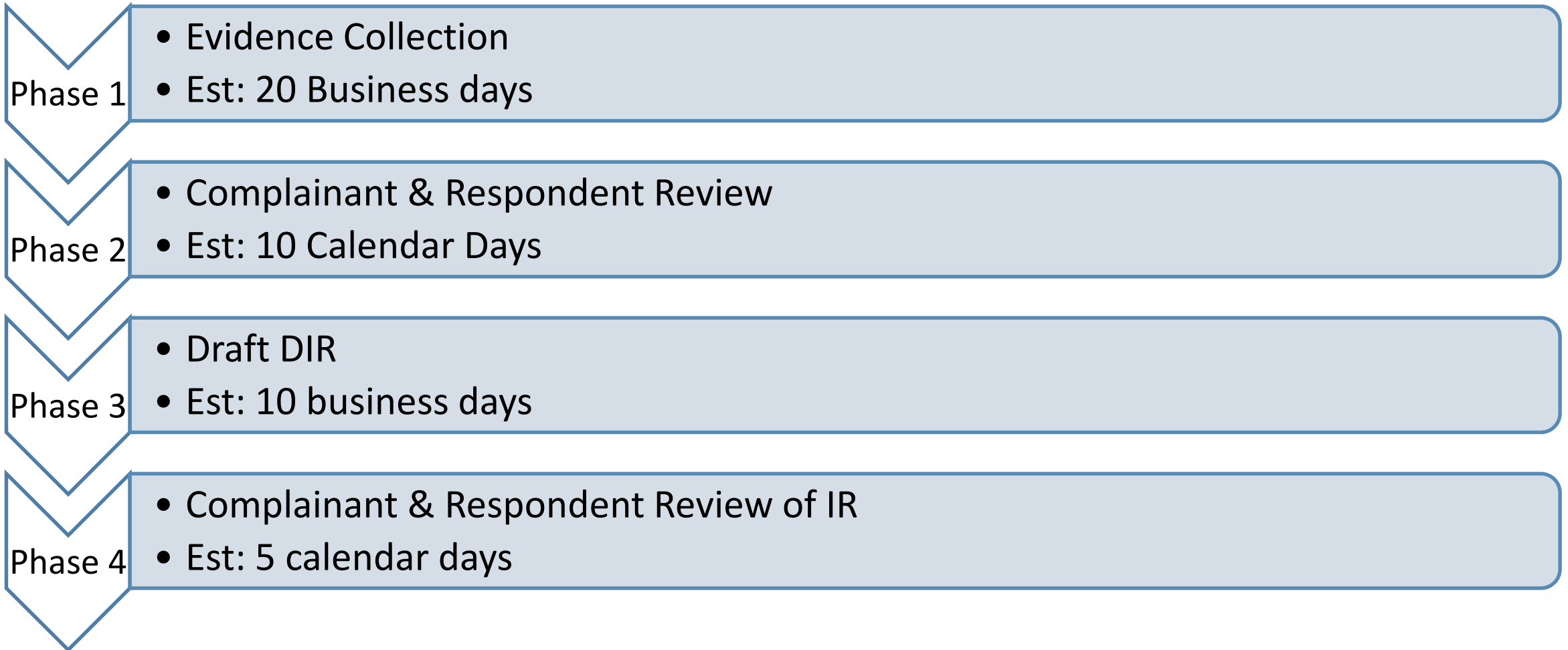
- In a case involving national-origin and shared ancestry, Complainant has requested that the investigator interview ten witnesses:
 - 2 witnesses directly observed the conduct.
 - 4 members of Complainant's family
 - 4 of Complainant's best friends

The Process

Overview of the Process - 2020



Formal Complaint Investigation Procedures (Sexual Misconduct/Title IX)



At JMU: Title IX and Sexual Harassment Process



Processes for Student Respondents

- If the allegations that are the focus of the complaint fall under [Policy 1340](#), then the [Sexual Misconduct Accountability Process administered by OSARP](#) will be used.
- If the allegations that are the focus of the complaint fall under [Policy 1346](#), then the [Title IX Sexual Harassment Adjudication Process administered by OSARP](#) will be used.

Employee Respondents

- Academic Affairs will use the process detailed [on their website](#).
- Human Resources will use the process detailed [on their website](#).

JMU Policy/Process



EEO/Non-Discrimination:

The university seeks to resolve matters promptly. The time frame begins with the proper filing of the complaint. The university strives to provide a final determination within 90 business days of the complaint commencement date, and within ten additional business days following receipt of any appeal.

Timelines may be extended as necessary to ensure the integrity and completeness of the investigation and/or for good cause, though all major stages must occur within reasonably prompt time frames. Reasons for extending the time frame may include, but are not limited to: availability of witnesses; compliance with a request by law enforcement; case complexity; volume of information to be reviewed and analyzed.

At JMU: OEO Process



[Protocol: https://www.jmu.edu/oao/policies-and-laws/oao-hearing-panel-protocols.shtml](https://www.jmu.edu/oao/policies-and-laws/oao-hearing-panel-protocols.shtml)

[Policy: https://www.jmu.edu/jmu-policy/policies/1324.shtml](https://www.jmu.edu/jmu-policy/policies/1324.shtml)

“Adjudication Process Student Respondent: Adjudication of alleged discrimination or retaliation for student respondents will be handled by the panel under procedures published on the OEO website.

Employee, Affiliate, and Visitor Respondent: Adjudication of alleged discrimination or retaliation for employee, affiliate, and visitor respondents will be handled by the panel under procedures published on the OEO website.”

Clery Cases: Procedural Protections



Must define the standard of evidence you will use to make determinations (e.g. preponderance of the evidence)

Must maintain as confidential any supportive/protective measures provided to the complainant (except as necessary to provide those measures)

Each party can bring an advisor of choice to any related meeting or proceeding, but school may limit participation

Protective measures must be provided if victim requests and they are reasonably available

Must provide complainant with written explanation of rights and options

Clery Cases: Notice to Complainant



Must provide complainant with written information about:

- Importance of preserving evidence
- How and to whom offense should be reported
- Options about involving law enforcement and school authorities
- Victim's rights and institution's responsibilities for protection orders, "no contact" orders, etc.

Clery Cases: Notice to Complainant (2)



Must provide complainant with written information about:

- Existing counseling, health, mental health, victim advocacy, legal assistance, visa and immigration assistance, student financial aid, and other services available for victims, both within the institution and the community
- Options for, available assistance in, and how to request changes to academic, living, transportation, and working situations or protective measures

What about the Respondent in our scenario?

- Both parties get notice, information about policies, procedures, rights, and supportive measures.

Clery Cases: Transparency



Must complete within reasonably prompt timeframes

Must follow a policy that is transparent for both parties

Must provide timely notice of meetings a party is expected to attend

Must provide timely and equal access to information that will be used in proceedings

Proceedings must be conducted by officials without conflict of interest or bias for or against either party

Clery Cases: Simultaneous Notice



Must provide simultaneous written notice to both parties of:

- Results of any institutional disciplinary proceeding
- Procedures to appeal (if available)
- Any change to the result
- When such results become final

Providing this notice does not violate FERPA.

Party Options



Parties may have an advisor of choice from the very first meeting/conversation

Parties are both offered supportive measures.

Both parties are offered informal resolution, if it is appropriate.

Parties are both provided with instructions about retaliation.

Party Participation



Parties may each separately decide whether to participate in the process and if so, to what extent.

- Interview?
- Written statement?
- Written questions/answers?
- Submission of evidence/witness lists/questions?

Investigation Report



Investigators:

- Conduct interviews of all available, relevant witnesses who are willing to participate
- Gather relevant evidence
- 2020 – Prepare evidence for review and response (often including a draft report) – 10 days

Finalizing Report



Investigators:

- Conduct any follow-up deemed necessary
- Incorporate responses and additional evidence into report
- Finalize report

2020 - Parties/advisors have 10 business days before it goes to hearing

Hearing



Pre-hearing conferences can be held with each party/advisor to review procedures, determine witnesses, and address any evidentiary issues

Hearing panel holds the hearing

In making the decision, the Panel can generally use:

- Hearing testimony
- Investigative report/attachments
- Other new, relevant evidence if permitted at the hearing

2020 Reg: Live hearing with cross-examination by advisors

Relevancy



If there is a hearing where questions are asked by advisors, DM will make relevancy determinations at the hearing: “Relevant”

If there is not a hearing or there is a hearing but questions are not asked by advisors, DM still has authority to make relevancy determinations

Decorum



Parties and advisors are expected to abide by decorum standards

Questions must be relevant, respectful, and non-abusive

No questions may be asked in an abusive or intimidating manner

Final Decision



Decision-maker issues written final decision, including:

- Determination
- Rationale
- Evidence used or not relied upon
- Credibility assessments
- Any sanctions

Parties receive simultaneous written notice of outcome

Sanctions



Holding parties accountable also includes sanctioning appropriately where the policy has been violated

Be consistent in sanctioning similar conduct under similar circumstances

Sample Sanctioning Factors



Prior discipline for similar conduct by others (remember to look outside Title IX conduct)

Respondent's disciplinary history

Harm to or impact on the complainant/community

Severity of the behavior (e.g. injury, weapon)

Acceptance of responsibility

Mitigating/aggravating circumstances

Ability of the Respondent to conform behavior to expectations going forward

Deterring future behavior

Remedy to the Complainant?

Informal Resolution



- VOLUNTARY PROCESS – written consent from both parties.
- Available only if a formal complaint is filed. Must provide notice.
- Available at any time prior to reaching a determination.
- Cannot require informal resolution as a condition of enrollment/employment/any other right.
- NOT available to resolve complaints of sexual harassment involving a student complainant and employee respondent.
- Can take many forms – mediation, restorative justice, something else?

Appeals



Three Grounds for Appeal

1. New Evidence not reasonably available at time of determination that could affect the outcome
2. Procedural error that affected the outcome
3. Bias/Conflict of Interest that affected the outcome

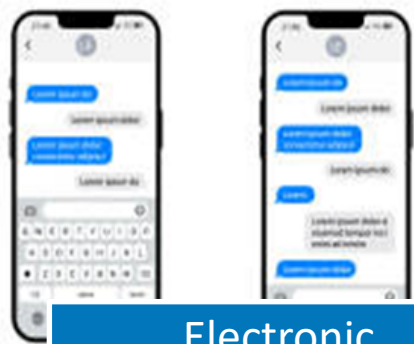
Introduction to Investigative Techniques

Initial Review

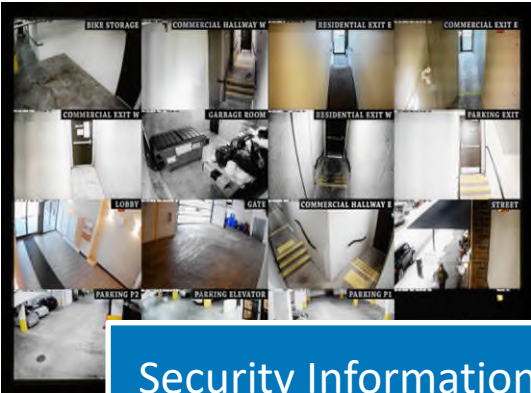


- Review notes and information collected by the Title IX Coordinator/Relevant Administrator
- Review Notices to Complainant and Respondent
- Review Policy (or policies)
- Define Scope of Investigation
 - What elements do you think will be disputed?
 - Agreed upon?

Begin Evidence List



Electronic Communications



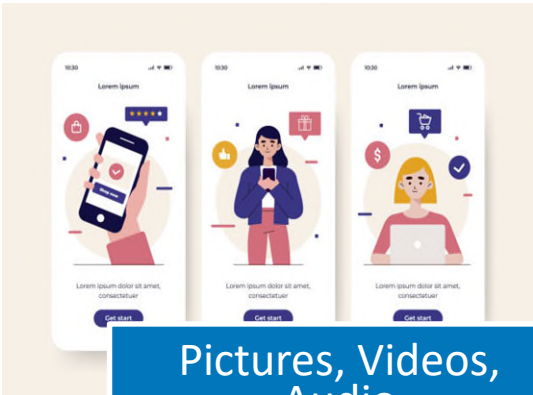
Security Information



Police Reports*



Personnel Files, Student Records



Pictures, Videos, Audio

Begin Witness List



- If there is a criminal investigation, work with law enforcement to ensure permission to question witnesses
- Who should be included?
- Who should NOT be included?
- In what order should the witnesses be interviewed?
- Be flexible

Craft Questions for Each Witness

- Refer to the policy
- Consider what information they are likely to have related to each element
- Consider what information they are likely to have that may assist the decision-maker in determining credibility
- Be flexible

Organizing for the Interview

- What should you have with you?
 - Intake Report
 - Written notice with allegations
 - Investigation log
 - Investigation notes cover sheet
 - Pre-prepared questions
 - Evidence you may need to reference or show witness
 - Policy or Handbook

Setting Up the Interview (1 of 2)



- Consider requesting the TIX Coordinator check in with those who fail to respond or refuse to participate
- Don't give up on the interview till you've tried at least 3 times, in at least 2 different methods (if available)

Setting Up the Interview (2 of 2)



- Your role in the process
- Their role in the process
- Who will see their information?
- Amnesty (if relevant)
- Retaliation prohibition
- Confirm receipt of NOI

Begin Broadly

Elicit a monologue about the incident

What happened earlier that day before the incident?

What happened with regard to the incident?

What happened next?

Open-ended follow-up questions

Specific questions

Ask Follow-Up Questions

- Re-review your notes
- Re-review the elements of each charge
 - Have you elicited all of the information this witness might have about each element?
 - Do you have an understanding of how the witness obtained the information they shared?

When do you ask a follow-up question?

- The statement lacks clarity.
- The statement lacks specificity.
- The statement does not provide information relevant to the charged policy violation.
- The statement is missing helpful context.
- The statement contains internal inconsistencies or is inconsistent with other statements in the record.
- Information from other party or from witness gives rise to new allegation of prohibited conduct.

Asking difficult question

- Explain why you need the information before you ask it
- Remind the person of amnesty, if applicable
- If you accidentally offend, be human, apologize, and reset
- “You said this happened, and then you said it didn’t happen.” Which follow-up question do you like? Do you not like any of these?
 - “Help me reconcile those two statements.”
 - “Help me understand what you meant.”
 - “Which is true?”
 - “Which is not true?”
- Trauma?

Freeze Frames



- Ask the witness to “freeze” on the moment and describe details
 - What could they see? Feel? Smell? Taste? Hear?
 - Where was the other person? How were they positioned?
 - Where were you? How positioned?
 - What did you say to the other person? Them to you?
 - Describe other person’s tone, demeanor, body language

When Consent is at Issue

- Common concern of Title IX Coordinator: investigators not asking the questions to get details needed for incapacitation analysis
- Consider the wording and tone of your questions
- Utilize “freeze frame” strategy
- Ask questions about what happened to determine whether there was unspoken consent
- Ask questions to identify whether alcohol/drugs may have played a role regarding consent
- See Level 1 slides for a list of questions to get you started

Credibility



- Gather facts to assist **decision-maker/Panel**
- Your job: Ask questions to test memory
- Identify where the witness may corroborate or contradict their testimony, or other witnesses, and physical evidence
- Be sensitive to potential trauma experienced by witnesses

Questions about Credibility – Perception and Recall



- What is the witness's perception of the facts?
 - Has **time** impacted recall or ability to remember clearly?
 - How many times has the **witnesses talked to the other party** about this case?
 - Was there **anything** that impacts the person's physical or mental ability to perceive or recall facts accurately?
- Does the witness form a conclusion without knowing certain information?

Questions about Credibility – Inconsistency in Statements



Only happens if you interview the parties or witnesses multiple times

- If a fact was very important, why is the hearing the first time it has come up?
- What possible reasons might the witness have for changing their testimony?
- Did a witness receive coaching from the party or others between making one statement and another?
- Has the witness's perspective or motive changed between statements?
- Does changing this fact help the other party's case?

Questions about Credibility – Example

- Example: Intoxication level information from witness.
 - You did not see the consumption, or keep track of how long the party was consuming alcohol?
 - You did not measure the alcohol poured by ____ or the party?
 - Your statements are based on information provided by others? the other party?
 - Party's statements were made after they had been drinking alcohol (consuming other drugs, etc.)?

Remember: Is the person speaking from personal knowledge?

Closing the Interview

- Closing questions
- Request copies of all evidence potentially available to the witness
- Discuss confidentiality - but do not prohibit a party from discussing allegations
- Inform the witness of next steps and how to reach you

After the Witness Leaves (1 of 2)

- Update investigation log
- Review notes, make corrections/clarifications
- Update witness list
- Update list of evidence to be obtained
- Write down questions to ask other witnesses
- Consider whether appropriate to send email

After the Witness Leaves (2 of 2)



- Consider whether there are additional allegations that you need to bring to the Title IX Coordinator
 - Remember: notice of allegations must be sent out before you can ask questions of a respondent.
- Ensure you are not leaving the burden of proof on any party or witness alone (106.45(b)(5)(i))

Writing the Report

The Investigator's Roles



Gatherer of
relevant evidence



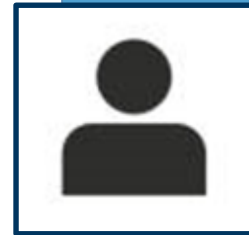
Organizer of
relevant evidence

Start with the basic information

Identify factual information:



Complainant



Respondent



Investigator



Witnesses

- Perhaps organize by fact v. expert witnesses or by party whom requested the witness

Investigation Reports



- Summarize facts
- No findings of fact; No determinations
- Provide to parties and advisors at least 10 days before the hearing
- Did you create a draft and share it with the parties when you shared the evidence?
 - If so, make sure to distinguish between the DRAFT report and the FINAL report because the FINAL report must address your consideration of the feedback provided

Things to Keep in Mind



- Two stories
- Each case includes at least TWO stories, maybe more
 - (1) The underlying case
 - (2) The investigation of the underlying case

Things to Keep in Mind (1 of 2)



- Each case includes at least TWO stories, maybe more
 - (1) The facts of the underlying case
 - On August 25, 2020, Complainant and Respondent attended a party together at Thompson Point Residence Hall
 - Complainant reports A, B, and C
 - Respondent reports X, Y, and Z

Things to Keep in Mind (2 of 2)



- Each case includes at least TWO stories, maybe more
 - (2) The investigation of the underlying case
 - On August 30, 2020, Complainant filed a formal complaint
 - On September 5, 2020, Complainant spoke with Investigator
 - On December 10, 2020, Complainant shared the Investigation Report with Witnesses 1, 2, and 3

Consider general organization

Natural and neutral organization suggestions:

- Chronological order
- By topic or allegation
 - Perhaps by chronology within each topic or allegation
- By chronology of how the information came in to the investigation
- By witness summary

Other basic information to include

- Basic description of charges
- How did the complaint make its way to an investigation?
- Witnesses Interviewed
- Witnesses Not Interviewed (and why)
- The procedure followed, step-by-step
- Any procedural anomalies that need explained?
- Include an explanation of how you are organizing it. “This report is organized by...”

Identify and include all alleged policy violations



- ALWAYS INCLUDE
- Definition of prohibited conduct alleged from applicable policy
- Related definitions as appropriate (e.g. consent, incapacitation) or any code of conduct included if done together
- Include verbatim, in entirety

A statement regarding relevant evidence



“All relevant information gathered during the course of the investigation has been included in this report.”

- Identify if you thought something was not relevant and why – consider still including in attachment for decision-maker
- Provide a table or list of all relevant evidence gathered and attach that evidence

Be helpful to reviewers – keep it transparent!



Citations to the record – always.

- Be helpful for your fact-finders!
- Footnotes are excellent aids!

Hearing packet or exhibits – helpful to number the pages sequentially for easy citation

Include screenshots/pictures in the report?



YES (and also in appendix)

Pros: can be illustrative and forefront; reviewer doesn't have to flip to the appendix

Cons: can make the report bulky

NO (just include in appendix)

Pros: can keep the report neat and concise

Cons: may lose impact if the viewer doesn't jump back and forth between the appendix and text, which can also be annoying for reviewers

What not to include in report (but note requested and why not included) 1 of 3



The specific type of evidence deemed not relevant in the Regulations:

- Information protected by a legally recognized privilege
- Party's medical, psychological, and similar records unless voluntary written consent
- Rape Shield protection for Complainant

What not to include in report

(but note requested and why not included) 2 of 3



If evidence is requested by a party and/or you determine it is not relevant, always explain that it was requested and why you determined it was not relevant.

What not to include in report

(but note requested and why not included) 3 of 3  INCompliance

If you determined evidence was not relevant because of matters outside of the specific reasons identified in the regulations—i.e. because you did not think it was probative of material fact—explain and consider attaching in an Appendix

Common Writing Mistakes: Empathy and Tone



Empathy

- Stay away from charged words of advocacy
 - Clearly/obviously
 - Innocent/guilty
 - Victim/perpetrator
- Watch your use of adjectives and adverbs – unless they are in a quote
 - “really drunk”
 - “forcefully pushed”

Tone

- Be non-judgmental
- Recognize the impact of your words

Common Writing Mistakes: Cite Your Source



Failing to include sources of information

- If explaining this in every sentence (“Bob stated this happened”) weighs down your writing, use footnotes to add clarity.
- Citing the source of your information helps the reader and underscores your neutrality

Confusing Quotation Marks

- Is the quoted language from the interviewee?
- Is the quoted language actually a quote from someone else?
 - Footnote 10: The quoted language was attributed to Respondent by Complainant during Complainant’s October 10, 2020 Title IX interview.

Common Writing Mistakes: Structure



Topic sentences and transitions

- Provide a roadmap in your introduction and under new headings
- Sentences should flow from one-to-another
- Remember – telling two or more stories to someone unfamiliar with the case

Pronouns

- Be careful of pronoun usage so that the reader always knows who is saying or doing what
- When using pronouns, make sure you are using the right pronouns for the individual

Common Writing Mistakes: Miscellaneous



Typos

- They happen to everyone, but
- Typos in every sentence undermine the integrity of a summary/report

Run-on sentences/Sentence fragments

- Make sure each sentence has a subject and a verb
- If combining multiple independent clauses, consider whether to separate sentences

Editing Checklist



- ✓ Spelling (run spell checker).
- ✓ Review for run-on sentences and long/ run-on paragraphs.
- ✓ Revise sentences that sound conclusory. (e.g., "Jack ran into Complainant on purpose." versus "Complainant reported Jack ran into them on purpose.")
- ✓ Review for vague/confusing pronoun usage. Are you using the correct pronoun? (e.g. "He said that he said a slur" versus "Complainant said that Jack used a slur")
- ✓ Confirm same font/font size/font color.
- ✓ Confirm same indentation styles (i.e., no indent or .5 indent – not both).
- ✓ Confirm same justification throughout (either left aligned or justified—not both).
- ✓ Confirm consistent identification of parties/witnesses (Complainant not the Complainant; Wesley Williams v. Williams v. Wesley v. Wes v. Dr. Williams v. Professor Williams).
- ✓ Are there any footnotes or explanations needed to ensure clarity for the reader?
- ✓ If you have used a template:
 - ✓ Have you confirmed language in the template applies to your case?
 - ✓ Have you updated that language?
 - ✓ Have you removed all references to parties and witnesses from the original case?
- ✓ Double check that quotes are accurate (policy, evidence, etc.)
- ✓ Is all evidence provided accounted for? (even evidence deemed irrelevant)
- ✓ Is every witness suggested/mentioned accounted for?

Myths, Stereotypes, Bias & Conflict of Interest



Impartiality and Avoiding Bias, Conflict of Interest and Prejudgment of Facts 1 of 2



Section 106.45 requires that Title IX Coordinators (and investigators, decision-makers, informal resolution officers and appeals officers)

- be free from conflict of interest, bias, and
- be trained to serve impartially and without prejudging facts.

(30053)

Impartiality and Avoiding Bias, Conflict of Interest and Prejudgment of Facts 2 of 2



- We will discuss each of these individually and provide examples, but some of the factors for each overlap.
- For example, being impartial is greatly aided by not pre-judging facts.

(30249-30257; 30496)

Impartiality

- Be neutral
- Do not be partial to a complainant or a respondent, or complainants and respondents generally
- Do not judge: memory is fallible [and it's contrary to your neutral role] (30323)

Bias: Concerns raised in comments in preamble



- Neutrality of paid staff in Title IX positions
- Institutional history and “cover ups”
- Tweets and public comments
- Identifying as a feminist

Perceived v. Actual Bias

- Both can lead to the same perception (30252)
- On appeal of decisions, the Department requires the bias “that could affect the outcome of the matter”

How the Department tried to prevent bias



No single-investigator model (34 C.F.R. 106.45(b)(7)(i)):

- Decision-maker (or makers if a panel) must not have been the same person who served as the Title IX Coordinator or investigator (30367)
- Separating the roles protects both parties because the decision-maker may not have improperly gleaned information from the investigation that isn't relevant that an investigator might (30370)
- The institution may consider external or internal investigator or decision-maker (30370)

Bias: Objective Rules and Discretion 1 of 2



“[R]ecipients *should* have objective rules for determining when an adjudicator (or Title IX Coordinator, investigator, or person who facilitates an informal resolution) is biased, and the Department leaves recipients discretion to decide how best to implement the prohibition on conflicts of interest and bias...” (30250)

Bias: Objective Rules and Discretion 2 of 2



- **Discretionary:** Recipients have the discretion to have a process to raise bias during the investigation.
- **Mandatory:** Basis for appeal of decision-maker's determination per 34 C.F.R. 106.45(b)(8)(i)(C).

Conflict of Interest: Concerns raised in comments in preamble



- Financial and reputational interests of Title IX employee aligns with institution
- Past advocacy for a survivor's group
- Past advocacy for a respondent's group

Preamble Discussion on Bias and Conflict of Interest 1 of 3



Final regulations “leave recipients **flexibility to use their own employees, or to outsource** Title IX investigation and adjudication functions, and the Department encourages recipients to pursue alternatives to the inherent difficulties that arise when a recipient’s own employees are expected to perform functions free from conflicts of interest and bias.” (30251)

Preamble Discussion on Bias and Conflict of Interest 2 of 3



- No *per se* prohibited conflicts of interest in using employees or administrative staff
 - including supervisory hierarchies (but see portion about decision-makers and Title IX Coordinator as supervisor)
- No *per se* violations for conflict of interest or bias for professional experiences or affiliations of decision-makers and other roles in the grievance process

(30352-30353)

Preamble Discussion on Bias and Conflict of Interest 3 of 3



- Example: it is not a *per se* bias or conflict of interest to hire professionals with histories of working in the field of sexual violence (30252)
- Cautions against using generalizations to identify bias and conflict of interest and instead recommends using a reasonable-person test to determine whether bias exists.

Example of Unreasonable Conclusion that Bias Exists



- “[F]or example, assuming that all self-professed feminists, or self-described survivors, are biased against men, or that a male is incapable of being sensitive to women, or that prior work as a victim advocate, or as a defense attorney, renders the person biased for or against complainants or respondents” is unreasonable (30252)

Training, Bias, and Past Professional Experience



This required training (that you are sitting in right now) can help protect against disqualifying someone with prior professional experience

(30252)

Department: Review of Outcomes Alone Does Not Show Bias



- Cautioned parties and recipients from concluding bias or possible bias “based solely on the outcomes of grievance processes decided under the final regulations.”
- Explained: the “mere fact that a certain number of outcomes result in determinations of responsibility, or non-responsibility, does not necessarily indicate bias.” (30252)

Examples of Bias

- An investigator used to supervise one of the parties;
- Information “gleaned” by the investigator is shared with the decision-maker outside the investigation report (in meetings to discuss pending cases, in passing while at work, etc.)

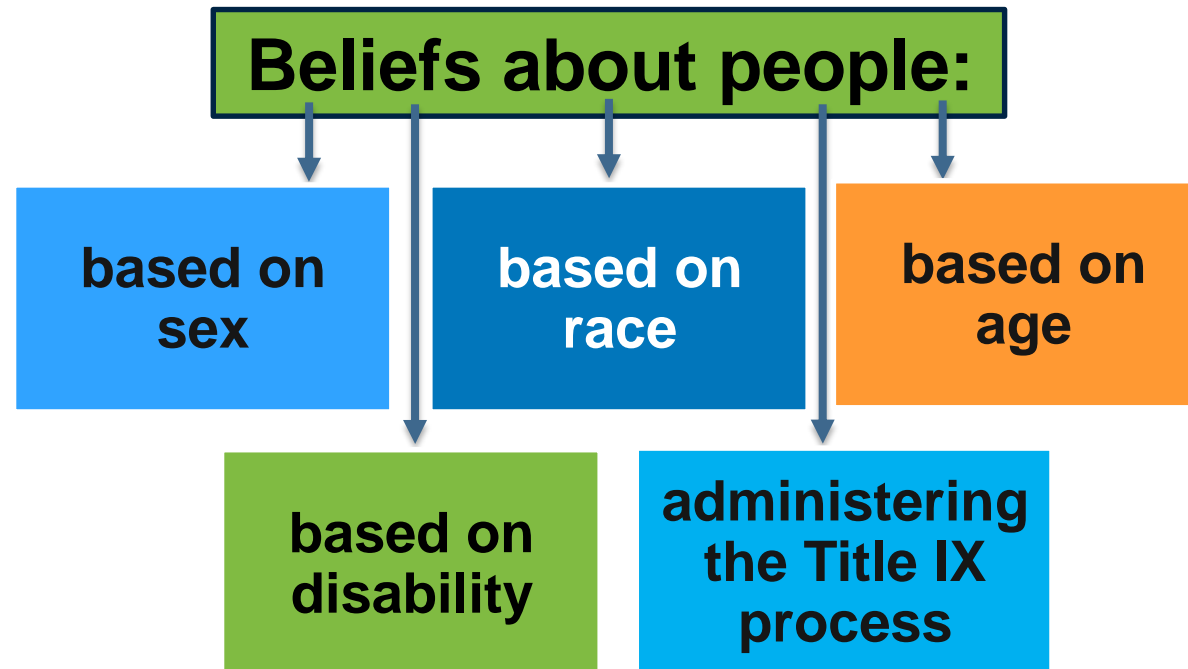
Avoiding Prejudgment of Facts at Issue



A good way to ensure impartiality and avoid bias:

- Keep an open mind and actively listen
- Each case is unique and different

Stereotypes Affect Response



Avoiding Sex Stereotypes

- “Must” not rely on sex stereotypes: Also helpful to avoiding pre-judgment of facts, remaining unbiased and impartial
- Examples of sex stereotypes in comments (Preamble, p. 30253):
 - Women have regret sex and lie about sexual assaults
 - Men are sexually aggressive or likely to perpetrate sexual assault

Analyzing Sex Stereotypes

- Age of consent
- Dating vs. arranged marriages
- Attitudes towards homosexuality
- Attitudes towards intimate partner violence
- Cooperating with investigations
- Sharing personal information
- Reactions toward authority figures
- Reactions based on gender identity

Culture Affects Response

- I won't report it if it doesn't feel wrong.
- I won't report it if I would be a snitch.
- Reporting this would result in serious consequences at home.
- I'll admit it because I don't understand it's prohibited.
- It's impolite to look you in the eye, so I'll look down the whole time.
- I deserved it. It's normal.

Process YOUR Response (1 of 2)

- Is your assessment based on your culture, or theirs, or both? (It shouldn't be.)
- Is your assessment based on stereotypes you hold based on sex? Race? Culture? Yours or theirs? (It shouldn't be.)
- Is your assessment based on their role (Complainant or Respondent)? (It shouldn't be.)

Process YOUR Response (2 of 2)

- Is your assessment based on a person you like or someone you identify with? (It shouldn't be.)
- Is your assessment based on a person “acting guiltily” by not making eye contact or fidgeting? (It shouldn't be.)
- Would you have done things differently?
- If so, SO WHAT?

Counterintuitive Response

- If they didn't act the way you might have, that doesn't mean it isn't true.
- Stop and consider carefully before you decide someone is lying because they responded in a way different from how you would have responded.
- Counterintuitive response has to be measured to another's perspective to be counterintuitive to something. Be careful to use a valid measurement.

Writing examples

Report Exercise 1



- **Witness Non-Participation**
 - The Investigator contacted Witness Williams on October 1, October 7, and October 14, 2024, to request an interview. Williams responded on October 15, 2024, declining participation. Williams explained, "This incident happened three years ago, I have very little memory of the exact interaction and do not want to participate."
- **Witness Not Relevant**
 - Respondent requested that the Investigator interview his childhood best friend, Wes Worthington. On August 1, 2024, the Investigator asked Respondent what information Worthington would provide that was relevant to the investigation. Respondent said he did not speak to Worthington about the investigation, but Worthington "kn[ew] Respondent better than anyone, and could speak to Respondent's character." The Investigator declined to interview Worthington as Worthington did not have personal knowledge of the reported conduct and did not have information that would speak to credibility, consistency, or plausibility.

Report Exercise 2



- Party didn't provide promised evidence.
 - During the investigation, Complainant reported they had a video of Respondent pouring Complainant three shots of Fireball and of Respondent "forcing [Complainant] to take the shot even though [Complainant] was clearly intoxicated." The Investigator asked Complainant to provide that evidence during the investigation. As of the date of this report, the Investigator has not received the video.

Example 1



Bad example: Rook was very believable when they said they had been attacked by Charlie.

Neutral and clear correction: Rook stated they were attacked by Charlie outside of North Hall. Rook provided the names of witnesses and contact information for those witnesses.

Example 2



Bad example: Charlie stated that they didn't think she had witnessed anything, but that I should check with her.

Neutral and clear correction: Charlie stated that Charlie did not believe that her roommate, Wendy, had witnessed anything. Charlie asked the investigator to follow up with Rebecca to verify what, if anything, Rebecca witnessed.

Example 3



Bad example: Rook seemed nervous at the interview and wasn't consistent with the information.

Neutral and clear correction: Rook provided the following information at the interview: that Rook had 3 whiskey sours, that Rook had at least 2 whiskey sours, and that Rook may not have had any whiskey sours.

Example 4



Bad example: Charlie requested that I follow up with their roommate, but I did not because the evidence seemed redundant.

Neutral and clear correction: Charlie requested the investigator follow up with her roommate, Wendy. The investigator scheduled an interview with the roommate to follow up on any additional information the roommate may have. The roommate's account of events at the interview, provided in Exhibit C, is consistent with Charlie's statement regarding the time period between 8 and 9am on January 6, 2023. The roommate was not present outside of that time frame and had no additional information.

Questions?