

# TITLE IX INVESTIGATIVE PROCESS

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TITLE IX COORDINATOR

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# STEPS IN TITLE IX INVESTIGATION

- COMPLAINT
- INITIAL ASSESSMENT
- SUPPORTIVE MEASURES
- INFORMAL RESOLUTION
- INVESTIGATION
- HEARING
- FINAL FINDINGS
- SANCTIONS



**REPORT AN INCIDENT**



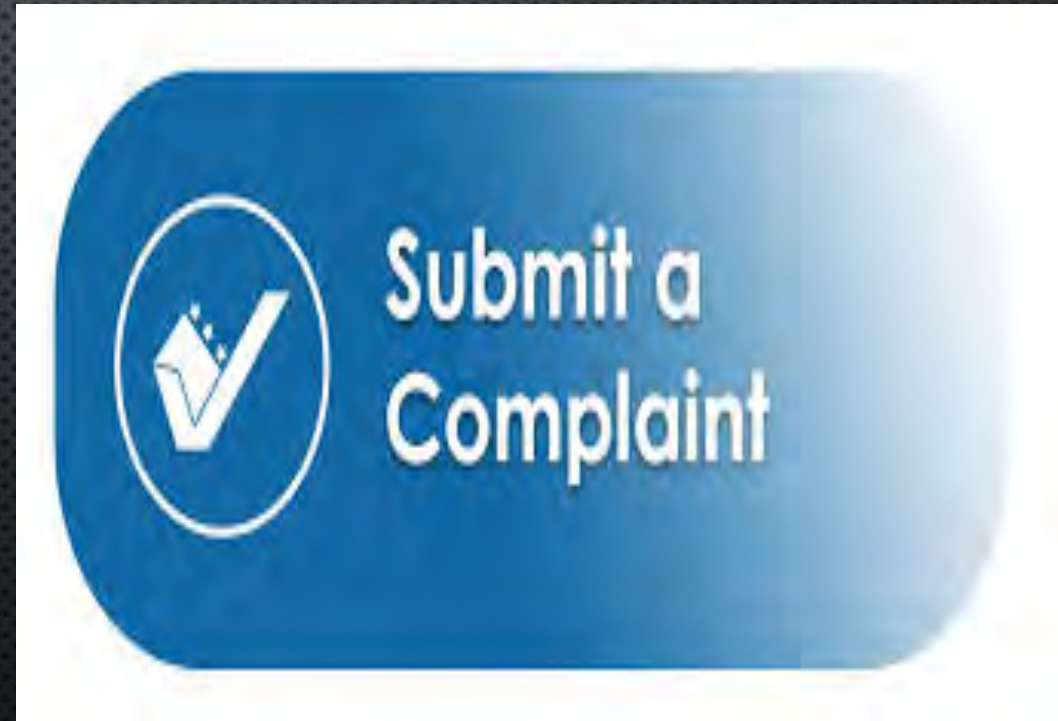
# PROHIBITED CONDUCT

- SEXUAL ASSAULT
- SEXUAL HARASSMENT
- DATING VIOLENCE
- DOMESTIC VIOLENCE
- STALKING



# COMPLAINT

- REPORT OF ALLEGED VIOLATION,
- FILED BY COMPLAINANT,
- IN WRITING,
- TO TITLE IX COORDINATOR.





# Initial Assessment

# TITLE IX COORDINATOR

- OFFERS SUPPORTIVE MEASURES.
- EXPLORES POSSIBILITY OF AN INFORMAL RESOLUTION.
- DETERMINES TO PROCEED OR NOT WITH FORMAL INVESTIGATION.



# INVESTIGATOR APPOINTED BY TITLE IX COORDINATOR

- INTERVIEWS PARTIES.
- COLLECTS EVIDENCE.
- INTERVIEWS WITNESSES.
- PREPARES A PRELIMINARY REPORT.
- COMPLETES A FINAL REPORT.





# DECISION MAKERS APPOINTED BY TITLE IX COORDINATOR



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# FREE OF BIASES OR CONFLICT OF INTEREST

- PRE-JUDGING OF FACTS.
- PERSONAL RELATIONSHIP WITH A PARTY, WITNESS OR ADVISOR.
- PREJUDICE AGAINST A PERSON.
- PREJUDICE IN FAVOR OF A PERSON.



# DECISION MAKERS PRE-HEARING PROCESSES

- REVIEW THE INVESTIGATOR'S REPORT.
- REVIEW THE PARTIES' STATEMENTS.
- REVIEW THE WITNESS' STATEMENTS.
- DEVELOP POSSIBLE QUESTIONS OF THEIR OWN.



# DECISION MAKERS EXAMINE

- COMPLAINT
- TITLE IX POLICY
- LIST OF WITNESSES
- LIST OF EVIDENCE



# TYPES OF EVIDENCE

- STATEMENTS
- DOCUMENTS
- EMAILS, TEXT MESSAGES
- PICTURES, VIDEOS
- SOCIAL MEDIA POSTINGS, ETC.



# LIVE HEARING



# PARTICIPANTS

- TITLE IX COORDINATOR
- TITLE IX INVESTIGATOR
- PARTIES
- ADVISORS
- WITNESSES
- DECISION MAKERS



# TITLE IX COORDINATOR

- FACILITATES THE PROCESS.
- OFFERS INFORMATION ON POLICY.
- MAINTAINS ORDER-DECORUM.
- DOES NOT PRESIDE.
- DOES NOT ASK QUESTIONS.
- DOES NOT DETERMINE IF QUESTIONS ARE RELEVANT.





# TITLE IX INVESTIGATOR

- OFFERS INFORMATION ABOUT REPORT
- OFFERS INFORMATION ABOUT EVIDENCE
- DOES NOT PRESIDE
- DOES NOT ASKS QUESTIONS



# PARTIES

MUST BE PRESENT

IF NOT PRESENT PREVIOUS STATEMENTS WILL NOT BE ADMISSIBLE

**Complainant**

**respondent**

# PARTIES' RIGHT TO ADVISOR OF CHOICE



- PARTIES CHOOSE AN ADVISOR.
- FAMILY MEMBER, FRIEND, SOMEONE THEY TRUST.
- MAY BE AN ATTORNEY,
- BUT THAT IS NOT MANDATORY.

# APPOINTED ADVISOR

IF A PARTY IS NOT ABLE TO FIND  
AN ADVISOR THAT MAY  
ACCOMPANY THEM TO THE LIVE-  
HEARING,  
THE UNIVERSITY MUST APPOINT  
THEM AN ADVISOR.



Advisors

# ADVISOR'S DUTIES

- REVIEWS THE REPORT.
- MEETS WITH THE PARTY.
- DEVELOPS QUESTIONS TO ASK DURING HEARING.
- ONLY PERSON ALLOWED TO ACCOMPANY THE PARTY DURING THE HEARING.
- ONLY PERSON ALLOWED TO ASK QUESTIONS TO THE OTHER PARTY ON BEHALF OF THEIR PARTY.
- MAY ASK FOLLOW UP QUESTIONS.

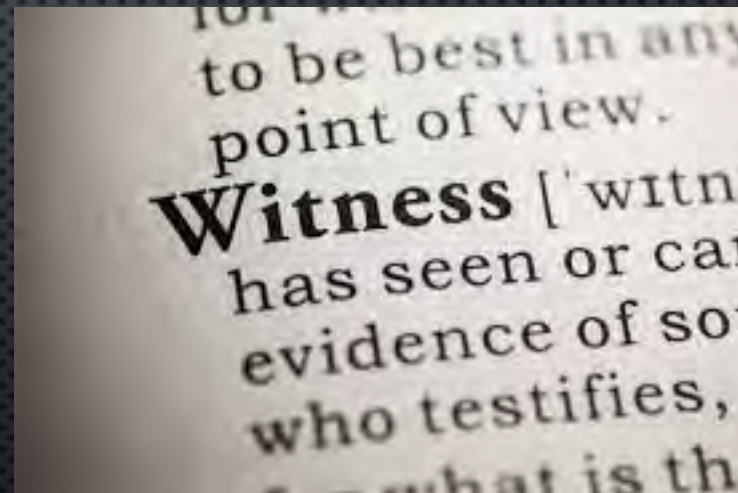
# WITNESSES

- WITNESS SHALL BE PRESENT,
- IF NOT PREVIOUS STATEMENTS WILL NOT BE ADMISSIBLE.



# WITNESSES' AVAILABILITY

- AVAILABLE TO ANSWER QUESTIONS.
- AND FOR CROSS-EXAMINATION.



# EXPERT WITNESSES

- PARTIES MAY AGREE TO ADMIT ONLY THEIR EXPERT REPORT.
- IF PRESENT WILL BE TREATED AS ANY OTHER WITNESS.





# DECISION MAKERS

- THREE MEMBERS
- ONE CHAIR
- MAY ASK QUESTIONS TO THE PARTIES AND WITNESSES.
- DETERMINE IF QUESTIONS ASKED BY ADVISOR ARE PERMISSIBLE AND RELEVANT.



# REQUIREMENTS FOR A LIVE HEARING



- MUST BE LIVE, RECORDED.
- MAY BE CONDUCTED REMOTELY.
- COMPLAINANT AND RESPONDENT PRESENT.
- EXCLUSION OF EVIDENCE IF NOT PRESENT.



# RELEVANT EVIDENCE

- LOGICAL CONNECTION BETWEEN EVIDENCE AND FACTS AT ISSUE.
- ASSISTS IN ARRIVING TO CONCLUSION.
- IT IS OF CONSEQUENCE.
- TENDS TO MAKE A FACT MORE OR LESS PROBABLE.

# DIRECT EVIDENCE

- BASED ON PERSONAL KNOWLEDGE.
- IF TRUE, PROVES A FACT WITHOUT INFERENCE OR PRESUMPTION.



# CIRCUMSTANTIAL EVIDENCE

- EVIDENCE BASED ON INFERENCE.
- NOT ON PERSONAL KNOWLEDGE OR OBSERVATION.



# CORROBORATING EVIDENCE

- MAY DIFFER FROM OTHER EVIDENCE BUT
- STRENGTHENS OR CONFIRMS OTHER EVIDENCE.

CORROBORATING  
EVIDENCE

# CONFIDENTIAL OR PRIVILEGED

- MEDICAL RECORDS.
- PSYCHOLOGICAL REPORTS.
- RAPE AND CRISIS CENTER  
FILE.
- CLERGY
- OTHER CONFIDENTIAL DATA.



# EVIDENCE NOT RELEVANT



- CHARACTER EVIDENCE
- POLYGRAPH EXAMINATIONS
- ARTICLES FROM JOURNALS
- PAST CONDUCT OF PARTY
- EVIDENCE OBTAINED  
UNLAWFULLY





# ASSESSING CREDIBILITY AND RELIABILITY

- NO EXACT FORMULA EXISTS.
- OPPORTUNITY TO VIEW.
- ABILITY TO RECALL.
- MOTIVE TO FABRICATE INFORMATION.



# CREDIBLE WITNESS

- PLAUSIBILITY.
- CONSISTENCY.
- COACHING?
- CHARACTER BACKGROUND,  
EDUCATION, EXPERIENCE.



# ORDER

1. COMPLAINANT'S OPENING REMARKS.
2. PANEL QUESTIONS COMPLAINANT.
3. RESPONDENT'S ADVISOR QUESTIONS COMPLAINANT.
4. RESPONDENT'S OPENING REMARKS.
5. PANEL QUESTIONS RESPONDENT.
6. COMPLAINANT'S ADVISOR QUESTIONS RESPONDENT.
7. PANEL QUESTIONS WITNESSES.
8. COMPLAINANT'S ADVISOR QUESTIONS WITNESSES.
9. RESPONDENT'S ADVISOR QUESTIONS WITNESSES.
10. DECISION MAKERS CONCLUDE THE HEARING

# RIGHT TO CONFRONTATION

THE **CONFRONTATION** CLAUSE OF THE SIXTH AMENDMENT TO THE UNITED STATES CONSTITUTION PROVIDES THAT "IN ALL CRIMINAL PROSECUTIONS, THE ACCUSED SHALL ENJOY THE **RIGHT**...TO BE **CONFRONTED** WITH THE WITNESSES AGAINST HIM." GENERALLY, THE **RIGHT** IS TO HAVE A FACE-TO-FACE **CONFRONTATION** WITH WITNESSES WHO ARE OFFERING TESTIMONIAL EVIDENCE.

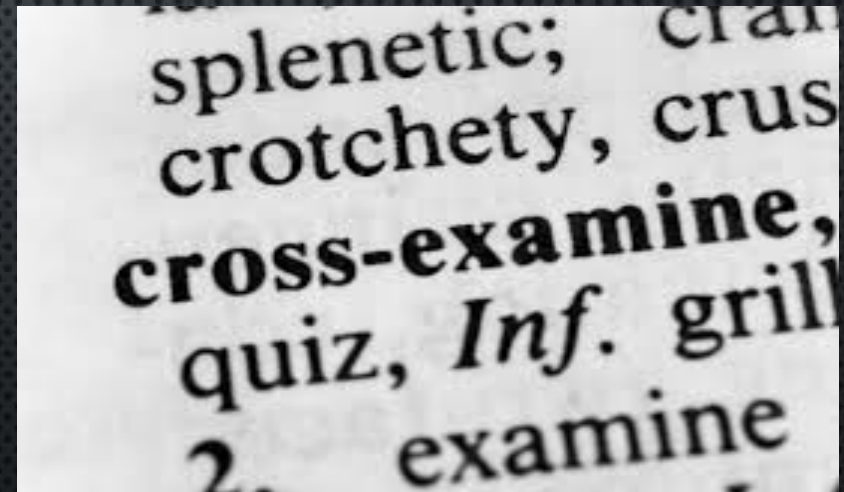


## The Right to Confront Witnesses

- + Confrontation of witnesses is essential to a fair trial, because it controls the admissibility of hearsay evidence and is guaranteed in the Sixth Amendment
- + The right to confrontation is also violated if out-of-court testimony is used to convict the accused
- + The confrontation clause is a constitutional right to see and cross-examine all the witnesses against a criminal defendant

# CROSS-EXAMINATION

- MUST BE CONDUCTED ONLY BY THE PARTY'S ADVISOR.
- BOTH PARTIES MUST BE AVAILABLE FOR CROSS-EXAMINATION.



# DETERMINATION OF QUESTIONS' RELEVANCE

- ADVISOR ASKS QUESTION.
- DECISION MAKER DECIDES IF THE QUESTION IS RELEVANT.
- PARTY ANSWERS.
- THIS PROCESS MUST BE DONE QUESTION BY QUESTION.





# CONSEQUENCE OF NON- APPEARANCE

- EXCLUSION OF ALL PREVIOUS STATEMENTS.
- ADVISOR MAY STILL ASK QUESTIONS.



## APPEARS BUT DECLINES TO PARTICIPATE:

- PREVIOUS STATEMENTS EXCLUDED.
- ADVISOR MAY ASK QUESTIONS TO OTHER PARTY.

## APPEARS BUT DECLINES SOME QUESTIONS:

- DECISION MAKERS MAY ALLOW HEARING TO PROCEED IF IT IS NOT A PATTERN AND PARTY ANSWERS THE MAJORITY OF QUESTIONS.
- CAUSE FOR APPEAL.



# WHEN IS A QUESTION NOT RELEVANT?

- REPETITIOUS.
- NOT RELATED TO THE ISSUE AT HAND.
- PAST SEXUAL CONDUCT.
- PRIVILEGED INFORMATION.



# TIME LIMITS

- FOR OPENING REMARKS – BRIEF
- LIVE-HEARING MAY BE CONTINUED ANOTHER DAY.
- ALLOW FOR BREAKS.



# POST-HEARING

- EVALUATE THE EVIDENCE.
- ORGANIZE FACTS.
- ANALYZE EVIDENCE AGAINST THE POLICY.



# PREPONDERANCE OF THE EVIDENCE

- MORE LIKELY THAN NOT.
- 51% OF EVIDENCE POINTS TO FINDING THAT RESPONDENT VIOLATED OR NOT TITLE IX POLICY.



# DECISION MAKERS' FINAL REPORT

- ALLEGATIONS.
- PROCEDURAL STEPS.
- FINDING OF FACTS.
- CREDIBILITY OF WITNESSES.
- APPLICATION OF FACTS TO POLICY.
- DECISION BASED ON  
PREPONDERANCE OF THE EVIDENCE.
- SANCTIONS IF ANY.



# APPEAL PROCESS

- PARTY MAY APPEAL DECISION OR SANCTION.
- TITLE IX COORDINATOR WILL APPOINT APPEAL OFFICER.





# BASIS FOR APPEAL

- BIAS OR CONFLICT OF INTEREST.
- NEW EVIDENCE NOT AVAILABLE AT TIME OF INVESTIGATION.
- FAILURE IN PROCEDURE.



# APPEAL OFFICER'S DECISION

- MAY FIND BASIS FOR NEW INVESTIGATION, PARTICULARLY IF THERE WAS BIAS.
- MAY ORDER ADDITIONAL INVESTIGATION IF NEW EVIDENCE IS AVAILABLE.
- MAY ORDER NEW HEARING.
- MAY DETERMINE NO BASIS FOR APPEAL.
- THEN FINAL DECISION IS VALIDATED.

