

TITLE IX HEARING PANEL TRAINING

SWACC

AUGUST/SEPTEMBER 2020

TITLE IX
CONSULT
LLC

DISCLAIMER

- ▶ The information contained herein was developed by Title IX Consult, LLC for the exclusive use of SWACC members. Use of these documents by non-SWACC members and/or outside the SWACC-member college environment requires explicit permission of Title IX Consult, LLC.
- ▶ ©Title IX Consult, LLC, 2020. Copyrighted material. Express permission to post training materials for those who attended a training provided by Title IX Consult, LLC is granted to comply with 34 C.F.R. § 106.45(b)(10)(i)(D). These training materials are intended for use by licensees only. Use of this material for any other reason without permission is prohibited.
- ▶ This training is intended for educational purposes only and does not contain sample forms for use in hearing process.

Overview

1. Review the Title IX
2. Selecting structure - hearing panel or hearing officer
3. Responsibilities for decision-maker
4. Critical analysis of the fact-finding report/information
5. Avoiding hearing pitfalls - trauma-informed approach, avoiding bias/stereotyping
6. Organizing the hearing and preparation of officer/panel
7. Managing advisors, parties, and participants
8. Executing the hearing - conducting cross-examination, making credibility assessments, weighing the standard of evidence, and reaching a conclusion
9. Drafting the final findings

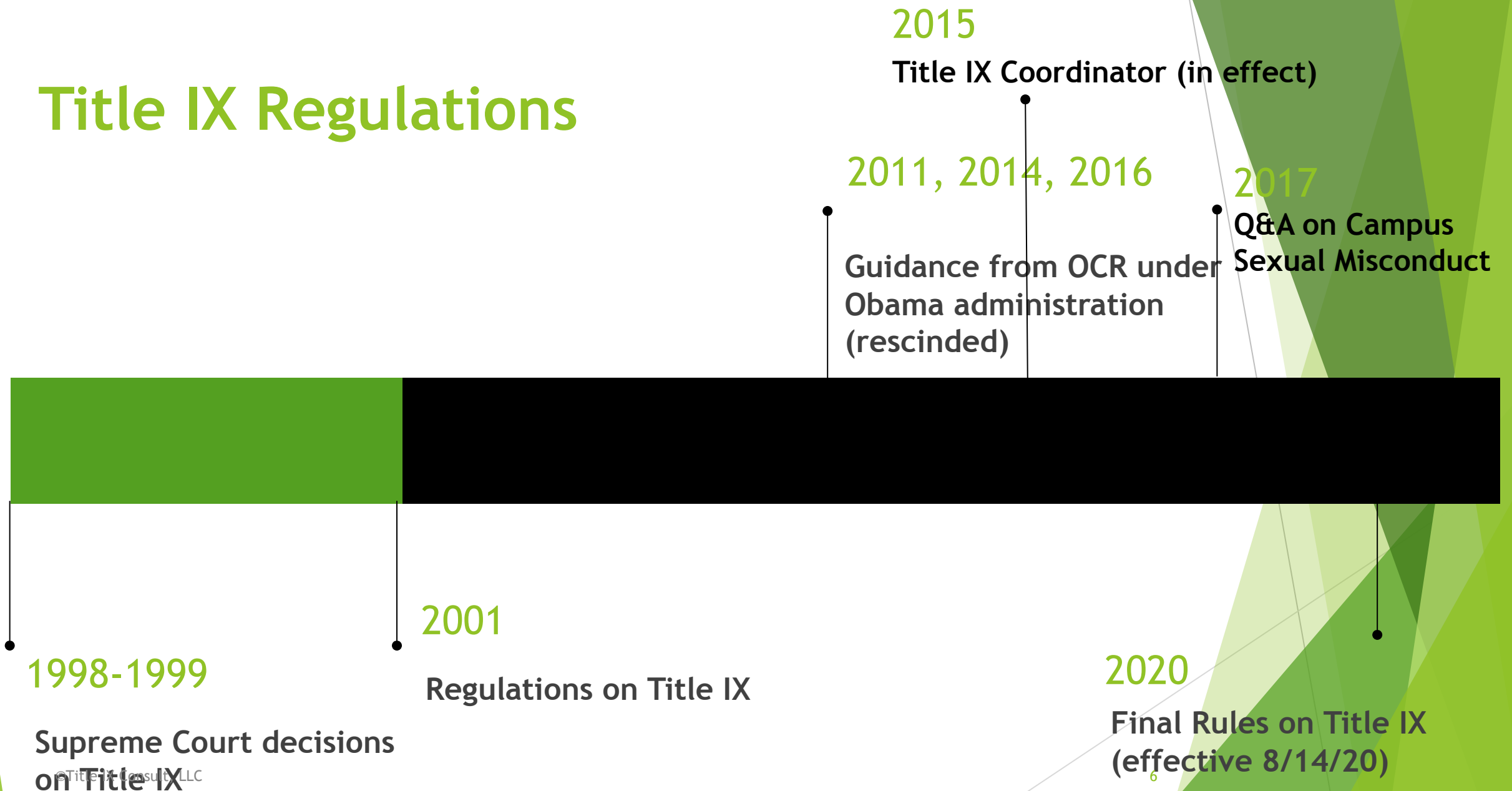
What is Title IX?

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

Title IX Enforcement

- ▶ Department of Education, Office for Civil Rights
- ▶ Issues guidance and regulations
- ▶ Conducts investigations
- ▶ Negotiates settlements

Title IX Regulations





Title IX New Rule



©Title IX Consult, LLC



What Behavior is Covered?

- ▶ Sex Discrimination
- ▶ Sexual Harassment
- ▶ Applies to Students AND Employees

Other Title IX Matters

- ▶ Sex Discrimination
 - ▶ Unequal treatment
 - ▶ Sports
 - ▶ Other programs and/or activities



Obligation of College

- ▶ Must respond promptly in a manner that is not deliberately indifferent when a school has actual knowledge of sexual harassment in an education program or activity by:
 - ▶ Providing **supportive measures** to complainant (possible victim);
 - ▶ **Investigating** a formal complaint from complainant; and/or
 - ▶ Determining if an investigation is necessary.

Sexual Harassment

- ▶ An employee of the school conditioning the provision of an aid, benefit, or service of the school on an individual's participation in unwelcome sexual conduct.
- ▶ Unwelcome conduct determined by a reasonable person to be so severe, pervasive and objectionably offensive that it effectively denies a person equal access to the recipient's education program or activity
- ▶ Sexual assault (rape, fondling, incest), Dating/Domestic Violence, and Stalking

Jurisdiction

- ▶ Complainant must:
 - ▶ be currently enrolled, or
 - ▶ attempting to enroll
- ▶ Sexual harassment must occur:
 - ▶ in a school's "education program or activity" and must be in the United States
 - ▶ includes locations, events, or circumstances over which the school exercised substantial control over both the respondent and the contexts in which the sexual harassment occurred

Obligatory and Permissive Dismissals

- Sexual harassment complaint **MUST** be dismissed if:
 - would not fit within the definition of sexual harassment
 - did not occur in an education program or activity of the school
 - did not occur in the United States
- Sexual harassment complaint **MAY** be dismissed if:
 - complainant withdraws formal complaint in writing
 - respondent is no longer enrolled as a student or employed by school
 - circumstances prevent school from gathering evidence that would be sufficient to reach a determination

Important Definitions from Final Rule

- ▶ Complainant
- ▶ Respondent
- ▶ Advisor
- ▶ Investigator
- ▶ Decision-Maker
- ▶ Formal Complaint



Advisor

- ▶ Process will define the role
- ▶ New Rule requires expansion of this role compared to prior guidance
- ▶ Obligation of school to assign advisor to party for hearing
 - ▶ In event party does not appear for hearing, obligation continues
- ▶ May be a biased participant

Distinction between Investigator and Decision-Maker

- ▶ Policy/Process will clearly define role
 - ▶ What will investigator do/decide?
 - ▶ What discretion does decision-maker have?
- ▶ Guidance from 2017 made similar distinctions
- ▶ New Rule offers broader responsibility to decision-maker

Importance of a Formal Complaint

- ▶ DEFINITION - written allegation of Title IX concern, signed by Complainant, asking for an investigation
- ▶ Triggers Title IX Response
 - ▶ Supportive measures (upon notice of potential allegations)
 - ▶ Dismissal if outside of the definition
 - ▶ Notice of Allegations
 - ▶ Investigation or Informal Resolution Process
- ▶ If Complainant fails to file a formal complaint, Title IX Coordinator may bring formal complaint
 - ▶ Title IX Coordinator does not become Complainant

What Happens Next?

Investigation

- ▶ Interviews
- ▶ Gathering documents
- ▶ Organizing investigation file
- ▶ Allowing review by parties
- ▶ Issuing Investigation Report
 - ▶ WHAT WILL BE INCLUDED?

Hearing

- ▶ Parties present
- ▶ Allows for synchronous cross-examination by advisor
- ▶ Information excluded for parties or witnesses who do not submit to cross-examination
- ▶ Advisors provided for cross-examination
- ▶ Recording of session

And then?

Decision-maker

- ▶ Issues final decision
- ▶ Makes sanctioning decision
- ▶ Advises of appeal rights



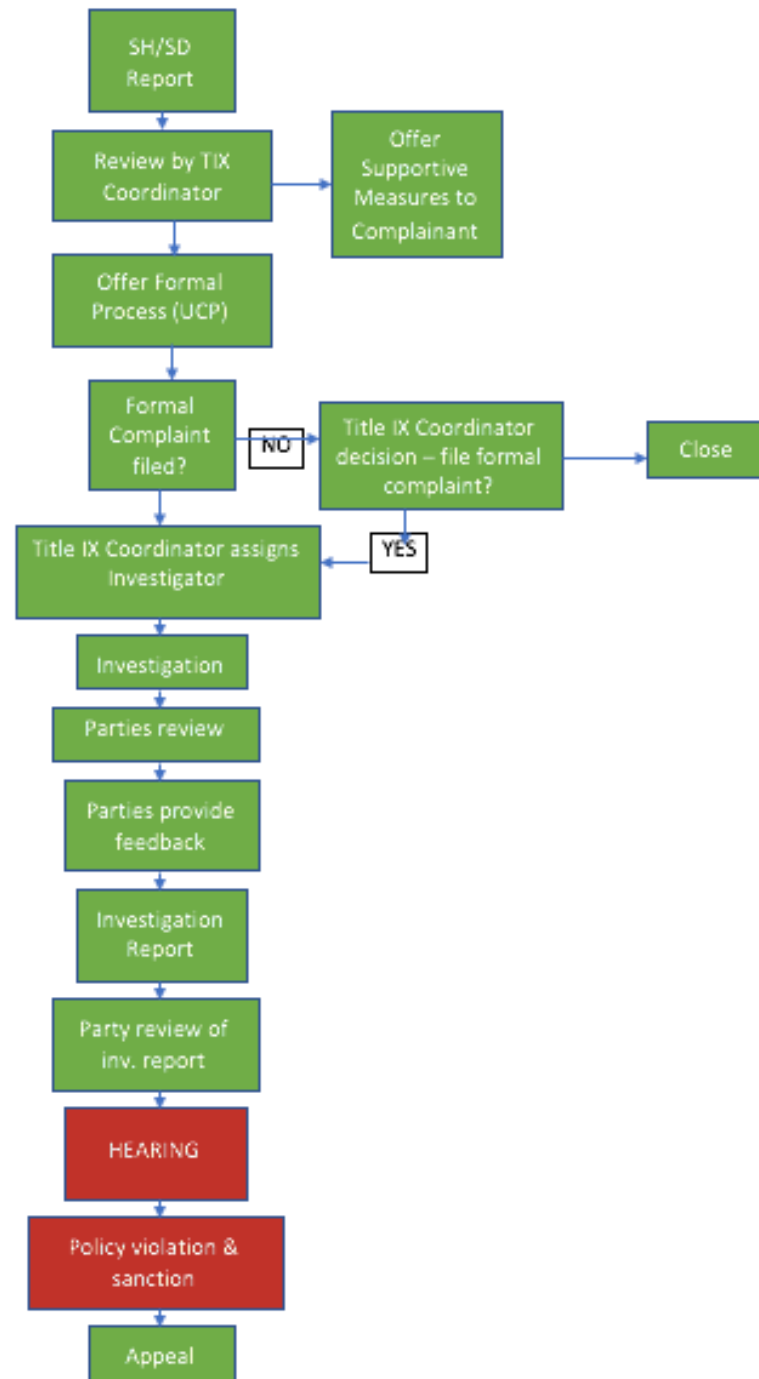
©Title IX Consult, LLC

Appeal

- ▶ Offered to both parties
- ▶ Three required grounds:
 - ▶ Procedural irregularity
 - ▶ After-acquired evidence
 - ▶ Bias or conflict of interest on the Title IX Coordinator, Investigator, Decision-maker

Concerns for Colleges

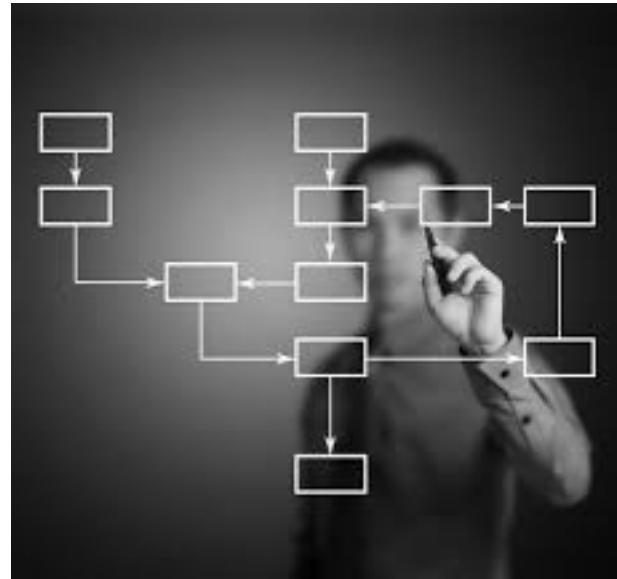
- ▶ Adopting formal process
 - ▶ Policy
 - ▶ Procedure
 - ▶ Hearing Panel Rules/Process
- ▶ Understanding various participant roles in process
- ▶ Training for key individuals in Title IX process
 - ▶ Title IX Coordinator
 - ▶ Title IX Investigator
 - ▶ Decision-maker
 - ▶ Appeal officer
 - ▶ Advisors appointed by college
- ▶ Failure to follow process



Selecting a Process - Hearing Officer or Hearing Panel

Policy and Process

- ▶ Panel or Officer
- ▶ Attorney Required?
- ▶ Conflicts of Interest



Hearing Officer

Benefits

- ▶ Streamlined training
- ▶ Updates on changes simplified
- ▶ Decision-making centralized

Challenges

- ▶ Conflicts of Interest
- ▶ Scheduling
- ▶ Burnout
- ▶ Other Responsibilities

Hearing Panel

Benefits

- ▶ Shared responsibility
- ▶ Rotate members to serve throughout the year
- ▶ Stagger panel coming on/going off

Challenges

- ▶ Planning and organizing while juggling schedules
- ▶ Minimum/maximum number
- ▶ Internal disputes

Hearing Panel or Officer

- ▶ Individuals in the process
- ▶ Proper training for ALL
- ▶ If panel, select odd number and detail decision-making authority
- ▶ If officer, provide necessary administrative support to ease burden

Background of Officer/Panel Members

- ▶ Attorney required - NO
- ▶ Training required - YES
- ▶ Understanding policy - YES
- ▶ Commands the role
 - ▶ Control of room
 - ▶ Ability to weight evidence
 - ▶ Reach a conclusion
 - ▶ Comfortable with the uncomfortable
 - ▶ Can challenge others and also be challenged
- ▶ Characteristics to consider
 - ▶ Willingness to serve
 - ▶ Objective and unbiased
 - ▶ Ability to connect with employees/students
 - ▶ Confidentiality
 - ▶ Reflective of campus
 - ▶ Diversity

Conflicts of Interest

Real

Assumed

Perceived

Challenged

Training

- ▶ Policy
- ▶ Process
- ▶ Evidence
- ▶ Others
 - ▶ Trauma
 - ▶ Bias
 - ▶ Avoiding Stereotypes
- ▶ Ability to consult with counsel on key decisions (process, relevance)

Hearing Panel/Officer

Key Responsibilities and Required Actions

Clear Directions on Process

- ▶ Prior to hearing
 - ▶ Review of investigation report
 - ▶ Providing evidence during the hearing
 - ▶ Openings/closings
 - ▶ Victim impact
 - ▶ Concluding
-
- ▶ Restrictions on time
 - ▶ Breaks
 - ▶ Failure to follow process, lack of decorum - consequence?

Maintaining Order

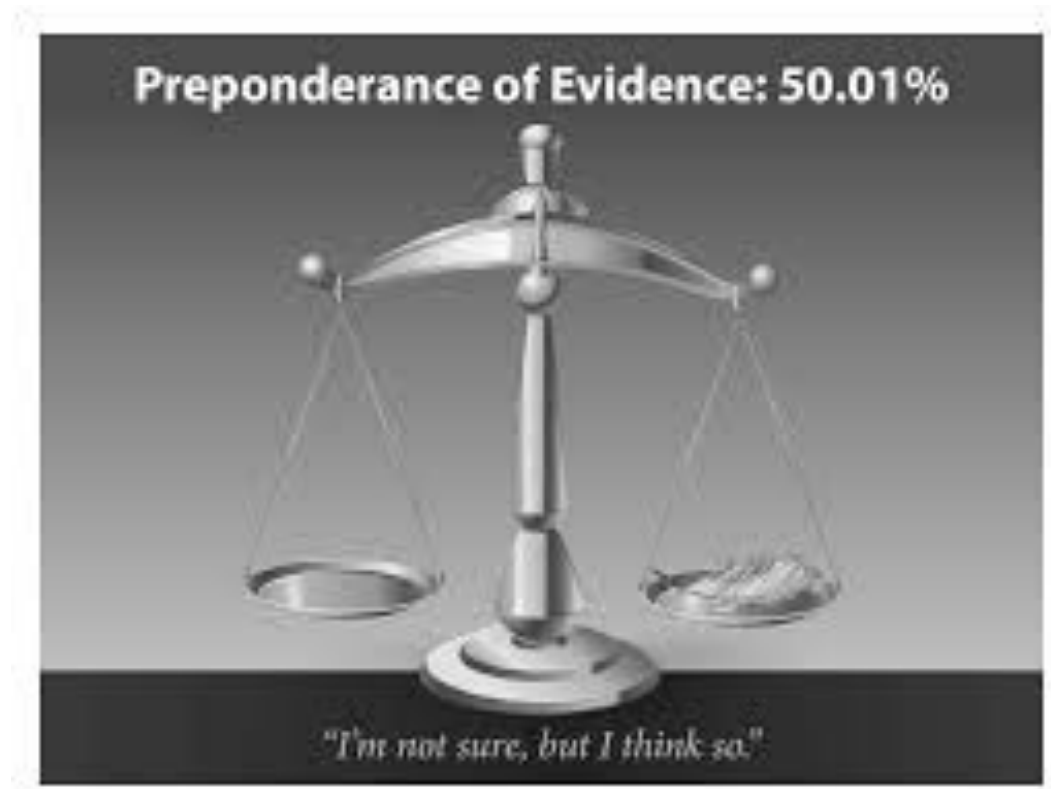
- ▶ Hearing Rules should be clear and disseminated to parties, witnesses, advisors
- ▶ Chair or Officer *MUST* enforce compliance
- ▶ Adopt strategies to assist with the process



Critical Analysis of Report

- ▶ Review the report
- ▶ Determine if holes exists?
- ▶ What other information do you need to make a decision
- ▶ Prepare questions, identify needed witnesses
- ▶ Anticipate questions from parties
 - ▶ Review questions submitted (if process allows)
- ▶ Be prepared for challenges

Applying the Evidence Standard



Evidentiary Decisions

- ▶ RELEVANCE - Applying to the matter in question; affording something to the purpose (Black's Law Dictionary)
- ▶ NOT permitted:
 - ▶ Sexual history of Complainant (see Rape Shield exception)
 - ▶ Privileged communications
 - ▶ Medical documentation
- ▶ Not repetitive

Evaluating Credibility

- ▶ Value of cross-examination
- ▶ Facts are often in conflict

Reviewing Investigation Report

What Information is in Investigation Report?

- ▶ Facts
- ▶ Witness names and statements (summaries)
- ▶ Documentary or digital evidence
- ▶ Credibility evaluations (possibly - look at your process)

Review

- ▶ Thorough
- ▶ Transparent



And Now What?

- ▶ Review for areas of concern
- ▶ Evaluate the parties and witness statements
- ▶ Review your policy
- ▶ Critically analyze report in terms of policy requirements

Keep in Mind

- ▶ Any testimony submitted is subject to cross examination
- ▶ If a party or witness fails to appear, testimony provided to investigator is OUT and can't be considered in your decision
- ▶ If a party or witness appears but refuses to answer cross examination question, the testimony provided to hearing officer/pane is OUT cannot be considered in your decision
- ▶ Picking and choosing what to respond to
- ▶ Independent evidence can be considered

Failure of a Party to Attend Hearing

- ▶ Cannot be used against the party
- ▶ No assumptions related to failure to appear

Avoiding Hearing Pitfalls through Preparation

Trauma

- ▶ Many Title IX causes of action involve trauma
- ▶ Investigators and decision-makers must understand the impact of trauma on:
 - ▶ Reaction to trauma
 - ▶ Ability to capture memories
 - ▶ Recollection of memories
- ▶ Expectations around trauma victim

Bias

- ▶ How to assess bias
- ▶ Can other members of process be biased?
 - ▶ Advisors

Bias

Conscious/Explicit

- ▶ Discriminatory intent
- ▶ Stated preferences

Unconscious/Implicit

- ▶ For the most part, most people are unaware of these drivers
- ▶ Developed over a period time and can influence many factors in hearing
- ▶ Short cuts developed by the brain and often play a role in:
 - ▶ Immediate response to conflict
 - ▶ Often mimics fear responses

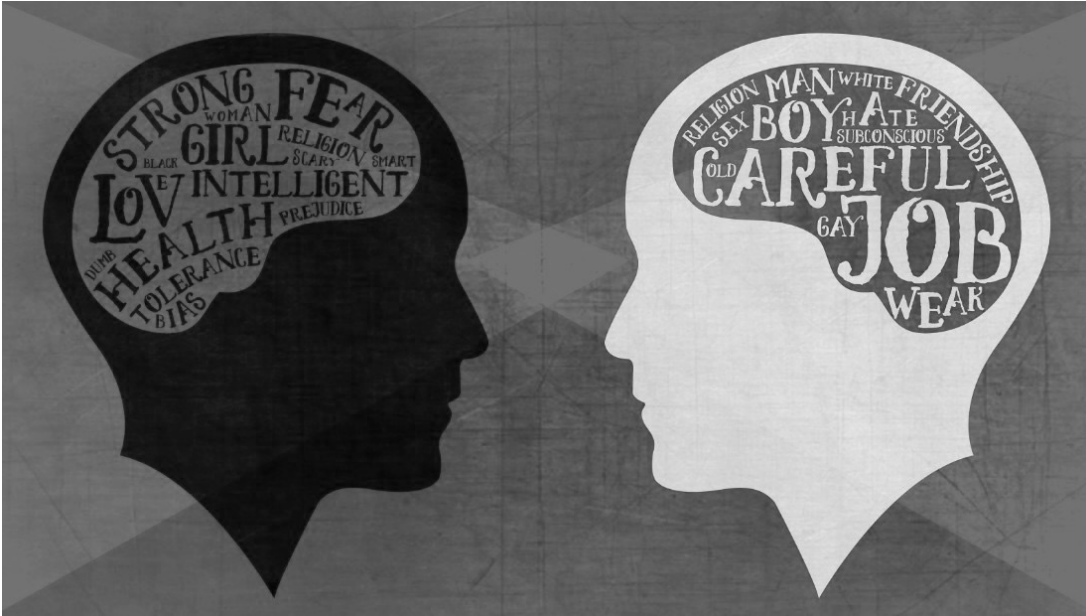
READ SILENTLY

RED	GREEN	BLUE	YELLOW	PINK
ORANGE	BLUE	GREEN	BLUE	WHITE
GREEN	YELLOW	ORANGE	BLUE	WHITE
BROWN	RED	BLUE	YELLOW	GREEN
PINK	YELLOW	GREEN	BLUE	RED

NOW TRY THIS

RED	GREEN	BLUE	YELLOW	PINK
ORANGE	BLUE	GREEN	BLUE	WHITE
GREEN	YELLOW	ORANGE	BLUE	WHITE
BROWN	RED	BLUE	YELLOW	GREEN
PINK	YELLOW	GREEN	BLUE	RED

4 Ways You Might Be Displaying Bias



CNN

Implicit Bias Test

<https://implicit.harvard.edu/implicit/>

Stereotypes

- ▶ “A fixed, over generalized belief about a particular group or class of people.” (Cardwell, 1996)
- ▶ Stereotypes around sexual assault
- ▶ Stereotypes around sexual harassment

Sexual Harassment Investigation/Hearing Impact

Stereotype/Bias about
Complainant

Stereotypes/Bias around
Respondent



Rape Shield Protection

- ▶ Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant and thus not permitted, unless the questions and evidence about the complainant's prior sexual behavior are offered:
 - ▶ to prove that someone other than the respondent committed the conduct alleged by the complainant, or
 - ▶ if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

Organizing the Hearing

Type of Hearing

In person

- ▶ Space reservation
 - ▶ Hearing room
 - ▶ Break-out rooms
 - ▶ Separation
- ▶ Rights of the parties
- ▶ Other considerations
 - ▶ Hallway traffic
 - ▶ Witness arrival/departure
 - ▶ Ability to consult with advisors

Online/Virtual

- ▶ MUST MUST MUST train hearing officer/panel on how to use technology
- ▶ Offer same options to parties through technology
- ▶ Be prepared for operational problems and have necessary back-up
- ▶ Develop a plan for immediate outreach if technology goes down

Key Elements of Process

- ▶ LIVE! . . .But can be remote
- ▶ Applying the correct standard of proof
- ▶ Cross-examination of parties and witnesses by an advisor is permitted
 - ▶ If no advisor, one is assigned
 - ▶ If party doesn't appear, advisor assigned handles cross
- ▶ Hearing officer/panel makes decision about relevancy of evidence
- ▶ Evaluate the evidence
 - ▶ Exclusion of evidence
 - ▶ Credibility assessments
- ▶ Issue written decision based on information obtained during the hearing

All Logistics

- ▶ Time
- ▶ Reservation of room(s)
- ▶ Breakout sessions
- ▶ Advising parties and witnesses
- ▶ Determining who will show up/refuses to show
 - ▶ Parties and witnesses have no obligation to provide notice of this decision
- ▶ Parties have right to be “present” - in person or online
- ▶ Witnesses only need to be present for testimony

Hearing Process - Policy, Process, Rules

- ▶ What must be included?
- ▶ What else would might you include?
- ▶ How would you distribute?
- ▶ How will you handle violations of process?

Preparing Participants for Hearing

- ▶ Individual meetings
- ▶ Review process
- ▶ Allow for questions
- ▶ Provide clarity and comfort with the process

Compelling Participation

- ▶ May not threaten, coerce, intimidate, or discriminate to compel a party or witness to participate in the hearing process
- ▶ Prohibition against retaliation

Hearing Called to Order

- ▶ Review hearing process rules
- ▶ Go through logistics of hearing process (who will speak, when cross-examination will be allowed, which types of questions are allowed/not permitted)
- ▶ Review charges and policy at issue
- ▶ Allow opening statements
- ▶ Testimony
- ▶ Cross examination
- ▶ Allow closing statement

Opening and/or Closing Statements

- ▶ Process guidelines should indicate if these are allowed or not
- ▶ Opportunity to present fact as the party sees them
- ▶ Limitations on time
- ▶ Chance to review

Cross Examination

- ▶ Conducted by advisors
- ▶ Submission of questions prior to hearing
- ▶ Eliminate the need for extensive cross-examination

Concluding the Hearing

- ▶ Anything else?
- ▶ Have parties acknowledge on record that matter concluded
- ▶ Explain next steps

Managing Participants

Advisors

- ▶ When are they permitted?
 - ▶ Cross-examination
- ▶ What if a party doesn't have one?
- ▶ What role will this person play at hearing?
 - ▶ Cross examination
 - ▶ College can restrict
- ▶ Vehement representation
- ▶ Bias

Attorney Advisors

- ▶ When you are not an attorney
- ▶ College has defined the process - you are the expert!
- ▶ Confidence in management and decisions

Parties Rights



Witnesses

- ▶ Attend while giving testimony
- ▶ Don't have to waive constitutional rights

Who Else Might Appear?

- ▶ Parents
- ▶ Press
- ▶ Friends and support people for parties and witnesses
- ▶ Interested individuals

Reaching a Final Decision

Hearing Officer Responsibilities

- ▶ Impartiality
- ▶ Standard of evidence
- ▶ Concluding hearing
- ▶ Recording the hearing

Impartiality

- ▶ Be neutral - neither pro-Complainant nor pro-Respondent
- ▶ Consider the evidence as presented
- ▶ Confront and understand bias and not allow it to impact decision
- ▶ Maintain open mind as to the potential conclusions

Standard of Evidence

- ▶ Preponderance of evidence
- ▶ Clear and Convincing
- ▶ Same standard with other student process
- ▶ Student and employee process uses the same standard

- ▶ CA Affirmative Consent Law (SB 967)
 - ▶ Preponderance of evidence applies

Hearing Record

- ▶ Records related to Title IX Sexual Harassment should be maintained for seven (7) years, including records of:
 - (1) any sexual harassment investigation, including any responsibility determination, and any required recording or transcript, as well as any sanctions imposed on the respondent, and any remedies provided to the complainant;
 - (2) Any appeal and its result;
 - (3) Any informal resolution and its results; and
 - (4) All materials used to train investigators, decision-makers, and Title IX coordinators with regard to sexual harassment.

Final Decision Letter

Reviewing Evidence

- ▶ Only consider evidence presented in the hearing
- ▶ Exclude any information presented in investigation by a non-participating witness or party is excluded
- ▶ Disregard evidence from the investigatory report if the party/witness

Evidence Types

- ▶ Testimony
- ▶ Documents of all kinds
- ▶ Character
- ▶ Medical

Evidence Can Be Tossed

- ▶ Documentation that appears altered and has been challenged
- ▶ Cannot cross examine evidence
- ▶ Inability to gain access

Credibility Determination

- ▶ Corroboration
- ▶ Feasibility
- ▶ Motivation for truthfulness/untruthfulness
- ▶ Consistent
- ▶ Reviewed/coached

Policy Review and Analysis

- ▶ Policy must be applied to the facts
- ▶ Break down the elements of the potential violation
- ▶ Insert relevant evidence
- ▶ Apply the standard of evidence required

Reaching a Reasoned Conclusion

- ▶ Demonstrate how conclusion was reached
- ▶ Provide roadmap in the event of appeal
- ▶ Prepare the written report for parties
- ▶ Sanction

Final Decision

1. Identification of the allegations potentially constituting Title IX Sexual Harassment;
2. A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;
3. The findings of fact supporting the determination;
4. The conclusions regarding the application of the recipient's code of conduct to the facts;
5. A statement of and rationale for the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the recipient imposes on the respondent, and whether remedies designed to restore or preserve equal access to the recipient's education program or activity will be provided by the recipient to the complainant; and
6. The recipient's procedures and permissible bases for the complainant and respondent to appeal.

Keep in Mind - Bases for Appeal

- (1) Procedural irregularity that affected the outcome of the matter;
- (2) New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter; and
- (3) The Title IX Coordinator, investigator(s), or decision-maker(s) had a conflict of interest or bias for or against complainants or respondents, generally, or the individual complainant or respondent that affected the outcome of the matter.

Prohibition against Retaliation

- ▶ Prohibits the college from intimidating, threatening, coercing, or discriminating against any individual for the purpose of interfering with any right or privilege secured by Title IX , 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 policy.
- ▶ This policy protects any individual who has made a report or complaint of sex discrimination, including any individual who has made a report or filed a formal complaint of Title IX Sexual Harassment, any complainant, any individual who has been reported to be the perpetrator of sex discrimination, any respondent, any witness, and any other individual who participates or refuses to participate in an investigation, proceeding, or hearing related to the Title IX regulations

megan@titleixconsult.com

TITLE IX
CONSULT
LLC

TITLE IX HEARING PANEL TRAINING Case Study

SWACC DAY 2 PRESENTATION

AUGUST/SEPTEMBER 2020



DISCLAIMER

- ▶ The information contained herein was developed by Title IX Consult, LLC for the exclusive use of SWACC members. Use of these documents by non-SWACC members and/or outside the SWACC-member college environment requires explicit permission of Title IX Consult, LLC.
- ▶ ©Title IX Consult, LLC, 2020. Copyrighted material. Express permission to post training materials for those who attended a training provided by Title IX Consult, LLC is granted to comply with 34 C.F.R. § 106.45(b)(10)(i)(D). These training materials are intended for use by licensees only. Use of this material for any other reason without permission is prohibited.
- ▶ This training is intended for educational purposes only and does not contain sample forms for use in hearing process.

Overview

- ▶ Fact Scenario
- ▶ Title IX issue spotting
- ▶ Preparing for the Hearing
- ▶ Formulating Questions for Parties and Witnesses
- ▶ Managing Cross-Examination
- ▶ Writing the Final Finding

FACTS

- ▶ Chloe, a sophomore at TNCC, alleges that Dr. Phillips, a professor in the Create Writing program, touched her inappropriately and without consent while the two were on the dance floor at the hotel where they attended the Creative Writing Conference, a state-wide community college conference held in Sacramento, CA, in Spring of 2020. Chloe alleges that Dr. Phillips' hands went beneath her skirt and penetrated her while the two were dancing in a group that included fellow Creative Writing program students from TNCC and from other CA community colleges. Two TNCC students - Dylan and Taylor - were on the dance floor at the time of the incident. Chloe filed a formal complaint with the Title IX Coordinator related to these allegations. Chloe has asked to use the informal resolution process.

Issue Spotting

- ▶ Title IX cause of action under the New Rule
- ▶ Hostile environment
- ▶ Jurisdiction for the complaint
 - ▶ College event or activity
 - ▶ Substantial control over respondent
- ▶ Potential witnesses
- ▶ Capacity/Incapacity
- ▶ Consent
- ▶ Informal resolution



Process

- ▶ Allegations
- ▶ Supportive measures and offering the formal process and offering the formal complaint
- ▶ Notice of allegations to respondent
- ▶ Supportive measures for respondent
- ▶ Investigation and review of evidence and report by parties
- ▶ HEARING
- ▶ Decision-maker conclusion and sanctions
- ▶ Appeal

Hearing Officer/Chair

- ▶ Develop the Hearing Process/Procedures for the parties and witnesses
- ▶ Identify the key pieces of information to share
- ▶ How will the information be communicated
- ▶ 10 minutes to create process/procedure

Developing Questions

Additional Information

- ▶ Complainant appeared for the interview with investigator and indicated that she had been drinking during the Creative Writing event and has "spotty memory" of what happened
- ▶ Respondent refused to be interviewed by investigator but has confirmed plans to attend the hearing with an advisor (advisor is attorney for teacher's union)
- ▶ Dylan is a current student in Creative Writing; Dylan recalled that Chloe left the dance floor abruptly and was gone for the rest of the evening; Dylan has not discussed the evening's events with the other party
- ▶ Taylor serves as the teaching assistant for Dr. Phillips (having taken Creative Writing last year) and reported that nothing unusual happened while everyone was on the dance floor; Taylor has not discussed the evening with either party

Develop Questions

- ▶ Complainant
- ▶ Respondent
- ▶ Dylan
- ▶ Taylor



Cross-Examination

Managing the Process

- ▶ Key responsibilities of Chair or Officer
 - ▶ Creating an accurate record of the proceeding
- ▶ Exercise control over the process
- ▶ Manage the wild-card
 - ▶ Cross-examination

Cross-Examination

- ▶ Complainant by Respondent's advisor
- ▶ Respondent by Complainant's advisor
- ▶ Review the reasons to exclude evidence (or specific questions)

Final Findings

Review

- ▶ Investigation report?
- ▶ Record?
- ▶ Hearing Panel Process?
- ▶ Policy?



Finding Must Include

1. Allegations of Title IX Sexual Harassment;
2. Procedural steps;
3. The findings of fact supporting the determination;
4. The conclusions regarding the application of policy to the facts;
5. Rationale for the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the recipient imposes on the respondent, and remedies; and
6. Bases for the complainant and respondent to appeal.

TNCC Policy on Sexual Harassment

- ▶ TNCC prohibits Title IX Sexual Harassment of its students and staff by other students or staff while in a college's program or activity.
- ▶ For purposes of this policy, Title IX Sexual Harassment is defined as unwelcome behavior of a sexual nature that fits within one of the following categories:
 - 1) Quid Pro Quo harassment - An employee of the college conditioning the provision of an aid, benefit, or service of the college on an individual's participation in unwelcome sexual conduct;
 - 2) Hostile Environment Harassment - unwelcome conduct that a reasonable person would determine is so severe, pervasive and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity;
 - 3) Sexual assault (inclusive of sexual assault, rape, sexual fondling), domestic violence, dating violence, and/or stalking, as defined by the Clery Act and the Violence Against Women Act (VAWA).

Consent

- ▶ “Affirmative consent” means affirmative, conscious, and voluntary agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that he or she has the affirmative consent of the other or others to engage in the sexual activity. Lack of protest or resistance does not mean consent, nor does silence mean consent. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of consent.

Begin Writing Your Findings

megan@titleixconsult.com

TITLE IX
CONSULT
LLC