

ADVANCED DECISION-MAKER TRAINING

Alison Nygard

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MEET YOUR FACILITATOR



Alison Nygard, J.D.

Alison Nygard joined the team at Grand River Solutions with over ten years of experience in higher education. She regularly provides Hearing Officer services in her current role as a Senior Solutions Specialist on the Resolutions team.

Alison served as an Associate Director of Equal Opportunity in the California State University (CSU) system. She fulfilled the functions of both Deputy Title IX Coordinator and Deputy Discrimination, Harassment, and Retaliation (DHR) Administrator for her campus, conducting hundreds of investigations and inquiries along the way. Alison is accustomed to providing calm and efficient consultations in response to complex issues as well as to working with diverse groups of staff, faculty, students, administrators, and third parties.

Alison earned her bachelor's degree from Rice University and her Juris Doctorate from the University of California, Davis – King Hall.

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AGENDA

- Overview- Check Policy
- Hearing Preparation: Documents
- Hearing Preparation: Questions
- Hearing Process Overview and Challenges
- Deliberations/ Determination
- Wrap-Up

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ABOUT US

Vision

We exist to create safe and equitable work and educational environments.

Mission

To bring systemic change to how school districts and institutions of higher education address their Clery Act & Title IX obligations.

Core Values

- Responsive Partnership
- Innovation
- Accountability
- Transformation
- Integrity

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OVERVIEW



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01

CHECK YOUR JURISDICTION

Policies Often Specify the Following for TIX Hearings:

- Meets Title IX harassment definition
- Occurred in educational program or activity
- In the United States
- Complainant is participating in education program as of formal complaint

Does Your Policy Go Further?

- Do off-campus cases go through a hearing if the alleged conduct could create a hostile environment on campus?
- Are there any different rules between TIX and Non-TIX Hearing?
- Should the case be dismissed to another Policy/Process?

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A FEW CONSIDERATIONS

- Campus-initiated complaint
- Privacy/Need to Know
- Impartiality for Hearing Officers/Panelists
- Conflicts of Interest
- Definitions
- Informal Resolutions



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PROCEDURAL REQUIREMENTS FOR TITLE IX INVESTIGATIONS

Notice to BOTH parties

Equal opportunity to present evidence

An advisor of choice

Written notification of meetings, etc., and sufficient time to prepare

Opportunity to review all directly related evidence, and 10 days to respond to the evidence prior to completion of the report

Report summarizing relevant evidence and minimum 10-day review period prior to hearing

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A TITLE IX INVESTIGATION REPORT THAT FAIRLY SUMMARIZES THE EVIDENCE:

- Relevant
- Presentation of evidence – usually no conclusions
- Material disputed and undisputed facts
- Incorporates relevant responses to the evidence



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STANDARD HEARING CONSIDERATIONS

Must be live, but can be conducted remotely

Participation is voluntary

Standard of proof used is preponderance of the evidence

Cross examination must be permitted and must be conducted by advisor

Hearing Chair/Officer rules on relevancy for all questions

Written decision issued to all parties

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HEARING TECHNOLOGY: REQUIREMENTS AND CONSIDERATIONS



01

If hearings cannot be in person, or if someone chooses to participate remotely, must have a remote participation platform available

02

The campus must create a recording or transcript to have available for the parties' inspection/review

03

Participants must be able to communicate with decision makers and advisors during the hearing

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CONSIDERATIONS FOR REMOTE HEARINGS

- Link provided to the parties day before or day of hearing
- Breakout rooms
- Enabling transcript
- Who will coordinate the hearing?
- Who will record?
- Disable chat



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HEARING PREPARATION: DOCUMENTS

02

- The Investigation Report
- The Appendices (Evidence Attached)
- The Notices of Investigation
- The Notices of Hearing

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DO YOU KNOW YOUR SCOPE?

When reviewing the documents, ask yourself:

- Do the charges in the investigation notice match the scope you have been given (and the hearing notices)?
- Was every allegation in the investigation notice addressed in the investigation report?
- Do you have all relevant documents?
  - Is any document mentioned in the report not accounted for?
  - Do the parties mention a piece of evidence that you don't have?
- Do you know which policy or part of the policy applies?
  - Is it following jurisdiction requirements?

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REVIEWING THE DOCUMENTS

- Read and re-read the policy definitions
- Identify the material disputed and undisputed facts
- Initial read – is there anything you don't understand?
- Are there any gaps where a party or witness was not asked about a material point?
- Take notes

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MEET WITH THE PANEL (IF APPLICABLE)

Get Organized!

- Which witnesses do you want?
- Is the exclusionary rule still in your policy (OCR guidance says not to use it)
- Streamline question drafting.
- Who will prepare the hearing script?
- How will questions be asked?
  - (Recommend Chair takes the lead if there is a Panel)



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PRE-HEARING MEETINGS



- Review the logistics for the hearing
- Set expectations
  - Format
    - Roles of the parties
    - Participation
- Rules of decorum
- Impact of not following rules
- Cross Examination/Questioning Format & Expectations

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GROUP DISCUSSION – PRE-HEARING REQUESTS

How would you handle…?

- The Appendices contain negative comments about how Respondent generally treated Complainant in their relationship. Respondent wants these redacted and wants a new Panel or Hearing Officer who has not seen the information.
- Complainant wants a new witness who was not interviewed during the investigation. The witness will speak to the impact of the incident on Complainant.
- Respondent says that the Investigator failed to include a text message in the final evidence that Respondent submitted during the investigation.
- Complainant wants a witness to serve as their advisor.



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HEARING PREPARATION: QUESTIONS



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GENERAL QUESTIONS TO CONSIDER ASKING

Were your statements captured accurately?

What is your relationship with the parties?

Do you agree that the undisputed facts (if listed in report) are undisputed?

Have you communicated with either party (for witnesses) or with witnesses (for parties) about the hearing?

Do you know of any motive any of the witnesses would have to falsify/misrepresent?

Anything else you think would be relevant for Hearing Officer/Panel to know?

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WHEN QUESTIONING….

- Be efficient
- Be open to go down a road that you hadn't considered or anticipated exploring
- Explore areas where additional information or clarity is needed
- Take your time
- Be thoughtful
- Take breaks if you need to
- Listen to the answers



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THE "HARD" QUESTIONS

Details about the sexual conduct

Seemingly inconsistent behaviors

Inconsistent evidence/information

What they were wearing

Alcohol or drug consumption

Probing into reports of lack of memory

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HOW TO ASK THE HARD QUESTIONS



- **Lay a foundation**
  - Explain why you are asking
  - Share the evidence that you are asking about, or that you are seeking a response to
- **Be deliberate and mindful**
  - "Can you walk me through your thought process…"
  - "Help me understand…"
  - "Did you consider…"

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WHOM DO WE WANT TO QUESTION?



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THE INVESTIGATOR: TO QUESTION OR NOT?

- Investigator is usually a fact-witness. If no recommended findings given, Investigator should not be questioned about opinions or credibility assessments.
- Goal is for a report that stands on its own. Any Investigator presentation (if required under Policy) should be brief.
- As Hearing Officer/Panelist, consider if you really need to ask Investigator questions. In most cases, it's not necessary unless you really need more information to understand something in the report.
- Hearing Officer/Chair should not allow questions that go beyond Investigator's role.

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JEN AND CAM – PRACTICE QUESTIONING

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MATERIAL DISPUTED AND UNDISPUTED FACTS: UNDISPUTED

- The parties had at least one conversation before the incident about not having sex unless they were in a more committed relationship.
- The parties agreed in advance to Complainant spending the night in Respondent's room.
- The parties attended a house party together.
  - The party took place at Anna Witness's home.
  - The party took place the night of January 13, 2024.
- Complainant drank some beer during a game of beer pong.
- Respondent drove the parties back to his residence hall.
- The parties spoke to Connor Witness in the residence hall on the way to Respondent's room.
- The parties had sexual intercourse (penis-vagina penetration) with a condom used.
- The parties continued a relationship for a month after the incident.
- Complainant confronted Respondent about the nature of their relationship outside his room on February 14, 2024.

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MATERIAL DISPUTED AND UNDISPUTED FACTS: DISPUTED

- How much alcohol Complainant drank and over what timeline
- Whether Complainant fell/had trouble with balance during the party
- Whether Complainant slurred her words
- Whether Complainant vomited
- Whether Complainant required physical assistance
- Whether Complainant initiated sexual touching in Respondent's room
- What verbal communications occurred between the parties leading up to/during sex
- Whether Complainant actively participated in the intercourse
- Whether Complainant discussed with Respondent any concerns about the incident afterward

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QUESTIONS FOR COMPLAINANT (PART 1)

1. Confirm statements captured accurately in the report
2. Last time she had contact with Respondent?
3. Current relationship with witnesses? Any discussions with witnesses about the case since report completed?
4. Brief discussion of the prior conversation(s) about sex
   - *When is the last time they discussed before the incident?*
   - *What did she say and what was his response?*
5. Timeline for the incident (ask about points in time provided by others)
   - *When did the parties arrive at Anna Witness home? (Respondent says 8 p.m.)*
   - *When did they leave? (1:15 a.m. text Exhibit F)*
   - *When did they arrive back to campus? When did they have sex?*
6. Timeline for alcohol consumption
   - *Any alcohol before the party?*
   - *Any other intoxicants at any time?*
   - *How far into the party did she start drinking?*
   - *What type of alcohol did she drink, how much, and when? What does "let loose a bit" and "drank a ton" mean?*
   - *When was her last drink?*

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QUESTIONS FOR COMPLAINANT (PART 2)

7. Effects of alcohol?
   - *When did she first feel effects?*
   - *Describe difficulty balancing, timing?*
   - *Other outward signs? Slurring? Vomiting? Any reason she did not mention the vomiting earlier?*
8. Memory
   - *Timing of first impact on memory?*
   - *Last clear memory?*
   - *What does "in and out" and "flashes" mean?*
   - *Does she remember the ride back?*
   - *Entering the hall?*
   - *The conversation with Connor Witness – what specifically did they discuss? Did they discuss class assignment?*
     - *He said she was laughing a lot - accurate?*
9. The sexual incident (the hard questions)
   - *Walk through what she says she remembers. Ask her to explain the "out-of-body experience" in more detail.*
   - *Did she consider leaving after the intercourse? Or when she woke up and became upset about what happened?*
   - *Walk through what Respondent says he remembers and ask for her response (including did she initiate the kissing/touching)*
   - *Clarify – does she not remember, or does she deny certain statements by Respondent (e.g., active participation)?*

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QUESTIONS FOR COMPLAINANT (PART 3)

10. The aftermath
    - *Elicit more detail on the parties' discussions of the incident.*
    - *Elicit more detail on the discussions with Beatrice Witness and Donna Witness.*
11. The text evidence
    - *Are Exhibits C, D, F authentic? What are the dates?*
    - *Exhibit A – Help us understand why saying "okey doke all things considered" morning after incident? Did she get lunch with Anna Witness? Tell Anna about the incident then? Did she tell Anna Witness about the incident at any point?*
    - *Exhibit B – What is the date? Walk us through the meaning of these messages?*
    - *Exhibit C– What is the date? What is the meaning? How long after the texts was the conversation with Beatrice Witness?*
    - *Exhibit D – What is the date? Was Respondent present for any vomiting during/after the party?*
    - *Exhibit E – Was she aware of Respondent posting this photo on social media? When and where? Does she know who took the photo?*
    - *Exhibit F – What is the date? Does she remember sending the message? What is her thought process while typing?*
12. The confrontation with Respondent on February 14
    - *Did this incident/the breakup factor into her decision to report?*
    - *What was her reason for reporting when she did?*
13. Aware of any witness motive to falsify/misrepresent?
14. Anything else to add?

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QUESTIONS FOR RESPONDENT (PART 1)

1. Confirm statements captured accurately in the report
2. Last time he had contact with Complainant?
3. Current relationship with witnesses? Any discussions with witnesses about the case since report completed?
4. Brief discussion of the prior conversation(s) about sex
   - *When is the last time they discussed before the incident?*
   - *What did Complainant say and what was his response? Is there a dispute?*
5. Timeline for the incident (ask about points in time provided by others)
   - *Regarding when the parties arrived at Anna Witness home, how certain is he of the 8 p.m. timeline he gave?*
   - *When did they leave? (1:15 a.m. text Exhibit F)*
   - *When did they arrive back to campus?*
   - *When did they have sex?*
5. Timeline for alcohol consumption
   - *Any alcohol before the party for Complainant? Or him?*
   - *Any other intoxicants at any time for Complainant? Or him?*
   - *How far into the party did Complainant start drinking?*
   - *What type of alcohol did she drink, how much, and when? Same for him.*
   - *You said Complainant "would have had some beer" during beer pong. How much did he see her consume and when?*
7. Effects of alcohol on his memory?
   - *Why does he believe the amount he had to drink is relevant?*
   - *Does he believe he has a clear memory? Could alcohol have impacted?*

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QUESTIONS FOR RESPONDENT (PART 2)

8. At the party:
   - *Is Complainant showing any signs of intoxication? Slurring, trouble balancing, smelling alcohol? Response to witness descriptions?*
   - *He described sitting on couch with her and playing beer pong? How long into the party were these events?*
   - *Complainant described falling on the couch and Witness Anna offering water and saying, "Take it easy on the shots." His response?*
   - *Complainant says Respondent asked if she was okay when she fell. His response?*
   - *Was Complainant coherent during any conversations they had at the party? Did she seem to understand what Respondent was saying?*
   - *Did he witness Complainant vomiting? Response to Witness Donna statements about this?*
   - *Complainant said Respondent had to help her down the stairs. Response?*

9. The ride back
   - *What were they discussing on the ride back? Any signs of intoxication on the ride back?*

10. The encounter with Connor
    - *Did the parties discuss the party with Connor? What did they say?*
    - *What, if anything, did Complainant and Connor discuss?*
    - *Was Complainant laughing (reference Connor's statement)? Did he consider this a possible sign of intoxication?*
    - *Any signs of intoxication from Complainant at this point? Response to Connor's statement?*

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QUESTIONS FOR RESPONDENT (PART 3)

11. The sexual incident (the hard questions)
    - *Walk through his account. Was the verbalizing exactly as described?*
    - *Any signs of intoxication by Complainant?*
    - *Did he have any concerns about moving forward given prior discussion between the parties about not having sex?*
12. The aftermath
    - *Walk through Complainant description of their discussions and ask for response (e.g., did he say to her, "You were drunk, but you weren't that drunk?)*
    - *Any response he has to Witness Beatrice testimony that Complainant told her the parties talked about the incident?*
13. The text/documentary evidence
    - *Exhibit B – Is it authentic? His account of the meaning? Ask him about Complainant's account and ask him to respond.*
    - *Exhibit D – Was Complainant vomiting? Did he hold her hair?*
    - *Response to the photo Anna Witness provided. (Exhibit E) Did he post this? Help us understand prior statement re: not knowing what alcohol was available at the party.*
    - *Exhibit F – Were they in the car at 1:15 a.m. He said she was texting. How does he know?*
14. The confrontation on February 14
    - *What does he believe is the relevance?*
15. Aware of any witness motive to falsify/misrepresent?
16. Anything else to add?

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QUESTIONS FOR ANNA WITNESS

1. Relationship with both parties as of the hearing?
2. Timeline for the incident (ask about points in time provided by others)
   - *When did the parties arrive at Anna Witness home? (Respondent said 8 p.m.) When did they leave? (1:15 a.m. text Exhibit F)*
3. Timeline for alcohol consumption
   - *Aware of parties having alcohol before the party or other intoxicants at any time?*
   - *How far into the party did Complainant start drinking? What type of alcohol did parties, how much, and when?*
   - *Explain Complainant slurring; explain "pretty hammered;" explain "a bit unsteady." Could Complainant follow conversations? Did Complainant vomit?*
   - *Ask about Complainant description of couch incident. Did she see Complainant fall? Offer water? Say "Take it easy on the shots?"*
   - *Did she hear Respondent ask if Complainant was okay after the fall? Was Respondent nearby for the above interaction?*
   - *Witness alcohol/substance consumption and any impact on memory.*
4. The text/documentary evidence
   - *Exhibit E alcohol photo. Any reason it doesn't appear as a social media post? Who took the photo? How does she know?*
   - *Confirm Appendix A authentic. What date was it sent? Did they get lunch that day? If so, did Complainant talk about the incident?*
   - *Confirm date of Appendix F.*
5. Discussions with either party about the incident afterward?
   - *Did Complainant explain reasons for reporting? Did witness ever talk with Respondent about the incident?*
6. Anything else to add?

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QUESTIONS FOR BEATRICE WITNESS

1. Relationship with both parties as of the hearing?
2. What details did Complainant share about the prior conversation between the parties about sex (and when)?
3. The text/documentary evidence
   - Confirm date of Appendix C.
4. Walk through the conversation with Complainant that followed the text in detail.
   - What does "not happy" mean? Complainant's words or her words?
   - What, if anything, did Complainant say about alcohol consumption (how much, when, effects)? Did she explain what "too drunk" means?
   - Did Complainant say anything about difficulty remembering what happened? Did she explain what "foggy" means?
   - Did Complainant provide any details about the intercourse? Elaborate.
   - Did Complainant offer any other detail of what she discussed with Respondent and how he responded? Elaborate.
5. Did witness talk with Complainant again after first call?
   - Any new details shared?
   - Did Complainant explain reasons for reporting?
6. Did witness ever discuss incident with Respondent?
7. Elaborate on signs of distress from Complainant
   - Timing of when this started. After the incident or after the confrontation?
8. Anything else to add?

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QUESTIONS FOR CONNOR WITNESS

1. Relationship with both parties as of the hearing?
2. Walk through the time when he saw the parties in the hallway of residence hall:
   - How did he know they just returned from a party? What did they say about it?
   - Ask for details on any signs of intoxication. What does "I guess" mean regarding Complainant's intoxication?
   - Did the parties say anything about how much/what type of alcohol they consumed? What does "Respondent probably had some drinks" mean?
   - Did each party appear able to carry on/understand conversation
   - Any signs of slurring, balance issues? Did it appear Complainant needed support walking? Was Respondent supporting her?
   - Did they smell of alcohol?
   - Did he interpret Complainant's laughing as a sign of intoxication?
   - What specifically did he and Complainant discuss?
3. Discussions with the parties afterward
   - Walk through any conversations with Respondent. Did they talk about the incident before the complaint was filed?
   - What did Respondent say about the incident?
   - Any mention by Respondent of what/how much alcohol parties consumed?
   - Any details provided about the parties having sexual intercourse?
   - Any discussion with Respondent of Complainant level of intoxication?
   - Did Respondent say whether Complainant raised concerns prior to the filing of the complaint?
   - Did witness ever discuss incident with Complainant?
4. Anything else to add?

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QUESTIONS FOR DONNA WITNESS

1. Relationship with both parties as of the hearing?
2. Timeline for the incident (ask about points in time provided by others)
   - She didn't confirm date in the investigation. Clarify date of the party.
   - Was the party at Anna Witness home? When did parties arrive? (Respondent says 8 p.m.) When did they leave? (1:15 a.m. text Exhibit F)
3. Timeline for alcohol consumption
   - Aware of parties having alcohol before the party or other intoxicants at any time?
   - How far into the party did Complainant start drinking?
   - What type of alcohol did parties, how much, and when?
   - Party signs of intoxication
     - When did the vomiting happen. Did anyone else see it (Respondent in particular).
   - Witness alcohol/substance consumption and any impact on memory.
4. The text/documentary evidence
   - Appendix D – what date was it sent?
5. Discussions with either party about the incident afterward
   - When did Complainant discussion about the incident happen?
   - Did Complainant explain reasons for reporting?
   - Did witness ever talk to Respondent about the incident?
6. Anything else to add?

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TWIST!

Donna Witness has the wrong date!

- Importance of verifying dates/metadata with witnesses
- Importance of asking parties about relevant evidence to determine what is disputed
- How might this reveal factor into the later determination?



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HEARING PROCESS OVERVIEW AND CHALLENGES



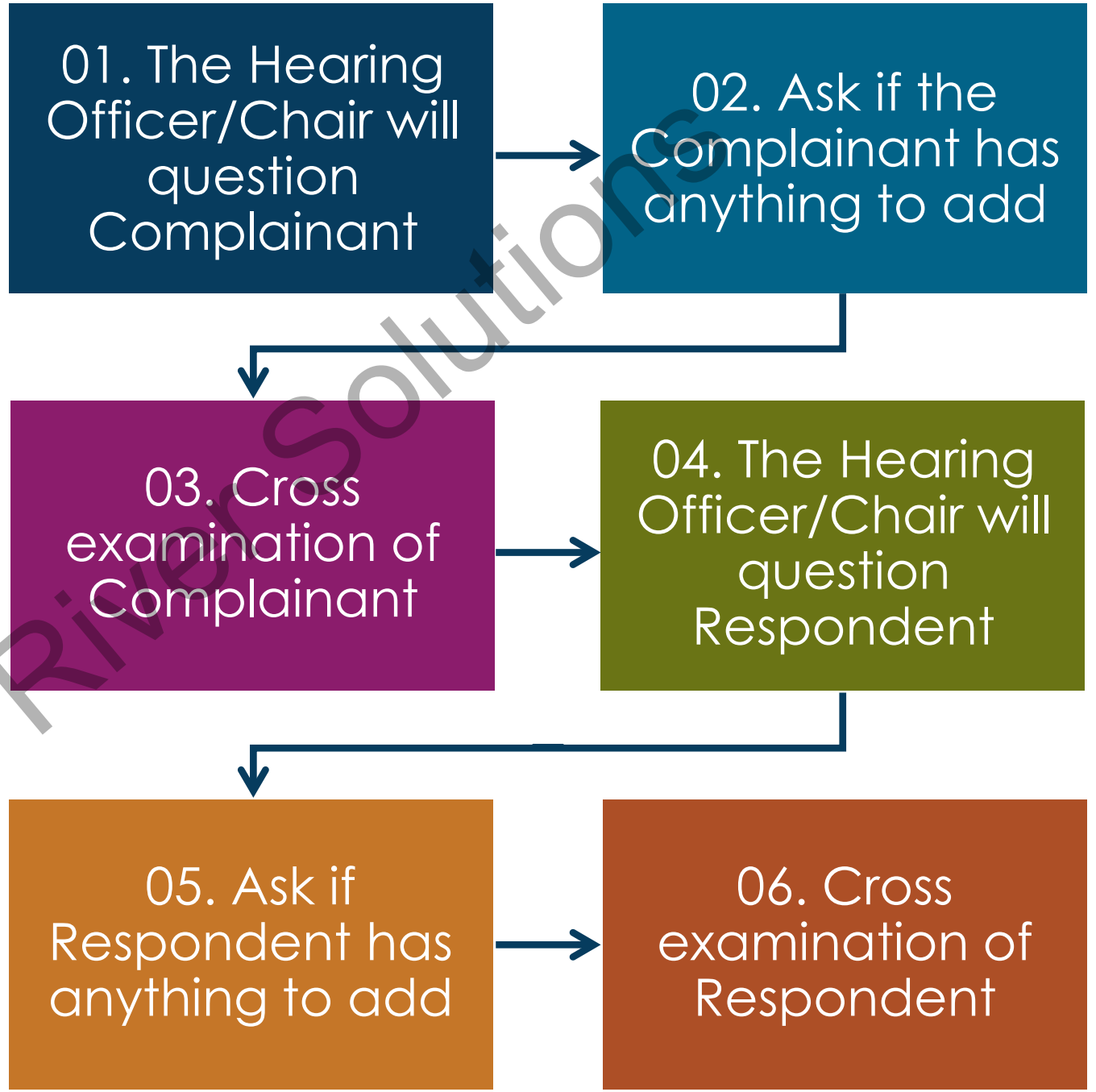
04

ORDER OF PROCEEDINGS

1. Introductions and Instructions by the Hearing Officer/Chair; Opening Statements
2. Presentation by Investigator (if necessary)
3. Questioning of the Parties and Witnesses
4. Closing Statements
5. Deliberation & Determination

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PRESENTATION OF INFORMATION & QUESTIONING OF THE PARTIES



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TIPS FOR ADVISORS

- Thoroughly review the documents prior to meeting with advisee and take notes.
- Let Advisee lead the process. Encourage and give pointers, but this is their process.
- Support vs. zealous advocacy
- Reach out to Coordinator with any process questions or Hearing Officer requests.
- LISTEN carefully to what Hearing Officer asks at the hearing – avoid duplication
- Challenges – non-relevant or non-neutral questions



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WHEN ASSESSING RELEVANCE, THE HEARING OFFICER/CHAIR CAN:



Check your policy!

- Ask the person who posed the question why the question is relevant
- Reframe the question
- Take a break

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HOW WOULD YOU RULE?

Questions from Respondent Advisor

1. To Complainant – How often do you go out partying?
2. To Complainant – Have you ever been in a relationship before where you had sex even if the relationship was not committed?
3. To Complainant – You changed sexual positions with Respondent during the incident, didn't you?
4. To Anna Witness – Isn't it true Complainant is in the habit of getting drunk on the weekends?

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HOW WOULD YOU RULE?

Questions from Complainant Advisor

1. To Respondent – Isn't it true that you called Complainant demeaning names during the relationship like "fatso" or "bitch?"
2. To Respondent – You previously said you didn't see Complainant drink any alcohol at the party. Now you are saying she "may" have had some shots. Which is it?
3. To Connor Witness – Do you think Respondent respects women?

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HOW WOULD YOU ADDRESS:



- When time comes for cross of Complainant, she says she will not answer any of Respondent's questions.
- Respondent's advisor states that Complainant is "making faces" during Respondent's testimony.
- Complainant objects that Respondent's question for a witness is not relevant.
- Beatrice Witness declines to participate, saying she has an exam the day of the hearing.

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DELIBERATIONS/DETERMINATION



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05

HEARING WRITTEN DETERMINATION WILL USUALLY INCLUDE:

- Policy reported to have been violated (with section specified)
- Description of all procedural steps
- Findings of fact
- Policy analysis (are the elements met)
- Rationale for determination
- Sanctions and remedies
- Timing of when these become final
- Procedure for appeal



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ASSESSING CREDIBILITY AND RELIABILITY

No formula exists, but consider the following:

- Sufficiency of detail and specificity
- Internal consistency
- Corroboration
- Inherent plausibility
- Material omission
- Motive to falsify
- Ability to recall events

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FINDINGS OF FACT

- **A "finding of fact"**
  - The decision whether events, actions, or conduct occurred, ***or*** a piece of evidence is what it purports to be
  - Based on available evidence and information
  - Determined by a preponderance of evidence standard
  - Determined by the fact finder(s)
- **For example…**
  - Complainant reports that she fell on the stairs and Respondent helped her up. Respondent says this never happened.
  - Witness produces a timestamped video of Complainant falling, and Respondent helping her up.
- **Next steps?**

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A RETURN TO THE DISPUTED FACTS

Disputed

- How much alcohol Complainant drank and over what timeline
- Whether Complainant fell/had trouble with balance during the party
- Whether Complainant slurred her words
- Whether Complainant vomited
- Whether Complainant required physical assistance
- Whether Complainant initiated sexual touching in Respondent's room
- What verbal communications occurred between the parties leading up to/during sex
- Whether Complainant actively participated in the intercourse
- Whether Complainant discussed with Respondent any concerns about the incident afterward

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ANALYSIS GRID

Was any sexual act directed against another person?	Was Complainant incapable of consent?	Did Complainant give signs of consent?
Undisputed: Respondent penetrated Complainant's vagina with his penis.	This is where the most analysis is needed.	What is the relevance of the past conversation(s) about sexual boundaries? More likely than not: Respondent asked about a condom, and Complainant said "sure."

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APPLYING THE DEFINITION OF CONSENT

Check your policy!

Consent is:

- Voluntary and knowing
- Freely given (no coercion)
- Communicated by word or act

Significant note:

- *Existence of consent is based on **the totality of the circumstances** evaluated from the perspective of a **reasonable person** in the same/similar circumstances.*



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INCAPACITATION

Check Policy definition. Will typically include language like...

- A person is so affected by alcohol or drugs that the person cannot understand the nature of the sexual act (the who, what, when, where, why or how) or agree to it.
- Usually considers what a reasonable person in Respondent's shoes "should have known." Voluntary intoxication by Respondent would not usually be a defense to failing to note signs of incapacitation.
- Incapacitation is determined through consideration of all relevant indicators of an individual's state.
- Intoxication and incapacitation are not the same thing.
- Memory loss can be a factor relevant to evaluating incapacitation, but it is not the only factor.

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HOW MIGHT HEARING RESPONSES IMPACT YOUR FINDINGS?

Witness Connor says Respondent told him, "I need to get Complainant back to my room so she can sleep it off."

Witness Anna says Complainant told her after the incident, "Did I want to have sex in the moment? I guess. But he should have known better after I set our relationship boundaries."

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FACTORS TO CONSIDER IN SANCTIONING AND REMEDIES (CHECK POLICY)

- The nature, severity of, and circumstances surrounding the violation(s)
- The Respondent's (relevant) disciplinary history
- The need for sanctions/responsive actions to bring an end to the discrimination, harassment, and/or retaliation
- The need for sanctions/responsive actions to prevent the future recurrence of discrimination, harassment, and/or retaliation
- The need to remedy the effects of the discrimination, harassment, and/or Retaliation on the Complainant and the community
- Impact on the Complainant
- Any other information deemed relevant by the Decision-maker(s)

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THINKING AHEAD TO THE APPEAL

- Don't Take it Personally:
  - Allegations of bias may still be listed in the appeal even when you have applied neutral principles.

- What You Can Control:
  - Remain neutral and to be aware of perception of bias.
  - Ask necessary but neutrally-worded questions.
  - Ensure the determination addresses reliability/credibility but avoids extraneous commentary.

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COMPLIMENTARY SUBSCRIPTION



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Let Our Team Support The Good Work You And Your Team Are Doing.

- Delegated Roles
- Investigations
- Hearings & Appeals
- Alternative Resolutions
- Program Review
- Policy & Procedures
- Consulting & Coaching

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RESOLUTION SERVICES

Resolution Services

We work to resolve employee, faculty, and student cases at companies and educational institutions.

Our experienced practitioners are available to serve as facilitators of alternative resolutions, investigators, decision-makers, hearing officers, chairs, panel members, or appellate officers for all equity and discrimination cases.



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DELEGATED ROLES

Gap in staffing? We can help.

Interim or Long-Term Needs

- Title IX Coordinators and Staff
- Title VI Coordinators and Staff
- EO Director
- Equity Director
- ADA/504 Coordinators and Staff



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Training
Accessibility & Compliance Assessment
Investigations

Digital Accessibility

Policy Development & Review
Training
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ADA/504 Services

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