

# Hearing Panelist Refresher Training

**Equity and Compliance  
Programs**

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# Title IX Administration in Equity & Compliance Programs



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# Overview

- The Role of a Hearing Panelist
- Hearing Panelist FAQs
- Breaking down the Investigative Report
- Questioning in Title IX/ Sexual Misconduct Hearings
- Scenario

# Content Warning

The presentation content contains scenarios, topics and descriptions that may be offensive or triggering.

# Role of the Hearing Panelist

# Primary Functions of the Hearing Panel

- Be a neutral decision maker
- Read and review the information provided in the Investigative report and hearing packet
- Hear the facts and circumstances of an alleged policy violation
- Deliberate to determine whether a policy violation has occurred
- Decide whether/what sanctions and remedial actions are appropriate
- Draft a Hearing Outcome letter



# Hearing Panelist FAQs

When will I be called as a Hearing Panelist?

Can I ask to participate as a Hearing Chair?

Some of the cases have been difficult to determine responsibility when there is not a lot of information provided about the allegations or there are multiple allegations. How do I manage this?

How can I be better prepared to deal with outside advisors?

# Breaking down the Investigative Report



# Investigative Report Sections

- Executive Summary
- Allegation
- Applicable Georgia Tech and the Board of Regents University System of Georgia Policies and Relevant Definitions
- Standard of Proof
- List of Parties and Witnesses (Interviewed / Not Interviewed)
- Summary of Relevant Evidence
  - Complainant's Summary(s)
  - Respondent's Summary(s)
  - Witness Summary(s)
- **Discussion and Synthesis**
  - **Undisputed/ Disputed Facts**
  - **Assessment**
- Appendix

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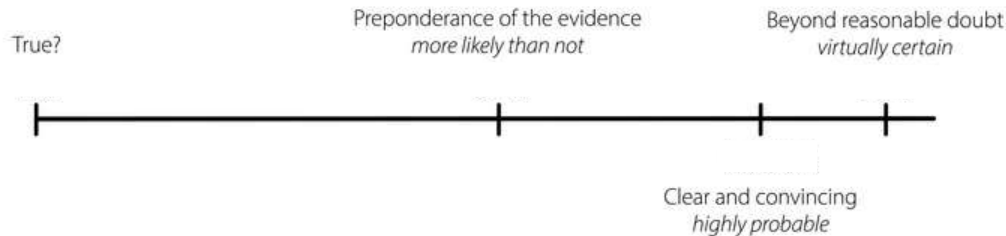
**What is the Standard of Proof for student and employee Sexual Misconduct/ Title IX cases?**

① Start presenting to display the poll results on this slide.

# Standard of Evidence

- Decisions regarding student and employee alleged misconduct are based on a **Preponderance of the Evidence**
- Whether the Respondent is more likely than not to have violated the Sexual Misconduct Policy.

## Standards of Proof



# Discussion and Synthesis

## **Allegation I:**

Include allegation from the Notice of Investigation

### *Undisputed Facts:*

Both Complainant and Respondent agree that the following facts are not in dispute:

1.

### *Disputed Facts*

1.

## **Assessment**

To find a violation of the Sexual Misconduct Policy for Nonconsensual Sexual Contact requires evidence of (1) physical contact with another person (2) of a sexual nature (3) without the person's consent.

### 1. *Was there physical contact?*

- Complainant's Response
- Respondent's Response
- Witnesses' Response

### 2. Was the physical contact of a sexual nature

### 3. Assuming the physical contact was of a sexual nature, did the Respondent have consent?

To find a violation of the Sexual Misconduct Policy for Nonconsensual Sexual Contact, the Decision Makers must find that there was physical contact of a sexual nature without the Complainant's consent.

# Appendices

- Appendix A: includes the formal complaint, the Notice of Allegation and written responses, and *relevant* written responses to the Initial Investigative Summary and Evidence Report.
- Appendix B: includes all summaries provided by parties and each witness. The Investigator has provided parties and each witness with a written summary of information obtained during their interview and asked for parties and each witness to review and confirm for accuracy.
- Appendix C: includes relevant evidence submitted or obtained by the Investigator. Evidence can include but is not limited to text messages, phone records, social media posts, photos, emails, videos, auto recordings, approved medical records, evidence log (if applicable) and police records.
- Appendix D: contains the investigation timeline and details taken in this matter from the receipt of the formal complaint to the submission of this report.

# Questioning in Title IX/ Sexual Misconduct Hearings

# Assessing Relevancy

*Prior to any question being answered, relevancy must be determined by the hearing chair*

## Relevant

- Relevant information relates to the incident at issue
- Relevant information provides sufficient value in making the overall determination

## Irrelevant

- Information protected from unwaivable privilege
- Duplicative Questions
- Rape Shield Protection: Questions and information regarding the Complainant's sexual history or sexual predisposition unless to prove
  - Someone else other than the Respondent committed the alleged misconduct
  - Consent between the parties

# Preparing for Questioning

- Prepare your questions beforehand for all the individuals involved in the matter
- Read the report and other information in hearing packet (You may need to read the report multiple times)
- Take notes

## Parties who you may Question?

- Complainant- An individual who is alleged to have experienced conduct that violates the sexual misconduct party.
- Respondent- An individual who has been accused of violating institute policy.
- Witness(es)- any person who saw the event(s).
- Investigator(s) – An individual who interviews all parties involved in the matter and creates the Investigative report



## Preparing Questions for the Hearing (Investigator)

- Authenticity about the evidence submitted
  - Witnesses not interviewed by the investigator
  - Inconsistencies in stories
  - Missing information not included in final report
- “I see that both of the parties have provided the same picture, but each of them look differently, Can you speak to the authenticity of either picture?”
  - “ In paragraph two of the Respondents summary on page 5, the Respondent said he was in the student center on the 10<sup>th</sup> of May but on page 7 it says that he was present on May 15<sup>th</sup>?”

## Questions that are not appropriate for the Hearing (Investigator)

- Questions that ask the investigator to summarize information.
- Questions that ask the investigator to restate what has already been explained in the report.

### Examples:

- “Please give a summary of your report.”
- “Summarize your investigative timeline.”

# Preparing Questions for the Hearing (Parties/Witness)

- Disputed Facts/Inconsistencies in stories
  - Evidence submitted
  - Timeline of events
  - Alcohol or drug consumption
  - Information about the sexual contact
- “Can you share how much alcohol you consumed that night?”
  - “There is an inconsistency of when you entered the student center, at what time did you enter the building?”
  - “Let’s discuss your text message from June 1<sup>st</sup>, when you said “X” what did you mean when you said that?”



Carey is the Complainant and Ryan is the Respondent.

Ryan has been accused of Nonconsensual Sexual Penetration. As apart of the allegations Carey reported that they were incapacitated and therefore could not consent.

Let's discuss whether the following questions are relevant and/or appropriate questions.

QUESTION #1: "Carey, you don't actually remember what happened that night, do you?"

- Is this a relevant question? Why or Why not?

QUESTION #2: "Ryan, have you tested positive for sexually transmitted diseases?"

- Is this a relevant question? Why or Why not?

QUESTION #3: "Ryan, isn't it true you texted Carey the next day to see if Carey was mad at you?"

- Is this a relevant question? Why or Why not?



- Edwin (complainant) and Dakota (respondent) were in a relationship for three years before they broke up this past fall. After the breakup Edwin noticed that Dakota was showing up outside his computer science class. The first day this happened Edwin ignored it because Dakota is a computer science major as well and it was very probable for both to have classes in the same building. However, over the next two weeks Edwin reported that he saw Dakota sitting outside the classroom on Monday's and Wednesdays.
- In an effort to avoid Dakota, Edwin started taking an alternate route to leave class and asked Drexel and May(classmates of Edwin) to walk with him after class. Edwin stated that he never spoke to Dakota after class but did mention that he and Dakota had locked eyes a couple of times while he was exiting the classroom.
- About a month later, Edwin started to receive repeated anonymous phone calls. Edwin picked up one of the phone calls and recognized the voice to be Dakota's. Edwin immediately hung up. Edwin said that after he picked up the phone, the number called him 15 more times in the span of one week.
- That same month Edwin received a string of Whatsapp messages from a random number. The messages said things like "I miss you," "we were better together," "how could you leave me," "if you don't respond you're going to regret it," Edwin did not respond to the messages but instead blocked the number.
- Dakota reported that he was outside of Edwin's computer science class, however, he is a computer science major, so he is often in that building. Dakota further explained that he doesn't know what WhatsApp is but admits that he called Edwin a couple of times but only for the purpose of asking for his lucky sweatshirt back.
- Drexel (the classmate) reported that Edwin would text her all the time to say he was "scared of" Dakota. Drexel said that she and Dakota used to be friends and that they met on WhatsApp.

## Additional Facts

- Edwin has filed a formal complaint regarding these allegations and an investigation ensues.
- The investigation has concluded, and the Investigator has written the report. The case is classified as a Title IX case with the charge of Stalking.
- The investigator interviewed every party involved except for May.

# Discuss: Questioning the Parties

*The case is a Title IX case with the charge of Stalking*

- What questions would you ask the Investigator?
- What questions would you ask the complainant?
- What questions would you ask the respondent?
- What questions would you ask the witness?



# Stalking Definition

**Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others or suffer substantial emotional distress.**

For the purposes of this definition:

**Course of conduct means two or more acts**, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with person's property.

**Substantial emotional distress** means significant mental suffering or anguish that may but does not necessarily, require medical or other professional treatment or counseling.

**Questions?/Contact Us!**

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