

BASIC HEARING OFFICER TRAINING

August 2023



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HEARING TRAINING (BASIC)

Your Presenter

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The Texas A&M University System
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Background:

- Coordinator, Student Judicial Services, Georgetown University
- Assistant Director of Residential Services for Judicial Programs, State University of New York College at Cortland
- Director, Student Dispute Resolution Services, Illinois State University
- Associate Dean of Students, Illinois State University
- President, Association of Student Conduct Administration (ASCA)
- Advisory Board Member, Association of Title IX Administrators (ATIXA)

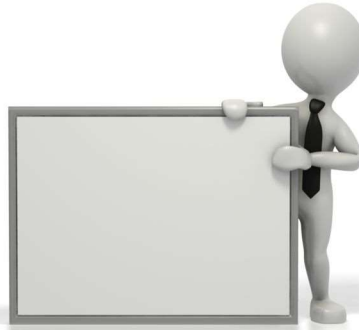
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Advisory Notices



Advisory Notice #1

This training material is provided for public review in accordance with federal law. The material may be utilized only for non-commercial educational and training purposes with the user assuming all risk for utilization of any content herein. Commercial utilization of this material is strictly prohibited.





Advisory Notice #2

The presentation handout is intentionally text-heavy in order to serve as an ongoing resource for all civil rights hearing officers in The Texas A&M University System. Please annotate the document as needed to better ensure that this material is meaningful for you.



Advisory Notice #3

The presenters are not providing legal advice; the presenters are compliance officers and hearing officers and are offering compliance guidance as provided for under System Regulation 08.01.01. System regulations are subject solely to the interpretation of the System Offices.





Advisory Notice #4

Please note that the material being addressed in this program may involve explicit language that some may find offensive or triggering. Nothing is done in this training for “shock value” but will be consistent with the real-world language and details that we are confronted with in civil rights compliance work. If you find yourself reacting negatively, please step away to the degree that you need to, and please seek appropriate assistance if necessary.



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Ground Rules



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Ground Rules

1. We intend to start and end on time. Please be prompt.
2. There will be a one-hour break for lunch, and ten-minute breaks in both the morning and afternoon.
3. Please minimize distractions (cell phone, email, internet) to focus on the presentation.
4. We will provide opportunities for questions but ask you to keep track of questions that you have and be sure to ask any unanswered questions before the end of the training program.



Ground Rules

5. Each person who will conduct civil rights hearings on behalf of a system member or in the System Offices must pass a post-test following the completion of this program. A score of **80%** is required to pass.





Wednesday Agenda

1. Introduction to Civil Rights Enforcement
2. 08.01.01 Process Review
3. Due Process in Higher Education Administrative Proceedings
4. Role of the Adjudicatory Process
5. Standards of Evidence
6. Types of Evidence
7. Questioning, Reading, Listening



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Thursday Agenda

1. Credibility Assessment
2. Alcohol & Other Drugs
3. Trauma and the Adjudication Process
4. Deliberations
5. Writing Decision Letters
6. Sanctioning
7. Appeals



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Federal Law



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Select Federal Laws

- Title IX
- Violence Against Women Act (VAWA)
- Title VII
- Americans with Disabilities Act (ADA)
- Pregnant Workers Fairness Act (PWFA)



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Title IX

37 simple words...

“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 of the Education Amendments of 1972



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Title IX

Historical Areas of Enforcement:

- Equity in Athletics Opportunities
- Equity in Scholarships/Financial Aid
- Equity in Program Access
- Sex-based Harassment
- Pregnant and Parenting Students
- Gender Identity, Gender-based Stereotypes, and Sexual Orientation



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VAWA (2022 Reauthorization)

Changes:

- New and Expanded Definitions (domestic violence, economic abuse, technological abuse, restorative practice, etc.)
- Mandated Campus Climate Survey

VAWA is where some of our due process requirements in sex-based cases emanate from (besides Title IX)



Title VII

Title VII of the Civil Rights Act of 1964

Protects employees and job applicants from employment discrimination based on race, color, religion, sex, and national origin (if their employer has 15 or more employees)





Americans with Disabilities Act

Prohibits discrimination against people with disabilities in several areas, including employment, transportation, public accommodations, communications, and access to state and local government programs and services for both employees and job applicants; ADA also prohibits discrimination in programs or activities that receive federal financial assistance



Pregnant Workers Fairness Act

(Went into effect 6/27/2023)

The PWFA is a new law that requires covered employers to provide “reasonable accommodations” to a worker’s or applicant’s known limitations related to pregnancy, childbirth, or related medical conditions unless the accommodation will cause the employer an “undue hardship.”

The PWFA applies only to accommodations.



State Law



Select State Laws

- Senate Bill 212 (2019)
- House Bill 1735 (2019)
- House Bill 449 (2019)





86 (R) Senate Bill 212

AN ACT; relating to a reporting requirement for certain incidents of sexual; harassment, sexual assault, dating violence, or stalking...

- Requires employees to report incidents to TIXC or DTIXC (criminal/employment penalties for not doing so)
- Requires confidential reporters to provide Clery data
- Provides immunity to those reporting in good faith
- Adds CEO reporting requirement
- Enforced by THECB



86 (R) House Bill 1735

AN ACT; relating to a reporting requirement for certain incidents of sexual; harassment, sexual assault, dating violence, or stalking...

- Requires policies
- Confidentiality requirements
- Trauma-informed training for police
- Collaboration with Third Parties (MOUs)
- Due process requirements
- Enforced by THECB





86 (R) House Bill 449

AN ACT; relating to a requirement that a public or private institution of higher education include a notation on a student's transcript...

- Requires higher education institutions to include transcript notations for disciplinary reasons
- Requires that higher education institutions must complete the disciplinary process if a student withdraws with a pending complaint
- Enforced by THECB



A&M System Regulation 08.01.01

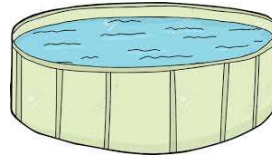


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System Regulation 08.01.01

Section 4.2.9 – Types (“Pools”) of Cases

- Title IX (4.2.10)
- Sex-based Misconduct (4.2.11)
- Other Civil Rights (4.2.12)



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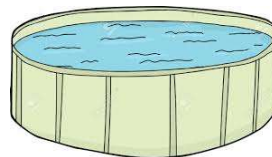
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HEARING TRAINING (BASIC)

System Regulation 08.01.01

Section 4.2.9 – Types (“Pools”) of Cases

1. Title IX (4.2.10)
2. Sex-based Misconduct (4.2.11)
3. Other Civil Rights (4.2.12)



- (a) When a complaint involves allegations of misconduct that involve both sex-based allegations (1 and/or 2 above) and allegations of other civil rights violations (3 above), the process shall be conducted under the requirements established for sex-based offenses (1 or 2 above). Sex-based complaints include those complaints based on sex, sexual orientation, and/ or gender identity.

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HEARING TRAINING (BASIC)


System Regulation 08.01.01

Section 4.2.9 – Types (“Pools”) of Cases

1. Title IX (4.2.10)
2. Sex-based Misconduct (4.2.11)
3. Other Civil Rights (4.2.12)



(b) In addition to reviewing complaints against students for civil rights violations, members are expected to review allegations for possible violations of codes of student conduct and professional expectations of employees.

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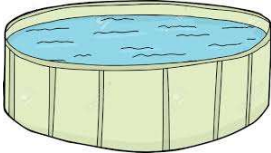
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HEARING TRAINING (BASIC)


System Regulation 08.01.01

Section 4.2.9 – Types (“Pools”) of Cases

1. Title IX (4.2.10)
2. Sex-based Misconduct (4.2.11)
3. Other Civil Rights (4.2.12)



(c) When unprofessional behavior by an employee that does not rise to the level of a violation of this regulation is discovered during the civil rights investigation and adjudication process, the information will be forwarded to the employee’s supervisor.

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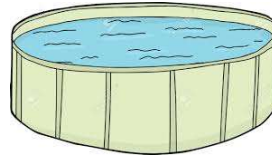
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HEARING TRAINING (BASIC)

System Regulation 08.01.01

Section 4.2.9 – Types (“Pools”) of Cases

- 1. Title IX (4.2.10)
- 2. Sex-based Misconduct (4.2.11)
- 3. Other Civil Rights (4.2.12)



(d) When possible violations of the code of student conduct by a student that do not rise to the level of a civil rights violation are discovered during the civil rights investigation process, and where there are no civil rights charges brought forward as a result of the investigation, the information will be forwarded for review to the student conduct process.

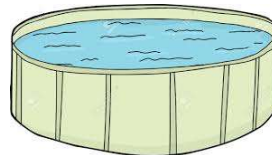


Civil Rights Adjudication Training

System Regulation 08.01.01

Section 4.2.9 – Types (“Pools”) of Cases

- 1. Title IX (4.2.10)
- 2. Sex-based Misconduct (4.2.11)
- 3. Other Civil Rights (4.2.12)



(e) When possible violations of the code of student conduct by a student that do not rise to the level of a civil rights violation are discovered during the civil rights investigation process, and where there is also going to be an adjudication of the civil rights violation (through a formal hearing, or through informal resolution methods that result in a finding and sanction), the case will be consolidated into one adjudication conducted under the processes described in 4.2.9(a).



HEARING TRAINING (BASIC)

Overview of the Process

Reporting & Intake


1. Closure
2. Supportive Measures
3. Emergency Actions
4. Informal Resolution
5. Formal Resolution

Investigation

1. Dismissal / Closure
2. Informal Resolution
3. Adjudication

Adjudication

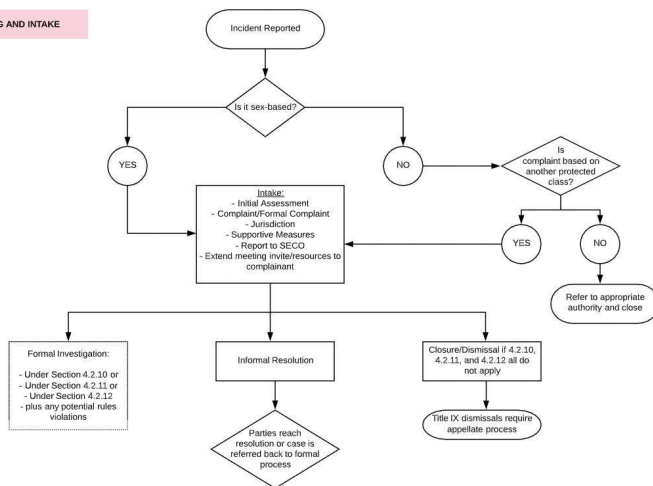
1. Informal Resolution
2. Decision
3. Appeal


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HEARING TRAINING (BASIC)

CIVIL RIGHTS REPORTING AND INTAKE



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    graph TD
      A([Incident Reported]) --> B{Is it sex-based?}
      B -- YES --> C[Intake:  
- Initial Assessment  
- Complain/Formal Complaint  
- Jurisdiction  
- Supportive Measures  
- Report to SECO  
- Extend meeting invite/resources to complainant]
      B -- NO --> D{Is complaint based on another protected class?}
      D -- YES --> C
      D -- NO --> E([Refer to appropriate authority and close])
      C --> F[Formal Investigation:  
- Under Section 4.2.10 or  
- Under Section 4.2.11 or  
- Under Section 4.2.12  
- plus any potential rules violations]
      C --> G[Informal Resolution]
      C --> H[Closure/Dismissal if 4.2.10, 4.2.11, and 4.2.12 all do not apply]
      G --> I{Parties reach resolution or case is referred back to formal process}
      I --> F
      I --> J{ }
      H --> K([Title IX dismissals require appellate process])
  
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HEARING TRAINING (BASIC)

Investigations: Practice

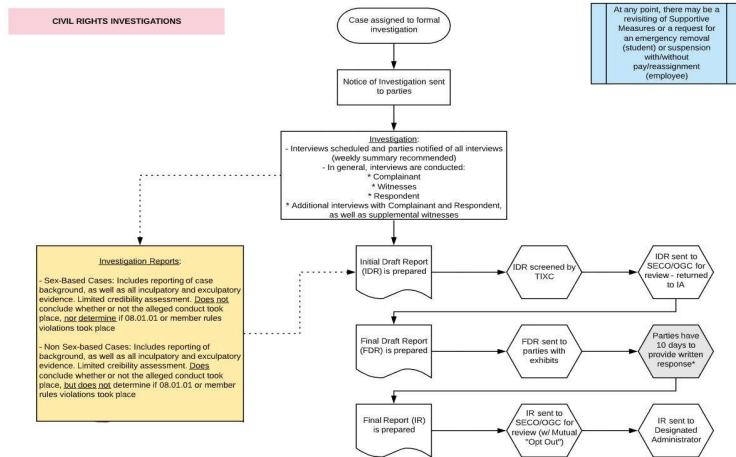
Overview of Investigation Stages



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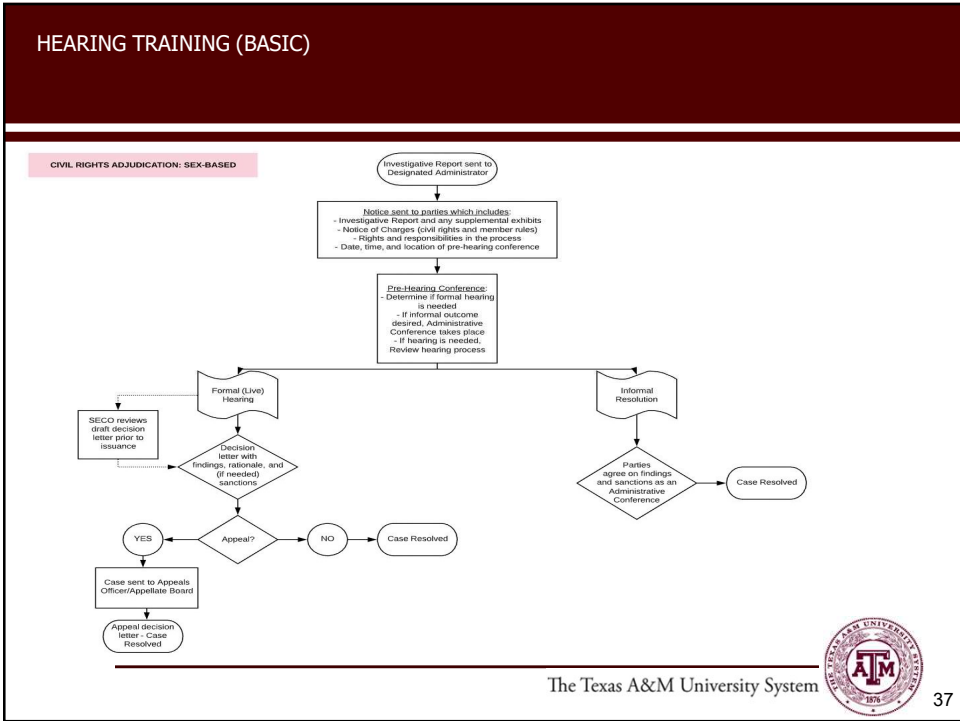
HEARING TRAINING (BASIC)



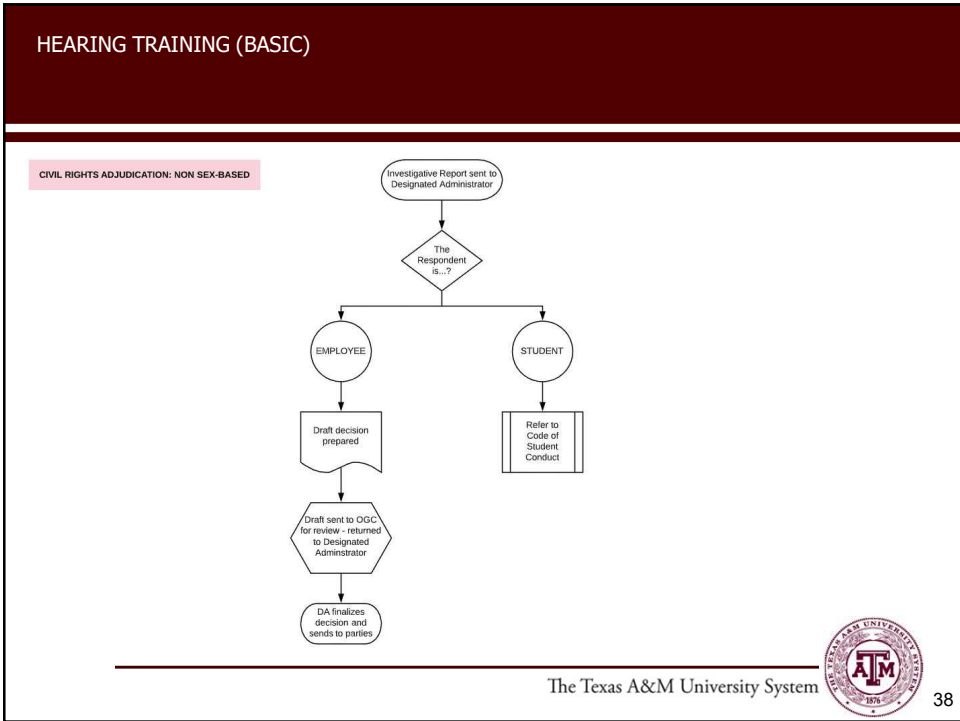
* For sex-based cases, written responses are taken from parties; in non sex-based cases, questions for parties and/or witnesses are taken from the parties

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HEARING TRAINING (BASIC)

	TITLE IX (4.2.10)	SEX-BASED MISCONDUCT (4.2.11)	OTHER CIVIL RIGHTS (4.2.12)	STUDENT CONDUCT / EMPLOYEE PROFESSIONALISM
Supportive Measures	Yes	Yes	Yes	Yes
Requires	Formal Complaint	Report/Complaint	Report/Complaint	Awareness and Evidence
Standard of Evidence	Preponderance	Preponderance	Preponderance	Preponderance
Informal Resolution Allowed?	Yes – with SECO approval	Yes – with SECO approval	Yes – with SECO approval	Yes
Role of Investigative Authority	Collect and report inculpatory and exculpatory evidence	Collect and report inculpatory and exculpatory evidence	Collect and report inculpatory and exculpatory evidence; conclude if allegations are substantiated but not if 08.01.01 or member rules were violated	Refer to Member Rules and appropriate System Regulation
Adjudication	Formal (Live) Hearing	Formal (Live) Hearing	Written Review	Refer to Member Rules and appropriate System Regulation
Adjudicator	Hearing Officer or Hearing Panel (in role of DA)	Hearing Officer or Hearing Panel (in role of DA)	Designated Administrator	Refer to Member Rules and appropriate System Regulation
Allowed an Advisor?	Yes – provided by Member for formal hearing if no advisor is present	Yes – provided by member for formal hearing if no advisor is present	Yes	Yes
Role of Advisor	Cross-examination and Support	Cross-examination and Support	Support	Support
For a Finding...	Severe and Pervasive and Objectively Offensive (SPOO) OR Quid Pro Quo (employee respondents only)	Severe or Persistent or Pervasive and Objectively Offensive (hostile environment) OR Quid Pro Quo	Severe or Persistent or Pervasive and Objectively Offensive	Did it take place? Does it violate the published rule/expectation?
Appeal?	Yes	Yes	No	Refer to Member Rules and appropriate System Regulation

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HEARING TRAINING (BASIC)



A&M System Regulation 08.01.01

Important Definitions (proposed language)

Consent – clear, voluntary, and ongoing agreement to engage in a specific sexual act. Persons need not verbalize their consent to engage in a sexual act for there to be permission. Permission to engage in a sexual act may be indicated through physical actions rather than words. A person who is asleep or mentally or physically incapacitated, either through the effect of drugs or alcohol or for any other reason, or whose agreement was made by threat, coercion, or force, cannot give consent. Consent may be revoked by any party at any time.

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A&M System Regulation 08.01.01

Important Definitions (proposed language)

Coercion – the act, process, or power of compelling a person to take an action, make a choice, or allow an action to happen that they would otherwise not choose or give consent to by subjecting the person to physical harm or serious non-physical harm or threatening the person with such harm when the threat of harm can reasonably be believed to exist.



A&M System Regulation 08.01.01

Important Definitions (proposed language)

Complicity – an action knowingly taken and/or an intentional lack of action to aid someone else in committing a violation of this regulation. Employees are expected not to aid others in committing a violation of this regulation and/or through a lack of action allow a violation to commence and/or continue. As noted in Section 2.1, employees are expected to report any such violation. Students are expected not to aid others in committing a violation of this regulation and/or to remove themselves from any setting in which a violation of this regulation is taking place. The degree to which an individual is considered complicit is subject to investigation and adjudication under this regulation.





A&M System Regulation 08.01.01

Important Definitions (proposed language)

Designated Administrator – an administrator responsible for conducting a review of all available evidence, reaching decisions with respect to violations of system regulations and member rules and imposing sanctions for any violations found when the case is adjudicated without a formal hearing. No person may serve as a designated administrator in a matter in which there is a clear conflict of interest or personal bias.



A&M System Regulation 08.01.01

Important Definitions (proposed language)

Hearing Officer – A staff or faculty member responsible for reviewing all available evidence, reaching decisions with respect to violations of system regulations and member rules, and imposing sanctions for any violations found when the case is adjudicated through a formal hearing. No person may serve as a hearing officer in a matter where there is a clear conflict of interest or personal bias, or when that person has not completed the required training. Whether a member uses a hearing officer, hearing panel, or both for purposes of conducting formal hearings shall be articulated in the member's rule.





A&M System Regulation 08.01.01

Important Definitions (proposed language)

Hearing Panel – A group of staff and/or faculty members responsible for reviewing all available evidence, reaching decisions with respect to violations of system regulations and member rules, and imposing sanctions for any violations found when the case is adjudicated through a formal hearing. No person may serve on a hearing panel in a matter where there is a clear conflict of interest or personal bias. Hearing Panels shall consist of three individuals who make their determinations by majority vote. Hearing Panels shall be advised by a hearing panel advisor who will monitor compliance with this regulation and member rules during the proceeding, as well as oversee and advise the hearing panel during deliberations. The hearing panel advisor shall not have a vote on the outcome of the hearing. Whether a member uses a hearing officer, hearing panel, or both for purposes of conducting formal hearings shall be articulated in the member's rule.



A&M System Regulation 08.01.01

Important Definitions (proposed language)

Sex-Based Harassment – harassment on the basis of sex that is:

(1) Quid pro quo harassment – an employee, agent, or other person authorized by the member to provide an aid, benefit, or service under the member's education program or activity explicitly or impliedly conditioning the provision of such aid, benefit, or service on a person's participation in any unwelcome sexual activity;





A&M System Regulation 08.01.01

Important Definitions (proposed language)

Sex-Based Harassment – harassment on the basis of sex that is:

(2) Hostile environment harassment – unwelcome sex-based conduct that is sufficiently severe or pervasive that, based on the totality of the circumstances and evaluated subjectively and objectively denies or limits a person's ability to participate in or benefit from the member's education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

- a. The degree to which the conduct affected the complainant's ability to access the recipient's education program or activity;
- b. The type, frequency, and duration of the conduct;
- c. The parties' ages, roles within the recipient's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the alleged unwelcome conduct;
- d. The location of the conduct, the context in which the conduct occurred, and the control the recipient has over the respondent; and
- e. Other sex-based harassment in the member's education program or activity.

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A&M System Regulation 08.01.01

Important Definitions (proposed language)

Sex-Based Harassment – harassment on the basis of sex that is:

- (3) Specific Offenses – including:
- a. Sexual assault (see definition);
 - b. Dating violence (see definition);
 - c. Domestic violence (see definition); and/or
 - d. Sex-based stalking (see definition for Stalking)

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A&M System Regulation 08.01.01

Important Definitions (proposed language)

Sexual Assault – any sexual act directed against another person, forcibly and/or against that person’s will (without their consent); or not forcibly or against the person’s will where the victim is incapable of giving consent.



A&M System Regulation 08.01.01

Important Definitions (proposed language)

Sexual Exploitation – a situation in which an individual(s) takes non-consensual or abusive sexual advantage of another for their own advantage or benefit, or to benefit or advantage anyone other than the one being exploited. For example, sexual exploitation could include such actions as technological abuse (see definition below), voyeurism, invasion of sexual privacy, nonconsensual sexual contact, exposing one’s genitals or causing another to expose one’s genitals, and knowingly exposing another person to a sexually transmitted infection or disease without their consent. Aiding another in the commission of sexual exploitation is also prohibited under this regulation.





A&M System Regulation 08.01.01

Important Definitions (proposed language)

Harassment – behavior on the basis of a protected class that is: unwelcome conduct on the basis of a protected class that is sufficiently severe or pervasive that, based on the totality of the circumstances and evaluated subjectively and objectively denies or limits a person’s ability to participate in or benefit from the member’s education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:



A&M System Regulation 08.01.01

Important Definitions (proposed language)

- a. The degree to which the conduct affected the complainant’s ability to access the recipient’s education program or activity;
- b. The type, frequency, and duration of the conduct;
- c. The parties’ ages, roles within the recipient’s education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the alleged unwelcome conduct;
- d. The location of the conduct, the context in which the conduct occurred, and the control the recipient has over the respondent; and
- e. Other harassment based on protected class in the member’s education program or activity.





A&M System Regulation 08.01.01

Important Definitions (proposed language)

Harassment – behavior on the basis of a protected class that is:

(2) Specific Offenses, including:

- a. Assault – engaging in or attempting to engage in unwanted physical contact on the basis of a protected class; and/or
- b. Stalking (see definition for Stalking) on the basis of a protected class.



A&M System Regulation 08.01.01

Important Definitions (proposed language)

Hostile Environment – Unwelcome conduct based on a protected class that is sufficiently severe or pervasive that, based on the totality of the circumstances and evaluated subjectively and objectively denies or limits a person’s ability to participate in or benefit from the member’s education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:





A&M System Regulation 08.01.01

Important Definitions (proposed language)

- a. The degree to which the conduct affected the complainant's ability to access the recipient's education program or activity;
- b. The type, frequency, and duration of the conduct;
- c. The parties' ages, roles within the recipient's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the alleged unwelcome conduct;
- d. The location of the conduct, the context in which the conduct occurred, and the control the recipient has over the respondent; and
- e. Other harassment on the basis of a protected class in the member's education program or activity.



The Role of the Adjudicatory Process



HEARING TRAINING (BASIC)

The Role of the Adjudicatory Process (Hearings and Deliberations)

The role of the adjudicatory (hearing) process is:

- to review all the inculpatory and exculpatory evidence that is available,
- to see and hear the information presented, and
- to allow the parties to present information and to challenge information

The role of the deliberations process is:

- to reflect on both the information provided and your assessment of the credibility of the parties in determining what took place,
- to utilize your determination of what took place to assess whether the civil rights regulation and/or member rules were violated, and
- when determining that violations have taken place, to develop and impose sanctions that promote growth and development, repair harm caused, and protect the broader safety interests of the community.

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HEARING TRAINING (BASIC)

"Hear the case before you decide it."

- Judge Alfred P. Murrah, (b1904-d1975, U.S. Court of Appeals for the Tenth Circuit and Director of the Federal Judicial Center)

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HEARING TRAINING (BASIC)

The Role of the Adjudicatory Process (Hearings and Deliberations)

The successful hearing official:

- reviews all written information at least two days in advance of the hearing and notes areas for exploration and questioning,
- understands that their primary initial focus is to determine what happened,
- understands they can only determine what happened by considering all of the available evidence,
- relies only on the facts and information in evidence, and does not allow information outside of the hearing to factor into a determination,
- reaches credibility determinations based on observable facts and not on hunches or suspicions,
- never considers sanctioning or the implications of sanctions until a finding has been rendered, and
- creates sanctions that are intentional, designed for education and development, seek to repair harm, and to protect the members of the broader institutional community.



HEARING TRAINING (BASIC)

Due Process in Higher Education (students)



Due Process in Public Institutions of Higher Education

(Please close your materials)



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Due Process

- True or False (for all of public higher education)?
 - 1. In Title IX cases, Due Process attaches solely to a respondent upon the university's receipt of a complaint.
 - **False.** Due Process attaches to both the complainant and the respondent, and does not become activated until such time that formal charges have been filed against the respondent (post-investigation). Until that moment, the investigation and the process function on the elements of equity and safety.



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Due Process

- True or False (for all of public higher education)?
 - 2. Public universities are required to provide students with a written notice of the charges placed against her/him.
 - **True.** Dixon v. Alabama (1961) and a number of other cases established minimum due process requirements for student conduct proceedings, and ended the era of *in loco parentis*.



Due Process

- True or False (for all of public higher education)?
 - 3. A student has the right to bring legal counsel with them to a campus disciplinary proceeding. Counsel must be allowed the opportunity to represent her/his client.
 - **Mostly False.** Institutions may prohibit the attendance of attorneys in the disciplinary process, except in cases that fall under the Violence Against Women Act (VAWA), which allows for an advisor of the person's choice. When allowed to attend, universities set the ground rules for attendance (generally no active participation), except in states where state law establishes a role.



Due Process

- True or False (for all of public higher education)?
 - 4. A student accused of an act that is also considered a crime cannot be charged on campus if also facing criminal prosecution, as this would violate their 5th Amendment rights to avoid double jeopardy (being charged twice for the same crime).
 - **False.** The concept of double jeopardy only applies to criminal proceedings. Student conduct (and employee discipline) fall under the realm of administrative law, which is akin to civil law.



Due Process

- True or False (for all of public higher education)?
 - 5. A student has the right to appeal any disciplinary action taken against them in the student conduct process.
 - **False.** Federal courts have never established such a right. None the less, more than 99% of student conduct processes provide for a right of appeal.



Due Process

- True or False (for all of public higher education)?
- 6. A student has the right to directly cross-examine any witnesses brought forth against them.
 - **False.** Students have the right to see and challenge all information that will be used in reaching a decision. With regard to witnesses, students have the right to ask questions, though those questions may be directed to the adjudicatory body. In Title IX cases, cross-examination is prohibited by the parties and must be performed by an advisor.



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Due Process

- True or False (for all of public higher education)?
- 7. Students have a right to a “jury of their peers” in campus conduct proceedings.
 - **False.** The university gets to determine the methods of resolution in the adjudication process.



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Due Process

- True or False (for all of public higher education)?
 - 8. Students accused of sexual assault have the right to have their case decided on the basis of whether or not the evidence establishes guilt beyond a reasonable doubt.
 - **False.** Federal guidance currently allows higher education institutions to utilize either the preponderance standard or the clear and convincing standard, and civil rights law employs a preponderance standard. The A&M System requires the use of a preponderance test.



Due Process

- True or False (for all of public higher education)?
 - 9. Since 2011, most public colleges and universities have changed their standard in Title IX cases to a preponderance of the evidence, as a direct result of federal guidance (2011 Dear College Letter on Campus Sexual Violence).
 - **False.** Prior to 2011, approximately 90% of all colleges and universities (public and private) employed the preponderance test in all student conduct matters, including those that fall under Title IX, and most had been doing so since the 1960s, if not before.



Due Process

- True or False (for all of public higher education)?
 - 10. The parents of a respondent have the right to be informed of disciplinary action taken against their student.
 - **False.** The Higher Education Amendments of 1998 provide for the option of parental notification of those students under 21 years of age who are also financially dependent upon their parents, in specific cases of misconduct (alcohol and drug violations). There is no mandate, and each institution makes its own determination.



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Due Process in Higher Education (students)

Due Process

Who has authority over you... how many jurisdictions do you live in? (POLL)

- International Law
 - Federal Law
 - State Law
- County/Municipalities
 - Professional
 - Personal



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HEARING TRAINING (BASIC)

Due Process in Higher Education (students)Due Process

Do all of these jurisdictions provide the same due process elements if there is a conflict? (POLL)

NO --- they do not, but why not?

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HEARING TRAINING (BASIC)

Due Process in Higher Education (students)Due Process

Due process is the process that is due to us based on:

- The nature of the relationship
- The rights or privileges at stake

The greater the potential loss of rights, the higher amount of process that is due.

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HEARING TRAINING (BASIC)

Due Process in Higher Education (students)

- President James Madison (Dem-Rep., 4th President)
 - Authored the 5th Amendment to the U.S. Constitution; ratified in 1791
 - 5th Amendment requires due process of law in order for the government to deprive an individual of **life, liberty, or property**
 - 5th Am. prohibits self-incrimination and double jeopardy in criminal proceedings
 - 5th Amendment protections date back to the Magna Carta (1215)
- Senator Jacob Howard (Rep., Michigan)
 - Worked closely with President Lincoln on passage of 13th Amendment to abolish slavery
 - Served on Joint Committee on Reconstruction
 - Drafted the 14th Amendment, which requires equal protection under the law for all persons born or naturalized in the United States; ratified in 1868
 - Reversed (USSC) Dred Scott decision that black persons were not citizens
 - **Due process clause guarantees substantive and procedural process in state legal proceedings (14th Amendment is primary source of due process in higher education)**
 - Privileges or Immunities Clause protects individual state citizenship from interference by other states



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HEARING TRAINING (BASIC)

Due Process in Higher Education (students)Dixon v. Alabama (1961, 5th Circuit)

- School expelled six students for unspecified reasons without a hearing after those students participated in a civil rights demonstration
- Circuit Court held that **minimal due process (notice and hearing)** was required or the expulsion of a student
- Ended legal relationship of *in loco parentis* (THE landmark case)



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HEARING TRAINING (BASIC)

Due Process in Higher Education (students)**Esteban v. Central Missouri State College (1969, 8th Circuit)**

- School suspended two students for participation in civil rights demonstrations
- Both students in attendance, but claimed to be spectators
- Esteban refused order to return to his room
- Students sued in 8th Circuit
- Court required a second hearing with adequate procedural due process, including: written notice of charges; students permitted to review all materials to be used at the hearing in advance; allowed advisement; students allowed to present own stories, exhibits, and witnesses; decision to be based only on facts in evidence; and recording of the hearing could be made by either side
- After second hearing resulted in suspensions, court refused to intervene since procedural due process had been provided

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HEARING TRAINING (BASIC)

Due Process in Higher Education (students)**Goss v. Lopez (1975, USSC)**

- Nine students suspended from a public high school for ten days for destruction of property
- Ohio law allowed this sanction without a hearing
- USSC determined that a suspension without a hearing violated 14th Amendment Due Process Clause

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HEARING TRAINING (BASIC)

Due Process in Higher Education (students)

1968 General Order on Judicial Standards of Procedure and Substance in Review of Student Discipline in Tax Supported Institutions of Higher Education

- Issued by a local group of judges in the Western District of Missouri and included Harry Blackmun, who served as an Associate Justice on SCOTUS from 1970 to 1994
- Group of judges issued strong statements about distinctions in due process between criminal justice system and higher education; their observations have stood the test of time

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HEARING TRAINING (BASIC)

Due Process in Higher Education (students)

1968 General Order – key quotes:

“[S]chool regulations are not to be measured by the standards which prevail for criminal law and for criminal procedure.”

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HEARING TRAINING (BASIC)

Due Process in Higher Education (students)

General Order – key quotes:

“The discipline of students in the educational community is, in all but the case of irrevocable expulsion, a part of the teaching process. In the case of irrevocable expulsion for misconduct, the process is not punitive or deterrent in the criminal law sense, but the process is rather the determination that the student is unqualified to continue as a member of the educational community. Even then, the disciplinary processes not equivalent to the criminal law processes of federal and state criminal law. For, while the expelled student may suffer damaging effects, sometimes irreparable, to his educational, social, and economic future, he or she may not be imprisoned, fined, disenfranchised, or subjected to probationary supervision. **The attempted analogy of student discipline to criminal proceedings against adults and juveniles is not sound.**”

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HEARING TRAINING (BASIC)

Due Process in Higher Education (students)

1968 General Order – key quotes:

“In the lesser disciplinary procedures, including but not limited to guidance counseling, reprimand, suspension of social or academic privileges, probation, restriction to campus and dismissal with leave to apply for readmission, the lawful aim of discipline maybe teaching in performance of a lawful mission of the institution. The nature and procedures of the disciplinary process in such cases should not be required to conform to federal processes of criminal law, which are far from perfect, and designed for circumstances and ends unrelated to the academic community. **By judicial mandate to impose upon the academic community in student discipline the intricate, time consuming, sophisticated procedures, rules and safeguards of criminal law would frustrate the teaching process and render the institutional control impotent.**”

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HEARING TRAINING (BASIC)

Due Process in Higher Education (students)

Can we impose the death penalty on our community members? NO

Can we imprison our community members? NO

Can we deprive our community members of substantial property???

Is there a right to a higher education? (Implicit – Yes, Explicit – No)

Separate rights from privileges...

Once we extend a privilege, revoking it may require due process, most especially when we are altering the relationship between the individual and the institution

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HEARING TRAINING (BASIC)

Due Process in Higher Education (students)

In general, minimum due process includes:

- Notice of Allegations/Charges
- Right to a hearing prior to suspension/expulsion
- Opportunity to see and respond (challenge) to information/evidence
- Attendance of an Advisor (VAWA, Title IX)
- Students allowed to make their own statements, as well as submit evidence and witnesses

Due process does not include:

- Representation by advisor; advisor limited to role established by the institution (except to ask questions in Title IX live hearings)
- Use of "beyond a reasonable doubt" standard; about 90% of colleges and universities have been using a preponderance test for all student cases dating back to the 1960s
- Deferral to criminal process where there is a concurrent criminal investigation or where concurrent criminal charges are pending
- "Presumption of Innocence" (Title IX only – responsibility)
- Right of Appeal (Title IX only)

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HEARING TRAINING (BASIC)

Due Process in Higher Education (students)

Takeaways

- There is no explicit right to a higher education, but once accepted, a student is owed due process to have the privilege of attendance taken away
- Due process (in our administrative legal setting) does not and should not reflect the due process expectations of the criminal process; our process runs independent of the criminal or civil court systems
- Behaviors may be both criminal in nature and violations of institutional regulations; educational institutions are no more qualified to say a crime has occurred than a court is qualified to say that a school's regulation have been violated
- In general, court challenges to institutions has been in the areas of substantive and procedural due process, and not an interpretation of an institution's regulations (1st Amendment being the exception)

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HEARING TRAINING (BASIC)


Standards of Evidence

BURDENS OF PROOF STANDARDS

Beyond a Reasonable Doubt		Requires eliminating all reasonable doubt, "Moral certainty"
Clear and Convincing Evidence		High probability
Preponderance of the Evidence		More likely than not (>50%)
Probable Cause		Specific articulable facts
Reasonable Suspicion		Reasonable basis to believe

Standards Vary by Type of Legal Matter

Source: Chudnovsky Law

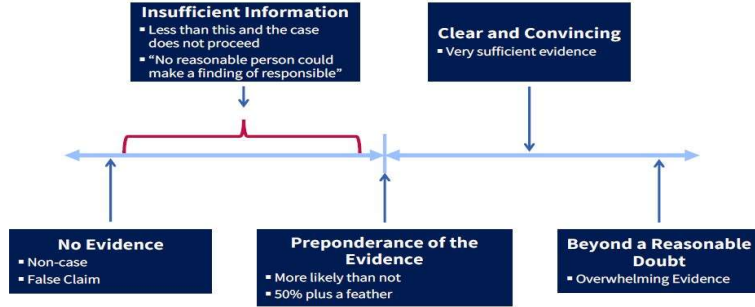
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HEARING TRAINING (BASIC)

Standards of Evidence

EXPLAINING EVIDENTIARY STANDARDS



Source: ATIXA

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HEARING TRAINING (BASIC)

Standards of Evidence

CHART 1: STANDARDS OF EVIDENCE

	0% Certainty	50 % Certainty	100% Certainty
Beyond a Reasonable Doubt			90-99%
Clear and Convincing Evidence			67-75% +
Preponderance of the Evidence			50.1% +
Substantial Evidence			30-50%
Reasonable Suspicion			10-30%

Source: A&M System Regulation 08.01.01

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Types of Evidence



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Evidence

Types of Evidence:

1. Direct (Testimonial)
2. Direct (Physical/Digital)
3. Circumstantial (Indirect forms of #1 and #2)
4. Documentary Evidence
5. Hearsay Evidence
6. Expert Evidence
7. Character Evidence



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EVIDENCE

Evidence

Direct (Testimonial) Evidence

For us, this evidence includes testimony from people who were witness to the allegations under investigations, witness to the conditions surrounding allegations under investigation, and/or witness to statements made by the parties prior to or following the allegations under investigation.

- *Strengths of this type of evidence?*
- *Weaknesses of this type of evidence?*



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EVIDENCE

Evidence

Direct (Physical/Digital) Evidence

For us, this evidence includes evidence such a video recordings, audio recordings, pictures, digital messages, DNA and other forms of forensic evidence, drug tests, seized items, and observed items that are not contested.

- *Strengths of this type of evidence?*
- *Weaknesses of this type of evidence?*

Please note the lack of inclusion of polygraph tests in this category. Polygraph tests are not considered to be reliable in determining a person's honest participation in our process (from any party or witness). While we will accept their submission as a form of character testimony, they are not included in reaching a determination of a violation.



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EVIDENCE

Evidence

Circumstantial (Testimonial/Physical/Digital) Evidence

For us, this is indirect evidence that by its nature carries an inference of being either inculpatory or exculpatory. This includes physical or digital items that suggest something about culpability, as well as the timing, location, and/or manner of actions taken by individuals.

- *Strengths of this type of evidence?*
- *Weaknesses of this type of evidence?*



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EVIDENCE


Evidence

IMPORTANT NOTE:

There is no substantive difference between direct testimonial evidence and circumstantial evidence in terms of weight of importance. The United States Supreme Court has held that they are essentially of equal value.



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HEARING TRAINING (BASIC)


Evidence


Documentary Evidence

For us, this evidence includes reports and other logs that have been filed in direct relation to the incident(s) under investigation. The primary value of this evidence is be able to see how a matter under investigation may have been reported and described to others.

- *Strengths of this type of evidence?*
- *Weaknesses of this type of evidence?*


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HEARING TRAINING (BASIC)


A Note on Medical Documentation

Parties may choose to provide medical documentation as a means for seeking to support their perspective on what took place. However, they may not be compelled to do so.

While written medical documentation may have some value in the investigation process, it is typically incomplete and/or subject to interpretation. As a general rule, it is of more value when accompanied by testimony from the medical professional who conducted any documented exam or procedure.


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EVIDENCE

Evidence

Hearsay Evidence

For us, this evidence includes actions or observations attributed to other people. Hearsay evidence is useful to an investigator in determining whom might need to be interviewed but is without substantive value to a decision-maker.

- *Strengths of this type of evidence?*
- *Weaknesses of this type of evidence?*

**EVIDENCE**

Evidence

Expert Evidence

For us, this evidence includes interpretations of actions and or evidence that are subject to review, analysis, and the interpretation of someone that has sufficient formal education, practical knowledge, skill, and training to allow a reasonable person to regard that person as an expert in that subject matter. When expertise is needed, Investigators should seek this type of evidence prior to analyzing data in the investigative report through an appropriately trained/certified/licensed expert that has no other active role in the investigation process.

- *Strengths of this type of evidence?*
- *Weaknesses of this type of evidence?*





Evidence

Character Evidence

For us, this evidence includes all personal and professional assessments of an individual's character. Character evidence is of virtually no value in the determination of whether or not allegations are true but may be useful in the event of the sanctioning of a respondent after the finding of a violation.

- *Strengths of this type of evidence?*
- *Weaknesses of this type of evidence?*



Hearing Skills: Listening, Reading, and Questioning





Listening Skills

- Active Listening
- Intentional Listening
- Listening Tips



Listening Skills

Activity #1

Active Listening

Active listening activity: "Are you hearing me?"

Choose a Partner A and a Partner B. Partner A will share a story of something important that has happened to or for them in the past five years that they are willing to share in public.





Listening Skills

Activity #1

Active Listening

Active listening activity: "Are you hearing me?"

Partner B will now share a story of something important that has happened to or for them in the past five years that they are willing to share in public.



Listening Skills

Activity #1

Active Listening

- What do positive listening skills look like?
- How do positive listening skills make the story-teller feel?
- What do negative listening skills look like?
- How do negative listening skills make the story-teller feel?





Listening Skills

Activity #2

Intentional Listening

Intentional listening activity: “Are you really hearing me?”

Choose Partner A and Partner B. Partner A will share a different story of something important that has happened to or for them in the past five years that they are willing to share in public.



Listening Skills

Activity #2

Intentional Listening

Intentional listening activity: “Are you really hearing me?”

Partner B will now tell Partner A what they believed were the most important parts of the story and describe the feelings that they believe Party A associates with the story.





Listening Skills

Activity #2

Intentional Listening

Intentional listening activity: “Are you really hearing me?”

Partner B will now share a different story of something important that has happened to or for them in the past five years that they are willing to share in public.



Listening Skills

Activity #2

Intentional Listening

Intentional listening activity: “Are you really hearing me?”

Partner A will now tell Partner B what they believed were the most important parts of the story and describe the feelings that they believe Party A associates with the story.





Listening Skills

Activity #2

Intentional Listening

- How accurate were both partners in describing back the story and associated feelings to each partner?
- As a listener, do you feel a difference between your normal conversational listening and intentional listening?
- If yes, what is that difference?
- How do you stay “in the moment” when listening?



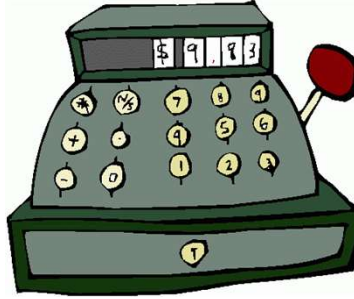
So now we know what active and intentional listening looks and feels like, but do those skills in and of themselves mean we will comprehend what we are hearing?



HEARING TRAINING (BASIC)

THE CASH REGISTER EXERCISE...

Activity #3



Since we are about to engage our reading and listening skills, let's test our own skills....

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HEARING TRAINING (BASIC)

THE CASH REGISTER EXERCISE...

I am going to read you a story and allow you to see it on this slide deck. I will repeat the story and then the story will disappear from the screen. You will then be asked seven (7) questions about the story. Your answers to each question can be "Yes," "No," or "Unknown based on the information provided."

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HEARING TRAINING (BASIC)

THE CASH REGISTER EXERCISE...**THE STORY...**

A cashier had just turned off the lights in the store when a man appeared and demanded money. The owner opened a cash register. Everything inside the register was scooped up, and the man then sped away. A member of the police force was notified promptly.

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HEARING TRAINING (BASIC)

THE CASH REGISTER EXERCISE...**THE QUESTIONS...**

- 1: Did the man appear after the owner had turned off his store lights?
- 2: Did the man who appeared demand money?
- 3: Did the cash register contain money?
- 4: Did someone open a cash register?
- 5: After the man who demanded money scooped up the contents of the cash register, did he run away?
- 6: Did the owner of the store scoop up the contents of the cash register and run away?
- 7: Was the robber a man?

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HEARING TRAINING (BASIC)

THE CASH REGISTER EXERCISE...

Question #1: Did the man appear after the owner had turned off his store lights?

Answer: Unknown based on the information provided. We do not know the sex of the owner.

Story: A cashier had just turned off the lights in the store when a man appeared and demanded money. The owner opened a cash register. Everything inside the register was scooped up, and the man then sped away. A member of the police force was notified promptly.

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HEARING TRAINING (BASIC)

THE CASH REGISTER EXERCISE...

Question #2: Did the man who appeared demand money?

Answer: Yes. It is clearly stated that the man who appeared demanded money.

Story: A cashier had just turned off the lights in the store when a man appeared and demanded money. The owner opened a cash register. Everything inside the register was scooped up, and the man then sped away. A member of the police force was notified promptly.

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HEARING TRAINING (BASIC)

THE CASH REGISTER EXERCISE...

Question #3: Did the cash register contain money?

Answer: Unknown based on the information provided. The story refers to the register's contents without describing what was inside.

Story: A cashier had just turned off the lights in the store when a man appeared and demanded money. The owner opened a cash register. Everything inside the register was scooped up, and the man then sped away. A member of the police force was notified promptly.

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HEARING TRAINING (BASIC)

THE CASH REGISTER EXERCISE...

Question #4: Did someone open a cash register?

Answer: Yes. The story specifically states that the owner opened a cash register.

Story: A cashier had just turned off the lights in the store when a man appeared and demanded money. The owner opened a cash register. Everything inside the register was scooped up, and the man then sped away. A member of the police force was notified promptly.

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HEARING TRAINING (BASIC)

THE CASH REGISTER EXERCISE...

Question #5: After the man who demanded money scooped up the contents of the cash register, did he run away?

Answer: Unknown based on the information provided. The story does not state who scooped up the contents of the cash register, nor do we know if “run” and “sped” signify the same thing.

Story: A cashier had just turned off the lights in the store when a man appeared and demanded money. The owner opened a cash register. Everything inside the register was scooped up, and the man then sped away. A member of the police force was notified promptly.

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HEARING TRAINING (BASIC)

THE CASH REGISTER EXERCISE...

Question #6: Did the owner of the store scoop up the contents of the cash register and run away?

Answer: Unknown based on the information provided. The story does not preclude this possibility.

Story: A cashier had just turned off the lights in the store when a man appeared and demanded money. The owner opened a cash register. Everything inside the register was scooped up, and the man then sped away. A member of the police force was notified promptly.

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HEARING TRAINING (BASIC)

THE CASH REGISTER EXERCISE...

Question #7: Was the robber a man?

Answer: Unknown based on the information provided. The story does not specifically state that this was a robbery.

Story: A cashier had just turned off the lights in the store when a man appeared and demanded money. The owner opened a cash register. Everything inside the register was scooped up, and the man then sped away. A member of the police force was notified promptly.

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HEARING TRAINING (BASIC)

THE CASH REGISTER EXERCISE...

What is the lesson of this exercise?

Answer: Our brains do not like missing pieces ("thought holes") and will instinctively rush to fill gaps in a story with what would seem to be reasonable assumptions.

While assumptions are a natural and daily part of our lives, making assumptions in an adjudicatory setting can create mistakes. Rather than filling in missing pieces, it is incumbent upon us to 1) identify any portions of a story that are missing, and 2) ask the people who were a part of the situation to provide us with those missing details.

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THE CASH REGISTER EXERCISE...

What is the lesson of this exercise?

Answer: Another takeaway from this exercise is to recognize that in general terms, we retain:

- 10% of information from oral presentations
- 35% of information from visual presentations
- 65% of information from visual and oral presentations

By closely reading the reports, carefully listening to the parties and witnesses, taking accurate notes, and resisting the temptation to make assumptions about what missing information might be, you are better equipped to synthesize the information you hear and see, and make accurate decisions based on the available facts.

**Listening Skills****Listening Tips**

- Stay Focused on the Interviewee
- Maintain open body posture
- Routinely offer eye contact
- Remain cognizant of your own listening “quirks”
- Minimize external distractions
- Provide uninterrupted time for story-telling whenever it is yielding relevant information





Listening Skills

Listening Tips

- Demonstrate empathy (not sympathy)
- Restate and validate as appropriate
- Mirror positive mannerisms
- Note words and terms in need of further definition
- Stay emotionally uninvolved with the content
- Utilize positive silence



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Reading Skills

Reading Tips

- Read the investigation report and related materials at least two days prior to the hearing
- Note the allegations – highlight inculpatory evidence supporting the allegations and exculpatory evidence opposing the allegations
- What facts are agreed upon? What facts are disputed?
- Note terms, actions, and activities that need more specific definitions



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Reading Skills

Reading Tips

- Note the credibility assessments and their rationale
- Determine a relative timeline of the event(s) in question
- Read the report again
- Prior to the hearing (at least 30 minutes) meet as a hearing panel to discuss areas of questioning that should be pursued; divide questioning responsibilities among the panel members



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Activity #4

Questioning Critique

As a large group...

Let's consider each of the following sex-based questions from an investigator and offer an assessment of whether or not we think it is an effective question:



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Questioning Critique

Activity #4

Sex-Based Questions

1. What was your goal when you offered to take the person home?
2. It's fair to say that you had way too much to drink, isn't it?
3. I have a couple of questions: First, could you tell they were incapacitated?; and second, why did you give them another drink when they already appeared to be really drunk?
4. How did you know that you had consent to...?

Adapted from ATIXA

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Questioning Critique

Activity #4

Sex-based Questions

5. Do you have a mother or sister? How would you feel if this happened to her?
6. How many drinks had you consumed... 2? 5? 10?
7. Do you remember the training session you completed on Title IX and consent and harassment?
8. Why would you say that?

Adapted from ATIXA

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Questioning Skills

- O/C/O Questioning Method
- The 5 W's and 1 H
- Money Questions
- Deception
- Closing Questions
- Questioning Tips & Cautions



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Questioning Skills

Activity #4

Partner Interview, Part One

Choose Partner A and Partner B. Partner A will interview Partner B about their life, using only open-ended questions. They may not ask any questions about details, or ask any questions requiring a yes/no or other detailed response (number, date, time, etc.)



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Questioning Skills

Activity #4

Partner Interview, Part Two

Partner B will interview Partner A about their life, using only closed-ended questions. They may not ask any questions that invite broad disclosure, but must only utilize questions intended to evoke a yes/no or other detailed response (number, date, time, etc.)



Questioning Skills

Activity #4

Partner Interview, Processing

Partner A and Partner B should now briefly discuss items that they wanted to know but were unable to ask about.





Questioning Skills

Activity #4

Partner Interview, Processing

Large Group Discussion:

1. How complete of a picture were you able to secure when you were asking questions (open or closed)?
2. What was the value of asking open-ended questions? What was missing?
3. What was the value of asking closed-ended questions? What was missing?
4. What is a takeaway from this exercise?




Questioning Skills

ATIXA Framework

ATIXA offers us a helpful guide for asking questions:

1. What do I want to know?
2. Why do I want to know it? (relevance)
3. Is now the best time to ask it?
4. What is the best way to ask it? (directly or indirectly)
5. Am I the best person to ask it?







Questioning Skills

O/C/O Questioning Method

Begin with **Open-ended** questions

- Allows interviewee to tell a narrative of what is important/ stands out/ and/or is prepared (uninterrupted)
- Creates a framework or outline of the story as the person sees it
- Is usually very incomplete and invites follow-up questions to collect details






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HEARING TRAINING (BASIC)





Questioning Skills

O/C/O Questioning Method

Open-ended questions:

- Please tell me...
- Please describe...
- What...
- How...





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Questioning Skills

O/C/O Questioning Method

Move to **Closed-ended** questions

- Allows the hearing officer to develop definitions of terms that have been used but lack specificity
- Allows the hearing officer to collect details about events, places, timelines, and people
- Enables the hearing officer to better understand the overall course of events



Questioning Skills

O/C/O Questioning Method

Closed-ended questions:

- Tell me what you mean by...
- Where...
- When...
- Do/Did you...
- Are you...
- Have you...
- Is this...
- Please show me... (inviting drawing or demonstration)





Questioning Skills

O/C/O Questioning Method

Return to **Open-ended** questions

- Allows the hearing officer to gather information about causes, intentions, effects, and reactions
- Completes the picture of the event by attaching the motivations and feelings surrounding the event



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Questioning Skills

O/C/O Questioning Method

Open-ended questions:

- What led you...
- How did this...
- How did you feel...
- Tell me more about...
- Help me understand...



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Questioning Skills

The 5 W's and 1 H

- Who...
- What...
- When...
- Where...
- Why...
- How...



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Questioning Skills

The Problem of Why Questions

- “Why” questions ask for reasons or justifications, as opposed to seeking recall or reflection
- “Why” questions may call for an answer that someone does not possess, but because it is seeking reasons or justification, often leads to defensiveness



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Questioning Skills

The Problem of **Why** Questions

- Instead of “**Why** did you say/do that...?”
 - “**What** led you to say/do that...”
- Instead of “**Why** do you think...?”
 - “**What** do you suppose...”

Both reframing examples invite deeper reflection rather than a reaction



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Questioning Skills

Money Questions




As a hearing officer, you have been tasked with collecting evidence to determine if one or more allegations of wrongful conduct are true. Yet many hearing officers never ask the “money” question --- “Did you ...?”




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HEARING TRAINING (BASIC)




Questioning Skills

Money Questions




- Require a person to provide a definitive “yes” or “no” to a question and allow the hearing officer to line up facts and evidence that may either support or challenge this answer
- Can be helpful in aiding a party to differentiate between denying that they did something versus acknowledging that they did something but inviting the context of what led someone to take specific actions

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HEARING TRAINING (BASIC)




Questioning Skills

Deception



- In some cases, interviewers may become suspicious that information being provided by a party or witness is incomplete, misleading, or false
- Hearing officers cannot let this suspicion consume the hearing process and allow the hearing officer to become overly focused

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Questioning Skills

Deception



- Suspicion of deception is not sufficient to undermine the credibility of parties in a finding
- Rather, it is up to the hearing officer to distinguish causes for why someone's credibility might be impeached (this will be covered under Credibility Assessment)
- What the suspicion gives cause to the hearing officer to do is to continue asking questions, to probe further into the story, and seek details that might be corroborated



Questioning Skills

Deception



- Investigators do not explicitly conclude that a party or witness is lying to them; they instead provide the statement of that person and juxtapose it to the evidence that has been collected
- There is a substantive difference between:
 - "As the investigator, I conclude that Smith was lying to me..." *versus*
 - "While Smith claims he was not in the room, this assertion is inconsistent with the video evidence and the testimony of three witnesses."



HEARING TRAINING (BASIC)

