**Agenda**

1. The End in Mind
2. Relevance
3. Preparation
4. Managing a Hearing
5. Decision-Making and Writing

**Section 1**

The End in Mind

**Section 2**

Relevance

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**Relevance- Title IX**

Investigators must create an investigative report that fairly summarizes relevant evidence. Hearing officers must also focus on relevance.

**Relevant and Probative?**

<table>
<thead>
<tr>
<th>Relevance</th>
<th>Probative</th>
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<td>The tendency of a given item of evidence to prove or disprove one of the elements of the case, or to have probative value to make one of the elements of the case likelier or not.</td>
<td>&quot;Tending to prove.&quot; Probative evidence &quot;seeks the truth.&quot; Tends to prove the proposition for which it is proffered.</td>
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**Preparing for a Hearing**

- Get your policy out
- Report review
- It’s elemental....
- Questions
1. Prepping

- Policy
- Definition
- Elements

2. Report Review - It’s Elemental

- What are you looking for?
- Relevance
- Consistency, credibility
- Objective evaluation
- Inculpatory and exculpatory
- What is missing?

3. Element

(noun) a component or constituent of a whole or one of the parts into which a whole may be resolved by analysis.


- What is missing?
- What do you want to know?
- What do you want to test?
- What do you need to test?
Keep the End in Mind

Title 9 Regulations: Require the Determination of Responsibility to Include:

- Identification of allegations potentially constituting sexual harassment as defined in reg.
- Description of procedural steps taken throughout.
- Findings of fact used to support the determination.

Exercise

Managing a Hearing

Hearing Prep

- Technical set up
- Evidence availability
- Housekeeping & agenda
- Ground rules & expectations of behavior

Hearing: Live with Cross Examination

- The decision-maker must explain to the party's advisor asking questions any decision to exclude questions as not-relevant (include relevant).
- If a party or witness does not submit to cross examination at the hearing, the decision maker must not rely on any statement of that party or witness in reaching a determination regarding responsibility.

Parties, advisors, hearing officers, and panelists.

What happens if someone shows up without an advisor?
Off we go

1. Introduction
2. Sequence
3. Assessing questions
4. Your checklist and outline
5. What if...?

Title IX Quiz: relevant or permissible?

- Questions and evidence about complainant’s sexual predisposition or prior sexual behavior
- Questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege
- Expert witnesses

Exercise

Section 5
Decision-Making and Writing

Preponderance of the Evidence

Putting it Together. Making a Decision
Let's Talk about...

Elements

Credibility Determinations

The EEOC requires determining if the witness is credible.

- **Plausibility**: Is the witness’s version of the facts believable?
- **Demeanor**: Does the witness seem to be telling the truth?
- **Motive**: Does the person have a reason to lie?
- **Corroboration**: Are there documents or other witnesses that support the witness’s version of events?
- **Past record**: Does the alleged wrongdoer have a past record of inappropriate conduct?

Relevant and Probative?

- **Relevance**: Tends to prove the proposition for which it is offered.
- **Probative**: “Tending to prove.” Probative evidence “seeks the truth.”

Determination of Responsibility

Title IX Regulations Require the Determination of Responsibility to Include:

- Identification of allegations potentially constituting sexual harassment as defined in regs
- Description of procedural steps taken throughout
- Findings of fact used to support the determination
- Conclusions regarding the application of the code of conduct to the facts
- Statement of and rationale for:
  - The result or lack of a determination regarding responsibility
  - Any sanctions the recipient imposes
  - Any remedies provided to the complainant designed to restore or preserve access to the program or activity
Appeals

Parties may appeal:
Determination regarding responsibility and
Dismissal of a formal complaint or an allegation
thereof

Appeal grounds

1. Procedural Irregularity
2. New evidence that was not reasonably available at the
time of determination regarding responsibility or
dismissal was made, that would affect the outcome of
the matter
3. The Title IX Coordinator, investigator, or
decision-maker had a conflict of interest or bias for or
against parties generally or the individual party that
affected the outcome of the matter
4. Other bases determined by
the school, provided offered
to both parties

Thank you!