Investigator Training
For internal and external investigators and dismissal appeal officer
Training Module
(Required for new and returning members)

Part 1: Overview of the Investigation and Hearing Process

Part 2: Concept Review: Providing an Impartial and Objective Process
Title IX Policy

- Dating Violence
- Domestic Violence
- Gender-based Harassment*
- Retaliation
- Sexual Assault
- Sexual Harassment*
- Stalking

when the conduct occurs, in the United States, on property owned, leased, or controlled by Brown; and/or

when the conduct occurs off-campus, in the United States, in the context of a program, activity, or location in which Brown exercises substantial control over both the Respondent and the context in which the alleged Prohibited Conduct occurred

*includes prohibited dating relationships
Sexual & Gender-Based Misconduct Policy

- Dating Violence
- Domestic Violence
- Gender-based Harassment
- Retaliation
- Sexual Assault
- Sexual Exploitation
- Sexual Harassment
- Stalking

conduct that occurs on Brown’s property;

conduct that occurs abroad; and/or

conduct occurs that is unrelated to activities of Brown when (a.) Brown exercises substantial control over both the Complainant and Respondent and (b.) the prohibited conduct has a continuing discriminatory effect at Brown.
Roles & Responsibilities

- Title IX Office
- Investigator
- Chair of the Title IX Council
- Hearing Officer
- Hearing Panelist
- Appeal Panelist
Title IX Office

- Coordinates the investigation of the formal complaint
- Implements support measures for the Complainant and Respondent
- Oversees the training for the Title IX Council and Chair, Hearing Officer, and internal investigators.
- Coordinates the administrative steps of the informal and formal resolution process and hearing
- Addresses conflicts of interest
- Communicates with the parties
Investigator

- Gathers, assesses, and synthesizes the relevant evidence in a report that sets forth the facts
- Determines the relevance of any witness or other evidence
- Makes credibility assessments and the basis of those assessments

An investigator does not make a final determination regarding whether a Policy violation has occurred.
Chair of the Title IX Council

- Reviews the investigation report prior to the hearing
- Presides over the hearing panel as a non-voting member
- Oversees the deliberations process, including procedural matters and decisions leading up to the hearing
- Drafts the determination letter that summarizes the finding, rationale, and outcomes.
Hearing Officer

- Reviews investigative report prior to the hearing
- Prepares for relevancy determinations by reviewing anticipated cross examination questions of the parties prior to the hearing
- Determines whether a question is relevant and explains any decision to exclude a question as not relevant
- Manages allotted time for questioning
- Responsible for the overall decorum and conduct of hearing participants during cross-examination
Hearing Panelist

- Reviews the facts of the investigation report
- Considers credibility
  (Is the information or account reliable?)
- Follows the Policy definition(s)
- Asks question that will clarify the facts or help assess credibility of the facts
- Makes a determination of responsibility based on the preponderance of the evidence
- Determines discipline (if applicable)
Appeal Panelist or Officer

- Reviews the grounds for appeal
- Determines if the grounds for the appeal are met
- Determines what to do if the appeal is granted
  - Remand the case to the original or new hearing panel
  - Modify the decision and/or sanction
The Hearing Process
Important Concepts

- Responsible/Not Responsible versus Innocent/Guilty

- Give weight to the different type of evidence
  - Account of the parties
  - Eye witness accounts
  - Physical evidence (i.e., videos, text messages, etc.)
  - First hand accounts
  - Pattern evidence
  - Character evidence
Relevance

Determining Relevance

A decision that the question, witness, or evidence is probative of and directly related to any material facts concerning the allegation.

Not Relevant

- Rape Shield
- Legally recognized privilege
- Medical, psychological, and similar records unless party has given consent
Training Module
(Required for new and returning members)

Part 1: Overview of the Investigation and Hearing Process

Part 2: Concept Review: Providing an Impartial and Objective Process
Mitigating Bias
Trauma Informed

Considers the parties experience when engaging in the process and may explain gaps in memory or changes in memory over time

Trauma informed practices do not

- change evidence
- exempts anyone from participation
- avoid difficult topics
Conscious Bias
(also known as explicit bias)

Intentional thoughts and meanings about a person or situation.

Examples
• “It’s not sexual assault if the victim did not fight back”
• “A woman cannot assault an able-bodied man”

Unconscious Bias
(also known as implicit bias)

Thoughts, decisions, and meanings about a person or situation that forms outside of one’s conscious awareness.

Examples
• Surprise when the top candidate in a STEM field is a woman
• Assumption that a complainant will be a woman and the respondent will be a man
Addressing Bias

1. Focus on the policy definition -
   - “What are markers of *behavior* in the policy?”

2. Be mindful of common forms of bias in sexual assault cases
   - Model victim
   - Negative association with an attorney or legal advice
   - Allowing national statistics or other research to override the facts of the case
   - Relying on reputation and/or likability to determine credibility
   - Your own sense of what is moral, appropriate, or taboo
Key Concepts

- Consent
- Incapacitation
- Hostile Environment
Consent

Consent is

- an affirmative and willing agreement to engage in specific forms of sexual contact with another person.
- an outward demonstration, through mutually understandable words or actions, indicating that an individual has freely and affirmatively chosen to engage in sexual contact.
- free from (1) the use of coercion or force, or (2) by taking advantage of the incapacitation of another individual.

Silence, passivity, incapacitation from alcohol or drugs, or the absence of resistance does not imply consent. It is important not to make assumptions; if confusion or ambiguity arises during a sexual interaction, it is essential that each participant stops and clarifies the other’s willingness to continue.

Consent can be withdrawn at any time. When consent is withdrawn, sexual activity must cease.

Prior consent does not imply current or future consent; even in the context of an ongoing relationship, consent must be sought and freely given for each instance of sexual contact.
Evaluating incapacitation requires an assessment of:

- how the consumption of alcohol and/or drugs affects a person’s: decision-making ability; awareness of consequences; ability to make informed, rational judgments; capacity to appreciate the nature and quality of the act; or level of consciousness.

- The assessment is based on objectively and reasonably apparent indications of incapacitation when viewed from the perspective of a sober, reasonable person.
Hostile Environment

- The frequency, nature, and severity of the conduct;
- Whether the conduct was physically threatening;
- The effect of the conduct on the Complainant’s mental or emotional state;
- Whether the conduct was directed at more than one person;
- Whether the conduct arose in the context of other discriminatory conduct;
- Whether the conduct unreasonably interfered with the Complainant’s educational or work performance and/or University programs or activities; and
- Whether the conduct implicates concerns related to academic freedom or protected speech.