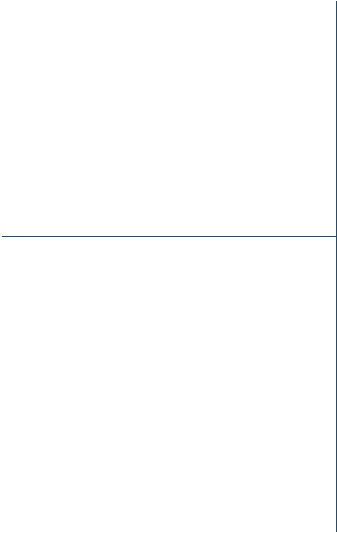


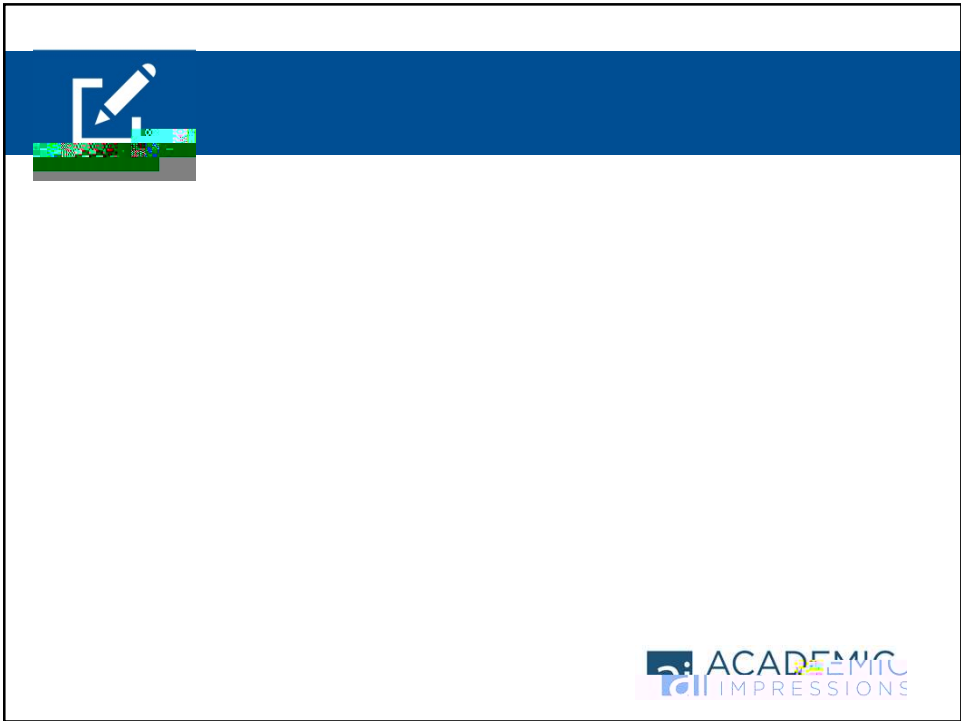
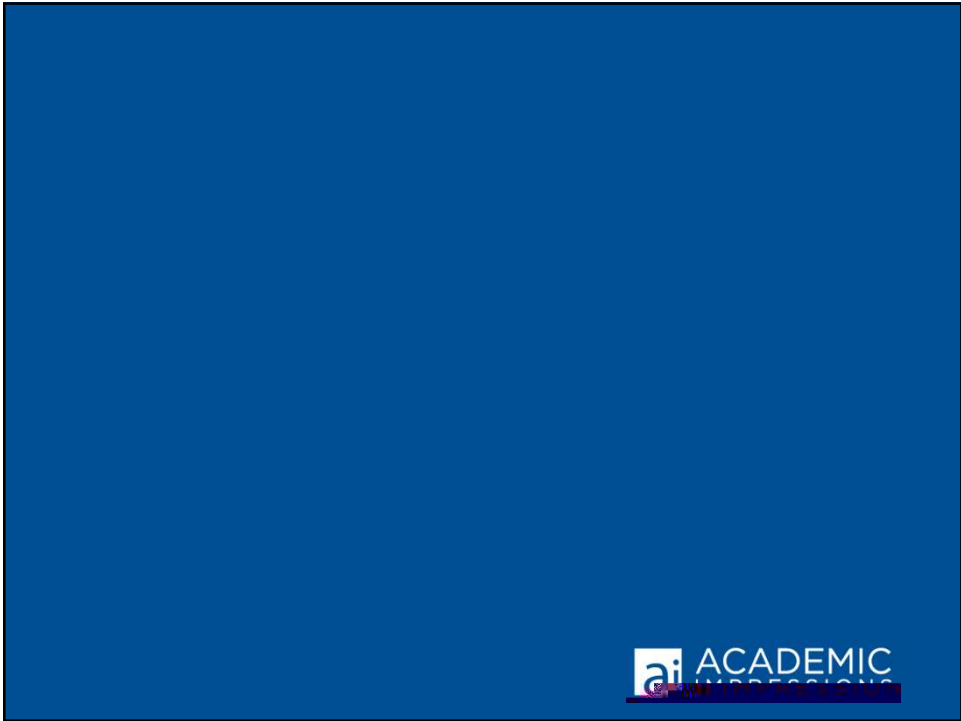


Make this experience count
Use the Questions & Chat feature!

Collective wisdom in this virtual learning space
Agenda and schedule (including breaks)
Q&A and “Questions Oasis”







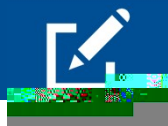


Publish the materials on website or make available, but remember proprietary information 106-45(b)(10)(i)(D)

Relevance including the rape shield question exceptions and technology at live hearings See 106-45(b)(6). Definitions incl. 106-30SH

“..the scope of the recipient’s education program or activity”

“...how to serve impartially including by avoiding prejudice of the facts at issue, conflicts of interest, and bias”



Explore training styles/ types/ length/ frequency

Explore strengths and weaknesses

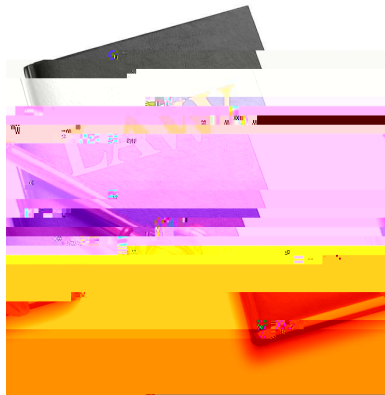


Essential to setting up trainings, smooth hearings, and logistics of hearing (e.g., conference room, paper/pens, water, chair set-up, etc.)

Sends hearing notices/ charging decision letters to parties, puts hearing files together for panelists, schedules hearings, and coordinates parties and witnesses to testify

Reads instructions to panel – documents it

Post-hearing notifies parties of decision, sets up sanctions hearing if “responsibility finding” and runs appeal process



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Due August 14, 2020





Either party has the right to undergo a live hearing and cross examination in a separate room

Questions or evidence regarding a complainant's sexual behavior not relevant except in two areas

CROSS must be done: "directly orally and in real time"

CROSS must be done by an advisor (parties must each other), and if a party does not have their own advisor of choice at the live hearing school provides (at no fee or charge) an advisor of the school's choice, for [this purpose]

No need to be an attorney



Before a complainant, respondent, or witness answers a cross examination or other question, the decision maker(s) must first determine whether the question is relevant, less answers understood



■

Same opportunities to have advisors present...and participate in Title IX proceedings, subject to equal restrictions on advisors' participation, in recipients' discretion

May place restrictions on active participation by party advisors (except for cross)

Panel members SANS bias – implicit/explicit – research them

Diverse make up—think “jury of my peers”

Ideally panelists will have skills to conduct the hearing based on their training

Panelists reviewed post-investigation hearing file and conducted pre-hearing meeting with each other



Ask open ended questions—who, what, where, when, why, how describe—ideally the same for both parties

Review evidence/listen to testimony

Decide credibility of evidence and testimony

Apply policy to facts, deliberate





Review the hearing file — twice or more. Take notes

Think about what questions you have. Draft outline or questions ahead of time. Phrasing?

Reference page numbers in the report; note exact placement of statements you want follow up on and inconsistencies you noticed

Re-meet with other panelists to organize flow

■

Outline it by topic

Write out areas to cover —Drill down for details using the who, what, where, when, why how and describe method

Outline by chronology

Ask questions in order of the event. —Drill down

Confront inconsistencies when they come up as you ask questions; confront as a neutral fact gatherer—tone, language, and diplomacy (not like Perry Mason or AFewGoodMen).

Think of question asking like an organized conversation —You



Go from broad to narrow

Do not move from the topic until you explored all necessary detail.

Do not move from a question until it's been answered—actively listen

No apologies for hard questions—keep the flow moving

Do not judge—be careful with Why? questions

Do not repeat the answer after it's answered — this is likely a tic.

Do not ask hypotheticals

Keep your questions relevant — no curiosity questions

Character related questions



Do confront gently on contradictory evidence

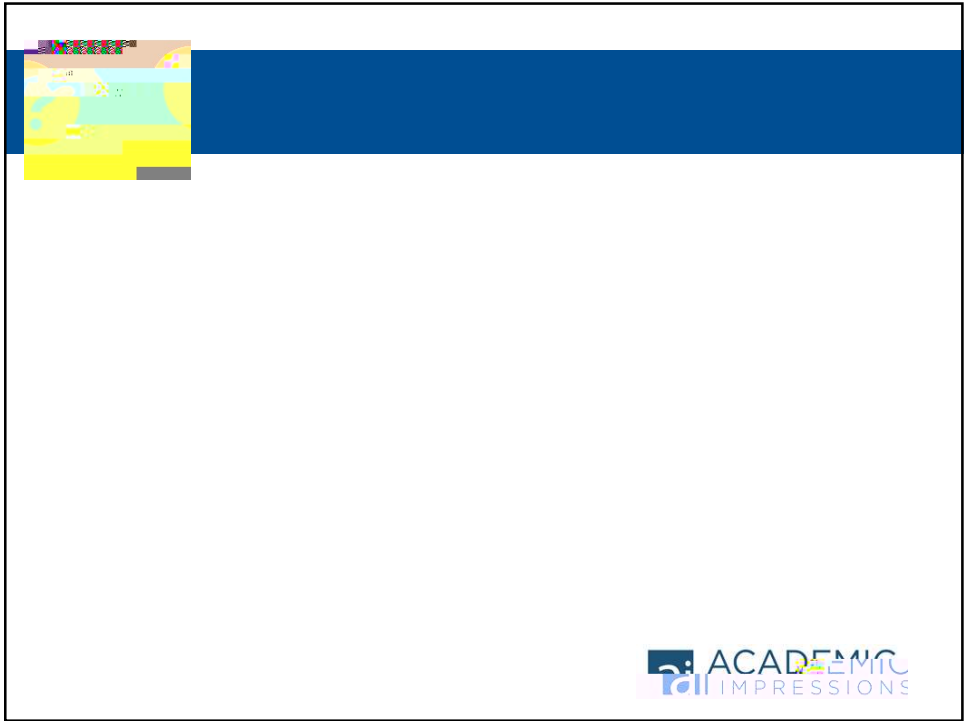
Do confront gently regarding inconsistencies in prior statements or to other witnesses

Do suss out information to determine credibility — bias, motive, and perception

Do ask questions that may corroborate other facts

Always ask questions regarding the elements of the policy









Confronting—Substance

Video/audio/photocontradiction

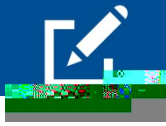
Review his/her version of events

“I’ve reviewed this video, and it appears to me that [George was right there]. Can you help me understand why the video shows that, but your statement contradicts it?”



Can remind them of the importance of the process and being truthful





Take a break near the end or at the end of each witness

Meet to discuss whether each panelist obtained the information they needed

Bring the witness back in and let them know that you have a few follow up questions OR that the panel has no further questions. If they're the last witness, you are done.

Thank and excuse them in a polite way (hearing coordinator hand off?).

Do NOT answer questions **



Midpanel – Julie, Zack, Milly

STRUCTURE

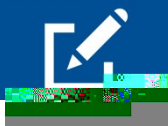
Re-meet/ organize – Volunteers take 15 minutes

Call the witness, introductions

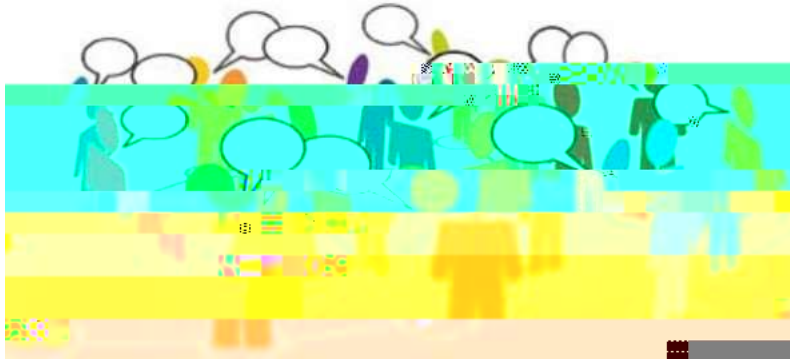
Establish rapport

Ask questions including cross

Close

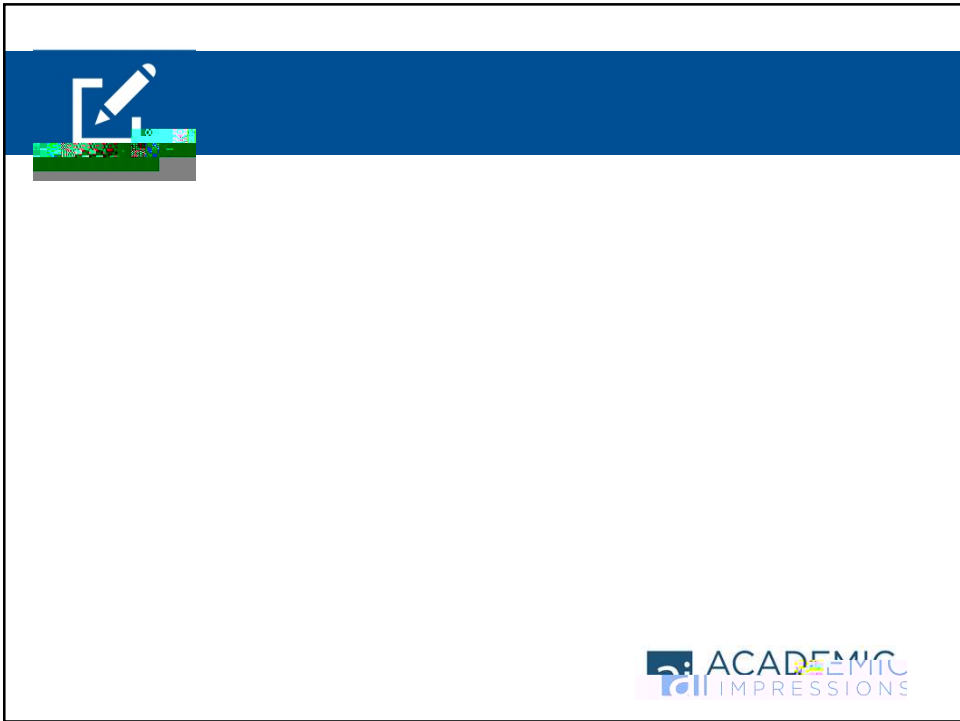
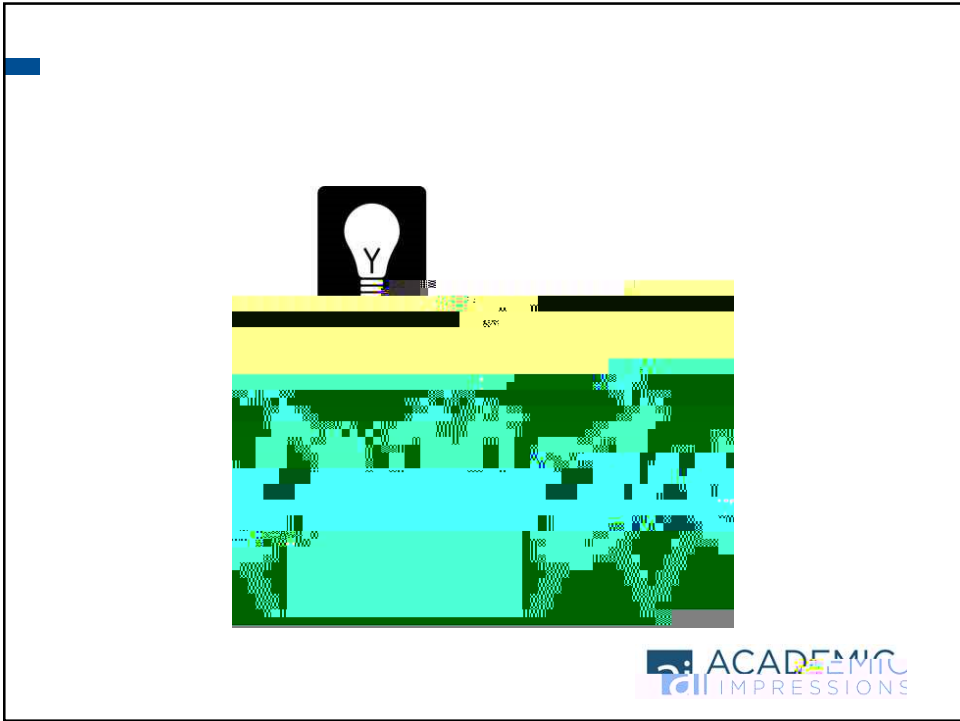


Please join us for a casual virtual social with fellow attendees, Jill, and Rabia!



What was your key takeaway from yesterday's training?





List important, undisputed facts

What facts are in dispute?

On which points are witnesses credible or not credible and why?

What do you think probably happened?

If that conduct happened, was there a policy violation?

- Take a vote

How should you organize your decision?

Reputation for truthfulness/ untruthfulness

Memory

Perception- Were they drunk? Could it see well?

Motive to lie - relationships

Bias

Demeanor

Other facts corroborate their version of events

Inconsistencies and explanations to those inconsistencies

Circumstantial evidence





Identify the legal to be resolved (the I of IRAQ);





- 1. Assess the person's testimony standing alone.**
- 2. Assess the person's testimony with evidence received from that person over time.**
- 3. Assess the person's testimony with testimony from others (consistent/inconsistent?).**
- 4. Assess the person's testimony with evidence received from others (e.g, video, documents, etc.).**



(A) Identification of the allegations potentially constituting sexual harassment as defined in 10630

(B) A description of the procedural steps taken from the receipt of the formal complaint through the

(D) Conclusions regarding the application of the recipient's code of conduct to the facts;

(E) A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the recipient imposes on the respondent, and whether remedies designed to restore or preserve equal access to the recipient's education program or activity will be provided by the recipient to the complainant; and

(F) The recipient's procedures and permissible bases for the complainant and respondent to appeal.

Start with the *vote?*

Then the *standard*

1. ALLEGATIONS

2. PROCEDURAL STEPS

3. FACTS FOUND

4. CONCLUSIONS MADE BASED ON POLICY

**5. RATIONALE AND DETERMINATION AND SANCTIONS
AND REMEDIES TO COMPLAINANT**

6. APPEAL RIGHTS



**Same panel deliberates — maybe same day,
recommend 27 days later to have time/space**

Use sanctions in your policy

Vote on them

Can start by voting on the lightest

**Can each secretly write out a sanction, then
group votes on each one**

**What is appropriate and consistent for this policy
violation?**






- 1. Instructions to Decision Makers**
- 2. Root Analysis & IRAC Model – Sexual Misconduct example**
- 3. IAI website: <https://implicit.harvard.edu>**
- 4. Outline development worksheet**



Establish rapport, gather facts slowly



Title IX Regulations Addressing Sexual Harassment (unofficial copy)
Title IX Regulations Addressing Sexual Harassment



**Please remember to complete the event evaluation
Your comments will help us continually improve the
quality of our programs**

