

PANEL TRAINING

Implicit Bias, Deliberations, and Sanctions

GOAL

Fair, consistent, and unbiased hearing outcomes.

FOCUS

Process, credibility, deliberation, and sanctioning.



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Fair and Consistent Resolutions

PROCESS

Follow the process required by policy.

EVIDENCE

Make credibility decisions based on evidence.

DELIBERATION

Deliberate carefully with fellow panelists.

DECISION

Creating a decision document that is thorough, unbiased, and consistent.



AWARENESS

Understanding Implicit Bias

- 01 Implicit bias involves automatic associations or assumptions.
- 02 Bias can affect how we interpret behavior, credibility, evidence, and harm.
- 03 Neutral decision-making requires awareness and intentional safeguards.



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EXERCISE

Bias Check Example

SCENARIO

One student blocks another from entering a room unless they give a kiss.

QUICK QUESTION

Was the person who blocked the door Male or Female?

TAKEAWAY

Initial assumptions may shape how we view pressure, consent, and credibility.



CASE STUDY

Doe v. Texas Christian University

*Inconsistent findings on similar
evidence*

- 01 Panel found Doe responsible for one incident but not another based on similar evidence.
- 02 Exculpatory evidence and motive-to-lie evidence were not adequately addressed.
- 03 The court found the process favored Roe and supported an inference of gender bias.



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Reducing Bias: What Works?

01

Structured Decision-making

Sticking to our policies and applying them equally to all parties

02

Individualization

Consider each individual separate from the groups that they belong to.

03

Changing the Facts

Ask yourself how swapping the sex of the individual, or the race of the individual would change your reaction



PRACTICE

Reducing Bias Through Better Questions

01

PREPARE

Prepare questions that focus on facts, timelines, and policy elements.

02

PROBE

Ask about inconsistencies when they matter.

03

AVOID

Avoid relying on assumptions, stereotypes, or unsupported impressions.



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CASE STUDY

Doe v. Oberlin College

Where unasked questions became the record

- The case turned on whether the respondent knew or should have known the complainant was too intoxicated to consent.
- Witness testimony differed from the investigative report.
- No panelist asked about key discrepancies.
- **The court found this supported a likelihood of improper gender bias.**



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Mitigating Bias when evaluating credibility

SEPARATE

Likability, confidence, emotion, memory gaps, emotional expression or presentation style from the statements made.

FOCUS ON

Facts, timelines, consistency, and corroboration.

WEIGH CAREFULLY

Demeanor may matter, but decide carefully how much weight it deserves.



Mitigating Bias with Structure

- Understand the scope of the issue you are being asked to decide
- Write out the things that you must believe—more likely than not—happened



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Deliberations

01

After the hearing, the parties and investigator are released.

02

The panel, chair, and legal counsel deliberate in closed session.

03

The panel decides whether a violation is more likely than not.

Preponderance means 50% plus a feather — not beyond a reasonable doubt.



METHOD

How to Deliberate Well



Review each alleged violation one at a time.



Use notes to identify credible facts and unresolved concerns.



Invite thoughtful disagreement and collegial debate.



Make sure the outcome is tied to specific evidence.



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Coming to a Determination

STEP 1

Identify the specific CRR provision at issue.



STEP 2

Break the provision into required elements.



STEP 3

Ask what must be more likely than not true.



STEP 4

Match credible evidence to each element.

Each element should be supported by articulatable facts



CLOSING

Why the Determination Matters

RESPONDENT

A respondent deserves to understand why the panel reached that result.

COMPLAINANT

A complainant deserves to understand the basis for a not-responsible finding.

THE RECORD

A clear decision helps show that the panel followed the evidence, policy, and process.



Sanctions and Remedial Measures

1. Sanctions:

- Applies to the Respondent
- To prevent future acts of discrimination or harassment in our educational programs, activities, and employment

2. Remedial Measures

- Applies to the Complainant
- To address the effects of the violations of the University's anti-discrimination policies



Who Decides the Sanctions?

Title IX

Students



Hearing Panel

Faculty



Hearing Panel

Non-MUHC Staff



Hearing Panel

MUHC Staff



AMC

CRR 600.030(S)

Equity

Students



Hearing Panel

Faculty



Provost

Staff



Equity HR & Supervisor

University



Equity Officer &
Administrator

CRR 600.040(S); 600.050(R)



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Sanctions: Factors to be Considered

- Is there a minimum sanction for this violation established in the sanctioning guide?
- The nature, severity, and circumstances surrounding the violation
- Need to prevent reoccurrence of the violation
- Need to bring an end to the conduct
- The disciplinary history of the Respondent
- The Impact of the effect on the Complainant or University community



Examples of Mitigating vs Aggravating Factors

Mitigating Factors

- Genuine remorse.
- The conduct was committed in error, by mistake, or was clearly unintentional.
- A request for leniency by the Complainant.
- Conduct was an error in judgment.

Aggravating Factors

- Lack of contrition.
- The Respondent has prior conduct violations.
- The Respondent was in a position of power or authority over the Complainant.
- Conduct included the use of force or physical violence, or the intentional administration of a drug or substance to the Complainant.



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The Sanctioning Guide

If the hearing panel finds a Respondent Responsible for Sexual Assault under 600.020.B.C

- The Respondent cannot remain on campus
- Suspensions can be time limited

If the panel struggles to impose a suspension, it's worth it to go back and reconsider the responsibility question.

- The panel can find that the actions of the respondent were inappropriate, but do not rise to the level of a title IX violation.
- If this is true, the panel can submit the case to student conduct for hearing and sanctioning under that process.



Examples of Student Sanctions - Guide

Definitions under CRR 600.020 (suggested sanctions are listed in order of severity):

- Hostile Environment: Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the University's education program or activity.

Suggested Sanctions: Warning < Probation < Suspension < Expulsion

- Sexual Assault: Any sexual act that constitutes rape, sodomy, sexual assault with an object, fondling, incest and statutory rape.

Suggested Sanctions: Suspension < Expulsion

- Dating Violence: Violence committed by a person (A) who is or has been in a social relationship of a romantic or intimate nature with the victim; and (B) where the existence of such a relationship shall be determined based on a consideration of the following factors: (i) the length of the relationship; (ii) the type of relationship; and (iii) the frequency of interaction between the persons involved in the relationship.

Suggested Sanctions: Probation < Suspension < Expulsion



Examples of Student Sanctions

Added Requirements

- Warning
- Probation
- Restitution to University
 - Service, money, or materials
- Discretionary Work
 - Work Assignment/Essay
 - Community Service
 - Educational Programming
 - Counseling
- Non-Contact

Exclusions

- Loss of Privilege(s)
 - Access to campus email, parking, rec center, dining, etc.
- Suspension from:
 - Residence Hall
 - Specific Campus
 - Entire System
- Expulsion from:
 - Residence Hall
 - Entire System
- Withdraw of Recognition



Examples of Faculty Sanctions

Added Requirements

- Warning
- Written reprimand in personnel file
- PIP
- Training/Education
- Counseling
- Move Office/Workspace
- Non-Contact

Losses

- Loss of annual pay increase
- Loss of privileges/duties
- Suspension
- Excluded from areas of campus
- Non-Renewal (NTT)
- Recommend termination (Tenured)



Examples of Staff Sanctions

Added Requirements

- Warning
- Written reprimand in personnel file
- PIP
- Training/Education
- Counseling
- Move Office/Workspace
- Non-Contact

Losses

- Loss of annual pay increase
- Loss of privileges/duties
- Demotion
- Suspension
- Excluded from areas of campus
- Termination



Remedial Actions

Student Complainant

- Retake a course
- Tuition reimbursement
- Remove a disciplinary action
- Educational accommodation
- On-Campus housing accommodation

Employee Complainant

- Remove disciplinary action
- Modify a performance review
- Adjustment in pay
- Change reporting relationship
- Workplace accommodation

Offer or require training and/or monitoring as appropriate to address effects of violations



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