

TITLE IX HEARING PANEL TRAINING

Sheila Judge, MS

Title IX Coordinator

Director of Accessibility Center for Success

sjudge@dillard.edu

504-816-4370

Dillard University
November 27-28, 2023

gender discrimination stalking consent trauma
relationship violence survivor abuse
mandatory reporter survivor #ME TOO
domestic violence sexual assault #ME TOO
sexual assault trauma
sexual partner violence consent abuse
relationship violence sexual assault
sexual assault bystander trauma
stalking survivor sexism abuse
#ME TOO consent abuse
trauma consent #ME TOO #ME TOO
survivor abuse #ME TOO
survivor abuse #ME TOO
stalking #ME TOO
bystander
sexual assault trauma
bystander #ME TOO
stalking consent #ME TOO
sexual assault #ME TOO
sexual assault consent abuse
sexual assault #ME TOO
domestic violence trauma
mandatory reporter sexism
mandatory reporter consent
gender discrimination stalking sexism
intimate partner violence bystander consent

TITLE

consent bystander gender discrimination
#ME TOO mandatory reporter
#ME TOO bystander
trauma stalking gender discrimination
#ME TOO survivor relationship violence
survivor mandatory reporter
consent bystander
sexism stalking
trauma #ME TOO sexual assault
#ME TOO sexism sexual assault
stalking mandatory reporter
bystander survivor
abuse #ME TOO
consent consent
abuse survivor
trauma survivor
sexism stalking
sexism bystander
consent sexism
trauma sexual assault
sexism sexual assault
trauma domestic violence
sexism domestic violence
consent mandatory reporter
consent mandatory reporter
survivor relationship violence
survivor relationship violence
trauma survivor gender discrimination
sexism survivor gender discrimination
#ME TOO stalking gender discrimination
bystander gender discrimination
intimate partner violence
consent bystander intimate partner violence
#ME TOO

What is Title IX?

- -Federal gender equity law
- -Title IX of the Education Amendments Act of 1972
- - 37 words upon which all of our policies are based.
- “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.”

Covered under Title IX

- **Dating Violence** - committed by a person who is or has been in a social, romantic or intimate relationship with the victim. Violence includes, but is not limited to, felony or misdemeanor crimes of violence as established by state and federal law.
- **Domestic Violence** - is felony or misdemeanor crimes of violence, including but not limited to the intentional use of force or violence, committed by a current or former spouse or intimate partner of the victim; a person with whom the victim share a child in common; or a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner.
- **Stalking** - is a course of conduct directed at a specific person that would cause a reasonable person to fear for their own safety or the safety of others; or suffer substantial emotional distress.
- **Sexual Misconduct** - as nonconsensual sexual intercourse, other sexual conduct (including attempted intercourse) without consent.
- **Sexual Assault** - is forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation. Such offenses include, but are not limited to Sexual Battery or Rape.
- **Sexual Exploitation** - is taking nonconsensual or abusive sexual advantage of another for one's own advantage, benefit, or edification or to benefit a person other than the one being exploited.
- **Verbal Sexual Abuse** - is language that is sexual in nature and unwanted on the part of another person and can be verbal or written, in person or over the phone.

- **Complainant –**

- someone who is alleged to be the victim of conduct that could be a violation of this policy (in the process, we always take in information from a complainant and treat them with dignity and believe what they say. We do not ask questions in a way that place blame on the victim. Example: why were you wearing that? Why did you go to the other person's room? Why did you invite the other person into your room?)

- **Respondent –**

- someone who has been reported or accused of conduct that could be a violation of this policy (in the process, the respondent is presumed to be innocent of the alleged misconduct and treat them with that regard while asking questions and gathering information. We do not pose questions that presume they are already found to be in violation.)

- **MUST ALWAYS PROVIDE EQUITABLE TREATMENT AND RESPECT TO BOTH COMPLAINANTS AND RESPONDENTS.**

Definitions from Title IX regulations

Dillard Title IX Policy, page 3

- -Complainant
- -Respondent
- -University Education Program or Activity
- -Formal Complaint
- -Sexual Harassment (page 4)
- -Supportive Measures

Consent

Dillard Title IX Policy, pages 5-6

- mutually understandable words/actions to indicate a willingness to engage in a specific sexual activity. **SILENCE ALONE IS NOT CONSENT.** Nonverbal consent can be unclear and lead to misunderstandings. Consent must exist from the beginning to the end of each instance. It is the responsibility of the **INITIATOR** to obtain the partner's consent.
- Consent must be knowing and voluntary. Person must be at least 17. Consent cannot be obtained through coercion (implied threats, intimidation, or force) that places someone in reasonable fear of harm or injury.
- Withdrawal of consent can happen at any time. Once consent is withdrawn, sexual activity must stop.
- Consent is automatically withdrawn when a person is no longer capable of giving consent (**incapacitated**, asleep, under the influence of alcohol/drugs)
- Current or prior sexual relationship does not imply consent.

10 Questions regarding Incapacitation

1. What type of alcohol did you consume? Over what period of time? How quickly? Did you eat? How much? When? Were you taking any medication?
2. Describe the impact of the alcohol.
3. Was the complainant conscious or unconscious?
4. Did complainant black out? Vomit?
5. Describe the complainant's condition when last seen.
6. Did complainant understand where s/he was going?
7. Could the complainant walk on own?
8. Could the complainant speak clearly?
9. What physical tasks was complainant performing?
10. Was complainant able to remove his/her own clothing?

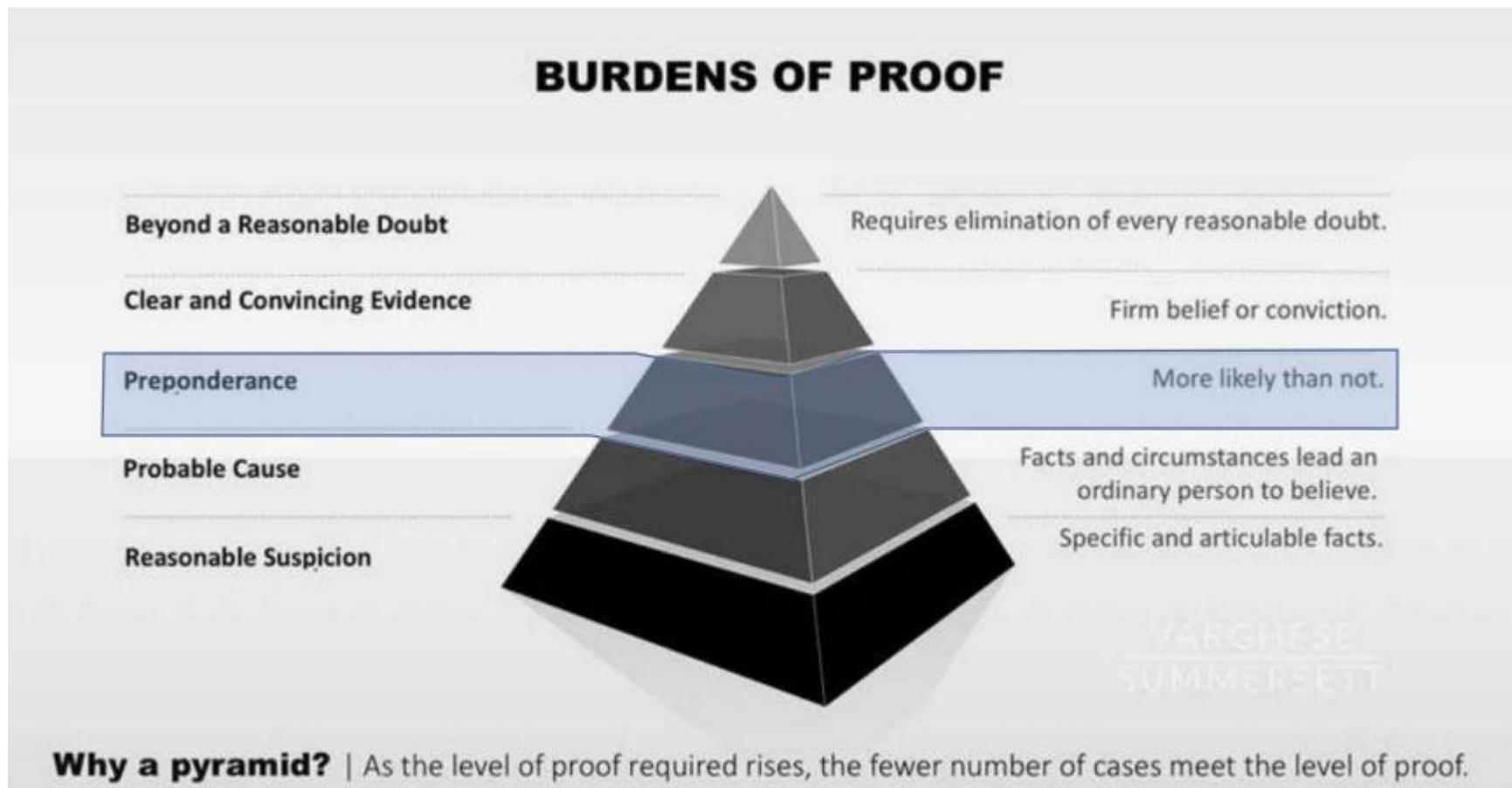
Prohibited Conduct

Dillard Title IX Policy, pages 8-11

- Dating Violence
- Domestic Violence
- Stalking
- Sexual Misconduct
 - Sexual misconduct
 - Sexual assault
 - Sexual battery
 - Rape
 - Sexual Exploitation
 - Verbal Sexual Abuse

Burden of Proof

Preponderance of the Evidence



Preparing for a Hearing

Bias

- Understand the role of bias in our own lives.
- Build your own self-awareness of bias toward others.
 - Both favorable and unfavorable bias toward others (gender, race, ethnicity, age, class, religion, ability status, social affiliation)
- **Explicit Bias –**
 - Based on prejudice and stereotypes intending to do so.
 - In this type people are very aware of their bias.
- **Implicit Bias –**
 - Based on prejudice and stereotypes without intending to do so.
 - This is an unconscious act or thought.

Think about...

- The relevant policy violation and the language
- Review all evidence, messages, and documents.
- What happened in the situation as presented in the report?
- What things do not make sense to you.
- What questions can you ask to clarify what is presented?
- What are some of the concrete facts?

Asking Questions

- Ask open ended questions that generate information then use follow up specific questions to clarify some specifics.
- Provide the person enough time to talk without interrupting or asking additional questions.
- You can provide a prompt for more information such as “Is there anything else you think is important?” “What else would you like us to know about...?”

Trauma Informed Questions

- A person who has gone through a traumatic experience may not be able to describe what happened in a logical or time relevant way. This does not mean they are being untruthful. If a question that asks a person to start from the beginning doesn't work, you can ask "Where would you like to start?" or "Tell me what you can remember."
- Sometimes questions related to the 5 senses can prompt someone to recall additional information. "What did you see?" "What did you hear?"
- When there is trouble recalling information, a specific question may prompt a memory recall and then you can ask more general questions. "Did the respondent touch you? How did the respondent touch you?"
- Using Trauma informed questions is not to fill in the blanks for them or not to assume because they can't recall critical details that they must have experienced trauma. Being "Trauma Informed" simply means that we don't automatically assume someone is a liar when they are unable to recall all of the critical details or can't do so in a time ordered way.

Previous Behavior

- In general questions or discussion about the party's sexual predisposition or prior sexual behavior are not relevant.
- Consent in a prior situation does not impact whether there was consent in this situation.
- The only time previous sexual history is relevant is if it sets a specific pattern of how consent was previously reached and how this situation was the same pattern.

Credibility

- If you have concerns that a person is not providing complete and accurate information, be sure to ask clarifying questions like “help me understand this” or “can you explain further?”
- If after questioning you still do not think it makes sense, be sure to keep that information and make notes of why this part does not make sense.
- **6 Factors to Consider**
 1. Compare verifiable facts to witness statements.
 2. Are there major inconsistencies in testimony?
 3. Do neutral witnesses corroborate or contradict?
 4. Are there documents such as diaries, calendar entries, journals, notes or letters describing the incidents?
 5. What have witnesses told others?
 6. Do any of the witnesses have a motivation to lie, exaggerate or distort information?

Evidence

- Ask questions about the evidence that was presented (pictures, messages, video surveillance footage, personal video, social media posts, witness statements, phone logs, police or medical reports).
- Investigators must also receive the appropriate training needed to create an investigative report that fairly summarizes relevant evidence.
- Inculpatory Evidence
 - provides information that would be inclusive of the allegation
- Exculpatory Evidence
 - provides information that would exclude the allegation

- **Cross Examination**

- This will happen with the advisor for each party asking cross examination questions of the other party or witnesses. These questions are allowed to be specific but not false or accusatory.

- **Finding of Fact and Deliberations**

- Work toward listing all of the things you “know” and what things are disputed so that you can work toward more factual or known things.
- Put everything together
- Analyzing whether a violation of policy occurred (not the law)
- Discuss each allegation and your decision on each
- Be able to explain your reasoning
- Be ready to discuss what makes sense and what doesn't make sense.
- Listen to how the other panel members heard and understood the same information but may have a different perspective.
- Be ready to build consensus by both listening and respecting what the other panel members have to share, but also be ready to share how you see things and what makes evidence or statements make you think that way.

TITLE IX HEARING PANEL TRAINING

Sheila Judge, MS

Title IX Coordinator

Director of Accessibility Center for Success

sjudge@dillard.edu

504-816-4370

Dillard University
November 27-28, 2023