

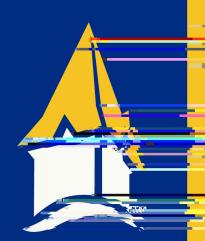
UNG Sexual Misconduct Training for Volunteers



Misty McDonald

Title IX Coordinator

Richelle

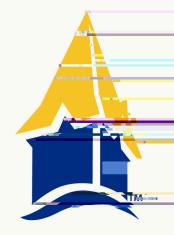


What do you want to know or understand by the end of the presentation?





Overview





The University of North Georgia is committed to providing a safe work, learning, and living environment free from Sexual Misconduct, assault, harassment, discrimination based on sex, sexual orientation, or gender-related identity.



General Definitions

- Complainant A student or employee alleged to have experienced conduct that violates the UNG Sexual Misconduct Policy.
- Respondent A student or employee alleged to have engaged in conduct that violates the UNG Sexual Misconduct Policy.
- Advisor An individual who may attend any portion of the conduct process at the request of a Respondent or Complainant to advise their Party. The Parties may have anyone serve as their Advisor, including an attorney (at their expense).





Scope: Title IX vs. Non-Title IX

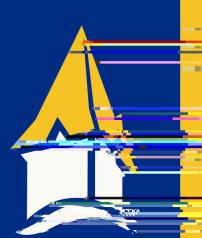
Title IX Scope

 Location: In the United States, on University property, or at University-sponsored or affiliated

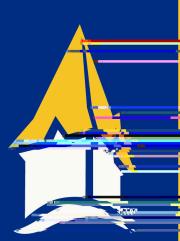


Prohibited Conduct

- Sexual Harassment
- Dating Violence
- Domestic Violence
- Stalking
- Sexual Exploitation
- Non-Consensual Sexual Contact
- Non-Consensual Sexual Penetration







Sexual Harassment: Other than Student on Student





Dating Violence

Violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the Complainant.

Dating violence includes but is not limited to...

- Sexual or physical abuse
- Threats of sexual or physical abuse

Note: The existence of such a shall be determined based on the totality of the circumstances (i.e., length of the relationship, type of relationship, frequency of interactions between the parties).





Domestic Violence





Stalking

Engaging in a course of conduct directed at a specific person that would cause a Reasonable Person to fear for their safety or the safety of others or suffer substantial emotional distress.

- A course of conduct means two or more acts, including, but not limited to, acts in which the stalker directly, indirectly, or through third parties, by any action, method, device, or means, follows, monitors, observes, surveils, threatens, or communicates to or about a person, or interferes with person's property.
- Substantial emotional distress means significant mental suffering or anguish that may but does not necessarily, require medical or other professional treatment or counseling.





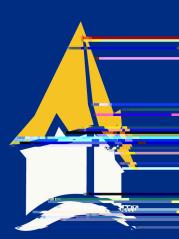
Sexual Exploitation

Taking non-consensual or abusive sexual advantage of another for one's own advantage or benefit or for the benefit or advantage of anyone other than the one being exploited. Examples of sexual exploitation may include, but are not limited to, the following:

- Invasion of sexual privacy;
- Prostituting another individual;
- Non-Consensual photos, video, or audio of sexual activity or intimate body parts;
- Non-Consensual distribution of photo, video, or audio of sexual activity or intimate body parts, even if the sexual activity or capturing of the activity was Consensual;
- Intentional observation of non-consenting individuals who are partially undressed, naked, or engaged in sexual acts;
- Knowingly transmitting an STD or HIV to another individual through sexual activity;

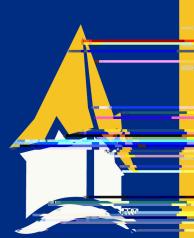






Non-Consensual Sexual Contact

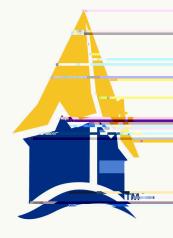




Non-



2022 Statistics for UNG





Demographics of Complainants

Status

- Students 160
- Faculty 1
- Staff 2
- Unaffiliated 3
- Unknown 0

Affiliations

- Corps of Cadets* 10
- Fraternity/Sorority* 11
- Student Athlete 5

Gender

- Female 147
- Male 16

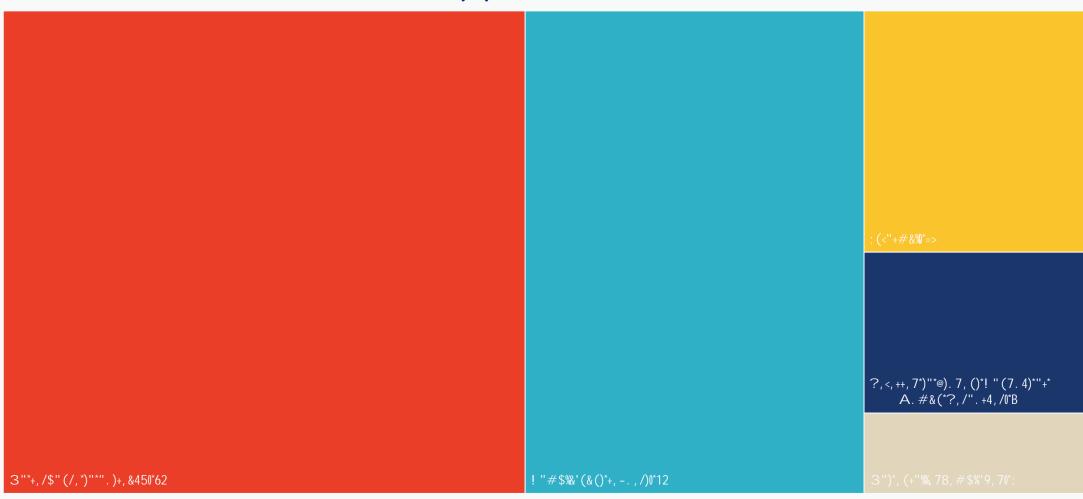
^{*} Two are both in the Corps and are in a fraternity/sorority

Demographics of Respondents

Status



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Data from 2022 reports

Grievance Process





Reporting



Reporting

- Reporting can be done by way of the online Sexual Misconduct Reporting form, any online form, email, phone, in-person, or telling a mandatory reporter.
- Mandatory employees include all administrators, supervisors, faculty members, and other employees who are not confidential or privileged employees. Students such as teaching assistants, graduate assistants, residential assistants, student managers, and orientation leaders are considered mandatory reporters.
- Reports should include as much information as possible (names, dates, description of allegations, evidence, etc.).
- They can be made anonymously. However, this may limit the University's ability to respond to the anonymous report. Mandatory Reporters must disclose all information shared with them and cannot submit anonymous reports.

Outreach

- Immediately after receiving a report, the Title IX Coordinator will reach out to the Complainant (if known); if unknown, the outreach will be made to the reporter.
- The outreach communication which includes resources, rights, and an offer to meet.
- The Respondent will be sent the same information in the Title IX Coordinator's initial communication.



Privacy and Confidentiality

Privacy

- Generally speaking, the information related to a report of misconduct will only be shared with a limited circle of individuals who have a legitimate need to know the information to assist in the response, investigation, and resolution of the complaint.
- While not bound by confidentiality, these individuals will be discreet and respect the privacy of all individuals involved in the process.

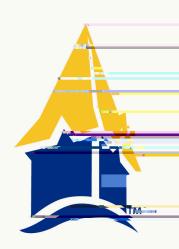
Confidentiality

 Confidentiality is not the same as privacy. Confidentiality means that the information shared with a specific employee or outside professional cannot be disclosed to others without the express permission of the individual who shares the information. They are obligated by law to maintain confidentiality, subject to that office's stated terms of confidentiality.



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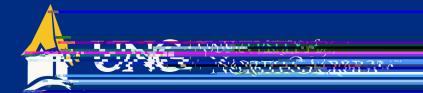
- Information a Student reports during an investigation concerning the consumption of alcohol or other drugs will not be used against the Student in a disciplinary proceeding (i.e., Student Code of Conduct) or voluntarily reported to law enforcement. Amnesty for Employees is at the discretion of Human Resources.
- Amnesty may not apply in situations where alcohol or other drugs were used as a tool to facilitate a violation of this Policy.
- Students and Employees may be given resources on counseling and/or education related to alcohol and other drugs.





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Title IX Coordinator reaches out to the Complainant to provide resources, offer support, and invite them to meet to obtain additional information and discuss options.



Review for Dismissal

Title IX Coordination can dismiss a report on the following grounds:

- The alleged conduct, on its face or as clarified, would not constitute a violation of the Sexual Misconduct Policy.
- The Complainant provides written notice that they want to withdraw the complaint or allegation(s).
- The Respondent is no longer enrolled or employed by the University. If the Respondent was enrolled or employed at the time of the conduct, a dismissal will be considered but is not required.
- Circumstances that may prevent the University from gathering relevant evidence sufficient to reach a determination regarding the complaint.

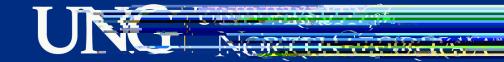
A report that does not meet the Title IX scope (i.e., the location where the conduct occurred) will be dismissed under Title IX and reviewed under the general dismissal reasons.



Role of Advisor







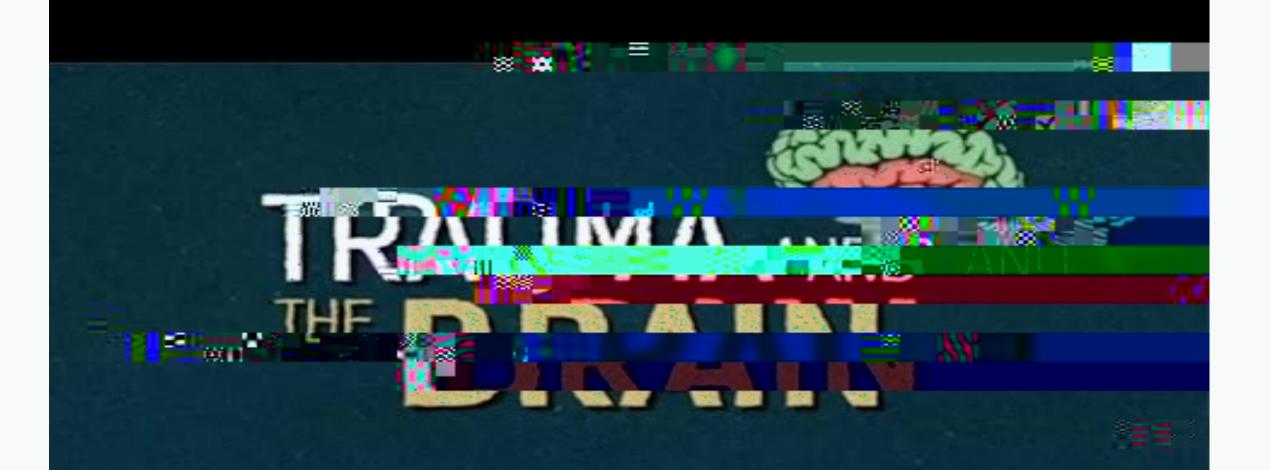
Right to an Advisor

- Both parties have the right to have an advisor through the entire grievance process
- They attend meetings and provide advice and counsel, which may include providing questions, suggestions, and guidance.
- They cannot actively participate in the process (e.g., speak on the party's behalf.
- Communication will be with the party, but the advisor may be copied with the party's permission.
- Their role at a hearing is dependent on whether it is a Title IX case or a Non-Title IX case. In Title IX cases, the advisor conducts the questioning.

Trauma and the Brain









Impact of Trauma:

• Memory Consolidation:



Impact of Trauma (cont'd)

- Memory Gaps: Some individuals may experience memory gaps or amnesia for certain parts of a traumatic event. These memory gaps can be a protective mechanism, as the brain may suppress or block out particularly distressing details to reduce emotional distress.
- Hyperarousal and Hypervigilance: People who have experienced trauma might also exhibit heightened states of arousal and hypervigilance. This hyperarousal can make it challenging to concentrate and recall information accurately, as their attention is often focused on potential threats in the environment.
- Triggers: Trauma-related memories can be triggered by various stimuli, such as sights, sounds, or smells associated with the traumatic event. These triggers can lead to a flood of emotions and memories, further affecting memory recall.

Alternative/Informal Resolution







Alternative/Informal Resolution

Alternative Resolution is for Non-Title IX, and Informal Resolution is for Title IX.

• The difference is that informal resolution requires a formal complaint to be submitted, and the Respondent cannot be an employee.

The processes require that:

- The Respondent received a notice of the allegations.
- The Complainant, Respondent, and the University agree to enter into the process.
- All parties agree on the terms of the resolution.

At any point, either party can request an investigation, the Complainant can request no action, or the Respondent can accept responsibility.

The final terms are sent to the parties if and when an agreement is made. The agreement can not be appealed.

Investigation







After the investigation

- The investigators compile a comprehensive report, summarizing the gathered information, delineating relevant evidence, and offering considerations for the decision-makers.
- The report is distributed, and the parties have ten (10) business days to review it and respond with:
 - Response options
 - Either party can request a hearing

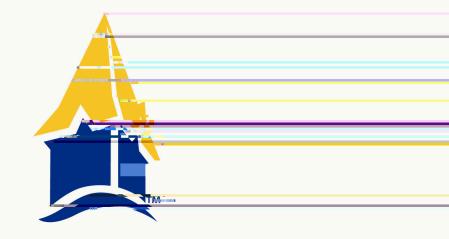
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After the investigation (cont'd)

- After responses are received, the investigators can either open the investigation or finalize the report.
- The final report is submitted to the Title IX Coordinator for next steps.
 - Move to the sanction-only process
 - Start the alternative/informal resolution process
 - Close the case
 - Move to Formal hearing

Formal Hearing





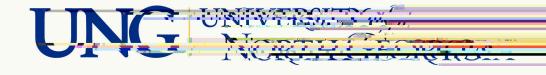
Key Information

- The hearings are live but done via Zoom.
- Typically, there are three (3) hearing panelists. Of which the parties can challenge for bias or conflict of interest.
- Rules of Decorum are in place for the hearing.



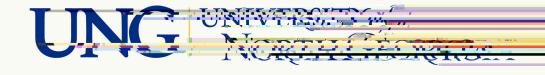
During the hearing

- The Chair serves oversees the hearing, deliberation, and determination. They also answer procedural questions. They are not decision-makers.
- The Complainant and Respondent are given equal opportunity to speak.
- Witnesses can be called by either party. The investigator may also testify as a witness regarding the report.
- The parties have the right to question the other party and witnesses.
- In Tile IX cases, the advisor asks the questions. In Non-Title IX cases, the party asks the questions.
- The University must provide an advisor if a party does not have an advisor for a Title IX hearing.

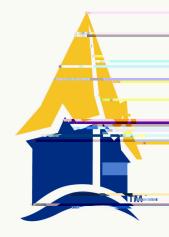


After the hearing

- The hearing panel will deliberate in private.
- Using the preponderance of evidence standard (more likely than not), they will determine if there was a violation of policy.
- The panel will move to the sanctioning phase if the Respondent is deemed responsible.
 - Imposes sanctions for a student Respondent.
 - Recommends sanctions to Human Resources for an employee Respondent.
- A decision letter, with rationale, is prepared for distribution to the parties.



Appeal Process





Appeals

Both parties have the right to appeal the determination of responsibility and the imposed or recommended sanctions.



Appeals for Employee Sanctions

The hearing panel offers recommendations for sanctions concerning employees rather than directly imposing them.

These recommendations are subsequently forwarded to the Human Resources



Closing Cases

Closure letters are sent when

- The Complainant does not want any action.
- The case is dismissed.
- An agreement was reached through the alternative/informal process.
- A final determination has been made on the case.

All documents or items related to the report are kept on file for seven (7) years.





Questions or Comments?





UNG Sexual Misconduct Investigator Training



Misty McDonald

Title IX Coordinator

Richelle Keilholz, Ed.D.

Assistant Dean of Students, Student Conduct & Integrity

Role

The role of an investigator in Title IX cases is critical in upholding the principles of fairness, due process, and the prevention of sex-based discrimination and harassment in educational settings.

Their work contributes to creating a safe and inclusive environment for all students and employees.



Role (cont'd)

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Role (cont'd)

- 7. Reviewing Policies and Procedures: Investigators should be well-versed in the institution's policies and procedures related to Title IX. They ensure that the investigation complies with these guidelines and any legal requirements.
- 8. Report Preparation: After gathering all the necessary information, investigators prepare a detailed report summarizing the findings of the investigation. This report may include a narrative of the events, relevant evidence, and witness statements.
- 9. Adhering to Timelines: Investigators should work within established timelines and deadlines to complete the investigation promptly.



Bias



Recognize and Address Bias

• Awareness:



Recognize and Address Bias (cont'd)

- Diverse Input: Seek out diverse sources of information and engage in conversations with people who have different perspectives. This can broaden your understanding and reduce the impact of bias.
- Objectivity: Strive for objectivity in your decision-making. Base your judgments and



Impact of Bias

Bias during an investigation can have significant and far-reaching consequences, potentially undermining the integrity and fairness of the process. Here are some of the key impacts of bias during an investigation:





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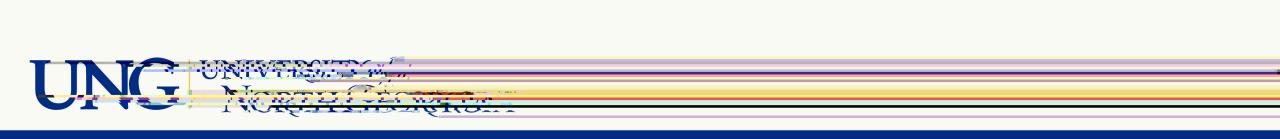
Develop an investigation plan

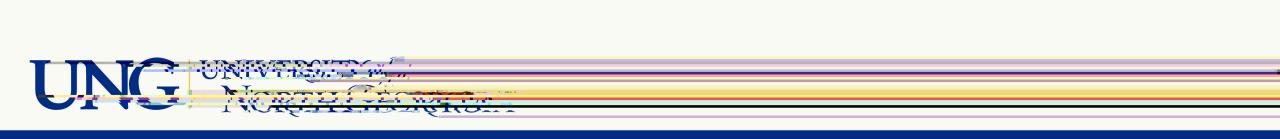
- Review the Sexual Misconduct Policy and relevant procedures
- Review the Formal Complaint
- Gather preliminary evidence (e.g., any statements, police reports, documents, etc.)
- Determine sources of additional evidence and how to get it
- Identify witnesses
- Determine the order of interviews
- Develop preliminary questions
- Identify on what pieces the parties are believed to agree and disagree



Consider the Physical Setting







Setting the Stage

- Begin with a clear introductions and explanation of your role.
- Acknowledge the emotional difficulty that all parties involved may be experiencing. If necessary, offer access to supportive services and resources.
- Provide information on the university's policies regarding retaliation and amnesty.
- Explain your commitment to conducting a comprehensive, prompt, and impartial investigation.



Setting the Stage (cont'd)

- Refrain from making promises that cannot be upheld and ensure that promises made are kept.
- Be transparent about the possibility of needing follow-up interviews or additional discussions.
- Set an expectation for honesty and truthfulness.
- Discuss the parameters of confidentiality and what information can and cannot be kept private.



Environment (cont'd)

- Employ moments of silence, particularly when addressing challenging questions.
- Consider taking breaks when necessary to ensure a productive and comfortable atmosphere.
- When faced with confrontational interviewees, avoid mirroring their demeanor; instead, remain calm, take a pause, and redirect the conversation.
- Acknowledge the significant emotional weight and impact on everyone involved.



Your Mannerisms (cont'd)

- Uphold professionalism consistently throughout the process.
- Adopt an impartial and trustworthy approach rather than a prosecutorial one, with the goal of establishing an accurate account of events to the best of your ability.
- Remain authentic in your communication style.
- Prioritize active listening, focusing on the response rather than anticipating the next question.



Keep the Goal in Mind

The primary objective of the investigation is to gather facts, allow both parties to voice their perspectives, and facilitate the submission of evidence and witness statements for a comprehensive understanding of the incident(s). To giTm /TT-O(h) -O(i) 2(s) -2()]TJET O(2002) m BT 50000 Tr



Notes

- Throughout the interviews, meticulously document each person's statements. It can be handwritten or electronic.
- Employ quotation marks to accurately capture the interviewee's precise words.
- Be sure to include the interview date and list the individuals present.
- Notes must be kept in the case file. They may be subject to disclosure.
- Interviews are recorded for reference purposes.
- For best practices:
 - Allocate dedicated time for the careful review and transcription of the interview summary.
 - Provide a draft of the interview summary to the participants, allowing them the opportunity to review and make any necessary edits.



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Trauma Informed Interviewing







- Prioritize a private and comfortable setting for the interview.
- Promote the use of a support person for the interview and as an ongoing source of assistance.
- Steer clear of rehashing traumatic narratives and be cautious with potentially triggering terminology (e.g., "What were you wearing at the time of the incident?")
- Refrain from presenting visual or graphic materials that could potentially retraumatize them.

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(cont'd)

- Transparency about role and process
 - Use plain language and detailed information. It helps establish trust and make them feel at ease.
- Control choice
 - Examples where the interview is to be held, where they set, tell them they can ask for breaks or stop
 the interview
- Follow their lead and minimize interruptions
 - · Asking where they want to start or tell them to share what they feel comfortable sharing
- Maintaining rapport
 - Throughout the interview acknowledge that you know this is difficult; thank them for sharing
- Neutral, non-direct language
 - Avoid why questions



Trauma Informed Interviewing Tips (cont'd)

- Use sensory memories
 - Smells, sounds, tastes, sights, or touch
- Environment and safety
 - Easy access for them to leave the interview space; use of a support person
- Give warning about difficult questions
 - Ask them if it is okay to talk about a specific item
- Ask follow-up questions in the first interview
 - Follow-up can cause stress
- Debrief, reflect and learn
 - Talk to a colleague about the interview for reflection and decompressing



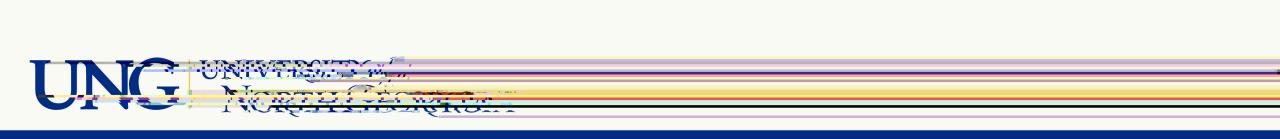
- Promotes thorough and comprehensive investigations.
- Aids in the recollection of details.
- Provides support in recounting events.
- Decreases the risk of inaccurate or false information.
- Minimizes the potential for unnecessary re-traumatization.
- Mitigates bias in the investigative process.



Misapplication of Trauma-Informed Interviewing

- Distorting the interpretation of a specific piece of evidence.
- Attempting to replace missing or unavailable evidence with assumptions or conjecture.
- Providing a rationale for avoiding a comprehensive and thorough investigation.
- Creating a biased perception regarding the credibility of one or more parties involved.





Effective Questioning

When crafting questions, focus on gathering pertinent information, including the "Who, What, When, Where, and How" aspects of the incident.

- Initiate the conversation with neutral, non-judgmental, and open-ended questions that pertain to the incident.
- Steer clear of close-ended questions, as open-ended ones encourage detailed responses.
- Use clarifying questions as needed. For instance, you might say, "Just to clarify, you mentioned that you
 did x, y, z on..."
- Do not assume you know what they mean. "We had sex." "When you say "sex" what does that mean?" You want to ascertain the type oral (who to whom), vaginal, anal, etc.
- Allow them to speak without interruption and save follow-up questions for later.
- Explore the same subject by phrasing questions in slightly different ways to assess consistency in the responses. This helps identify discrepancies or scripted answers.



Asking the Hard Questions

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Closing the Interviews

At the end of the interview, it is essential to:

- Acknowledge that the conversation may evoke challenging emotions or address sensitive topics.
- Express empathy while using language that underscores the neutrality of the investigative process.
- Conclude by expressing gratitude for their participation, and provide information on the subsequent steps in the process.
- Remind them they can provide additional information if they recall further details.
- Refer individuals back to the Title IX Coordinator for access to supportive measures and additional resources as needed.



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Complainant Question Development

When crafting questions, consider the following criteria:

- Will the response to this question contribute to my comprehension of whether a policy violation has taken place?
- How will the answer to this question shed light on whether the individual's actions align with the definition of a violation?
- Does the information I am seeking serve the purpose of understanding either the individual or the incident, or does it aid the panel in making an informed decision?

These questions help ensure that the inquiries are relevant and focused on the key aspects of the investigation, promoting clarity and efficiency in the process.



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Avoid questions that imply fault or that suggest victim blaming:

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- How did the respondent get your clothes off without a struggle?
- Did you say "no" like you meant it?
- Were you flirting with the respondent that evening?
- What were you wearing that evening?
- If you do not remember everything that happened that night, how are we supposed to know what happened?



Respondent Interview

Remember:

- Acknowledge that the Respondent may also be experiencing considerable stress, similar to the Complainant.
- In some instances, the complaint may come as a surprise to the Respondent.
- Emphasize that the Complainant and Respondent are entitled to the same respect and consideration.

Do:

- Uphold principles of fairness and equity as fundamental to the process.
- Ensure that the same trauma-informed approach is used for the Respondent.
- Strive to corroborate the information provided by each party.



Respondent Interview (cont'd)

Say:

- Explain to them that a complaint has been filed and set forth the process involved in an investigation of this nature
- Describe the basis for the complaint and the behaviors alleged and by whom (confidentiality permitting)
- Stress the presumption of not being responsible.



Questioning Witnesses

- Only share with the witness the details of the investigation and the complainant that are needed to conduct the interview.
- Ask the witness if they have spoken with anyone about the matter or investigation.
- Inquire about what they have seen (posts, text messages, etc.) and heard (from either party or witnesses).
- Request documents or other evidence that may be helpful in your investigation.
- At the end, ask the witness if he or she feels that you should speak with anyone else.



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Steps to Address Reluctance

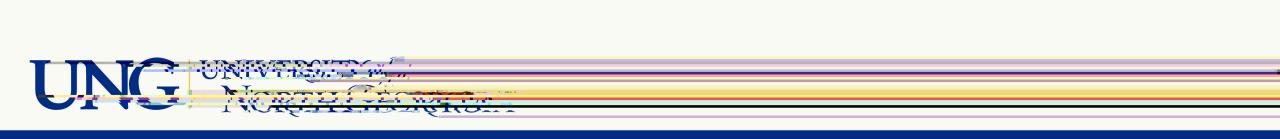
- : Create a comfortable and non-confrontational atmosphere to encourage openness.
- : Clarify the investigation process and the participant's rights and protections. Ensure they understand the purpose and the importance of their involvement.
- : Listen to their concerns and reasons for reluctance. Validate their feelings and empathize with their situation.
- : Assure them of the support available throughout the process, including counseling, advocacy services, etc.
- : If they are uncomfortable with a particular aspect of the process,



Challenge a Lying Participant

- Gather Evidence
- Remain Neutral and Respectful
- Ask Clarifying Questions





Requirements for Collection

Institutions are required to ensure that both parties have an equitable chance to present evidence and call witnesses during the investigative process. Throughout the investigation, institutions should actively seek out pertinent evidence and be open to receiving both "relevant" and "directly related" evidence from all involved parties. Evidence includes:

- Inculpatory evidence: evidence showing or tending to show one's involvement in misconduct.
- Exculpatory evidence: evidence tending to establish innocence.



This Process Does NOT Use Rules of Evidence

The "rules of evidence" refer to the established principles and guidelines that govern the admission and use of evidence in legal proceedings, such as trials and hearings. These rules are designed to ensure that the evidence presented is reliable, relevant, and fair.

Formal rules of evidence do not apply. Evidence should be admitted if the information is relevant to prove or disprove a fact. If credible, it should be considered. Certain types of evidence may be relevant to the credibility of the witness but not to the charges.

This means the process cannot exclude:

- Redundant evidence
- Character evidence
- Hearsay
- Evidence where the probative value is substantially outweighed by the danger of unfair prejudice



Types of Evidence

Direct Evidence: Statements, documents, or testimonies directly linking an action or event to discriminatory behavior, such as emails, text messages, or explicit statements.

Circumstantial Evidence: Indirect evidence that requires inference, such as patterns of behavior or the timing of events.

Witness Testimony: Statements and accounts from individuals who observed or have knowledge of the alleged incident.

Documentary Evidence: Any written or recorded materials that may be relevant, including emails, texts, letters, or official reports.

Physical Evidence: Tangible items – photographs, videos, or physical artifacts that support or refute a claim.



Types of Evidence (cont'd)

Expert Testimony: Statements from professionals who can provide their expertise on specific matters related to the case, such as medical experts or forensic analysts.

Character Evidence: Information about the character or reputation of the individuals



Sources of Evidence

- Documentary evidence (supportive writings or documents police reports, medical records)
- Statements (Complainant, Respondent, witnesses)
- Electronic evidence (photos, text messages, videos, social media posts)
- Real evidence (physical object, clothing)
- Direct or testimonial evidence (personal observation or experience)
- Circumstantial Evidence (not eyewitness, but compelling)
- Hearsay Evidence (statement made outside the hearing but presented as important information)



Relevant vs. Irrelevant

Defining relevant and irrelevant evidence is essential for maintaining the focus of the investigation, preventing the process from becoming overly burdensome, and ensuring that decisions are based on pertinent information.

Relevant Evidence: Information that has a direct bearing on the key issues of the investigation. It is evidence that is material to the allegations or the defenses presented. Relevant evidence helps in proving or disproving the facts under consideration and is essential for making an informed decision. Includes *directly related evidence* obtained from any source that pertains to the allegations, even if the university does not plan to use it in determining responsibility

Irrelevant Evidence: Information that does not directly connect to the investigation's core issues. It does not contribute to establishing or refuting the allegations or defenses and, therefore, should not be considered when making a determination.



Determining Relevancy

Relevant evidence is "evidence pertinent to proving whether facts material to the allegations under investigation are more or less likely to be true."

- Determining if a question is relevant is made by applying logic and common sense, not against a backdrop of legal expertise.
- Objective or corroborating evidence is not required. Some situations have no eyewitnesses and complete plausible narratives. Such situations must still be evaluated through objective evaluation of relevant evidence regardless of whether the available relevant evidence consists of the parties' statements, witnesses, or other evidence.



Restricted or Inadmissible Evidence

Information Protected by Privilege: Privileged communications, such as attorney-client privilege, doctor-patient privilege, and dergy-penitent privilege, are generally protected from disclosure without being waived.



What is Sexual Behavior

Sexual behavior connotes all activities that involve actual physical conduct, i.e., sexual intercourse and sexual contact, or that imply sexual intercourse and sexual contact, including the victim's use of contraceptives, evidence of the birth of a child, and sexually transmitted diseases.



Factors Impacting Weight of Evidence

Reliability

- Information that can be trusted
- Comes from individuals who are able to have assumed the role they claimed to have or those
 with actual training or experience to support their claim of expertise

Persuasiveness

- Induces others to believe through understanding; tries to convince
- It must be believable and consistent to establish a dependable narrative

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What Makes a Good Report

- Clarity: The report should be well-organized, with clear headings and subheadings, and written in plain language. It should be easily understood by all relevant parties, including those without a legal background.
- Objectivity: The report must maintain impartiality. It should present facts and findings without bias or favoritism toward any party involved in the investigation.
- Comprehensiveness



Writing Good Statement Summaries

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Distribution of the Report

- The report is distributed, and the parties have ten (10) business days to review it and respond.
- They are invited to give feedback on the content of the report



Hearing

- Investigators are considered witnesses in a hearing.
- Should either party or the hearing panel wish to question you, you need to make yourself available during the hearing.



Remanded

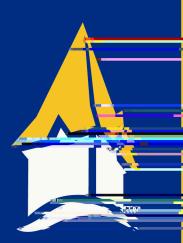
- During the appeal process, the appellate officer can elect to return the case for further investigation. This is typically due to additional information being available that could affect the outcome of the case.
- The investigators would review the evidence, conduct any further investigating, and write a new investigation report.
- The report would go through the process as before (i.e., being reviewed by the parties).





Questions or Comments?



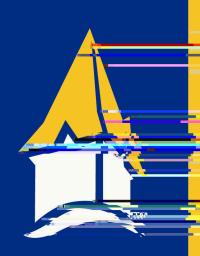


Please give us your feedback on the presentation.





I will email you the presentation for your records.



UNG Title IX Website

Sexual Misconduct Policy

Sexual Misconduct Grievance Procedures

Sexual Misconduct Emergency Removal Procedures

