

HEARING OFFICER AND DECISION MAKER TRAINING

Southern Utah University

August 13 & 14, 2020

Thursday August 13, 2020:

09:00: Welcome

09:15 – 10:15: Title IX, A Guide for Decision Makers in Sexual Harassment Cases (Christine Hashimoto).

10:15 – 10:30: Break

10:30 – 12:00: Relevance, Admissibility & Credibility, Part 1 (Daniel Widdison).

12:00 – 1:00: Lunch Break

1:00 – 2:00: Relevance, Admissibility & Credibility, Part 2 (Daniel Widdison).

2:00 – 2:15: Break

2:15 – 4:15: Reaching & Writing the Decision (Jaqualin Peterson).

4:15 – 4:30: Introduction to the Scenarios (Alain Balmanno).

Friday August 14, 2020:

9:00 – 1:00: Scenarios - Participants Interactive Workshop (Scenarios #1-4) (Alain Balmanno). Breaks will be taken between scenarios.

The Panel of Experts: Christine Hashimoto, Daniel Widdison, Jaqualin Peterson.

HEARING OFFICER, DECISION MAKER TRAINING OUTLINE

Preliminary Matters: Christine

Definition of sexual harassment in § 106.30

Scope of the school's education program or activity

Conducting Hearings: Christine

Structural aspects of a hearing

Developing the record (video or audio)

Judicial demeanor and temperament

Controlling disruptions

Culture of respect

Working with advisors

Procedural due process essential elements

Decision Writing: Jaqualin

Facts

Rules

Findings

Decision

Logic for decision-making

A final decision must contain:

1. Report of the portion of the school's policies that were violated
2. A description of the procedural steps that were taken by the school up to that point
3. Findings of fact
4. Conclusion – applying the facts to the portion of the school's policy that applies
5. A statement and rationale for the ultimate determination and responsibility
6. Any disciplinary sanctions that the school will impose on the Respondent and state whether the school will provide remedies to Complainant
7. A statement and rationale for any remedies for the Complainant addressing how those remedies will restore or preserve equal access
8. A state of the school's procedures, a statement that the parties have a right to appeal the initial determination regarding responsibility, and the permissible bases for appeal

Equity and Inclusion: Jaqualin

Prejudice and you

Biases (explicit and implicit)

- Conflicts of Interest

Independence, impartiality, & integrity
Diversity and multiculturalism

Evidence: Daniel

Burden of proof

Evaluating evidence

Relevance

Rape Shield – When is a Complainant’s prior sexual activity relevant

Hearsay

Basic rules of evidence

Witness/Evidence Credibility: Daniel

Exploring basic assumptions of credibility

Witness self interest

Demeanor evidence and credibility

Excluding testimony of witnesses who do not submit to cross-examination

Questioning and cross-examination

Use of Technology

Decision makers must be trained on any technology to be used in a hearing

Non-Attorneys - Legal Research:

Call your legal advisor

Practical exercises Alain