

Title IX Decision Maker Panel Training

Agenda

- Training Requirements
- TIX Scope and Jurisdiction
- TIX Definitions
- TIX Grievance Process
- TIX Formal Investigation
- TIX Decision Making
- Roles and Responsibilities
- Due Process
- Understanding Evidence
- Understanding Credibility
- Definition of Consent
- Standard of Evidence
- Written Determination
- Sanctioning
- Appeal
- Record Keeping

Decision Maker Training Requirements

- Definition of sexual harassment
- Scope of NCCU's education program or activity
- How to Conduct an Investigation and Grievance Process
- Serving Impartially
- Issue of Relevance

Title IX Scope and Jurisdiction

- NCCU Educational Program or Activity in the United States
- Respondent must be a student and/or employee
- Meets the TIX Regulation Definitions
- Students and Employee Complaints

Title IX Sexual Harassment Definitions

- Quid Pro Quo
- Hostile Environment (Severe, Pervasive and Objectively Offensive)
- Sexual Assault
- Dating Violence
- Domestic Violence
- Stalking

Title IX Grievance Process

1. Incident
 - Complaint Received
2. Initial Assessment
 - Jurisdiction
 - Dismissal
 - Supportive Measures
 - Transition to Student Conduct or Human Resources
 - Informal Resolution
3. Formal Investigation
 - Notice of Investigations and Allegations
 - Interviews
 - Investigation Report
4. Hearing
5. Appeal



- Prompt Resolution
- Equitable Resolution
- Investigation Steps
 - Receive Notice/Complaint
 - Initial Assessment & Jurisdiction Determination
 - Basis for Investigation
 - Notice of Investigation and Allegation
 - Formal Investigation
 - Draft Investigation
 - First 10 Day Review of Report and Evidence
 - Final Report Distributed

Title IX Formal Investigation

- Burden to gather evidence is on the institution, not the parties.
- Gather
- Assess
- Synthesize

Title IX First 10 Day Review

- Draft Report and Directly Related Evidence
- Investigator:
 - Allow 10 days for review and written response
 - Consider and incorporate feedback
- Final Investigation report to parties and advisors for 10-day review

Title IX Decision Making

- Single Person or a Panel
 - Faculty and/or Staff
- Mandatory Live Hearing
 - Parties' Advisors Conduct Questioning
 - DM Panel Conduct Questioning
- Title IX Coordinator/Investigator Can Not Serve as Decision Maker

Title IX Decision Making

What Are Your Top 3?

- Providing a just result
- Finding the truth
- Providing an educational process
- Making a safe community
- Upholding NCCU's policy
- Ensuring a fair process
- Protecting the institution from liability
- Punishing Wrongdoing

Roles and Responsibilities

Title IX Coordinator

- Appoint and train Decision Makers
- Serve as a Resource
- Ensuring Timeline Compliance
- Facilitate and Schedule Hearings
- Manage Technology
- Oversee Recordkeeping
- Primary Point of Contact

Roles and Responsibilities

Decision Maker

- DM's should be neutral and uphold the integrity of the process
- Must understand the policy
 - Procedures and Investigation Process
 - Necessary Findings Based on Incident
 - Best Practices for Asking Good Questions
 - Decision Making Procedures
 - How to Weigh Evidence
 - Analyze Credibility
 - How to Make Determinations and Write Rationales

Due Process

- Consistent and thorough review of all allegations
- Compliance with written policies and procedures
- Policies afford rights and protections
 - NOIA-Clear and Concise
 - Opportunity to present witnesses and evidence to the DM panel

Due Process

- Decisions Must Be:
 - Impartial and Fair
 - Based on Policy
 - Made in Good Faith
 - Rational Relationship

Due Process

Rights of the Parties During the Process

- Present Witnesses
- Present all inculpatory and exculpatory evidence
- Discuss the allegations under investigation
- Gather and present relevant evidence
- Be accompanied by an advisor of choice or provided
- Written Notice of Date, Time, Location, and Purpose of Investigation Interviews
- Inspect and Review Investigation Report and Directly Related Evidence
- Conduct Cross-Examination Through Advisor
- Access to Recording of any Hearing
- Receive a Written Rationale
- Appeal

Notice of Investigation and Allegations

Notice of Investigation and Allegations includes the following:

- Details of Allegations to include party identities
- A description of the alleged conduct and relevant policy provisions
- Date and location of the alleged conduct
- Information about grievance procedures
- Informal Resolution Options
- Presumption of Non-Responsibility
- Prohibition on Retaliation



September 11, 2025

[REDACTED]

[REDACTED]

Mode of Delivery: E-mail

Dear [REDACTED]:

The Office of Title IX has received a formal complaint from [REDACTED] alleging that you may have engaged in behavior(s) that potentially violate(s) institutional policy, including misconduct alleged on September 5, 2025, at [REDACTED].

[REDACTED]

This letter serves as formal notice that North Carolina Central University will be conducting a prompt, thorough, and impartial investigation of these allegations pursuant to the procedures detailed in NCCU Policy 01.04.2 Sexual Harassment Policy <https://www.nccu.edu/policies/retrieve/3>. A copy of this notice has also been provided to the Complainant. NCCU's grievance process is compliant with applicable federal and state laws.

Specifically, you are alleged to have violated the following provision(s) of the Sexual Harassment Policy:

3.1.15: *Non-Consensual Sexual Contact entails the touching of any sexual body parts (such as breasts, buttocks, groin, genitals, mouth, and/or clothing covering them); touching an unwilling person with one's own intimate parts; or forcing an unwilling person to touch another's intimate parts.*

You are considered “not responsible” for violating North Carolina Central University’s Sexual Harassment Policy, unless and until the preponderance of evidence proves that a violation of

policy has occurred. The burden is on North Carolina Central to gather evidence, investigate the allegations, summarize all relevant evidence in a final investigation report, and hold a hearing at which a final determination is made, subject to appeal. No determination of responsibility will be made until the conclusion of the process and after the parties have been given an opportunity to inspect, review, and respond to all directly related and/or relevant evidence obtained by NCCU.

Should additional allegations emerge over the course of this investigation, this office will provide you with an updated and revised Notice of Investigation and Allegations.

Below, you will find details included to ensure that NCCU's process is transparent to you and that you fully understand your rights and NCCU's procedures.

- North Carolina Central University's applicable procedures can be found online at <https://www.nccu.edu/policies/retrieve/3>. If you need a hardcopy or accessible copy of these procedures, one can be provided to you.
- You are expected to preserve any evidence in your possession related to the allegations. Examples include, but are not limited to, screenshots of social media posts or electronic conversations (e.g., Snapchat, Facebook Messenger, WhatsApp, TikTok, text messages, etc.), written communication, audio or video recordings, photos, receipts, call logs, or any other relevant information.
- Please plan to bring all evidence, documents, and items that you believe will be helpful to the investigator(s) to your interview or provide them beforehand. Originals are preferred to copies, and all materials should be in unaltered form. Expect that you will be asked to verify the accuracy and authenticity of evidence you provide. If information is stored on an electronic device (e.g., cell phone) it is recommended that you be able to show the device itself to the investigator(s) during the interview.
- You may not record any meetings pursuant to this process. NCCU will record or transcribe proceedings, and those recordings or transcriptions will be made available to you.
- Breaks are permitted during the interview, upon request.
- You should plan to be available for the interview for at least one (1) hour.
- You will be permitted to ask questions of the investigator(s) and should be prepared for them to ask many questions of you. Your honesty and cooperation are expected. You are expected to maintain decorum during the interview and to respect the serious nature of the proceedings.
- North Carolina Central University cannot obligate you to participate in the interview. If you do not intend to attend, please notify Dr. Lucretia Banks, Title IX Coordinator at 919-530-7944 or titleix@nccu.edu as soon as possible.

Investigation & Interview

I will be the Investigator to this matter. I am a neutral professional whose role is to objectively collect and compile all available information relevant to the allegations and compose a thorough, detailed investigation report. I will be taking notes and recording during the interview. A summary or transcript of your interview will be provided to you following the interview and you will be asked to verify its accuracy, in writing.

Two suggested times that work for an appointment to interview you are below, and I have already checked to make sure that these times work with your class schedule. Please contact me at 919-530-7944 or lbanks10@nccu.edu to confirm which of these times works best for you.

- **Friday, September 19 at 1:00 p.m.**
- **Monday, September 2:00 p.m.; 3:00 p.m.**

Advisors

You have the right to an advisor of your choosing to accompany you to all meetings, interviews, and hearings and to assist you in this process. **If you would prefer that the institution appoint a trained advisor for you, please let me know as soon as possible.**

Although I strongly encourage you to be accompanied by an advisor (who can be an attorney) for all meetings, should you proceed without an advisor, and should this matter proceed to a hearing under the NCCU Sexual Harassment Policy, then an advisor designated by NCCU will be provided to you for purposes of conducting questioning during the hearing. This is required by federal regulations.

Retaliation

This letter also serves as a reminder that North Carolina Central University's policy prohibits retaliation, as defined at <https://www.nccu.edu/policies/retrieve/3#Definitions>. Retaliation exists when an individual harasses, intimidates, or takes other adverse actions against a person because of that person's participation in an investigation or because of their support of someone involved in an investigation.

North Carolina Central University will impose sanctions on any faculty, student, or staff member found to be engaging in retaliation, or on individuals who encourage third parties to retaliate on their behalf.

If you experience any retaliation, please contact me immediately.

False Statements and/or False Information

Please also be reminded that North Carolina Central University's Sexual Harassment Policy Section 11 prohibits making false statements and/or knowingly providing false information during a university grievance process, including an investigation and hearing pursuant to the NCCU's Sexual Harassment Policy.

Please do not suggest to any witness that they distort or align their accounts, to ensure that the investigator(s) can obtain accurate and objective information about this matter.

Should it be alleged that you have violated these rules, the university reserves the right to address those allegations inside of this process or to address the allegations as a separate matter pursuant to the policy and associated procedures.

Confidentiality

You have the right to discuss this matter with your advisor and others, but the institution will conduct this investigation confidentially, meaning that it will only share information as permitted or required by law. North Carolina Central University asks for your discretion in what you choose to share and hope that you will respect the private and sensitive nature of these allegations. The Complainant has been provided with the same information.

Campus Resources

I understand that receiving this notice may result in many questions and potential distress. I encourage you to avail yourself of any of the following resources that you may find helpful as you work to resolve this matter.

NCCU Counseling Center

Hours: Monday – Friday, 8:00 AM to 5:00 PM

Location: Student Health Building, 2nd Floor

Daytime Phone: 919-530-7646

After Hours Phone: 919-530-6106

Website:

<https://www.nccu.edu/dsa/health-wellness/counseling-center>

(<https://www.nccu.edu/dsa/healthwellness/counseling-center>)

Counseling Center Counselor Contact List:

<https://www.nccu.edu/directory/dept/Counseling%20Center>

(<https://www.nccu.edu/directory/dept/Counseling%20Center>)

NCCU School of Law – Office of Wellness

Hours: Monday – Friday, 8:00 AM to 5:00 PM

Location: NCCU School of Law

640 Nelson Street, Legal Clinic (lower level), Room 36

Durham, NC 27707

Daytime Phone: 919-530-5156 and 980-288-5288 (for daytime emergencies)

After Hours Phone: 919-530-6106

Website:

<https://www.nccu.edu/law>

(<https://www.nccu.edu/law>)

Student Development and Support

919-530-6183

Website:

<https://www.nccu.edu/dsa/engagement/student-development-support>

(<https://www.nccu.edu/dsa/engagement/studentdevelopment-support>)

Emergency Response

Local Emergency Response

Dial 911

Conflicts of Interest and Bias

Must not have a conflict or interest of bias against:

- Complainants (generally)
- Respondents (generally)
- Parties Involved with Complaint
- Subject Matter or details of Complaint

Difference Between Conflicts of Interest and Bias in TIX Decision Making:

Advisors in TIX Process

- Right to be accompanied by an Advisor of Choice
 - May be an attorney
- Institution May Provide an Advisor if requested
- Set and Communicate Reasonable Expectations for Advisor Participation

Review of Materials

- DM's should take detailed time to review all documentation and evidence:
 - Review Complaint
 - NOIA
 - Applicable Policies
 - Relevant Evidence
 - Investigation Report

Policy and Procedures

- What policies are alleged to have been violated?
- Elements of the policies
- Review Decision Making Procedures

Understanding Evidence

- Decision Makers Must Evaluate All Relevant Evidence:
 - **Evidence:** any kind of information presented to help determine what occurred.
 - **Relevant Evidence:** evidence that tends to prove or disprove the underlying allegations
 - **Directly Related Evidence:** connected to the complaint, but is neither inculpatory nor exculpatory

Types of Evidence

- Documentary Evidence
- Electronic Evidence
- Real Evidence
- Direct or Testimonial Evidence
- Circumstantial Evidence
- Hearsay Evidence
- Character Evidence

Questions for Decision-Makers

1. Is the Information Relevant?
2. Is the Information Reliable?
3. Will We Rely Upon It As Evidence Supporting a Rationale?

Relevance

Evidence is generally considered relevant when it assists in determining:

- Whether the Respondent violated policy and/or
- The Credibility of any evidence, including party and witness statements

The Investigator initially evaluates relevance, but the DM panel ultimately decides.

All relevant evidence must be objectively evaluated and considered:

- Inculpatory-tending to suggest a finding of responsibility
- Exculpatory-tending to suggest a finding of not responsible

Privileged and Medical Information

- A party must provide permission to obtain and/or include:
 - Evidence protected under a legally recognized privilege
- Records made or maintained by:
 - Physician
 - Psychiatrist
 - Psychologist

Relevant Evidence Exclusions

- Evidence of the Complainant's sexual predisposition is never relevant
- Evidence of the Complainant's prior sexual behavior is not relevant except:
 - If offered to prove that someone other than the Respondent committed the alleged conduct; or
 - Specific incidents of the Complainant's prior sexual behavior with respect to the Respondent offered to prove consent
- Exclusions apply even if admitted/introduced by the Complainant
- Exclusions does not apply to Respondent's prior sexual behavior or predisposition, which are admissible if relevant

Credibility

- Credibility does not necessarily equate to honesty or truthfulness
 - Believability does not equal truthfulness
 - Not judging character
 - Not calling people liars
- Credibility impacts the reliability of the evidence and its weight
- Specific credibility issues that a DM may consider:
 - Relationships between the parties and witnesses
 - Whether a witness was exposed to information may have influenced their testimony

Evidence Authentication

- Authenticating evidence seeks to prove that evidence is genuine and credible
- Examples of authentication:
 - Verifying text messages by collecting texts from all involved parties
 - Collecting photographic evidence after it is referenced
 - Establishing chain of custody for a piece of physical evidence

Party and Witness Credibility

- Credibility impacts likeliness
 - Would a reasonable person do the same?
 - Are there more likely alternatives?
- Credibility Assessment-involves evaluating whether evidence is believable and reliable
- Memory errors alone do not necessarily diminish witness credibility, nor does some evasion

Credibility Factors

- Corroboration
 - Aligned testimony and/or physical evidence
- Inherent Plausibility
 - Does this make sense?
- Motive to Falsify
 - Do they have a reason to lie?
- Past Record
 - Is there a history or similar behavior?
- Demeanor
 - Do they seem to be lying or telling the truth?



Consent

NCCU defines consent as:

An affirmative decision to engage in mutually acceptable sexual activity given by clear actions or words. It is an informed decision made freely, willingly, and actively by all parties. Consent is informed, knowing, and voluntary. Consent is active, not passive. Silence or an absence of resistance cannot be interpreted as consent. Consent to engage in sexual activity with one person does not imply consent to engage in sexual activity with another. Consent can be given by words or actions, as long as those words or actions create mutually understandable permission regarding the conditions of sexual activity. Consent to sexual activity may be withdrawn at any time. If consent is withdrawn, all sexual activity must immediately cease.

Consent.... continued

1. Force: Did the Respondent use force to obtain sexual or intimate access?
2. Incapacity: Was the Complainant incapacitated?
 - If so, did the Respondent know, or
 - Should the Respondent have known that the Complainant was incapacitated
3. Consent: What clear words or actions by the Complainant gave the Respondent permission for each specific sexual or intimate act that took place as it took place?

Incapacitation

Slurred Speech

Scent of alcohol on the breath

Shaky equilibrium; disorientation

Passing out/unconsciousness

Throwing Up

Known Blackout

Outrageous/Unusual Behavior

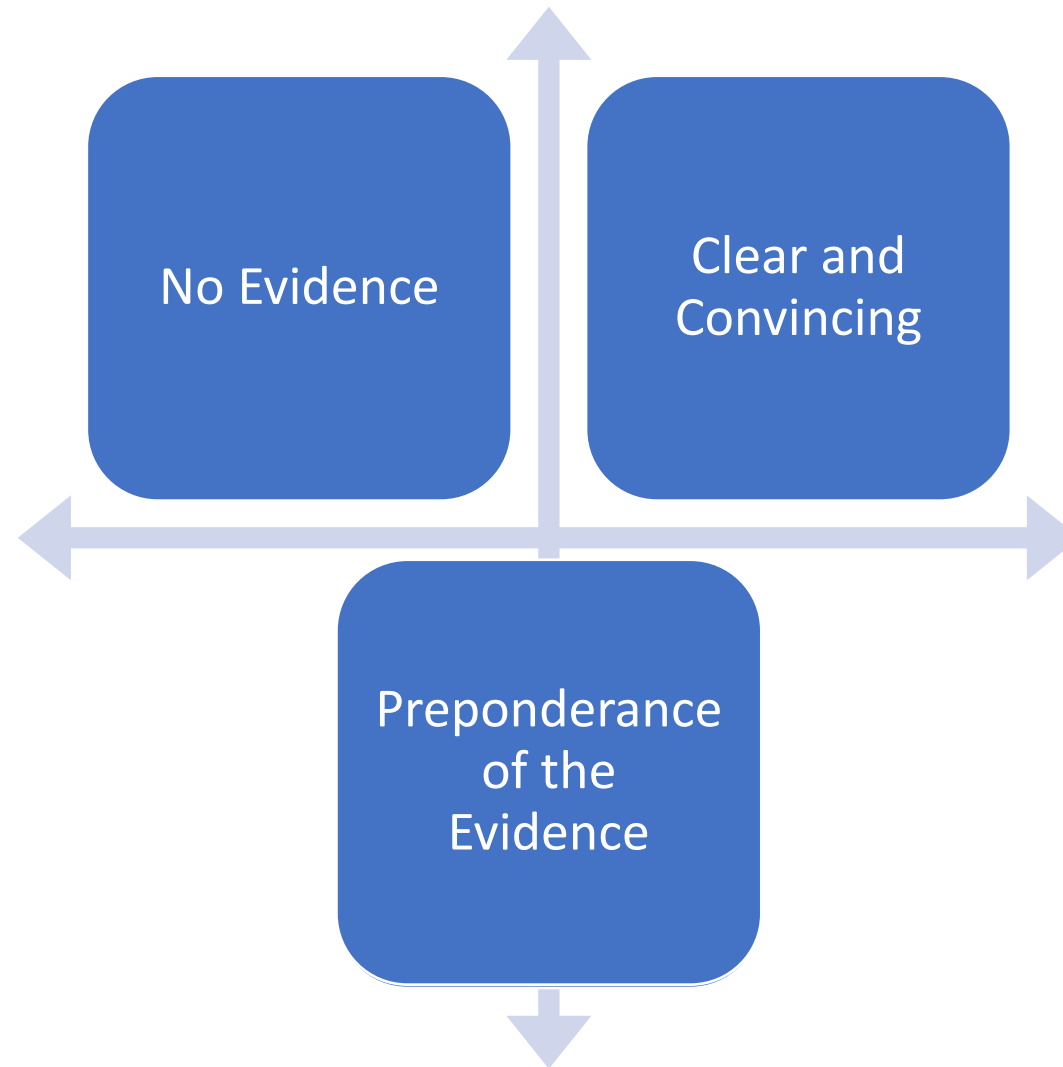


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Applying Facts to Policy

- DM must presume the Respondent is not in violation unless and until the standard of evidence is met.
- DM analyzes facts against each policy element to determine whether the Respondent violated policy
- Assess credibility of evidence
- Based only upon evidence in the investigation report or presented at the hearing

Standard of Evidence



Decision Maker Questioning

- As the DM, you may ask questions to ensure a comprehensive understanding of information and evidence gathered during the investigation.

Written Determinations

- Finding: Whether the conduct occurred by the standard of evidence
- Final Determination: Whether the conduct proven to have occurred violates policy

Written Determinations

- Findings must be based upon information gathered during the investigation and decision-making phases only:
 - No outside information should influence decision making
- Separate the “Determination” from the “Sanction”
 - Do not use impact-based rationales for policy violation findings and determinations
 - Use impact-based rationales for sanctions only
 - Impact is not relevant to the policy violation question
 - Same with prior misconduct, unless a pattern is alleged/proven
- NCCU can identify a separate individual to determine sanctions or permit the DM to determine sanctions, if any.

Written Determinations

- Written Determination
 - Written by Decision-Maker Panel Chair
 - TIX Coordinator Reviews
 - TIX Coordinator Sends Written Determination Simultaneously
- Elements of Written Determination
 - Procedural Steps from Complaint through Determination
 - Statement of and rationale for the result
 - Finding and Final Determination
 - Sanctions imposed (if any)
 - Whether remedies will be provided to Complainant
 - Procedures and Bases for Appeal
- Final
 - When the date to file an appeal has been reached



Sanctions

- After making a determination of responsibility, decide recommended sanctions:
 - Must be proportionate to the severity of the violation, taking progressive sanctions/history into account
1. Stop Discriminatory Conduct
 2. Prevent Recurrence
 3. Remedy the Effects of Discrimination

Sanctions and Remedies

- Sanctions
 - Only implemented after a determination of responsibility
 - Goal: Stop, Prevent and Remedy
 - TIX Coordinator does not issue sanctions, oversees the process
 - TIX Coordinator assures sanction compliance
- Remedies
 - May be implemented before or after a determination
 - TIX Coordinator determines remedies that are equitable and not clearly unreasonable
 - Goal: Preserve or Restore Access to Educational Program/Activity

Determining Sanction Recommendations

- Primary purpose should focus on ensuring equity and providing remedies
- DM may consider:
 - Nature and severity of the conduct, including the circumstances surrounding the violation
 - Respondent's Disciplinary History
 - Need for Sanctions or Other Responsive Actions
 - Impact on the Parties

Common Student Sanctions

- Warning
- Probation
- Loss of Privileges
- Counseling
- Community Service
- Deferred Suspension
- Residence Hall Relocation
- Suspension
- Expulsion

Appeal

- Procedural Irregularity-affected the outcome of the matter (ex. Failure to follow NCCU's procedures;
- New Evidence-evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;
- TIX Coordinator/Investigator or Decision Maker(s) had a conflict of interest or bias against an individual party or against the Complainant or Respondent in general that affected the outcome of the matter

Recordkeeping

- Decision Maker Panel must compile all documentation related to the decision making process and provide to TIX Coordinator.
 - Timeline of decision-making process
 - Interactions
 - Determination
 - Rationale
 - All work products
- TIX Coordinator must maintain complaint files for at least 7 years.

Resources

Association of Title IX Administrators (2024) “Title IX Decision-Making for Higher Education.

SUNY SC. (2025)



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