

# UNG Sexual Misconduct Training for Volunteers

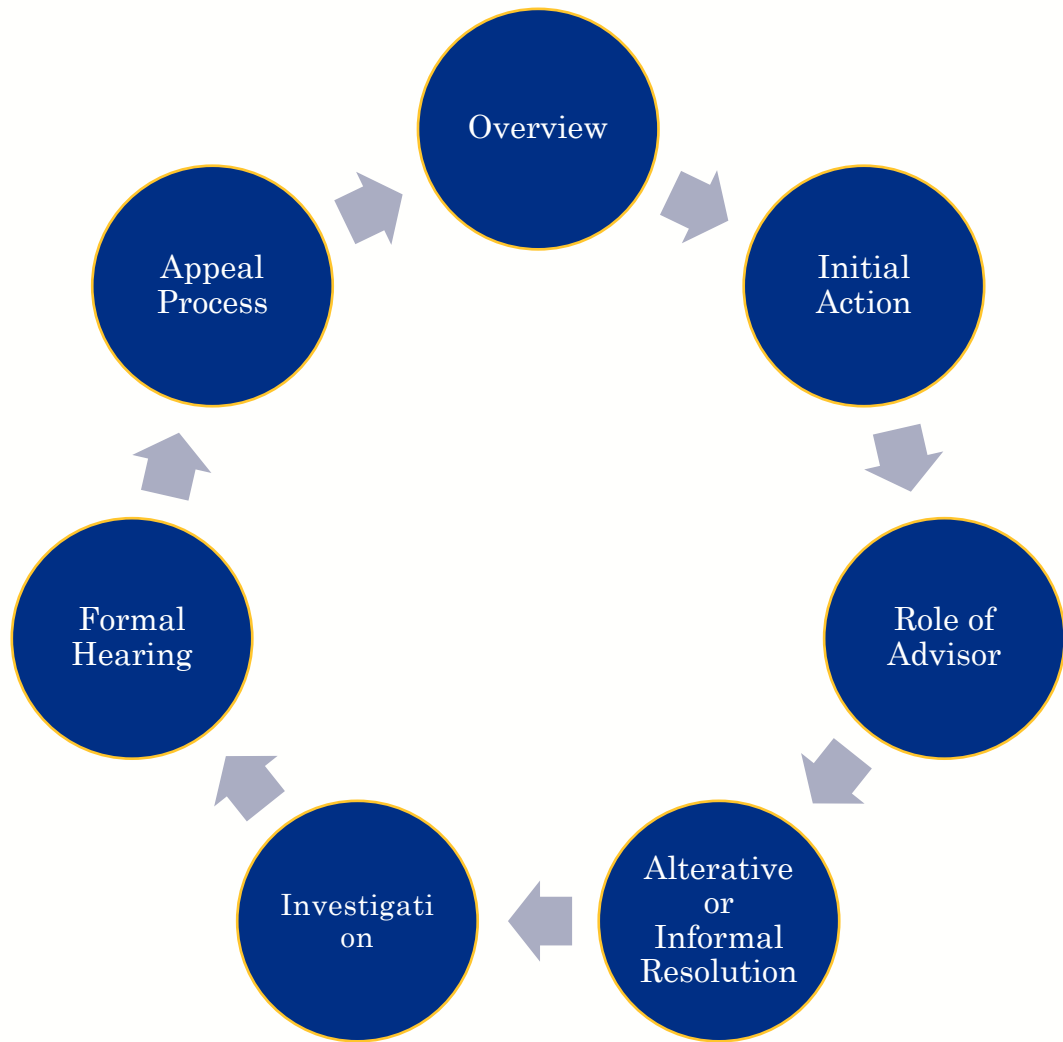


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What do you want to know or understand by the end of the presentation?



# Training Agenda



# Overview



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# Sexual Misconduct 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.

In accordance with federal and state law, including Title IX of the Education Amendments of 1972 and Title VII of the Civil Rights Act of 1964, the University prohibits discrimination on the basis of sex in any of its education programs, activities, or employment.

The Title IX law states: “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...”



# 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).

# Role of Title IX Coordinator

- Coordinates the University's compliance with the Sexual Misconduct Policy, Title IX, and other federal and state laws and regulations relating to sex-based discrimination.
- Oversees procedural integrity
- Oversees the whole process and helps ensure the written and applied processes are the same.
- Ensures investigators, decision-makers, informal resolution officers, and appeals officers are properly trained
- Makes decisions on new issues that arise to maintain compliance with the Sexual Misconduct Policy

# Scope: Title IX vs. Non-Title IX

## **Title IX Scope**

- **Location:** In the United States, on University property, or at University-sponsored or affiliated events.
- **Control:** The University exercises substantial control over both the Respondent and the context or in buildings owned or controlled by an officially recognized student organization

## **Non-Title IX Scope**

- **Location:** Domestic or abroad, University property, institution-sponsored or affiliated events, or off-campus.
- **Control:** Consideration is given as to if the Complainant and Respondent are students or employees at the time of the incident or report.

Note: Within the Title IX regulations are additional pieces to the scope. However, the University has incorporated those elements into the overall UNG Sexual Misconduct Policy. The above differences will determine (1) if an alternative or informal resolution process is used, (2) if an employee Respondent case can be resolved informally, and (3) the role of an advisor in a hearing.



# Prohibited Conduct

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



# Sexual Harassment: Student on Student

Unwelcome verbal, nonverbal, or physical conduct based on sex (including gender stereotypes), determined by a Reasonable Person to be so severe, pervasive, **AND** objectively offensive that it effectively denies a person equal access to participate in or to benefit from an institutional education program or activity.



# Sexual Harassment: Other than Student on Student

Unwelcome verbal, nonverbal, or physical conduct based on sex (including gender stereotypes) that may be any of the following

- Implicitly or explicitly a term or condition of employment or status in a course, program, or activity;
- A basis for employment or educational decisions; or
- Is sufficiently severe, persistent, **OR** pervasive to interfere with one's work or educational performance creating an intimidating, hostile, or offensive work or learning environment, or interfering with or limiting one's ability to participate in or to benefit from a University program or activity.



# 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

Violence committed by a

- current or former spouse or intimate partner of the Complainant;
- person with whom the Complainant shares a child in common;
- person who is cohabitating with, or has cohabitated with, the Complainant as a spouse or intimate partner, or by a person similarly situated to a spouse of the Complainant.



# 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;
- Intentionally and inappropriately exposing one's breasts, buttocks, groin, or genitals in non-consensual circumstances; and/or
- Sexually-based bullying.



# Non-Consensual Sexual Contact

Any physical contact with another person of a sexual nature without the person's Consent.

It includes but is not limited to touching a person's intimate parts (such as genitalia, groin, breasts, or buttocks); touching a person with one's own intimate parts; or forcing a person to touch their own or another person's intimate parts.

This provision also includes “Fondling” defined by the Clery Act.





# Non-Consensual Sexual Penetration

Any penetration of the vagina, anus, or mouth by a penis, object, tongue, finger, or other body parts; or contact between the mouth of one person and the genitals or anus of another person without the person's Consent.

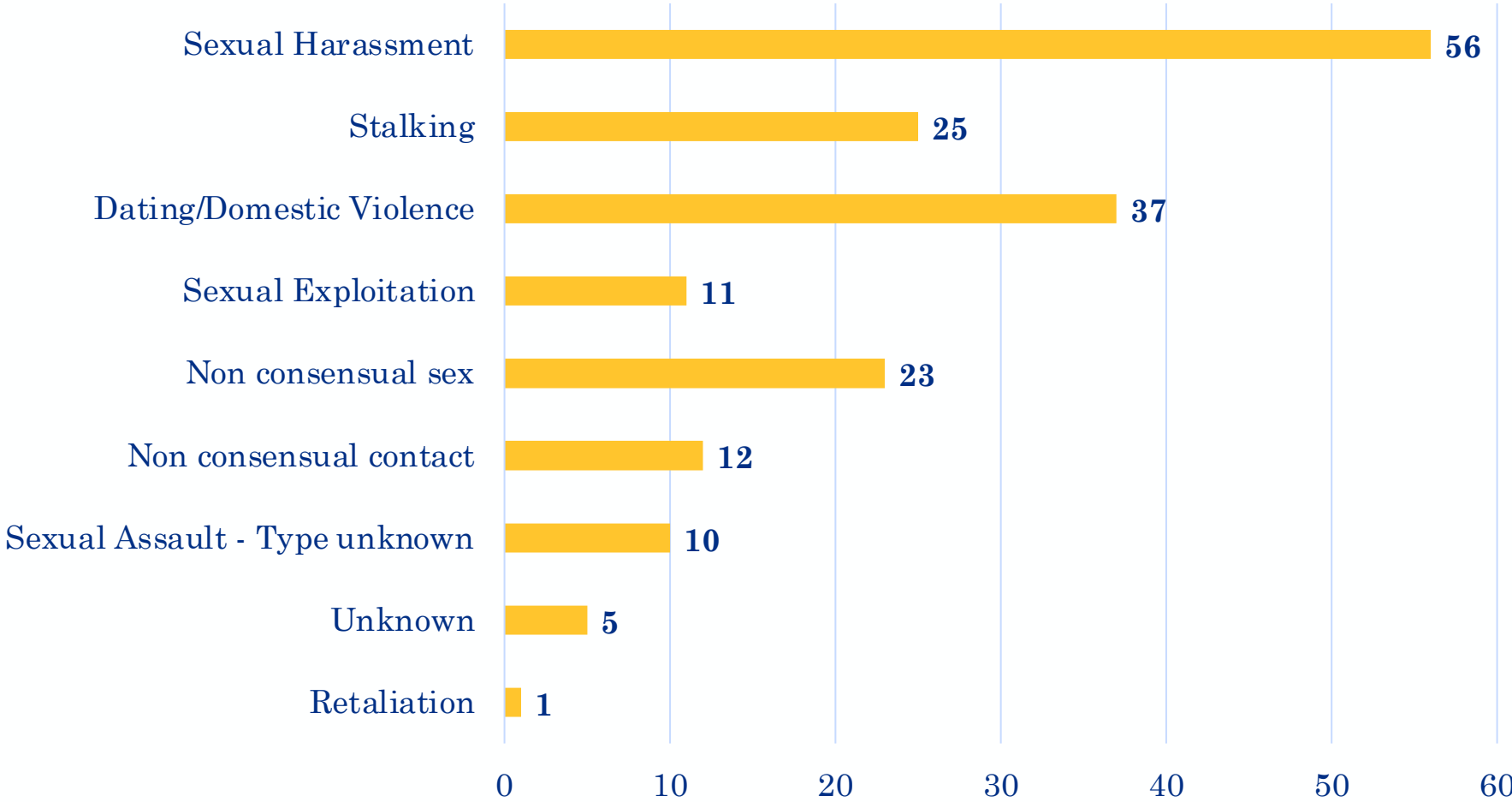
This provision also includes “Rape, Incest, and Statutory Rape” as defined by the Clery Act.

# 2022 Statistics for UNG



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# Allegation Categories



# 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

- Students – 75
- Faculty – 8
- Staff – 4
- Unaffiliated – 33
- Unknown – 33

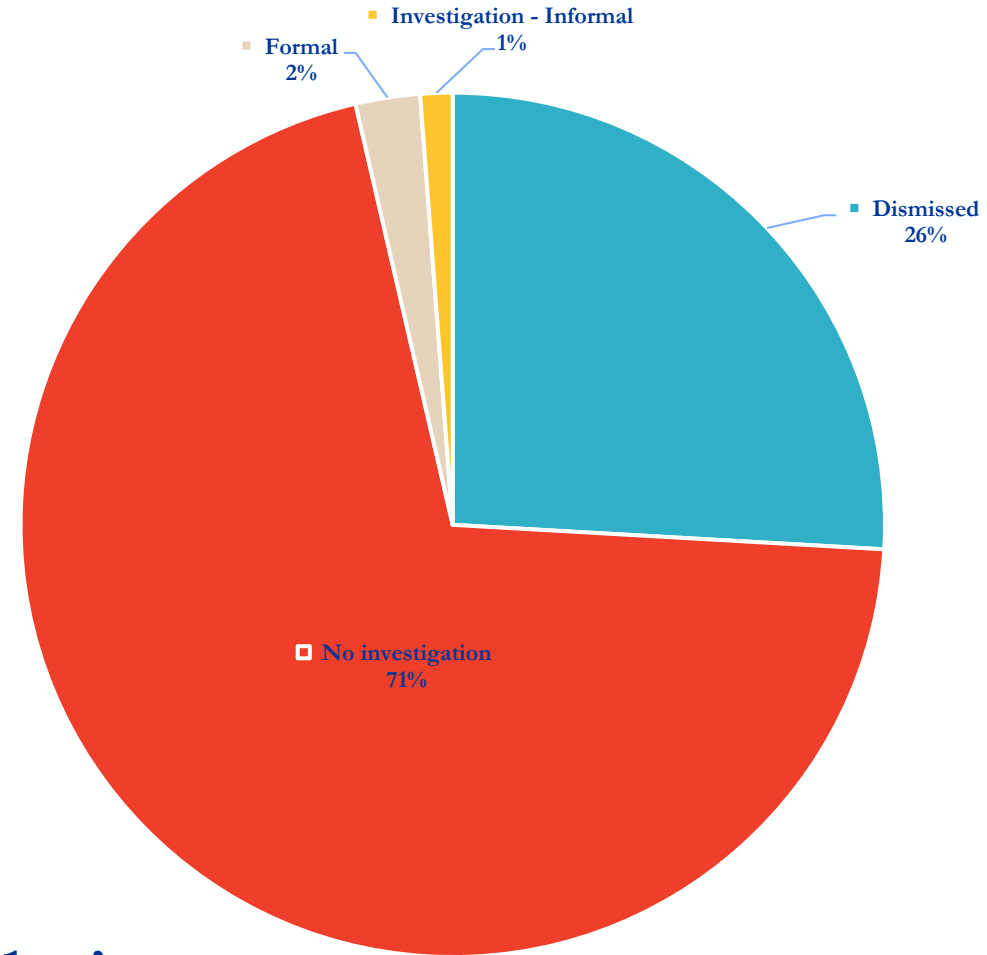
## Affiliations

- Corps of Cadets\* – 18
- Fraternity/Sorority – 12
- Student Athlete – 2

## Gender

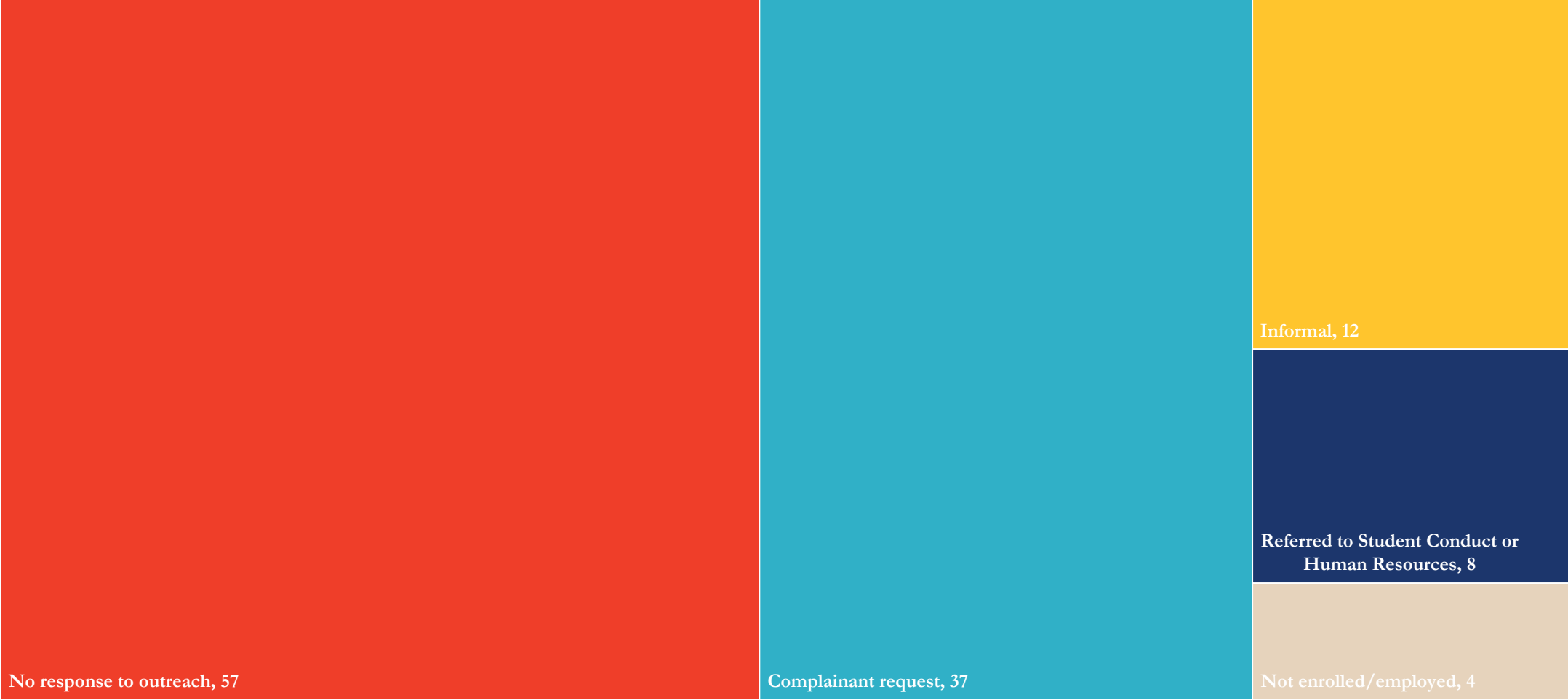
- Female – 12
- Male – 95
- Unknown – 44

\* Seven are both in the Corps and are in a fraternity/sorority



## Report Resolution

# Reasons for No Investigation



Data from 2022 reports

# Grievance Process



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# Reporting



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# 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.



# Amnesty and Retaliation

## Amnesty

- 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.

## Retaliation

- Anyone who has provided information, assisted, participated, or refused to participate in the Sexual Misconduct grievance process shall not be subjected to retaliation.



# Initial Action



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# Supportive and Interim Measures

**Support measures:** Support given to either Party regardless of any action being taken on the matter. Types of supportive measures are counseling, health services, student financial aid, extensions of deadlines or other course-related adjustments, modifications of schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures.

**Interim measures:** Ensure equal access to its education programs and activities and foster a more stable and safe environment during the grievance. These may include housing assignment; issuance of a no-contact order; restrictions or bars to entering specific University property; changes to academic or employment arrangements, schedules, or supervision; or other measures designed to promote the safety and well-being of the Parties and the University's community. Includes Emergency Removal and Administrative Leave.



# Options for Complainant

**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.**

While dependent on the circumstances of the report, typically speaking, the Complainant has three options:

1. Take no action. The report and all accompanying material (e.g., statements and evidence) are kept on file.
2. Request an alternative/informal resolution.
3. Request an investigation.

***Note:** The University will respect wishes to pursue or not pursue a complaint where legally possible formally; however, in the interest of the community, the University may choose to investigate where there is a safety concern. If a Complainant (victim/survivor) wishes to remain anonymous or desires to take no further steps, it may hinder the response by the university.*





# 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



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# 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



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TRAUMA AND  
THE **BRAIN**



# Impact of Trauma:

- **Memory Consolidation:** When a person experiences a traumatic event, the brain often prioritizes the consolidation of the emotional aspects of that memory. This means that the emotional intensity of the experience is more likely to be stored in long-term memory, while other details may be less well-preserved.
- **Fragmented Memories:** Traumatic memories can be fragmented or incomplete. Individuals who have experienced trauma may remember specific emotional and sensory aspects of an event but struggle to recall the sequence of events or other contextual details.
- **Flashbacks:** Trauma survivors might experience intrusive flashbacks, where they vividly relive the traumatic event as if it were happening in the present. These flashbacks are often accompanied by intense emotions and sensory experiences, making it difficult for the individual to focus on the sequence or context of the memory.

# 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



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# 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



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# Basic Information

## Key Elements of an Investigation

- The respondent is presumed not responsible until a determination is made at the conclusion of the grievance process.
- Both parties have the right to present evidence and witnesses.
- The burden of proof rests with the University.
- The burden of proof is a preponderance of evidence – more likely than not.

## Investigators:

- We utilize a co-investigator model.
- The parties can challenge investigators for bias or conflict of interest.
- The investigations must be prompt, thorough, and equitable.

# During the investigation

The basic steps in the process are:

- Parties are notified that an investigation is occurring. They are asked to provide a list of witnesses and any evidence.
- The investigators conduct interviews, typically in the order of:
  - Complainant
  - Witnesses
  - Respondent
- The investigators collect and review evidence
- Throughout the process, information and evidence are shared with both parties.

# 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
    - Either party can request to engage in the alternative/informal resolution
    - The Complainant can request no action
    - The Respondent can accept responsibility.
  - Provide feedback on the content of the report (e.g., edits, additional information, etc.).

## 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



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# 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 Title 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



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# Appeals

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

## Grounds for appeal

- A procedural irregularity.
- New relevant evidence.
- An individual involved in the grievance process had a conflict of interest or bias for or against the Complainant or Respondent.
- The finding of responsible or not responsible and/or the imposed or recommended sanction(s) was inconsistent with the weight of the information.

There is only one level of appeal at the University for determination of responsibility and imposed 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 department. Human Resources collaborates with the relevant departments and individuals to make final decisions on the sanctions to be enforced.

Once the determinations are reached, both parties are promptly informed and provided with the opportunity to initiate an appeal.

Please note that in cases involving Sexual Misconduct, the faculty and staff grievance processes do not apply. Therefore, the University's final decision on the matter is determined by the outcome of the hearing or the appeal process regarding the imposed sanctions.

# Case is Closed



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# 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

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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)

- 1. Gathering Information:** Investigators are responsible for collecting relevant information and evidence related to the Title IX complaint. This may include interviewing the complainant, the respondent, and any witnesses and reviewing documents, emails, text messages, or other materials pertinent to the case.
- 2. Conducting Interviews:** Investigators often conduct interviews with the parties involved, witnesses, and any other individuals who may have information about the alleged incident. These interviews should be conducted in a thorough and impartial manner to gather accurate and comprehensive information.
- 3. Maintaining Neutrality:** Investigators are expected to maintain neutrality and impartiality throughout the investigative process. They should not take sides or express bias, ensuring a fair and unbiased examination of the facts.

# Role (cont'd)

4. **Being Communicative:** Investigators should provide routine case status updates to the parties. This includes notification that witnesses are not responding to outreach and new evidence that was collected.
5. **Supporting a Fair Process:** Throughout the investigation, investigators should ensure that both the complainant and the respondent have equal opportunities to present their case, respond to allegations, and provide evidence.
6. **Respecting Privacy:** Investigators must handle sensitive and confidential information with care to protect the privacy and confidentiality of the individuals involved.

# 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



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# Recognize and Address Bias

Recognizing and addressing your own biases is a challenging but crucial endeavor. While biases are a natural aspect of human cognition, the first step in mitigating their impact on your thoughts and actions is to become aware of them. Here are some strategies to help you reduce bias and strive for fairness and objectivity:

- **Awareness:** Recognize that bias exists and can influence your thinking. Being aware of this fact is the first step in mitigating bias.
- **Self-Reflection:** Regularly reflect on your beliefs, attitudes, and reactions. Consider your thoughts or feelings about a particular issue or group.
- **Examine Stereotypes:** Be conscious of any stereotypes you might hold and actively challenge them. Seek out counterexamples and individual stories that defy stereotypes.
- **Feedback:** Be open to feedback from others who may point out biases in your thinking or behavior.
- **Critical Thinking:** Approach information and situations critically. Be skeptical of your initial judgments and consider alternative explanations.

# 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 actions on evidence and rational thinking rather than preconceived notions.
- **Empathy:** Practice empathy by trying to understand the perspectives and experiences of others, especially those from different backgrounds or with different viewpoints.
- **Challenge Biased Language:** Be mindful of the language you use, and avoid making assumptions or using terms that perpetuate bias or stereotypes.
- **Listen Actively:** When engaging in conversations or making decisions, actively listen to others and consider their perspectives before forming your own conclusions.
- **Bias Training:** Consider participating in bias awareness and diversity training programs to enhance your understanding of bias and its impact.



# 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:

- **Unfair Outcomes:** Bias can lead to unjust or unfair outcomes in the investigation. This may result in the wrong party being held responsible or in a failure to uncover the truth.
- **Loss of Trust:** When bias is perceived or evident in an investigation, it erodes trust in the process and the institution conducting the investigation. This can have long-term consequences for the organization's reputation.
- **Emotional Impact:** Bias in an investigation can cause emotional distress to those involved, making it difficult for them to trust the system and causing stress, anxiety, or feelings of injustice.
- **Limited Accountability:** If bias leads to underreporting or under-investigating certain types of misconduct, it can limit accountability for wrongdoers and perpetuate harmful behavior.

# Preparing for the Interview

# 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

- Privacy
- Access to door
- Limiting movement
- Options in seating
- Limit interruptions
- Accessibility of location

# Investigation Tips

# Communication

- Stay in contact with both the complainant and the respondent throughout the process
  - If there is going to be a delay in the investigation, let the parties know
  - Clearly document the reasons for any delay
- Stay in contact with local law enforcement, if applicable
- If gathering evidence, be sure to preserve that evidence and document how the evidence is maintained (chain of custody)

# Interview Tips

# 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

- Create an inclusive environment where individuals can freely express themselves in their preferred language, even if it includes sensitive content.
- Establish the investigative tone to prioritize respect, kindness, fairness, sensitivity, and empathy for all involved parties.
- Allow flexibility in the conversation, permitting it to unfold naturally.
- Maintain a professional and non-accusatory demeanor.

# 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

- Demonstrate expertise in discussing sexual terminology, behaviors, and preferences, recognizing that personal discomfort can be contagious.
- Project ease when discussing sexual matters, refraining from conveying negative judgments or disdain toward any party.
- Align your body language with an engaged and attentive listening posture.

# 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 do this:

- Guide the conversation while allowing individuals to share their stories at their own pace and in a unique manner.
- Maintain an open-minded and non-judgmental attitude throughout the discussion.
- Actively seek corroborating evidence or details that support other testimonies.
- Request clarification when needed to ensure a clear and accurate understanding.
- Keep in mind that many cases exist in a realm of ambiguity, and most individuals are conveying their own perspective of the truth.
- Avoid suggesting answers or displaying any form of bias.

*The goal is NOT to satisfy your curiosity.*

# 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.

# Trauma Informed Approach



# Trauma Informed Interviewing



# Trauma-Informed Interviewing Basics

- 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.
- Extend both on-campus and off-campus support resources throughout the entire process.

# Trauma-Informed Interviewing Tips (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

# Why Use Trauma Informed Interviewing

- 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.

# Questioning

# 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

- Reserve challenging questions, especially those that may expose inconsistencies, for a later stage of the interview to prevent them from becoming defensive.
- Communicate that, as an investigator, your goal is to understand their perspective.
- Approach inquiries about inconsistencies with curiosity rather than confrontation.
- Phrase your questions in a manner that respects the account you have heard, avoiding accusatory language. Clarify your question's intent to better motivate their response.
- Suggest revisiting certain parts of their story methodically, especially those requiring clarification or that conflict with physical evidence.
- Delay the presentation of adverse evidence, as introducing it prematurely may hinder their willingness to continue the conversation.

# 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.

# Questioning – Party Specific

# 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.

# Questions to Avoid for Complainant

## **Avoid questions that imply fault or that suggest victim blaming:**

- Why did you not tell him directly to stop commenting on your body?
- Why did you wait so long to report this?
- If you were sexually assaulted, why not go to the hospital right away?
- You had the chance to report this incident to the police; why did you not choose to do that?

# Questions to Avoid for Complainant (cont'd)

- 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.



# Respondent Interview (cont'd)

## Say: (cont'd)

- Reiterate that the goal of the process 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 situation.
- Differentiate between the university's investigative and criminal processes, outlining how our approach, questioning, and terminology differ.
- Ask about the specifics of the complaint and allow them to respond to any of the allegations in the complaint.

# 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.

# Questioning – Challenging Situations

# Reluctance Participant

## Causes:

- Mistrust in the University, the investigative process, or the investigators themselves.
- Feeling uncomfortable discussing sensitive subject matter with unfamiliar investigators.
- Fear of potential retaliation, not being believed, re-traumatization, or facing consequences can further contribute to their reluctance.
- Apprehensive about the prospect of being cross-examined during an adversarial hearing.

# Steps to Address Reluctance

- **Establish Rapport:** Create a comfortable and non-confrontational atmosphere to encourage openness.
- **Explain the Process:** Clarify the investigation process and the participant's rights and protections. Ensure they understand the purpose and the importance of their involvement.
- **Address Concerns:** Listen to their concerns and reasons for reluctance. Validate their feelings and empathize with their situation.
- **Emphasize Support:** Assure them of the support available throughout the process, including counseling, advocacy services, etc.
- **Offer Alternatives:** If they are uncomfortable with a particular aspect of the process, consider alternative ways of providing information or participating. This might include written statements or allowing them to have a support person present during the interview.
- **Be Patient:** Give the reluctant participants time to express themselves and share information at their own pace. Avoid pressuring them or making them feel rushed.
- **Provide Reassurance:** Reiterate the importance of their contribution to the investigation and the potential impact on safety and fairness.

# Is a Participant Lying?

Determining if a witness is lying can be challenging, as it involves assessing credibility and consistency in their statements. Here are some strategies to help evaluate the truthfulness of a witness:

- **Consider Body Language:** Pay attention to the witness's body language, facial expressions, and overall demeanor. Inconsistencies between their verbal statements and non-verbal cues may indicate deception.
- **Evaluate Consistency:** Compare the witness's statements with their previous statements or written records. Inconsistencies, contradictions, or changes in their account may raise suspicions.
- **Detect Evasion:** Watch for signs of evasion, such as avoiding specific questions, providing vague answers, or responding with irrelevant information.
- **Assess Plausibility:** Evaluate the plausibility of the witness's account. If their statements are highly improbable or contradict known facts, it may raise questions about their truthfulness.
- **Stay Objective:** Maintain objectivity throughout the process and avoid making assumptions about a witness's credibility based on personal biases.

# Challenge a Lying Participant

Challenging a lying participant requires a careful and methodical approach to maintain the integrity of the process. Here are steps to consider:

- **Gather Evidence:** Before challenging the participant, gather as much evidence as possible to support your position. Document inconsistencies and gather witness statements.
- **Remain Neutral and Respectful:** Approach the challenge with a neutral and non-accusatory tone. Express a commitment to uncovering the truth rather than assuming guilt. Avoid confrontational language or tactics that may cause the participant to become defensive.
- **Ask Clarifying Questions:** Present the participant with specific instances or evidence that contradict their statements. Use open-ended questions to seek clarification or additional details.
- **Address Motivation:** Ask about the reasons behind their statements and encourage them to share their perspective on the situation.
- **Offer Opportunities to Correct:** Provide the participant with opportunities to correct or amend their statements to reflect the truth.

# Evidence



# 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.

It is important to note that the acceptance of evidence does not inherently imply its trustworthiness, reliability, significance, or assured consideration by the Decision-Maker; the assessment of evidence quality and relevance will occur at a later stage in the process.

# 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 involved, which may be relevant in certain cases.

**Third-Party Evidence:** Information provided by sources outside of the involved parties, such as security footage or records from a medical facility.

**Incident Reports:** Official documents filed with law enforcement, campus security, or other authorities may contain valuable information.

**Prior Consistent or Inconsistent Statements:** Comparing what the parties have said at different times can help establish credibility or inconsistencies.

# 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 clergy-penitent privilege, are generally protected from disclosure without being waived.

**Prior Sexual Behavior Evidence:** Evidence related to the prior sexual behavior of the complainant or respondent is typically not admissible unless it is directly relevant to the case.

**Evidence Obtained Illegally:** Evidence obtained in violation of a person's constitutional rights, such as through an illegal search and seizure, may be excluded.

**Excluded Information Under FERPA:** Certain information protected by the Family Educational Rights and Privacy Act (FERPA) may not be admissible.



# Sexual Predisposition and Prior Sexual Behavior

All questions and evidence of a Complainant's sexual predisposition (e.g., mode of dress, speech, or lifestyle) are irrelevant, with no exceptions.

Questions and evidence about a Complainant's prior sexual behavior (e.g., fantasies or dreams) are irrelevant unless:

- It is offered to prove that someone other than the respondent committed the conduct alleged; or
- They concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent and are offered to prove consent.

# 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
- **Note:** Be mindful of the rehearsed narrative

## Bias

- Understand who the person is and their relationship to the parties and incident at issue
- Bias can manifest in multiple ways: Towards the parties, incident, or process

# Credibility

- Consider whether it is plausible and aligns with the realm of possibility.
- Do not involve making judgments about the individual's character; for instance, disapproving of their actions does not automatically equate to dishonesty.
- Keep in mind that trauma can significantly impact memory recall. Therefore, if an account appears non-linear, disjointed, or contains gaps, it does not necessarily imply falsehood.
- Skepticism is warranted if the account contradicts itself on critical aspects or lacks corroboration from witness statements.
- Factors to consider that are related to demeanor: non-cooperative, evasive, or misleading.
- Refrain from focusing on irrelevant inaccuracies and inconsistencies.
- Do not base credibility solely on their decision not to participate in the grievance process.

# Investigation Report

# 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:** The report should include a detailed account of the investigation process, including interviews conducted, evidence gathered, and any legal or policy frameworks followed. Include chronology.
- **Relevance:** Include only relevant information in the report. Information that is not directly related to the allegations or defenses should be excluded.
- **Considerations:** Identify areas of the report that decision-makers should review as they determine responsibility. This could include a specific series of text messages or pieces of the parties' statements.
- **Appendices:** Include any supporting documents or evidence, such as witness statements, screenshots, photographs, or other materials, in appendices for reference. Organize and label evidence

# Writing Good Statement Summaries

- Consider the audience
- Organize chronologically
- Not transcription
- Use direct quotes
- Be objective
- Maintain logical flow
- Cite dates and times
- Do not fill in “holes” – Seek clarification
- Adopt one writing style
- Proofread and edit

**TIP:** Schedule time after each interview to begin writing a narrative summary

# Quotations

Use quotes whenever possible.

If you cannot use quotes, you must be very precise in your summation

Examples:

- Both Emily and Michael agree they *met* at *the party* around 10 pm on Saturday.
  - Did they meet for the first time, or did they both arrive at the same time? Did they intend to meet there?
  - Was it a party? A few friends hanging out? Who said party – you or them?
- Emily and Michael agreed that they each arrived at the off-campus house around 10 p.m. on Saturday.



# Process after Investigation

# 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 (e.g., edits, additional information, etc.).
- The investigators will review the feedback and open the investigation back up or update the report.
- The final report is submitted to the Title IX Coordinator for next steps.

# 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.



# Resources

[UNG Title IX Website](#)

[Sexual Misconduct Policy](#)

[Sexual Misconduct Grievance Procedures](#)

[Sexual Misconduct Emergency Removal Procedures](#)