

Hearing Officer Training

Student Framework

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Prohibited Conduct Scope

UC Sexual Violence & Sexual Harassment Policy Prohibited Conduct

- **Sexual Harassment**
 - Quid Pro Quo
 - Hostile Environment
 - Sex-Based Harassment
- **Sexual Violence**
 - Sexual Assault
 - Relationship Violence
 - Stalking
- **Other Prohibited Behavior**
 - Invasions of sexual privacy
 - Sexual intercourse with a minor
 - Public exposure of genitals for sexual gratification
 - Violation of NCO, suspension, or order of exclusion
 - Retaliation

Elements Criteria

- Consistent analysis under the UC SVSH Policy
- May vary based on applicable policy version
- Offers transparency in evaluation process
- EX:

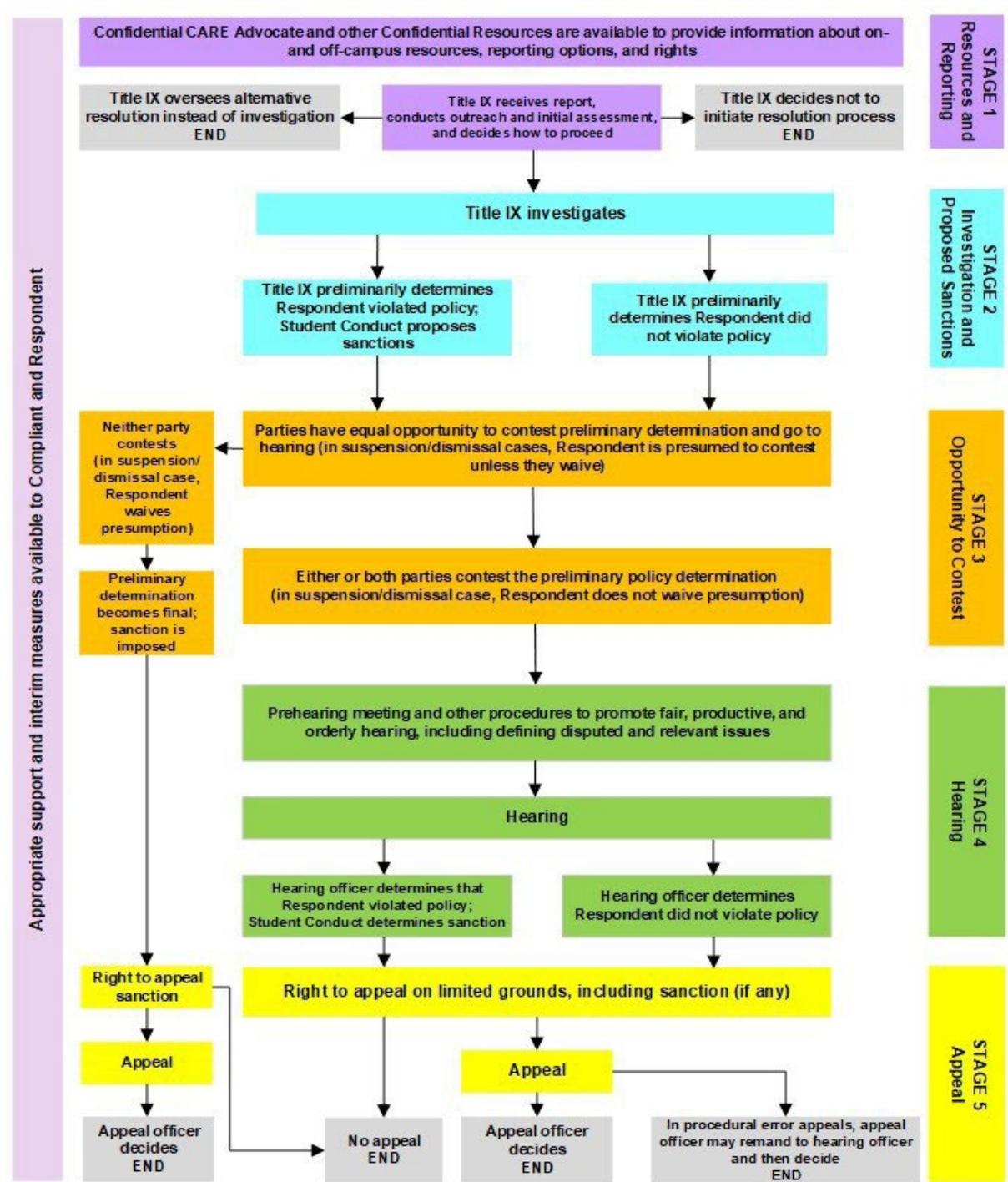
Stalking (Policy and DOE)

1. *Whether the Respondent engaged in conduct that was repeated;*
2. *Whether the conduct was directed at the Complainant;*
3. *Whether the conduct was of a sexual, romantic, or other sex-based nature or motivation; and*
4. *Whether the conduct would have caused a reasonable person to either:*
 - a) *fear for their safety or the safety of others, or*
 - b) *suffer substantial emotional distress.*

Brief Procedural Overview

Appendix E:

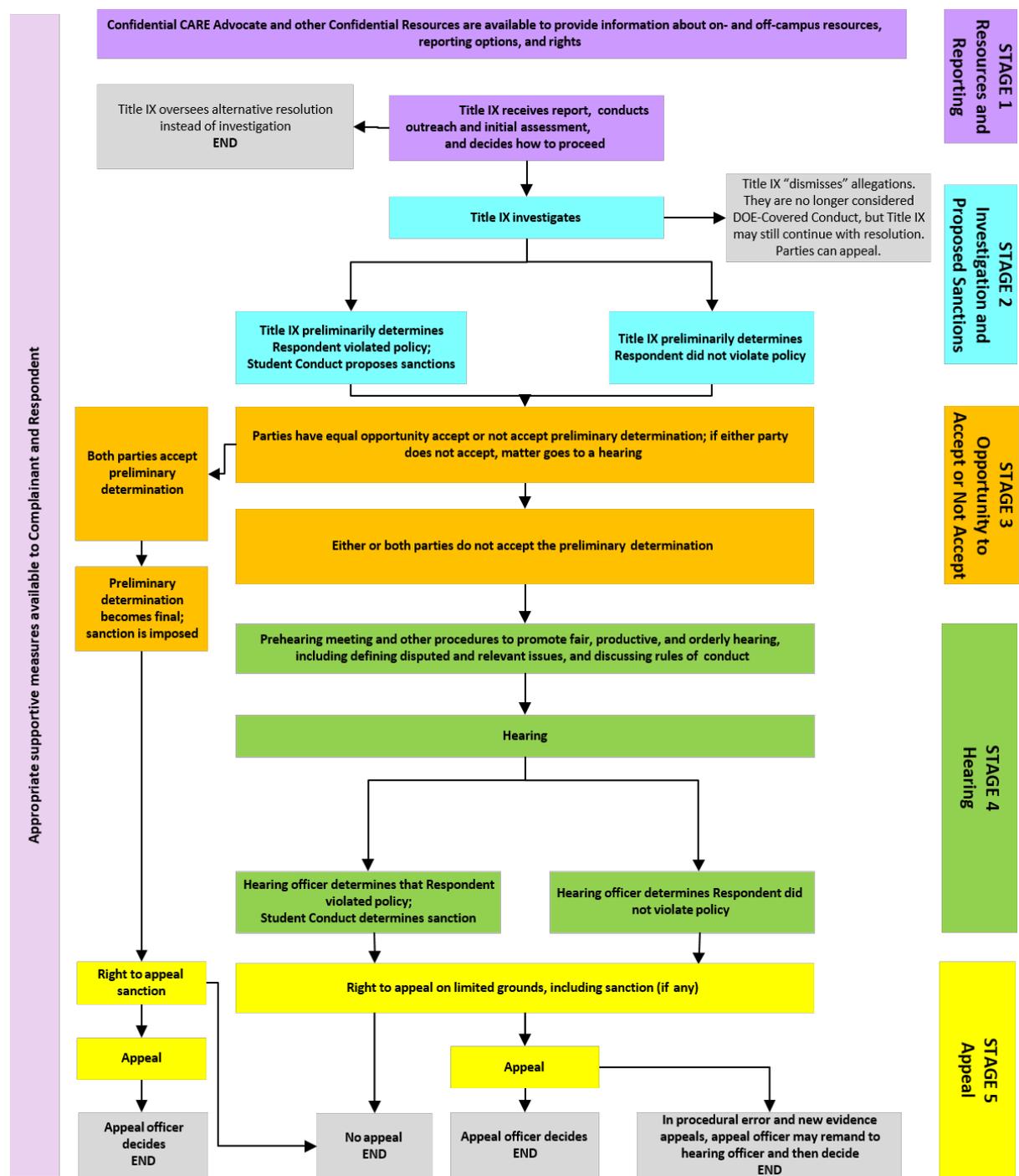
SVSH Student Investigation and Adjudication Framework for Non-DOE Covered Conduct



Brief Procedural Overview

Appendix F:

SVSH Student Investigation and Adjudication Framework for DOE Covered Conduct



Relevance of Trauma in SVSH Context



Understanding Trauma

What is Trauma?

“An emotional response to a terrible event like an accident, rape or natural disaster. Immediately after the event, shock and denial are typical. Longer term reactions include unpredictable emotions, flashbacks, strained relationships and even physical symptoms like headaches or nausea.” (American Psychological Association, 2021, para. 1)

What does “Trauma-Informed” mean?

Trauma-informed refers to the approach taken when interviewing or caring for individuals who may have experienced trauma. A trauma-informed approach involves:

- Understanding the impact of trauma on physical, emotional, and mental health
- Understanding the neuroscience of trauma and memory
- Focusing on empathy, sensory information, overall details, memories (implicit and explicit), and impact

The Impact of Trauma in the SVSH Context

Trauma may have **immediate** and **long-term effects** on those who experience it. Some **impacts of trauma** include:

- Tonic immobility, shock, flat affect
- Helplessness
- Denial or minimization of event
- Dissociation
 - *lack of connectivity between thoughts, memories, surroundings, actions*
- Memory impacts
 - *fragmented, out of sequence, connected to sensory information*

Barriers to reporting

The effects of trauma may lead to **delayed reporting** or a **decision not to report at all**. Some barriers may include:

- Fear of safety, retaliation, not being believed, being blamed
- Self-blame, shame, embarrassment, reluctance to let friends/family know
- Different priorities for responding to incident for complainant
 - *i.e. wanting treatment for respondent vs. disciplinary action)*
- Distrustful of others, including law enforcement
- Re-traumatization through reporting or investigation processes
- Concerns about confidentiality

Influence of Trauma in a Hearing

- Complainant may be **less trusting and feel less safe** in a hearing setting.
- Providing information about the incident may be **re-traumatizing** for the complainant.
 - Retraumatization could lead to the Complainant feeling unsupported and unable to respond to questions.
- Trauma may play a role in how questions by the other party's advisor/Reader are **perceived** and in how they are **answered** by the individual.
 - **Questions** may be perceived as **triggering**.
 - Complainant's **memory may be fragmented**, which may **affect the answers** they provide in a hearing.

Trauma-informed interview tactics may help Complainants **retrieve** old **memories** from traumatic incidents and **provide information** in a hearing.

Implicit Bias



What is Implicit Bias?

*“Thoughts and feelings are ‘implicit’ if we are unaware of them or mistaken about their nature. We have a bias when, rather than being neutral, we have a **preference for (or aversion to) a person or group of people**. Thus, we use the term “implicit bias” to describe when we have **attitudes towards people or associate stereotypes with them without our conscious knowledge.**”* (Perception Institute, 2021, para. 1)

Understanding Implicit Bias

Explicit vs. Implicit Bias

- **Explicit bias** is a conscious awareness of one's feelings and attitudes and intentional behaviors.
- **Implicit bias** is unconscious and is often in direct contradiction of one's feelings and attitudes. Implicit bias may impact one's behaviors without their full, conscious awareness.

(Georgetown University National Center for Cultural Competence, 2020)

Why does this Matter?

Implicit bias can impact **assumptions** and **judgments** of others, **decisions-making**, and can create an **inequitable** and/or **harmful** environment.

(Handelsman & Sakraney, 2015)

Addressing Implicit Biases

Implicit bias can be changed, but it takes **time, energy, and effort**.

How to address implicit bias and stop acting on your biases:

- **Self-awareness:** understand that we all have implicit biases. Assess your own implicit biases by taking a test, like Harvard University's Implicit Association Test (<https://implicit.harvard.edu/implicit/iatdetails.html>)
- **Understanding biases:** the process of categorization is a regular part of human cognition. Awareness of this can help you be more conscious of your own biases and how they can impact behavior.
- **Focus on individual people and their attributes.** This helps us see people as individuals instead of members of groups or categories.
- **Slow down:** we make judgments instantaneously and act on these judgments often without thinking. Taking time to slow down and consciously act reduces the risk of acting on unconscious biases.

Rights & Rules of Conduct



Complainants and Respondents in the University's SVSH resolution processes have the right to:

- Be treated fairly and respectfully by University employees.
- Be provided with information about the SVSH resolution processes and resources in accordance with the SVSH Policy.
- Be referred to by their lived name and pronouns.
- Request disability-related accommodations and language interpretation.
- Have all University policies and procedures applied in a nondiscriminatory manner.

All participants in the University's SVSH resolution processes are expected to:

- When participating in a resolution process, follow the University's investigation and adjudication procedures.
- Respect the instructions provided by University employees administering the SVSH resolution process, and raise questions or concerns in a respectful and non-harassing manner.
- Not engage in retaliatory behavior towards the other party, any witness, or others.
- Not deliberately delay or disrupt the proceedings without good cause.

Hearing Officer Charge

- To explain the hearing process to the involved parties, and address their questions;
- To define the scope of the fact-finding hearing and notify the parties of this determination;
- To determine what issues are disputed and relevant to the determination of whether a policy violation(s) occurred;
- To conduct the questioning of the parties and witnesses during the hearing;
- To make their own findings and credibility assessment based on the available evidence;
- To communicate with parties in the pre-hearing and hearing space. Defer contact outside of these spaces to Hearing Coordinator.

The Pre-Hearing Process

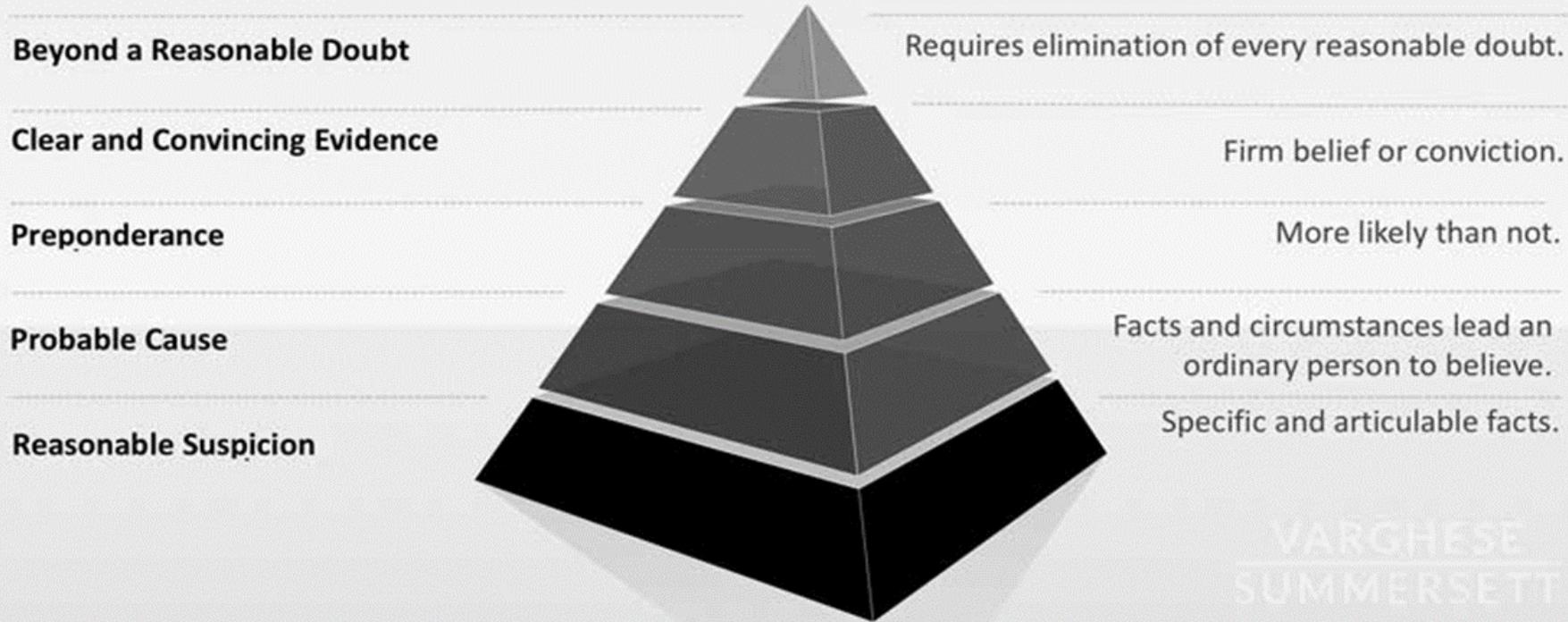
- Meet with parties
 - Remind students that the process is for them. Their advisor's role is to advise.
- Review and approve evidence and witnesses
 - Acceptance and reliance upon expert literature
 - Investigative file
- Define scope of fact-finding hearing
 - Assessment of disputed v. undisputed facts
- Address any party questions
- Schedule the hearing
- Receive party requests for timeline extensions and forward to Title IX Officer for approval via Hearing Coordinator.

The Hearing

- Virtual hearing that is audio recorded with visual access to the parties and witnesses
- Parties allowed to have advisor and support person present
- Questioning
 - Appendix E: All questioning done by the hearing officer
 - Appendix F: Questioning done by hearing officer and advisor/readers
 - Determine order of questioning
- Exclusion of irrelevant or unduly repetitive evidence
- Determine procedural issues for the hearing
- Promote an orderly, productive, and fair hearing

Post-Hearing: Standard of Deliberation

BURDENS OF PROOF



VARGHESE
SUMMERSETT

Why a pyramid? | As the level of proof required rises, the fewer number of cases meet the level of proof.

Post-Hearing: Information Considered

- Take into account the investigative file and the accepted evidence.
- On any disputed and material issue, the hearing officer should make their own findings and credibility determinations based on all of the evidence before them.

Post-Hearing: Written Decision

- Distributed to the Complainant and Respondent by the Office of Student Conduct within 15 business days of the hearing.
- Written Notice will include:
 - The determinations of whether the *SVSH Policy* and/or other student conduct policies have been violated,
 - If so, a description of the sanctions;
 - The findings on each disputed, material fact and an analysis of the evidence supporting the findings;
 - A summary of the facts found by the investigator that the parties did not dispute.
 - The rationale for the determination of each charge;
 - The rationale for any sanctions;
 - A statement of the right to appeal, grounds and timeframe for the appeal, the office to which the appeal must be submitted, and the procedure that the University will follow in deciding the appeal; and
 - An explanation that both the parties will receive.

Campus Consultation for Student Framework

Title IX Officer

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Questions?

