

Ground Rules:

Extend grace and latitude.

Ask questions.

Challenge your assumptions & biases.

Engage in this training.

Practice self-care.

Recognize there are likely persons who have experienced these incidents within in our number.

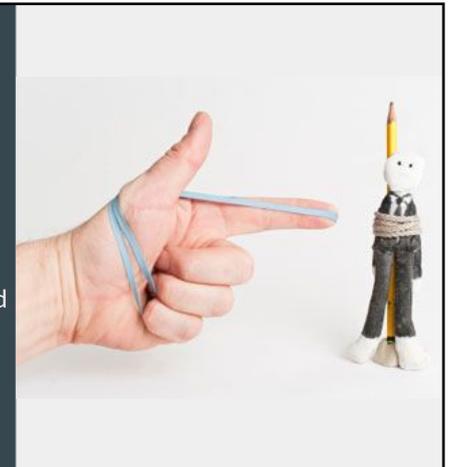
College officials may not disclose information from a student grievance complaint to anyone other than those involved in the hearing process or those who have a legitimate education interest (as identified as a legitimate need to know information in order to perform one's job or role with the College). The College will fully cooperate with law enforcement in connection with related investigation and legal proceedings.



This policy prohibits retaliation against anyone who reports or is believed to have reported harassment, discrimination, or other prohibited behavior, or who is a witness or otherwise involved in a related investigatory proceeding.

Such retaliation will be considered a serious violation of this policy, regardless of whether an informal or formal complaint is upheld. Encouraging others to retaliate is also prohibited and will be subject to disciplinary action.

1. Individual engaged in a protected act.
2. Individual experienced adverse impact.
3. Do circumstances suggest a connection between the protected activity and the adverse action.
4. Is there is no non-retaliatory reason for the adverse action?



Questions?

“Asking questions doesn't mean you don't know your job; asking questions means you want to improve the quality of your work.”

-Robert Allen



Questions?

"Without a good question, a good answer has no place to go."

-Clayton Christensen

*Sexual Misconduct is a **broad term** encompassing any **unwelcome** behavior of a sexual nature that is committed **without consent** or **by force, intimidation, coercion** or **manipulation**. Sexual misconduct can occur between persons of the same or different genders. Sexual Harassment is a form of sexual misconduct. It is gender-based verbal or physical conduct that is so severe, pervasive or objectively offensive that it interferes with a person's ability to benefit from the educational opportunities or activities of the college.*

Was there force?

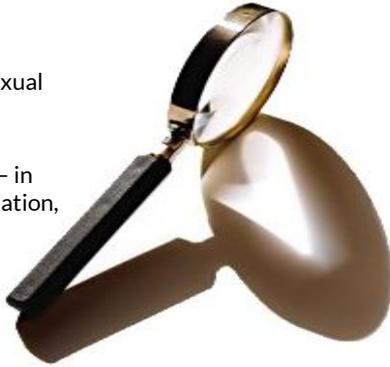
Force can be:

- Physical - violence, abuse, compulsion
- Threats - Harassment
- Intimidation - implied threats
- Coercion-pressure, duress, cajoling



Coercion is:

- o Pressure to engage in sexual activity (quid pro quo)
- o Unwelcomed attention
- o Unreasonable requests – in frequency, duration, isolation, and intensity



Intimidation is:

- o Implied threats – use of power or authority to influence
- o An incentive may be posed rather than an overt threat.



Was there force?

YES

Policy has been violated.

NO

Was the claimant incapacitated?

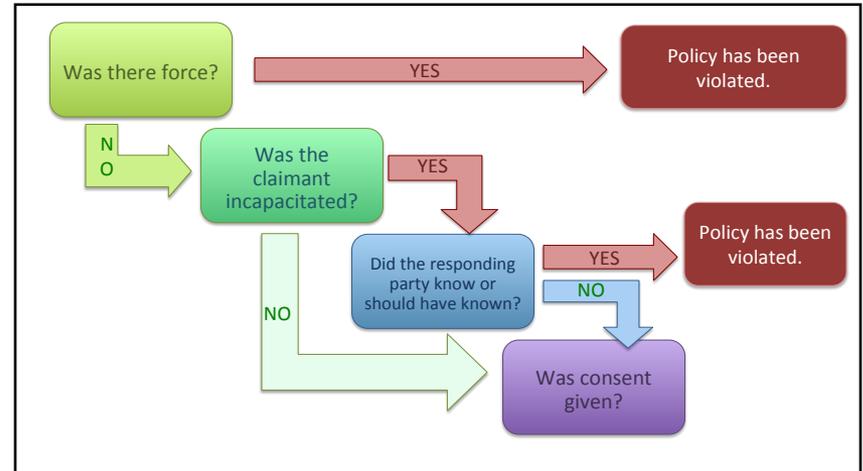
Incapacitation is a subjective determination that will be made after the incident in light of the facts available. Incapacitation is subjective because people reach incapacitation in different ways and as the result of different stimuli.

(Sokolow, 2001, p. 61-62)



Incapacitated refers to: One who is rendered physically helpless as a result of alcohol or other drug consumption (voluntary or involuntary), or who is unconscious, unaware, or otherwise incapable of giving consent.

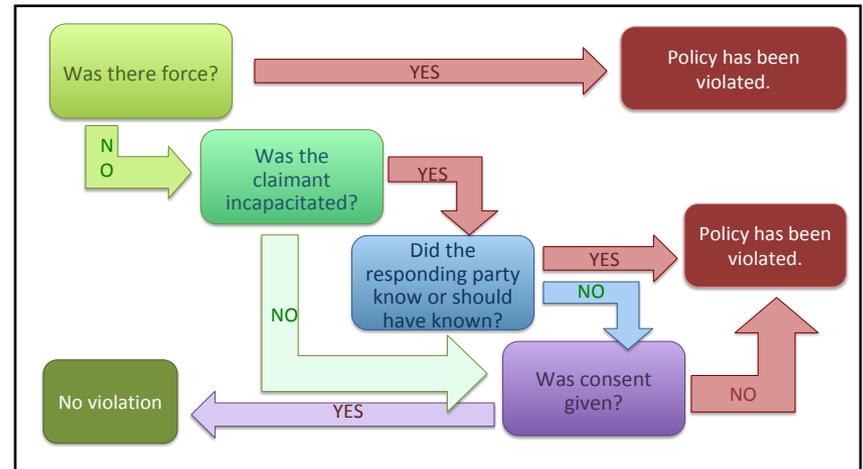
(Sokolow, 2005, p.10; www.nchem.org)



CONSENT IS:

CLEAR COHERENT WILLING ONGOING

<p>CLEAR Consent is active.</p> <p>It's expressed through words or actions that create mutually understandable permission.</p> <p>Consent is never implied, and the absence of a no is not a yes.</p> <p>Silence is NOT consent.</p> <p>"I'm not sure," "I don't know," "Maybe" and similar phrases are NOT consent.</p>	<p>COHERENT People incapacitated by drugs or alcohol cannot consent.</p> <p>Someone who cannot make rational, reasonable decisions because she or he lacks the capacity to understand the "who, what, when, where, why or how" of the situation cannot consent.</p> <p>People who are asleep or in another vulnerable position cannot consent.</p>	<p>WILLING Consent is never given under pressure.</p> <p>Consent is not obtained through psychological or emotional manipulation.</p> <p>Consent cannot be obtained through physical violence or threat.</p> <p>Someone in an unbalanced power situation (i.e. someone under your authority) cannot consent.</p>	<p>ONGOING Consent must be granted every time.</p> <p>Consent must be obtained at each step of physical intimacy. If someone consents to one sexual activity, she or he may or may not be willing to go further.</p>
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Questions?

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Honesty = Cr

S + Co + P = Cr

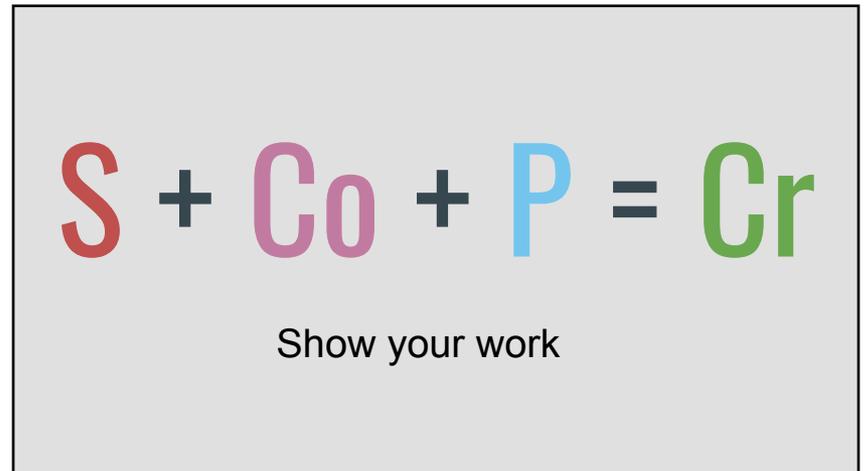
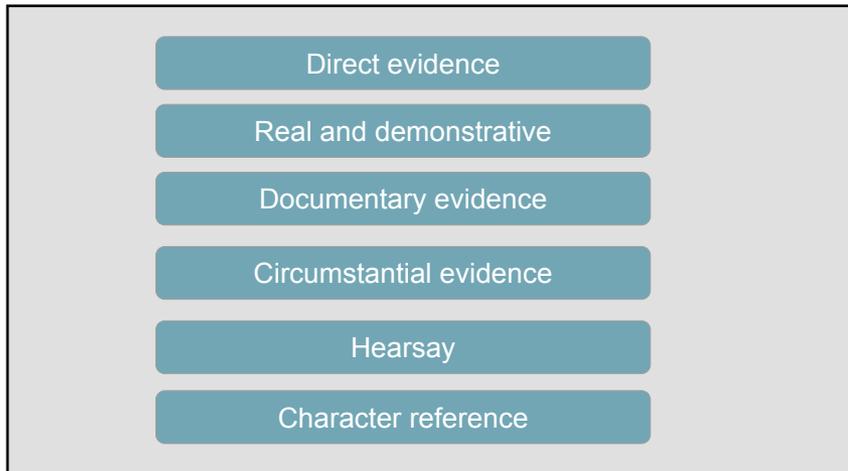
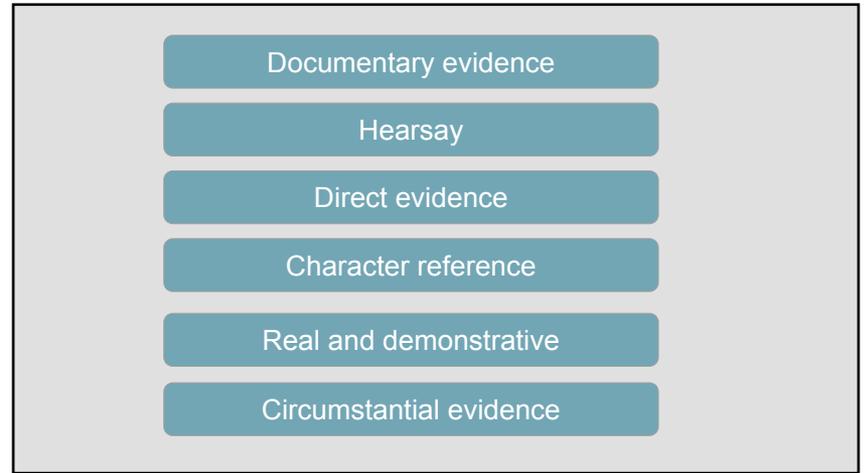
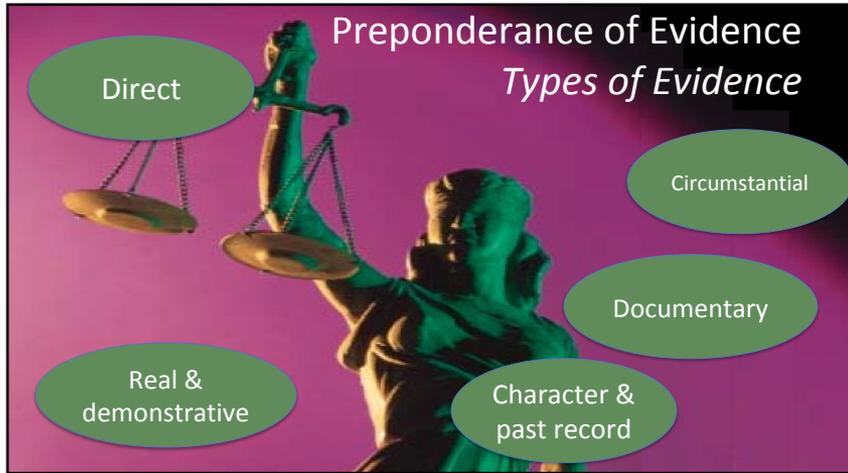


Direct Evidence
Comes from individuals who either witnessed the events or who were nearby or who interacted with the parties immediately before, during or immediately after.

Gain / Loss Equation
What is lost by telling the truth and what is gained by lying?

Indirect Evidence
Second hand information or circumstantial

Bias
Relationship to the claimant or the responding party.



Break

"For one minute, walk outside, stand there in silence, look up at the sky and marvel at how amazing the world is."

-Unknown

Day 2 Agenda

- 8:00 Loose Ends
- 8:30 The Consent Construct
Types of Evidence
- 10:15 Break
- 10:30 Case Study/Tabletop
- Noon Lunch break
- 1:30 Case Study (con't)
- 2:30 Break
- 2:45 Assessing Credibility
Documentation and case organization
- 4:30 Debrief/Download



CASE STUDY

Questions?

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-Clayton Christensen

Break

"For one minute, walk outside, stand there in silence, look up at the sky and marvel at how amazing the world is."

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You need to create a report that will be understood by someone who has never spoken with the parties or who has never read your policy.

Your report will need to stand on its own in the event of an internal or external review.

If it is not in the report will you remember it?

don't
~~assume~~

1. Background
2. Procedural issues (if any)
3. Statements (Claimant, Responding Party, Witnesses, Outside Experts)
4. Description of Other Evidence (student conduct records, medical records, photographs, surveillance videos, swipe card records, texts, etc.)
5. Analysis and Finding
6. Recommendations



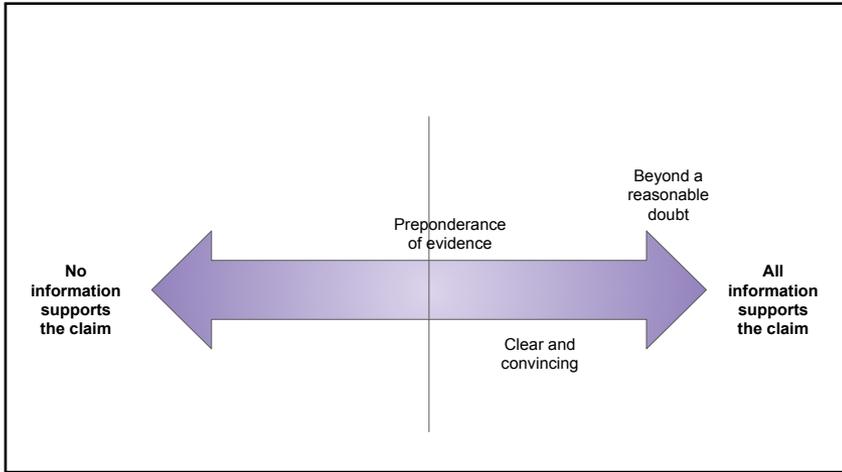
Claimant stated that Responding Party subsequently texted her about what had happened. Claimant provided the texts, which read as follows:

- Claimant: I don't care what u say. U know I didn't want it and you did it anyway.
- Responding Party: I'm sorry I hurt u. You know I don't hit. I was so drunk. IDK what to say to bake it better. Can I see u?
- Claimant: What could you say? U raped me, Asshole.
- Responding: I'm sorry. I'm so sorry. I luv u u know that. I don't know why I did what I did.

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-Clayton Christensen



Thorough	Reliable	Impartial
Prompt	Effective	Equitable
End the Discrimination	Prevent its Recurrence	Remedy the effects upon the victim & community

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Questions?

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Q:
 On a scale of 1 to 4, where 1 is “very limited understanding” and 4 is “deep understanding” rate your level of understanding Title IX?

Q:

On a scale of **1** to **4**, where **1** is “**not at all prepared**” and **4** is “**very well prepared**” how prepared are you to investigate an incident of sex- or gender based harassment, discrimination or violence?

Q:

What 5 things/concepts/skills will **you** take away from this training that you will put to immediate use?



Thank you for your time,
energy, and attention.

Juli Dunn

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Title IX Administrator
Whitman College

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