



Live Hearing Basics

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Agenda

- Structure
- Hearing Preparation
- The Hearing

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STRUCTURE


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Live Hearing



In-person



Virtual

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See and hear (Regulations)




“...enabling the decision-maker(s) and parties to simultaneously see and hear the party or the witness answering questions”


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Record of Hearing



Audio



Video

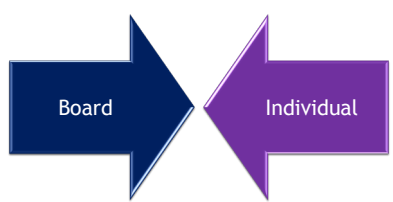


Transcript

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Decision-makers



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The Chair

- Board Chair
 - Manages the agenda
 - Determines relevancy of questions
 - Coordinates decision
- Procedural Chair
 - Logistics
 - Has no role in decisions, including relevancy

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Chair-related Tasks



- Recording
- Introductions
- Order of Questioning
- Witness Management
- Enforcing Rules of Decorum

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Decision-maker(s) Task



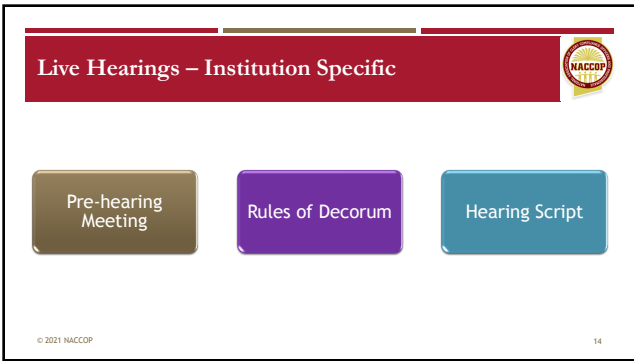
- Review Report
- Ask Questions
- Determine Relevancy
- Assess Credibility
- Make the Finding
- Produce the Written Determination

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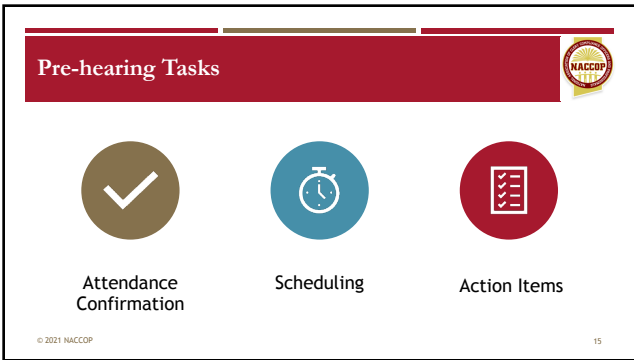
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Preparing the Parties




- Hearing format
- Vetting of questions for relevancy
- Irrelevant questions (rape shield/privilege)
- Impact of attendance
- Impact of participation
- Role of advisor
- Appointed advisor

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Decision-maker Pre-work



Review report Review allegations Review policy Draft relevant questions

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THE HEARING

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Participants





Decision-maker(s)



Respondent and Advisor



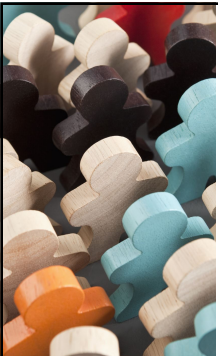
Complainant and Advisor



Witness(es)

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Roles in the Hearing

- Complainant and Respondent
 - Subject to cross-examination
 - Can be questioned by the board
 - Do you allow for a verbal statement?
- Witnesses
 - Subject to cross-examination
 - Can be questioned by the board

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Other Possible Personnel in Attendance


| | | |
|---|-------------------------|---|
|  | General Counsel | Advise on process? |
|  | Stenographer | Only needed if not recording |
|  | Accommodation | Interpreter or mandated support person |
|  | 2 nd Advisor | Is a support person allowed? Union rep? |

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Mandatory Components






Complainant Cross-Examination



Respondent Cross-Examination





Witness Cross-Examination

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Optional Components







Introductions




Reading Allegation



Review of Rights and Rules




Opening/Closing Statements



Decision-maker Questions

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Decision-maker Questions (from the Regulations)

“The degree to which any inaccuracy, inconsistency, or implausibility in a narrative provided by a party or witness should affect a determination regarding responsibility is a matter to be decided by the decision-maker, after having the opportunity to ask questions of parties and witnesses, and to observe how parties and witnesses answer the questions posed by the other party.”

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Decision-maker Questions






Statement of Accuracy



Credibility




Clarity

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Impartial Hearings





Consistent application



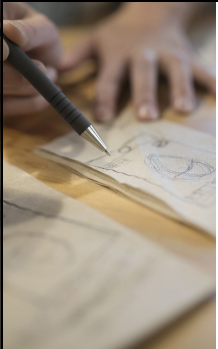
Ask clarifying questions



Avoid bias

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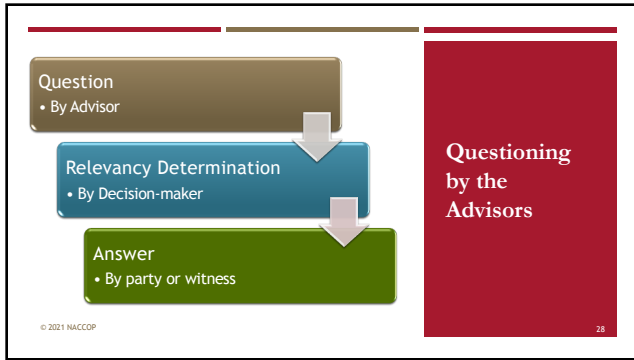


Advisor

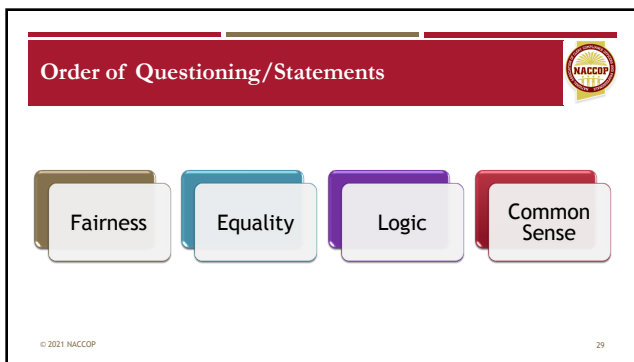
- Each party's advisor asks of other party and witnesses "all relevant questions and follow-up questions, including those challenging credibility."
- "Only relevant cross-examination and other questions may be asked of a party or witness."
- "...simply of posing questions intended to advance the asking party's perspective..." (Preamble)

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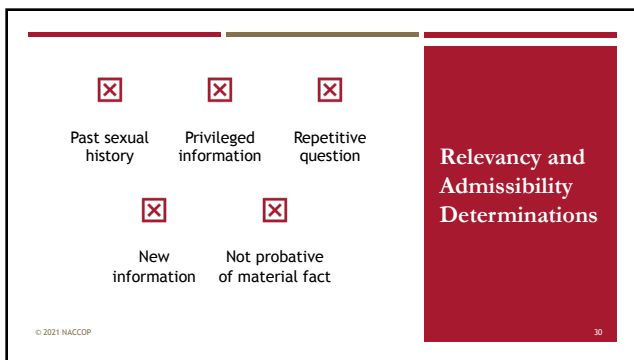
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Reason for Relevancy Determination







Not a lengthy or complicated explanation



Logic and common sense



Shows neutrality




May trigger appeal ("procedural irregularity")


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"New Evidence" at the Hearing




APPEAL GROUND: "New 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"



Allow



Disallow




Stop Hearing


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Party Issues




REQUEST FOR INFORMAL




DISRUPTIVE




INAPPROPRIATE QUESTION



NOT PARTICIPATING



NO SHOW





EMOTIONAL ...

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Situational Issues







Safety



Disability



Length





Phrasing

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Decision-maker Issues (Appeal Grounds)






Procedural Error



New Evidence



Bias/Conflict

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For more information:
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Upcoming D. Stafford Virtual Classes

- Title IX Coordinator (11:00 AM - 5:00 PM Eastern)
 - May 3 - 7, 2021
 - October 4 - 8, 2021
- Combined Sexual Misconduct and Domestic/Dating Violence and Stalking Investigation (11:00 AM - 5:00 PM Eastern)
 - August 23 - 27, 2021
- Advanced Investigations (9:00 AM - 5:00 PM (Eastern Time)
 - June 7 - 11, 2021
 - November 8 - 12, 2021

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Upcoming D. Stafford Virtual Classes


- Behavioral Intervention Team/Threat Assessment Team Training (10:00 AM - 5:30 PM Eastern)
 - June 22 - 24, 2021
 - December 1 - 3, 2021

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8TH ANNUAL NACCOP CONFERENCE:
A Live, Virtual Event

Conference - July 21-23, 2021
Pre-Conferences - July 20, 2021



Register at www.naccop.org

- Pre-Con #1 **for CCOs** - Addressing VAWA Policy Statements for Non-Title IX Procedures in the Annual Security Report
- Pre-Con #2 **for CCOs** - Developing Internal Memorandums of Understanding (MOUs) with Key Departments to Facilitate a Higher Level of Institutional Cooperation with Clery Act Compliance
- 2021 ADVANCED TRACK OPTION - Case Reviews: These sessions include a Case Review where attendees will participate in reviewing a sample incident report narrative to determine the correct classification and count for each report and to practice adding entries to the Daily Crime Log. This session will provide practitioners with an opportunity to apply their knowledge to real-world scenarios.
- The finalized agenda will be released in the late Spring of 2021.

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