



Posting These Training Materials?

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Bases for appeal: Procedural Integrity

2 of 2

What you need to know to answer this question:

Bases for appeal: New Evidence

2. New evidence

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4. Any other bases the recipient establishes provided it is equally available or applies equally to both parties.

“ This will require the appeals officer to understand the
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“ Many institutions provide a basis for appeal for arbitrary



This also means:

“ Cannot exclude redundant evidence

Relevancy: Legally Privileged

Relevancy: Legally Privileged

Retaliation

When parties elect not to participate, a recipient cannot retaliate against them (30322)

“ It is the right of any party or witness not to participate in the investigation

Relevancy and the Investigation and Report

recipients to **summarize** and evaluate **relevant evidence**, and specification of certain types of evidence that must be deemed not relevant or are otherwise inadmissible in a grievance process pursuant tmi627 rg0.439 0.1

The Decision-A

1. **Any question at the live cross-examination hearing can be answered**
2. **Run an orderly and truth-seeking live cross**

Issues of Relevance for the Decision-Maker

Relevancy: No Reliance on Prior Statements

What if a party or witness gave a statement duringt if a

Relevancy: No Reliance on Prior Statements | The Theory 2 of 2

In a blog post on May 22, 2020, OCR clarified:

“ One question that a postsecondary institution may have is whether *not* relying on a party’s statement—because that party has not submitted to cross-examination —means not relying on a description of the words allegedly used by a respondent if those words constitute part of the alleged sexual harassment at issue.

The answer to that question is ‘no’...”

The Live Cross

Process: The Set up

The setup

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Advisor of Choice

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More Responsibilities of the 50th State (De

More Responsibilities of the Decision-Maker | The Written Determination 3 of 6

The decision- { æ

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More Responsibilities of the Decision-Maker | The Written Determination 6 of 6

Written decision **MUST** be provided to parties simultaneously.

Determinations from Written Decision for Hypotheticals 2 of 2

2. Respondent's sexual harassment with respect to his video-recording, and sharing of said recording, because the record did not specifically, the record contains no evidence that anyone other than Wyatt saw the video. Additionally, the record demonstrates that the respondent did not share the recording with anyone other than Wyatt.

Appeal Hypothetical 1

Procedural Irregularity

I (Complainant Cameron) asked the Investigator to speak to my roommate because she saw the video of me and Riley that Riley posted on Snapchat and she could have verified that it was me in the video. Despite my asking, and the Investigator agreeing to do so, the Investigator did not speak to my roommate.

Appeal Hypothetical 3 Part 1

Procedural Irregularity/Bias

The investigator exhibited bias against Respondent Riley when he refused to answer relevant questions at the hearing that affected the outcome.

to question the investigator about statements made to him by the rideshare driver who drove Cameron

Appeal Hypothetical 3 Part 2

The rideshare driver, Chris Clay, a witness, who did

Appeal Hypothetical 3 Part 3

The decision

Perceived v. Actual Bias

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Preamble Discussion on Bias and Conflict of Interest 1 of 3

• **Flexibility to use their own employees, employ-**

Preamble Discussion on Bias and Conflict of Interest 3 of 3

Examples of Bias

“ An investigator used to supervise one of the parties

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A good way to ensure impartiality and avoid bias:

- “ Keep an open mind and actively listen
- “ Each case is unique and different

Hypothetical 1

Respondent appeals stating that the decision-maker was

Hypothetical 2

Complainant appeals alleging bias in the whole Title IX process. Specifically, Complainant alleges that the TIXC's prior work as the TIXC at another school, which did not properly investigate complaints, has carried over. Complainant cites news articles critical of the TIXC. The TIXC has previously shared with you personal frustrations she had at the other school and feeling like her hands were tied by the administration. The process and outcome before you in

Hypothetical 4

Hypothetical 5

You receive an appeal from a male Respondent with an attorney challenging the bias of the decision-

Hypothetical 6

The Appeal

Standard of Review of Appeal

2 of 3

Considerations for Additional Grounds for Appeal 1 of 2

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Written Appeal Decision 2 of 2
