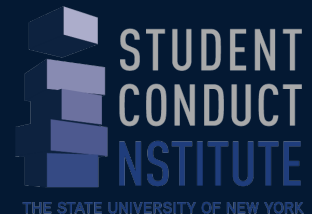


- Avoid repeated disclosures
- Consider the impact of trauma:
 - Fragmented memory and non-linear order of events
 - Specific details about sensory events
- Trauma-informed approach is not a substitute for missing info, justification for not doing a full investigation, or causing a biased belief in a party's accuracy
- No right or wrong way to respond

-
- Training and procedure review
 - Check your body language and demeanor
 - Questioning and word usage (Help me understand... and what are you able to tell me about what you experienced?)
 - Describing another individual's experience
 - Framing your questions, avoiding why questions



TRAUMA INFORMED PRACTICES



INVESTIGATIVE PROCESS

Evidence Collection

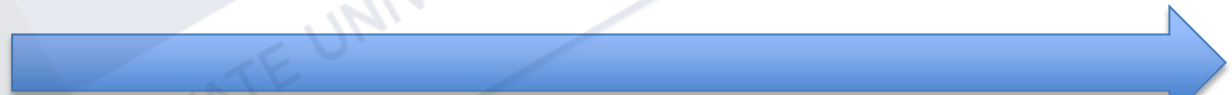
- Interviews of parties & witnesses must take place after Notice of Allegations
- Both inculpatory & exculpatory evidence must be collected
- Evidence will be directly related to the allegations
- The collection process may include evidence that institution does not intend to rely on

Evidence Sharing

- Parties may review evidence with advisors present
- May set reasonable rules around evidentiary review and sharing
- Redaction of “irrelevant” evidence
- Mandatory inspection process with 10-day min. review period

Investigation Report

- Summarizes relevant evidence directly related to allegations
- Cannot make determination regarding responsibility- sole role of the hearing panel
- Parties must have opportunity to review at least 10 days before hearing





Investigation Overview



Jurisdiction, Investigator Information



Investigation Report Objective



Alleged Prohibited Conduct, Witness List, Evidence List



Outline Procedural Next Steps after Investigation

Prompt and Impartial Investigations

- 
- ✓ Require publication of a timeframe based on a specific number of days with room for 'good cause' delay
 - ✓ Final Rules (and case I) anticipate balance between prompt resolution and adequate time to prepare and respond to charges
 - ✓ Must collect exculpatory and inculpatory evidence
 - ✓ Must follow code
 - ✓ Cannot have bias or conflict of interest

INVESTIGATION CONSIDERATIONS

Testimony

Text Messages

Social Media Posts

Medical Records

Public Safety/Police Records

Videos / Surveillance Footage

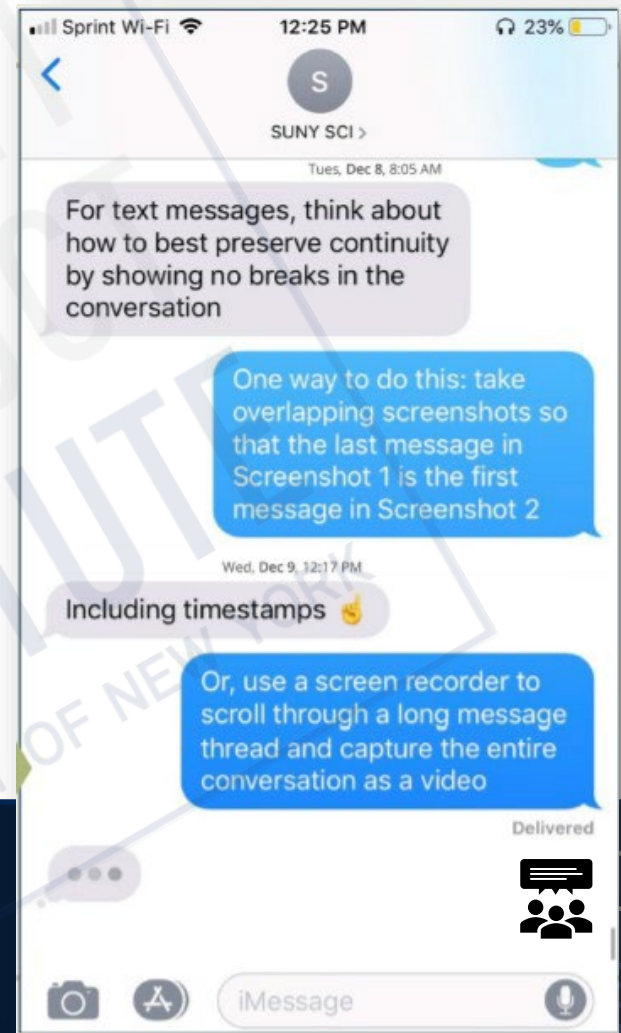
Pictures

ID Card Data / Network Usage Location Data

Email

Voice notes

EVIDENCE COLLECTION







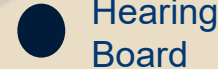
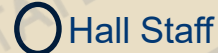
PROCESS DOCUMENTATION



CASE PROCESS DECONSTRUCTED



Key Players:





Detail **Due Process Rights**,
advisor of choice reminder



Review charges/allegations
and remaining timeline



Answer questions; provide
resources



Offer resolution options
again, discuss



Review appeal rights, policy
and procedure reminders

Action Items

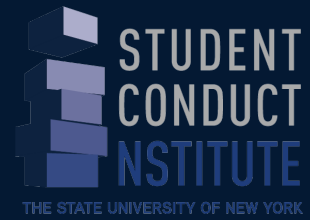


- ✓ Virtual vs in-person meetings
 - Clear expectations and reminders in your meeting notices (e.g. Advisor of choice notice)
- ✓ Location of meeting and privacy concerns
- ✓ Preparation of materials in advance
 - Referral Packet
 - Visual of hearing space if in person
- ✓ Schedule with adequate time
- ✓ Build in flexibility and anticipate challenges
 - Emotional state of all parties
 - Breaks may be necessary
- Working with the student's advisor

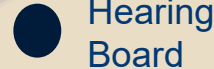


POST-MEETING WITH STUDENTS

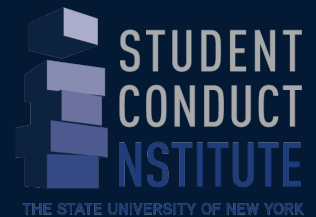
CASE PROCESS DECONSTRUCTED



Key Players:



PRE-HEARING PREPARATIONS



Virtually

Technology

- Accessibility needs
- Internet signal strength
- Party access to appropriate equipment – don't make assumptions
- Technology settings
- Recording ability (double check cloud space & storage)
- Double check provided links
- Back up plan & back up tech person role that does not wear other hats in the process
- Access to documents

Hearing Space and Parties

- Physical space for party and advisor
- Hearing board member location
- Your location
- Witness & Investigator invites
- All party and advisor confirmations (back up advisors)
- Confidentiality and privacy of communications (tip pan the room)

In-Person

Technology

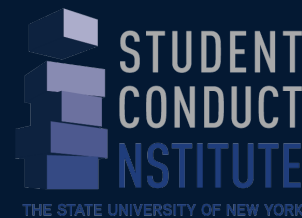
- Accessibility needs
- Recording ability (double check cloud space & storage)
- Smart equipment (e.g. for the purposes of showing evidence)
- Back up tech person role that does not wear other hats in the process

Hearing Space and Parties

- Space considerations for where students will be placed – enter/exit building?
- Space availability (multiple spaces)
- Masks and visitor policies
- Access to documents and evidence
- Proximity to restrooms
- Proximity to a printer
- Fire alarm plan
- Water, tissues, snacks, pens, paper (for all)
- Witness & Investigator invites
- All party and advisor confirmations (back up advisors)



PRE-HEARING CONSIDERATIONS





Availability Expectations



Conflict of Interest and Bias Check



Access to evidence, hearing resources, information



Board Communication



Select chairperson, discuss relevant roles on board



HEARING BOARD PREPARATION



Date, Time, Location
(Meeting Links)



Include and cite relevant
policies / procedures



Describe the
outline/process for day of



Include failure to appear
clause



New evidence and witness
reminder



THE HEARING NOTICE DOCUMENT

- All parties, advisors, witnesses, and decision-makers:
 - must be present at the same time either physically or remotely via secure technology.
- Decision-makers
 - Must be able to see and hear parties and witnesses (either physically or via secure technology).
 - Ask questions of the parties and witnesses.
 - Decide whether question is relevant.
- Advisors
 - ask relevant cross-examination questions. (*Does the question make a fact at issue more or less likely to be true?*)



LIVE HEARING FUNDAMENTALS

Rules to consider

- Questions in neutral tone
- No accusatory questions
- Require parties and advisors to refer to other persons by the name and gender pronoun used by that person
- No "duty of zealous advocacy" inferred or enforced, even for attorney-advisors
- No abusive behavior: yelling, screaming, badgering, leaning in, or approaching witnesses/parties without permission
- No use of profanity or personal attacks
- No use of repetitive questions



DECORUM



Relevant questions ask whether the allegations under investigation are more or less likely to be true



Irrelevant questions: duplicative, undisclosed medical records, privileged information, prior history



Common sense and good judgment



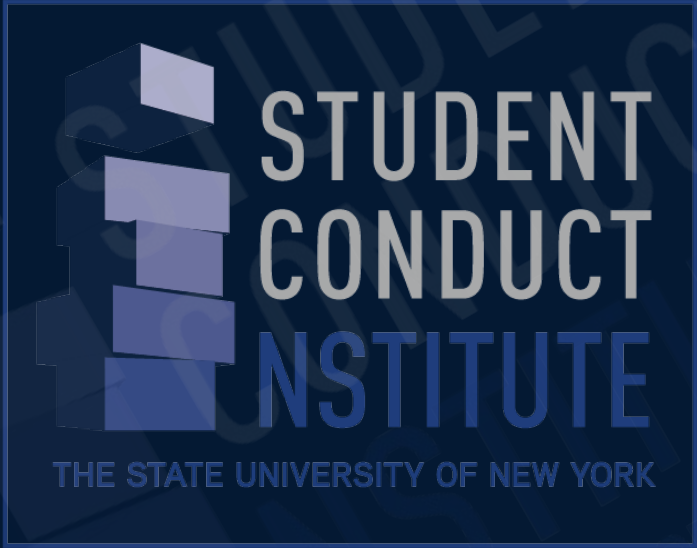
DETERMINING RELEVANCE

NEXT TIME... LIVE@DISTANCE

Training Roadmap



- Highlight tangible tools and sample documents to assist with documentation of this process
- Discuss the importance of evidence-based decision-making
- THE HEARING
- Review aspects of the deliberation and determination processes
- Highlight considerations for appeals, decision implementations, and record retention



The State University
of New York