TITLE IX HEARINGS:
INFORMATION FOR ADVISORS

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Today we will cover:

- Scope of the role
- Working with your party
- Cross-examination
  - Basics
  - Preparing
  - Goals
  - Skill-building exercise
Role of advisor in SAIC hearings

- Different during the hearing stage than it is during the investigation stage

- To conduct cross-examination on behalf of the party. At SAIC, this includes:
  - Assisting party in preparing for the hearing
  - Advising party of the goals of cross-examination
  - Helping the party develop questions
  - Neutrally relaying the party’s desired questions

- This does not include:
  - Speaking for the party, making objections, presenting arguments, or engaging in any other active role

- Always abiding by the rules of decorum and treating all parties with respect
  - WHY IS THIS SO IMPORTANT?
Some cross-examination basics

- Point of cross-examination: a means by which the party establishes their case
- Two broad categories of cross-examination:
  - **Constructive**
  - **Destructive**
- And a third, for Title IX purposes: fleshing out the investigation
SOME SPECIFIC CROSS-EXAMINATION GOALS/STRATEGIES

- To develop favorable matters from report/limit unfavorable matters from report
- To demonstrate that the witness has a motive to lie or has lack of motive to lie, bias or prejudice
- To establish that the witness could not have seen or heard what they claimed
- To challenge the witness’s ability to recall the events accurately
- To impair the credibility of the witness
  - By getting them to admit that they made statements on a prior occasion contrary to their current testimony
  - By comparing to contradictory statements of another witness or document
- To bring to the decision maker’s attention that the witness testifies evasively, hesitantly, belligerently, or so slowly that they seem to be struggling to support their testimony
Preparing for cross-examination

■ Master:
  - The applicable sections of SAIC’s policy
  - The prohibited categories of evidence

■ Thoroughly review all evidence and investigation report

■ Consult with your party about their responses to the evidence and investigation report

■ Share your thoughts on the evidence and investigation report

■ Help party identify areas of strength and areas of weakness

■ Help party develop questions to highlight areas of strength and explain areas of weakness
SKILL-BUILDING EXERCISE: THE ABC PARTY
Issues and tips specific to Title IX hearings

Listen to the decision-maker!

Should you cross-examine every single witness?

What if you don’t agree with your party?
Fun bonus activity applying evidence in a sexual harassment matter

1. Unwelcome conduct (subjective and objective)
2. Severe
3. Pervasive
4. Objectively offensive
5. Effective denial of equal access to school’s education program or activity
QUESTIONS?

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