

TITLE IX Training

Part 2: Relevance

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What is a Title IX investigation seeking to accomplish?

What happened?
Was there a violation?

Relevance

Information is relevant if 1) it has any tendency to make a fact more or less probable than it would be without the information **(WHAT HAPPENED?)** and 2) the fact is of consequence in the matter **(WAS THERE A VIOLATION?)**.

Fact: e.g., there was consent; a person was present in the room.

Information: establishes a fact or not.

How do we determine **WHAT HAPPENED?**

The Basic Questions

- Who?
 - Involved parties (Reporting Party, Respondent), witnesses.

- Where?
 - Locations. Macro and micro levels.

- When?
 - Dates, times, durations, intervals.

- What?
 - The details and sequence of the actions.

**How do we determine whether
WHAT HAPPENED is OF
CONSEQUENCE?**

Of Consequence? – The Allegations & the Definitions

What does the Reporting Party claim? What prohibited conduct is implicated?

Sexual Harassment

Quid pro quo harassment

Sexual Assault

Consent

Domestic Violence

Dating Violence

Stalking

“Unwelcome Conduct”

The allegations and the definitions establish the initial scope of the inquiry.

Information is NOT Relevant where it is:

Related to the Reporting Party's sexual disposition or prior sexual behavior,

Unless:

1. Offered to prove that someone other than the Respondent committed the alleged conduct, or
2. Is related to the Reporting Party's prior sexual behavior with respect to the Respondent and is offered to prove consent.

Information is NOT Relevant where it is:

Protected by a legally recognized privilege.

Derived from a party's medical, psychological, or similar records, unless that party has provided prior written consent.

It is duplicative or repetitive.

Directly Related

Information is directly related to a Reporting Party's allegations of Sexual Harassment where it has some plausible connection to those allegations. Not all Directly Related information will necessarily be considered Relevant.

How does this compare to Relevant information?

Directly Related v. Relevant

Directly Related

- Some plausible connection.
- Investigation seeks to gather information that is Directly Related.
- Parties review and can respond to all Directly Related information.

Relevant

- More or less probable/of consequence.
- The Investigation Report summarizes the Relevant information gathered.
- The hearing is an opportunity for the parties to ask one another Relevant questions.
- The Final Determination of Responsibility is made based on Relevant information.



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