



ADVISOR TRAINING

New Rules, New Policy, New Procedures

Scope of SIU's Policy and Procedure

- Interim Policy
- New Federal “Law”
- Sexual Harassment, Sexual Assault, Sexual Misconduct, Domestic Violence, Dating Violence, Stalking, and Retaliation ONLY
 - *But you can be an “advisor” for any case if asked and you want to be*
- Applies to EVERYONE
- Old policy and procedures for EVERYTHING else

When Does Policy Apply

- Formal Complaint
- Process A and B
- Process A
 - *Educational Program/Activity: SIU has control over both Respondent and Context of Conduct*
 - *In US*
- Process B
 - *Extended Jurisdiction: Control of Respondent*
 - *Deprive C of access*
 - *Substantial University Interest*

Who is Involved

- Complainant
- Respondent
- Investigator
- Title IX Coordinator
- Hearing Chair
- Hearing Panel
- Advisor
- Confidential Advisor*
- Appeals Officer
- TAT

Definitions

- Advisor
 - *Person chosen by a party or appointed by SIU to accompany party to meetings related to resolution process, to advise party, and conduct cross examination at hearing*
- Complainant
 - *Person who is the actual victim*
- Respondent
 - *Person who is accused*

Definitions

- Dating Violence
 - *Violence, on the basis of sex, committed by a person who has been in a romantic or intimate relationship with complainant*
- Domestic Violence
 - *Violence, on the basis of sex*
 - Current/Former Spouse or Partner
 - Share a child
 - Cohabitated with as a spouse or partner
 - Anyone protected under Illinois law
 - NOT ROOMMATES (Anymore)

Definitions

- Educational Program or activity
 - *SIU has control over respondent and context of the conduct*
- Finding
 - *Decision of the Panel*
 - Panel: Hearing Officers, One Chair and two others
- Sanction
 - *Punishment given by Panel*

Definitions

- Consent
 - *Voluntary, Knowing, Not Incapacitated*
 - *Incapacitated in not intoxicated*
- Formal Grievance Process
 - *Signed Compliant, Investigation, Hearing*
- Preponderance of the Evidence
 - *More Likely True than Not True*

Definitions

- Supportive Measures*
- Remedies
 - *Supportive Measures ordered by Panel*
- Retaliation
 - *Any act of reprisal, related to reporting, participating in, or NOT participating in a complaint of a violation on the policy*
- Sexual Assault
 - *Forced, Non-Consensual*
 - Rape
 - Sodomy
 - Sexual Assault with an Object
 - Fondling
 - Also non-forced Incest or statutory rape

Definitions

- Sexual Harassment

- *Educational*

- Quid Pro Quo
 - Severe, Pervasive, AND Objectively Offensive
 - *Denies equal educational access*

- *Employment*

- Quid Pro Quo
 - Hostile Environment

- Sexual Misconduct

- *Act of a sexual Nature that disrupts or negatively impacts the educational mission*

Definitions

- OWA
 - *VC of SA, DoS, Director SRR, Director HR, Director of Athletics, Confidential Advisors*
- Stalking
 - *Two or more actions which threatens or endangers the health, safety, emotional welfare, or access to education or employment*
 - *Must be reasonable*
- Title IX Coordinator
 - *Director of OEC*
 - *Oversees TIX policies and procedures*

Confidential Advisor Rebecca Gonnering

- John Massie
 - OEC
- Required under state law
- Professional Trained to provide support to survivors of sexual misconduct and GBV
- Duties
 - *Inform victim of reporting options*
 - *Inform victim of OPs and NCOs*
 - *Confidential Support*
 - *Secure supportive measures*
 - *Assist in making reports*
 - *Medical Advocacy*

Types of Supportive Measures Cannot Be Disciplinary or Punitive

- Housing
- Work
- Academic
- Dining
- Referrals
- Safety Planning
- Setting up appointments with other offices

Identifying a Student in Need

- Alienated
- Mental Health Concerns
- New or Sudden Changes in Behavior
- New or Sudden Difficulties in School
- New health problems

Making Referrals

- Cold vs. Warm Referrals
- Good Referrals = more intakes
- Know your resources
 - *Other Confidential Resources*
 - Health Services and CAPS (Do not report anything to OEC)
 - Women's Center
 - *Ops*
 - *Other*
 - Victim Advocates at Police Departments

Things to Know

- CA will reach out to student to offer Assistance (as will OEC)
- They are Confidential (but now have to report Supportive Measures to TIXC)
- No costs associated with the CA office
- Victims can change their minds
- Schedule an appointment
 - 453-4429
 - *Walk-Ins*
 - *Saluki Health Portal*

Questions? Break?

WHAT DO YOU CALL AN
ALLIGATOR IN A VEST?



AN INVESTIGATOR.

Mandated Reporters

- You are still a mandated reporter
 - *You do not need to report if you are asked to be an advisor, as it will have been already reported*
 - *What if, as an advisor, you are given information that may not be known to others?*
 - May have to drop out, if you know they are going to lie
 - *You do NOT have privilege*
- safe.siu.edu

Criminal, Civil, University Proceedings

- Criminal: Law Enforcement is Involved
- Civil: Law Suit
- University: Procedures
- OEC works with LE to gather information. They provide information to us. We don't provide information to them
 - *They have more avenues to find information*
 - Search warrants

DPS (Local Law Enforcement)

Ben Newman

- Criminal
 - *Arrest if Probable Cause to do so*
 - If not, it goes to State's Attorney
- Explains process to Victim
- Report = Criminal Complaint
 - *Unless Informational*
 - *State's Attorney has ultimate decision making powers*
 - May decide to charge, dismiss charge, change charge
- Criminal Complaint not needed for University Complaint
- DPS will interview, collect evidence, write report
 - *Fingerprints, biological, video, phone, etc.*

DPS, OEC, Other Agencies

- Work together
- Depends on jurisdiction and what the victim wants
- Jurisdiction depends on where something happened
- Copies of reports
- Sharing information

Reporting to DPS

- 453-3771
- 911
- Trueblood Hall Basement

Jurisdiction of OEC

- Program or Activity
- In US
- Accepted Jurisdiction
- Any building owned or controlled by student org
- On-line or in person
- No time limits
 - *But...*

Process

All this will be done ~90 days

- Allegations
 - *Is it Title IX?*
 - *PR, SAFE report, Email, Walk-In*
 - *Emergency Removal = Title IX and TAT= Appealable*
- Confidential Advisor
 - *Will Reach out*
- OEC
 - *Will Reach out*
 - *VAWA Brochure or P/P*
 - *Amnesty*
 - *Advisor*
 - *CA*
- Supportive Measures
 - *OEC*
 - *CA*

Process

- TAT
 - *If needed*
 - *TIXC wants to file a complaint*
 - Only if C doesn't want to file a complaint
 - *Health or Safety*
- Formal Complaint
 - *After interview*
 - *Signed by C*
 - *R are presumed NOT Responsible*
 - Until after the panel decides
 - *Complaints are presumed to have been made in good faith*
 - False Reports

Process

- Investigation (30 business days)
 - *Assessment*
 - VRA?
 - *Formal complaint*
 - Informal Resolution
 - *At any time in process*
 - *Both parties must agree (voluntary and written)*
 - *Will not go through the formal complaint process if IR is agreed upon by parties and TIXC*
 - *R may accept responsibility*
 - *If agreement is made, no appeal*

Process-Notice of Complaint

- Notice of complaint
 - *Notice that parties may have advisors*
 - *Summary of allegations*
 - *ID of parties*
 - *Policies implicated*
 - *Description of possible sanctions*
 - *Retaliation policy*
 - *Names of Investigators*
 - *Etc.*

Process-Investigation Continued

- Dismissal
 - *Mandatory*
 - Not a violation of policy even if everything is true
 - Conduct did not occur in educational program or activity or there is no control over respondent
 - *Process B?*
 - Not in US
 - *Discretionary*
 - C withdraws complaint
 - R is no longer enrolled or employed (can't come back to SIU)
 - *If only a leave of absence, case will proceed*
 - Circumstances exist that prevent SIU from gathering evidence or going forward

Process-Investigation Continued

- Counterclaims
- Thorough, impartial investigation
 - *All interviews recorded*
- Meet with parties
- Meet with Witnesses
 - *We can't force witnesses to come speak with us or come to a hearing*
- Gather Evidence
- Prompt

Process Continued

- Investigative Report
 - *Gather, assess, and synthesize*
- Comment Period (10 days)
 - *Share report with parties, comment*
 - *Finish report and send to parties*
- Hearing set (10 days)
 - *Information given*
 - *Can request a different time, at least 5 days prior*
- Pre-Hearing (Maybe)
 - *Determine relevance*
- Hearing
- Finding (7 days)
- Sanctions/Remedies
- Appeal

Advisor Rights

- Advisor must be “eligible and available”
 - *May have to adjust schedule*
 - *We can give a little leeway, just let us know*
- You do not HAVE to be an Advisor
- Conflicts of Interest
- Do not have to be a lawyer and aren't acting as one when you are an advisor

Advisor Rules

- Party can have Advisor for all parts of FGP
 - *They may change Advisors*
 - Must provide notice of change
 - *Must have for Hearing*
 - If they come without one, we will appoint
- Advisor of Choice (see above)
 - *Pool*
- Interviews
 - *Help prepare*
 - *Potted Plant Rule*
- Hearing
- Confidentiality

Hearing

- Pre-Hearing meeting
 - *Relevancy Questions*
- Hearing
 - *Cross-Examine*
 - If you refuse, you'll be removed
 - No direct questioning by the parties
 - *Advise*
 - *Don't be disruptive or you'll be removed*
 - *May be up against an attorney*

Sharing information with Advisor

- OEC must have a written release
- Privacy
 - *Expected to keep information private*
 - *Cannot share the records*

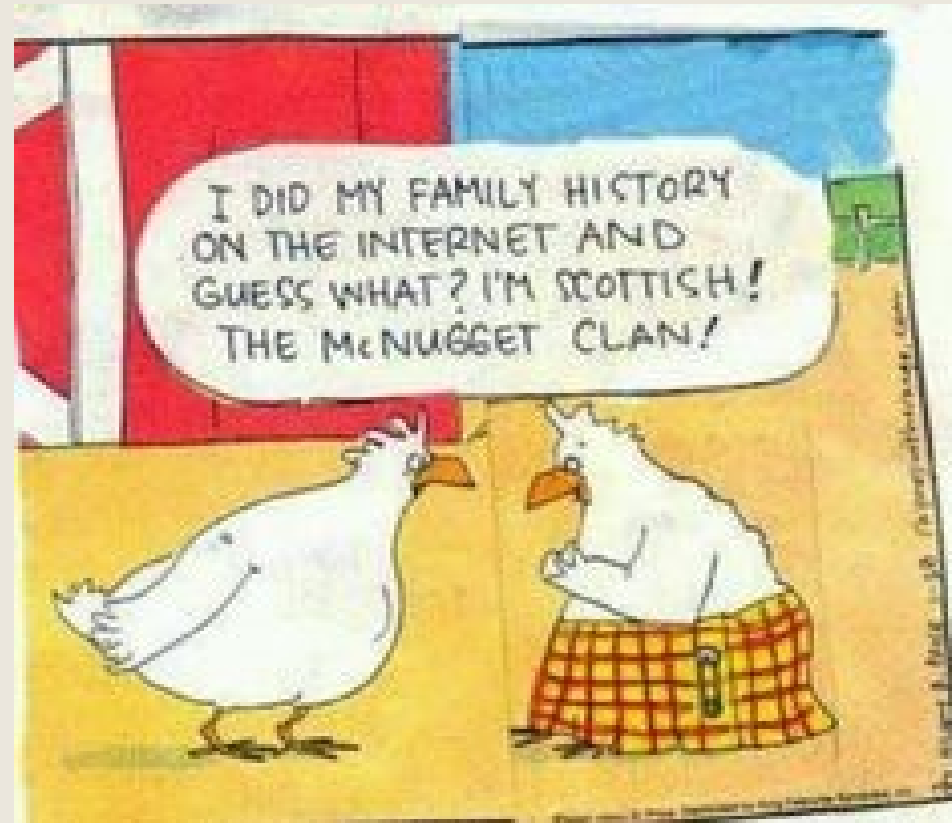
Intake

- Your name will be provided to the parties
- They may contact you
- You can discuss whether or not you are available
- They may need you to help assist them find another Advisor if you are not available
- They may also need other assistance
 - *Confidential Advisor*
 - *Women's Center*
 - *Counseling*
 - *Attorney for Criminal Case*
 - *Etc.*

Forms

- NDA
- FERPA RELEASE
 - *Does not have to be signed*
 - *It's up to the Advisee to decide when to get an Advisor (before hearing or only for the hearing) and what to share with the Advisor*

Questions? Break?



Trauma Informed Intake

Dr. Abby Bilderback

- When using a trauma informed approach, it is imperative to understand what trauma is and how trauma affects individuals' responses to services and the interview process. Policies and procedures should be developed with the goal of avoiding victim re-traumatization, increasing the safety of all, and increasing the effectiveness and efficiency of interactions with victims.
- A trauma-informed approach begins with understanding the physical, social, and emotional impact of trauma. This includes victim-centered practices. It incorporates the following elements which are the goals for today's training:
 - Increase understanding of the neurobiology of trauma
 - Increase knowledge of trauma informed interview strategies
 - Learn specific strategies to utilize when interviewing trauma survivors

Neurobiology of Trauma

- 3 Key Brain Regions:
 - Prefrontal Cortex – Executive Functioning
 - Amygdala – Fear Circuitry
 - Hippocampus – Encodes experiences into short-term memory and can store them as long-term memories

A trauma-informed interview generally contains the following strategies:

- Demonstrating genuine empathy and a nonjudgmental stance.
- Establish an initial level of trust.
- Ensuring a safe and comfortable environment (emotionally and physically); is the interview space welcoming, inviting, and comfortable? Are there clear exits?
- Encouraging and allowing victims to ask questions.
- Allowing some time and space for the victim to process the experience.
- Providing the victim as much control over and during the interview as possible.
- Focusing on sensory memories.
- Explaining why a difficult question is being asked.

Things to avoid in a trauma-informed interview:

- Asking “why” questions that can be perceived as blaming.
- Requests for a chronological account (remember the order in which the brain encodes memories may be significantly impacted by stress hormones making this question very difficult for a trauma survivor to answer).
- Reacting with disbelief.
- Minimizing what happened.
- Reacting with blame, criticism, or judgement.

Hearings

- Panel

- *Chair will decide relevance and procedure*
 - Panel will ask questions
- *All questions asked at hearing must be relevant*
- *What is relevant*
 - Questions about the event (who, what, when, where)
 - Past disciplinary history of R (only at sanctioning stage)
 - Written Impact Statement
- *What is NOT relevant*
 - Incidents not directly related to the case at hand, unless to show a pattern
 - Character of the parties
 - C sexual predisposition or prior sexual behavior, unless
 - *Used to prove the someone other than R did the action*
 - *Or based on prior activity with the R and used to prove Consent*

Hearings

- Investigators will be witnesses
- TIXC not involved
- Parties and Witnesses **MUST** come to hearing and allow themselves to be questioned or nothing they said in the investigation (except the allegations themselves) will be used by panel to make a determination of violation!!!
- There will be a script

Questioning skills

- What is your goal?
 - *Learn facts*
 - *Establish a timeline*
 - *Understand perceptions*
 - *Several Sides to a story*
 - *Don't*
 - Ask because you're curious (have a purpose)
 - Chase a rabbit

Questioning skills

- Focus on areas that are conflicting or gaps in information
- Get details
- Don't leave a gap
- Establish rapport
- Understand some things are sensitive
- Keep you're cool
- Be patient and professional

Questioning skills

- Pay attention to alcohol drug consumption
- Understand rumors (heard) vs facts (witnessed)
- Start with broad questions, then move to narrow ones
- Follow your advisee's model, but don't enable them to harass the other party or witness
- Might ask about motivation
- Ask how they have been impacted by complaint or allegations made in the complaint
- Ask witnesses how they know the parties
- Ask what someone said or did after the incident

Conducting Questioning at Hearing

- Nothing that is irrelevant
- Do not ask investigators about credibility of parties or witnesses
- Do not ask investigators about recommended findings, determinations
- Remain seated
- Pose questions orally, in writing, electronically
- Parties and witnesses will not answer until Chair determines relevance
 - *If irrelevant, Chair will state why*

Conducting Questioning at Hearing

- Chair may invite explanations or persuasive arguments from Advisors (on relevance)
- In advance of hearing
 - *Prepare a list of questions with Advisee*
 - Other things may come up in hearing too
 - *Good questions*
 - Names of those involved
 - Relationship b/w C and R
 - Relationship w/ W to C and R
 - Details of event
 - Effect of the event
 - Response to the incident
 - Reaction of the R to the complaint

Cross Examination

- Let Advisee take the lead on questions
 - *It's better for you*
 - *Don't be Perry Mason!*
 - But you may be up against an attorney
 - *Don't worry! You will do fine.*
- Must subject self to cross
 - *Parties must subject themselves to cross*
 - *If they answer some questions and not others, some things may not come into the hearing as evidence (even if it was in the investigative report)*
 - *If they subject to cross, and no questions, it all goes in*
 - *If they do not subject to cross, it stays out*

Weighing Evidence

- No rules of evidence
- If relevant and credible it will be used
- Certain evidence may go to credibility, not to the subject at hand
 - *Some people will have bad memories*
 - *Credibility will be determined by a variety of factors, that is for the Panel to determine.*
 - *Things to look for: Demeanor, Non-Cooperation, Not wanting to give explanations, Not logical or consistent (but see trauma informed information), no corroborating evidence (doesn't mean that something didn't happen)*
- Did drugs or alcohol play a role?
 - *What role?*
 - *Not a defense*
- Evidence can be direct, circumstantial, documentary, real, hearsay

Findings

- Made by Panel
- Preponderance
- Written deliberation statement will be given to TIXC
- 7 business days provided to parties
 - *Notice of Outcome*
 - Violation?
 - Sanction
 - Remedies

Sanctions

■ Students

- *Probation*
- *Suspension*
- *Expulsion*
- *Alterations in Housing*
- *Class*
- *Community Service*
- *Mandated Assessment*
- *Mandatory Program*
- *Restriction on Activity*
- *Written Assignment*
- *Written Warning*
- *No Contact Order (can also be a supportive measure if mutual)*

Sanctions

- Organizational
 - *Training, etc.*
- Employee
 - *Based on CBA*

Appeals

- Grounds
 - *Procedural Irregularity*
 - *New Evidence*
 - *Conflict of Interest*
 - *Sanctions disproportionate to violation*
- Appeal to TIXC
 - *Will go to appeal officer who will be appointed within 7 days*
- Request will be denied if it doesn't fit the grounds
- Appeal Chair will notify parties of appeal if there are grounds
- Everyone gets a chance to respond
- Appeal Chair will review responses and record
 - *Cannot substitute their own judgment*
 - *If new evidence: may be remanded for further investigation*

Appeals

- Appeal Chair can keep finding, modify, remand
- Appeal decision is final
- Sanctions are stayed during Appeal process

Technology

- Live Hearing
- Does not have to be in person
- Not sure how we will do it yet
- Zoom, Teams, Etc.

Recordkeeping

- Keep records for 7 years