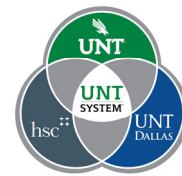


AGENDA

UNT System Title IX Investigator Retreat



	<b>Training Session/Description</b>	<b>SME/Presenter</b>	<b>Session Duration</b>
	<b>DAY ONE: October 20, 2020</b>		
	Welcome & Introductions	Angela Brown	9:00 am
	Opening Remarks and Retreat Objectives	Alisha Carter Harris	9:15 am
1	Overview of Title IX 2020: 1. Definition of Sexual Harassment 2. Scope of Institution's Educational Program & Activities 3. Overview of Grievance Process (to include hearings, appeal, informal investigations)	Jarrold Jenkins Leslie Crosdale Adalyn Burger Angela Brown	9:20 am
	<b><i>BREAK</i></b>		<b><i>10:50 am</i></b>
2	Best Practices for Title IX Administrators	Alisha Carter Harris Eve Shatteen Bell	11:05 am
3	Closing/ Q&A	All	11:50 am

	<b>DAY TWO: November 10, 2020</b>	<b>SME/Presenter</b>	<b>Session Duration</b>
	Day Two Kickoff	Angela Brown	9:00 am
4	How to Conduct an Investigation: 1. Mock investigation 2. Impartiality, Avoiding Prejudgment & Conflicts of Interest	Alisha Carter Harris Anjela Guijosa Alvin Roberts	9:10 am
	<b><i>BREAK</i></b>		<b><i>10:45 am</i></b>
5	Ask a Title IX Coordinator Moderated Session	Eve Shatteen Bell Alisha Carter Harris	11:00 am
6	Open discussion/Additional Questions	All	11:30 am

	<b>DAY THREE: November 17, 2020</b>	<b>SME/Presenter</b>	<b>Session Duration</b>
	Day Three Kickoff	Angela Brown	9:00 am
7	Report Writing	Eve Shatteen Bell Jarrod Jenkins	9:05 am
8	How to be a Good Hearing Witness	Eve Shatteen Bell Kory Levingston Angela Brown	10:05 am
	<b><i>BREAK</i></b>		<b><i>10:30 am</i></b>
8	How to be a Good Hearing Witness (Cont'd) Mock Hearing Exercise	Eve Shatteen Bell Kory Levingston Angela Brown	10:45 am
9	Using ZOOM Technology for Interviews	Amanda Fisher	11:10 am

# How to Investigate a Title IX Complaint



## **Presented by:**

Alisha Carter Harris  
Associate Director, Equal Opportunity  
Deputy Title IX Coordinator  
UNT Denton

Alvin Roberts  
Assistant Director, Equal Opportunity  
UNT Denton

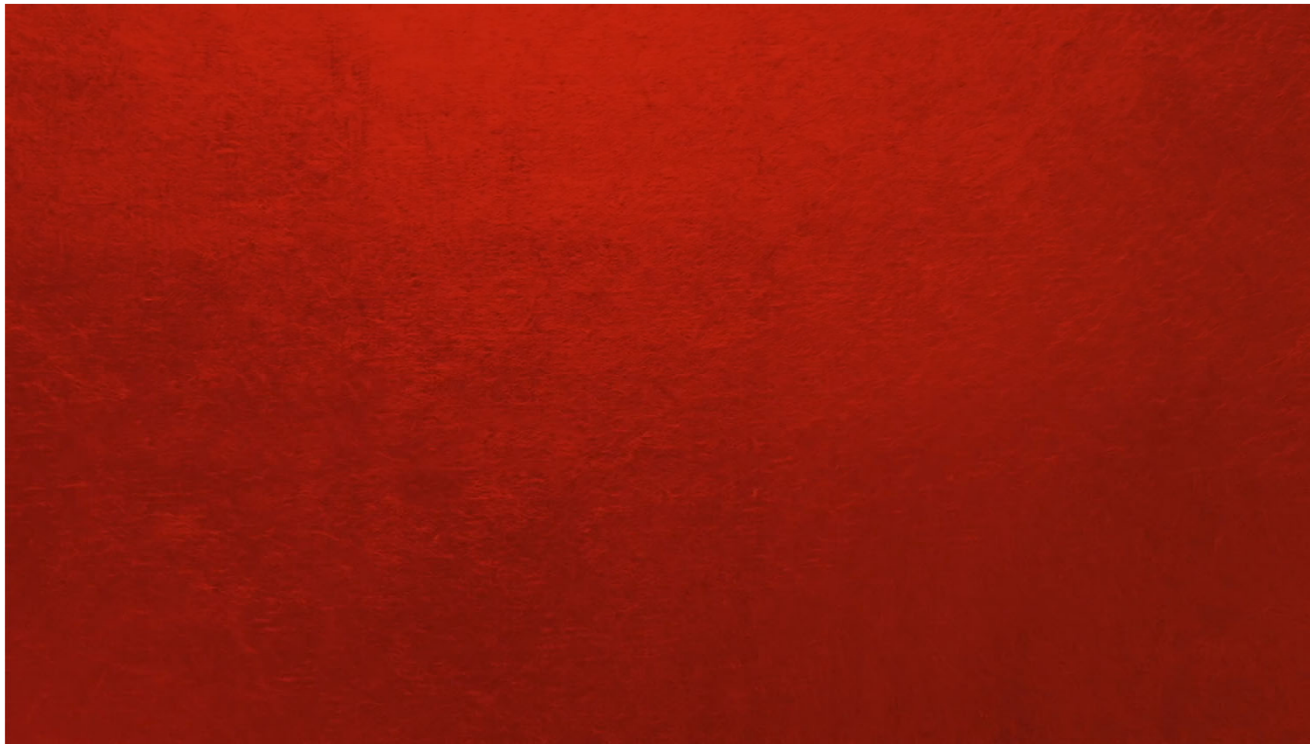
Anjela Guijosa  
Equal Opportunity Investigator  
UNT System Administration

# Training Agenda



- A “Good” Investigation
- Key Terms
- Receipt of Complaint
- Complainant Interview
- Initial Contact with Respondent
- Witness Interviews
- Impartiality, Avoiding Prejudgment & Conflicts of Interest
- Review of Relevant Documents/Evidence
- Investigative Report Draft
- Dissemination of Final Report

# What NOT to Do



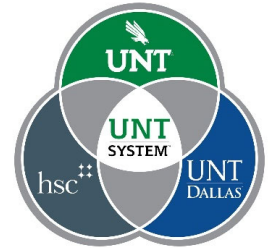
# Anatomy of a “Good” Investigation



- Thorough
- Reliable
- Prompt
- Impartial
- Fair
- Training-Infused

If you have met these metrics, you are on track to a solid investigation!

# What do the Regs require?



According to the Regs, we must:

- Treat Complainants and Respondents equitably by providing remedies to a Complainant where a determination of responsibility for sexual harassment has been made against Respondent
- Follow the grievance procedures as required by the Regs **prior** to the imposition of any disciplinary sanctions or other actions that are not supportive measures against a Respondent
- Have an objective evaluation of all relevant evidence – both inculpatory and exculpatory – and provide that credibility determinations may not be based on a person’s status as a Complainant, Respondent or Witness

# What do the Regs require?



According to the Regs, we must:

- Require all individuals involved in the process not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent
- Train all individuals involved in executing the process! (why we are here today 😊 we got you covered!)
- ***Include a presumption that the Respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process***

# What do the Regs require?



According to the Regs, we must:

- Include reasonably prompt timeframes for conclusion of grievance process, including reasonably prompt timeframes for filing and resolving appeals and informal resolution processes
- Not require, allow, rely upon or otherwise use questions or evidence that constitute, or seek disclosure of, information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege
- These next requirements should be outlined in your policy so providing a copy of policy to parties satisfies this requirement
  - Describe range of disciplinary sanctions
  - State Standard of Evidence (UNT uses Preponderance of the Evidence)
  - Provide information about appeal process
  - Describe range of supportive measures



# Key Terms as defined by Regs



- **Complainant** – an individual who is alleged to be the victim of conduct that could constitute sexual harassment
- **Consent** – as defined by your institution’s policy (be sure to review all relevant definitions prior to initiating the investigation)
- **Formal Complaint** – a document filed by a Complainant or signed by the Title IX Coordinator alleging sexual harassment against a Respondent and requesting that the recipient investigate the allegation of sexual harassment. At the time of filing a formal complaint, a Complainant *must be participating in or attempting to participate in the education program or activity of the recipient with which the formal complaint is filed.*



## Key Terms as defined by Regs

- **Respondent** – an individual who has been reported to be the perpetrator of conduct that could constitute sexual harassment.
- **Sexual Harassment** – conduct on the basis of sex that satisfied one or more of the following:
  1. An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;
  2. Unwelcome conduct determined by a reasonable person to be so severe, pervasive, *and* objectively offensive that it effectively denies a person equal access to the recipient's educational program or activity;
  3. Sexual assault, dating violence, domestic violence or stalking as defined by the Clery Act.

# Key Terms as defined by Regs



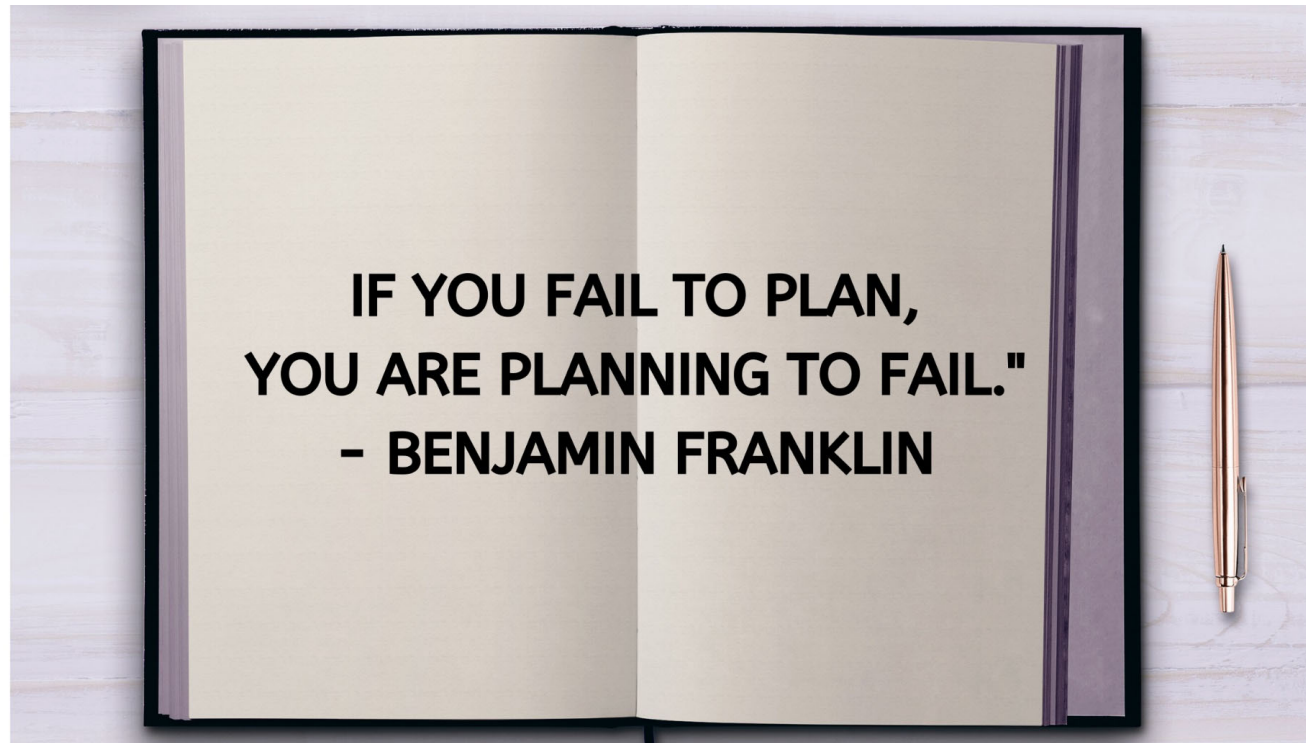
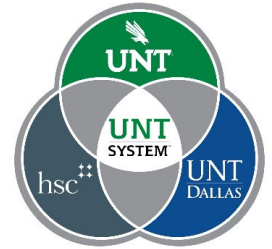
- **Supportive Measures** – non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the Complainant or Respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the recipient’s education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the recipient's educational environment, or deter sexual harassment.

# So, you received an incident report, what now?

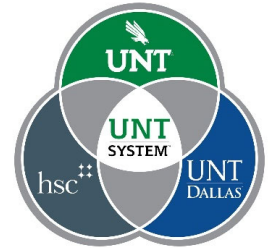


- Review report and determine if any emergency supportive measures need implemented – work with University administration to implement
- Schedule an introductory investigative interview with the Complainant
- Ensure Complainant is aware they may be accompanied to the interview by an advisor
- Ask Complainant if they have any accessibility needs for the meeting (language interpreter, ASL interpreter, any other accommodations)

It's all about the Benjamins!



# Get Prepared – Get Organized



- Create investigative file
- Create timeline with all investigative actions
- Log all evidence received w/date
- Log all relevant communications with parties and witnesses
- Log all communications with University administrators
- Prepare evidence that is to be reviewed by parties, so it is readily accessible
- Don't include any personal opinions, observations, etc. in your files – facts only – the credibility assessment will be completed by the hearing panel
- Include a copy of relevant policies that you provided to parties because these documents can change and the policy in effect at the time of the investigation needs to be readily accessible

# Be a Human



- When you meet with Complainant, be sure to introduce yourself and your role; build a rapport with them, don't just jump into questioning them.
- Explain you or a colleague will be taking notes.
- The next few slides are filled with required disclosures – be sure to provide this information at the **beginning** of all Complainant interviews.
- Be personable and relatable, make sure the Complainant is comfortable, and respond appropriately to heightened emotion by offering breaks and using grace to communicate. However, it is important that you **REMAIN IMPARTIAL**.

# Investigative Interview w/ Complainant



You are required to provide certain disclosures to Complainants, per Federal and State law. These include:

- The University has an obligation to investigate allegations of sexual harassment. The University must investigate the nature of these allegations and if they are substantiated, must take action to remedy the alleged conduct and ensure it does not continue. The Investigator's role is to gather information pertaining to your allegation(s) and provide it to relevant University administrators for action. Investigators do not determine issues pertaining to findings of responsibility or sanctions.
- As a UNT student, you are entitled to confidential counseling benefits and advocacy services and supportive measures to protect against continued sexual harassment and retaliation.
- You are entitled to be represented in the live hearing of this matter by your own advisor, who may or may not be an attorney. The advisor, whose role is required, will ask questions of the Respondent and witnesses in real time. If you do not have an advisor, the University will provide one for you.
- The information you provide to the University will be kept as confidential as possible; however, to effectively investigate your allegation(s), the Investigator will have to talk to the Respondent and witnesses regarding the allegation(s) and it may become necessary to reveal certain information. Please know that no one at the University will hear about your complaint unless they have a need to know about it. Please note that voluntary withdrawal of an allegation will not necessarily result in the termination of an investigation.



# Investigative Interview w/ Complainant



You are required to provide certain disclosures to Complainants, per Federal and State law. These include:

- Retaliation is taken very seriously by the University. Everyone involved in this matter is advised that retaliatory action is a separate cause for investigation and potential disciplinary action up to and including expulsion for students or termination for employees.
- You have the right to report sexual misconduct to the University and receive a prompt and equitable resolution of the report.
- You have the right to file a criminal complaint with law enforcement officials at any time if the alleged conduct constitutes a crime and the right to decline to report the crime to law enforcement.
- You have the right to be assisted by the University in reporting the alleged conduct to law enforcement if it constitutes a crime.

# Investigative Interview w/ Complainant



You are required to provide certain disclosures to Complainants, per Federal and State law. These include:

- The Respondent is presumed not responsible for the alleged conduct and a determination of responsibility will not be made until the conclusion of the grievance process.
- Parties will be provided the opportunity to review all evidence gathered throughout the investigation.
- Any individual who makes a false report to the University or provides false information is subject to disciplinary action in accordance with applicable UNT disciplinary policies and procedures; false reports may also be a violation of the Texas penal code. A report is not false or made in bad faith simply because an investigation did not find sufficient evidence to substantiate the alleged violation.

***Be sure to ask the Complainant if they have any questions about these required disclosures!***

# Now it's time to Investigate!



- If you're new to investigating (and even if you're not), it is recommended you prepare a list of questions ***prior to your interview with Complainant*** to help guide the conversation.
- List any follow-up questions you asked Complainant in notes.
- Request a list of witness names and access to relevant documents.
- Be sure you can answer the following questions – WHO, WHAT, WHERE, WHEN, WHY, and HOW?
- **Ensure you capture each element of the policy definition for the conduct alleged.**

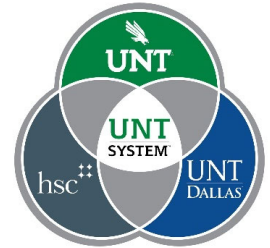
# Now it's time to Investigate!



- Ask the Complainant if there is any information they would like to offer that you did not ask about.
- Ask the Complainant if they have any questions.
- Make sure Complainant is satisfied with any supportive measures that have been implemented or if they need any additional supportive measures.

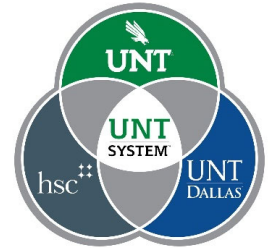
***If you would like a copy of any of the forms UNT Denton uses, please email [Alisha.Carter@unt.edu](mailto:Alisha.Carter@unt.edu)***

# Investigative Interview with Respondent



- You are required to provide certain disclosures to respondents, per Federal and State law. These include:
- The University must investigate the nature of these allegations and if they are substantiated, must take action to remedy the alleged conduct and ensure it does not continue. The Investigator's role in this process is to gather information pertaining to the allegation(s) filed against you and provide it to relevant University administrators for action. Investigators do not determine issues pertaining to responsibility or sanctions.
- As a UNT student, you are entitled to confidential counseling benefits through the Student Health and Wellness Center. If you feel that this program would be of any benefit to you as you go through this process, please consider contacting them at your convenience. Information on this program can be obtained through Student Affairs. You are also entitled to advocacy services and supportive measures through the UNT Respondent Advocate program. More information about this program may be obtained at:
- <https://deanofstudents.unt.edu/conduct/respondent-advisors-and-peer-advocates>.
- You are entitled to be represented in the live hearing of this matter by your own advisor, who may or may not be an attorney. The advisor, whose role is required, will ask questions of the Complainant and witnesses in real time. If you do not have an advisor, the University will provide one for you.

# Investigative Interview with Respondent



- You may bring an advocate or support person with you to all investigative meetings, whether this is a University-provided advocate or an individual of your choosing. If you opt to bring an attorney to investigative meetings, you must provide the Investigator with two business days advance notice.
- The information you provide to the University will be kept as confidential as possible; however, to effectively investigate the allegation(s), the Investigator may have to talk to potential witnesses regarding the allegation(s) and it may become necessary to reveal certain information. Please know that no one at the University will hear about your complaint unless they have a need to know about it (*e.g.*, relevant University administrators, individuals who execute supportive measures).
- Please let your Investigator know immediately if you believe anyone is mistreating you as a result of this complaint. Retaliation is taken very seriously by the University. Everyone involved in this matter and all matters that come through the Dean of Students Office is advised that retaliatory action is a separate cause for investigation and potential disciplinary action up to and including expulsion for students or termination for employees.
- You have the right to receive a prompt and equitable resolution of the complaint. Additionally, the Complainant has a right to file a criminal complaint with law enforcement officials, which is a separate cause of action from this investigation.
- ***Be sure to ask the Respondent if they have any questions about these required disclosures!***

# Investigative Interview with Respondent



- Prepare your questions in advance
  - This includes follow-up questions. Do your best to anticipate. Respondent will be or should be aware of the policies under which you are conducting your investigation. They will have time to prepare.
- Focus on policy elements
  - For example, If the allegation is “stalking”, then your questions should be centered about potential following, monitoring, threatening behaviors, etc.
  - If it is “sexual exploitation”, you may be asking questions about use of technology, recording, dissemination or audio/video, voyeurism, etc.
- Listen for things that stand out but don’t interrupt if you don’t have to. You will have time to ask follow-up questions.

# Investigative Interview with Respondent



- Ask the Respondent if there is any information, they would like to offer that has not been covered.
- Ask the Respondent if they have any questions.
- Make sure Respondent understands any interim measures that have been put in place as well as any supportive measures they are entitled to.

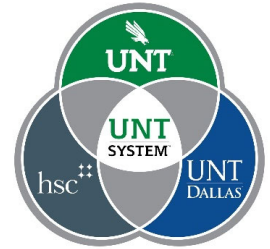


# Investigative Interview with Witnesses



- Similar to the investigative process with complainants and respondents.
- Asking questions to collect information, verify or corroborate statements giving by other parties.
- Sourcing evidence like texts, emails, phone records social media conversations and pictures.
- However, witnesses must be clear about their obligations related to participating in the hearing process!
- If a...witness refuses to submit to any cross-examination questions, the Hearing Panel will not rely on any statement of that...witness in making a determination of responsibility. The panel may not draw an inference about the determination regarding responsibility based solely on a party's or witness's absence from the hearing or refusal to answer questions at the hearing

# Impartiality, Avoiding Prejudgment & Conflicts of Interest



- University Requirements - Due Process!
- Must be equitable...
  - Investigations must be **impartial**
- Your report (and the process used to complete it) must reflect that impartiality.
- This includes ensuring that parties have access to all of information, equally as outlined in the regs. What's good for one...
- Be friendly and accessible but avoid “overdoing” it.

# Impartiality, Avoiding Prejudgment & Conflicts of Interest



- You are the fact finder, not the hearing officer or panelist!
- Pre-judgement is very easy to fall into.
  - Implicit Bias
  - Personal Beliefs about
    - Complainant, allegations or veracity of information provided.
    - Those things will be addressed through the hearing process.
- Remain Focused – Don't get stuck on a statement, phrase or piece of information.
- As Jarrod mentioned previously, FOLLOW THE POLICY and keep its elements in mind. It will keep you out of trouble.
- If you do not feel you can be unbiased or prejudiced, speak up!

# Impartiality, Avoiding Prejudgment & Conflicts of Interest



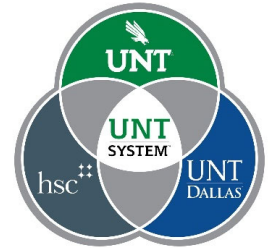
- Real
  - You have a previous relationship with one or more of the parties or someone close to them.
    - Good or Bad. Friendly or Contentious.
    - Previous Complaints
    - Co-workers, colleagues
- Perceived
  - Fraternity/Sorority Affiliations
  - Military/Veteran Status
  - Previous Personal Experience with sexual harassment/assault
  - Personal or Professional Affiliations
  - Presence on Social Networking Sites

# Relevant Documents



- Complainant
- Respondent
- Witness
  - All witnesses who provide a statement must be present during the hear for cross examination should a hearing take place or the statement will not be considered.
- Examples
  - Emails
  - Text messages
  - All relevant information
  - Police Reports

# Evidence Provided to both Parties



- Both parties must be given the opportunity to review evidence (exculpatory and inculpatory), and the investigative report that fairly summarizes relevant evidence.
- Including the advisor, if any, for ten days (**two weeks**).
- Electronically or hard copy format – there is no mandated requirement that determines the required format.
- Both parties are allowed an opportunity to provide a written response after reviewing the report.

# How to Compile the Investigative Report



- What to include...
- Identify the allegation
- Identify the policy the allegation allegedly violates
- The complaints account of what took place
- The respondents account of what took place
- Include all witness statements
- Include exhibits
- Submit the report to the decision maker (who cannot be the investigator or the Title IX Coordinator) for review
- The decision maker must issue a written determination regarding responsibility with finding of fact, conclusions regarding whether the alleged conduct occurred, rationale of the result of each allegation, any disciplinary sanctions imposed on the respondent and what if any remedies will be provided to the complainant
- The written determination must be sent simultaneously to the parties along with information about how to file an appeal