

# Making the Decision: Implicit Bias & Deliberations

Equity & Title IX Annual Training

August 2024



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# Decision Making Process

1

**Receive Evidence**

2

3

4



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# Decision Making Process

**1 Receive Evidence**

**2 Determine Responsibility**

**3**

**4**



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# Decision Making Process

- 1 Receive Evidence**
- 2 Determine Responsibility**
- 3 Sanctions & Remedial Measures**
- 4**



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# Decision Making Process

- 1 Receive Evidence**
- 2 Determine Responsibility**
- 3 Sanctions & Remedial Measures**
- 4 Draft Decision**



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# Implicit Bias

- Implicit or unconscious bias is defined as "the process of associating stereotypes or attitudes toward categories of people without our conscious awareness."
- Mitigate through awareness



Affinity  
Bias



Halo  
Effect



Confirmation  
Bias



Perception  
Bias



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# Deliberations

**Mission: Determine whether the Respondent is responsible for any violations of University policies and, if so, what sanctions and/or remedial actions are appropriate.**

In the room where it happens

Two-Step Process

1. Responsibility
2. Sanctions & Remedial Actions



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# Standard: Preponderance of the Evidence

*Facts:* Whether each fact is more likely true than not.

*Responsibility:* Whether, given the facts found, the Respondent is more likely responsible than not for violating a University Rule.



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# 1 Receive Evidence

## 1. Before the Hearing

- Read, listen, or watch all the evidence
- Consider what else you'd like to know
- Note issues, but keep an open mind

## 2. At the Hearing

- Read, listen, or watch all the evidence
- **ASK QUESTIONS**
- Note issues, but keep an open mind



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# 2 Responsibility

## 1. Find Facts

- Credibility
- Incomplete information (did you ask questions during the hearing?)

## 2. Apply Facts to Policy

- Consider each element of the policy
  - Quid Pro Quo – An **employee of the University** **conditioning** the provision of an **aid, benefit, or service** of the University **on an individual's participation in** **unwelcome sexual conduct**. CRR 600.020(B)(1)(a)
- If found facts supporting each element of policy by a preponderance of the evidence, find responsible.



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# Sanctions & Remedial Measures

3

## 1. Sanctions:

- Applies to the Respondent
- To prevent and eliminate impermissible discrimination and harassment in our educational programs, activities, and employment.

## 2. Remedial Measures:

- Applies to the Complainant
- To address the effects of the violation(s) of the University's Anti-Discrimination Policies on the Complainant.



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# Sanctions: Factors to be Considered

1. Nature, severity of, and circumstances surrounding the violation
2. Disciplinary history of the Respondent
3. Need for sanctions to bring an end to the conduct
4. Need for sanction to prevent future recurrence of the conduct
5. Need to remedy the effects of the conduct on the Complainant or University community



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# Who Decides the Sanctions?

## Title IX

- Students
  - Faculty
  - Non-MUHC Staff
- } Hearing Panel
- MUHC Staff → AMC

CRR 600.030(S)

## Equity

- Students → Hearing Panel
- Faculty → Provost
- Staff → Equity HR & Supervisor
- University → Equity Officer & Administrator

CRR 600.040(S); 600.050(R)



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# Examples of Student Sanctions

## Added Requirements

- Warning
- Probation
- Restitution to University
  - Service, money, or materials
- Discretionary Work
  - Work Assignment/Essay
  - Community Service
  - Educational Programming
  - Counseling
- Non-Contact



## Exclusions

- Loss of Privilege(s)
  - Access to campus email, parking, rec center, dining, etc.
- Suspension from:
  - Residence Hall
  - Specific Campus
  - Entire System
- Expulsion from:
  - Residence Hall
  - Entire System
- Withdraw of Recognition



# Examples of Faculty Sanctions

## Added Requirements

- Warning
- Written reprimand in personnel file
- PIP
- Training/Education
- Counseling
- Move Office/Workspace
- Non-Contact



## Losses

- Loss of annual pay increase
- Loss of privileges/duties
- Suspension
- Excluded from areas of campus
- Non-Renewal (NTT)
- Recommend termination (Tenured)



# Examples of Staff Sanctions

## Added Requirements

- Warning
- Written reprimand in personnel file
- PIP
- Training/Education
- Counseling
- Move Office/Workspace
- Non-Contact



## Losses

- Loss of annual pay increase
- Loss of privileges/duties
- Demotion
- Suspension
- Excluded from areas of campus
- Termination



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# Remedial Actions

## Student Complainant

- Retake a course
- Tuition reimbursement
- Remove a disciplinary action
- Educational accommodation
- On-Campus housing accommodation

## Employee Complainant

- Remove disciplinary action
- Modify a performance review
- Adjustment in pay
- Change reporting relationship
- Workplace accommodation

Offer or require training and/or monitoring as appropriate to address effects of violations



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# 4 Draft Decision

*Hearing Officer  
Will Do It!!!*



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