

Student Conduct

Title IX Live Hearing



Agenda

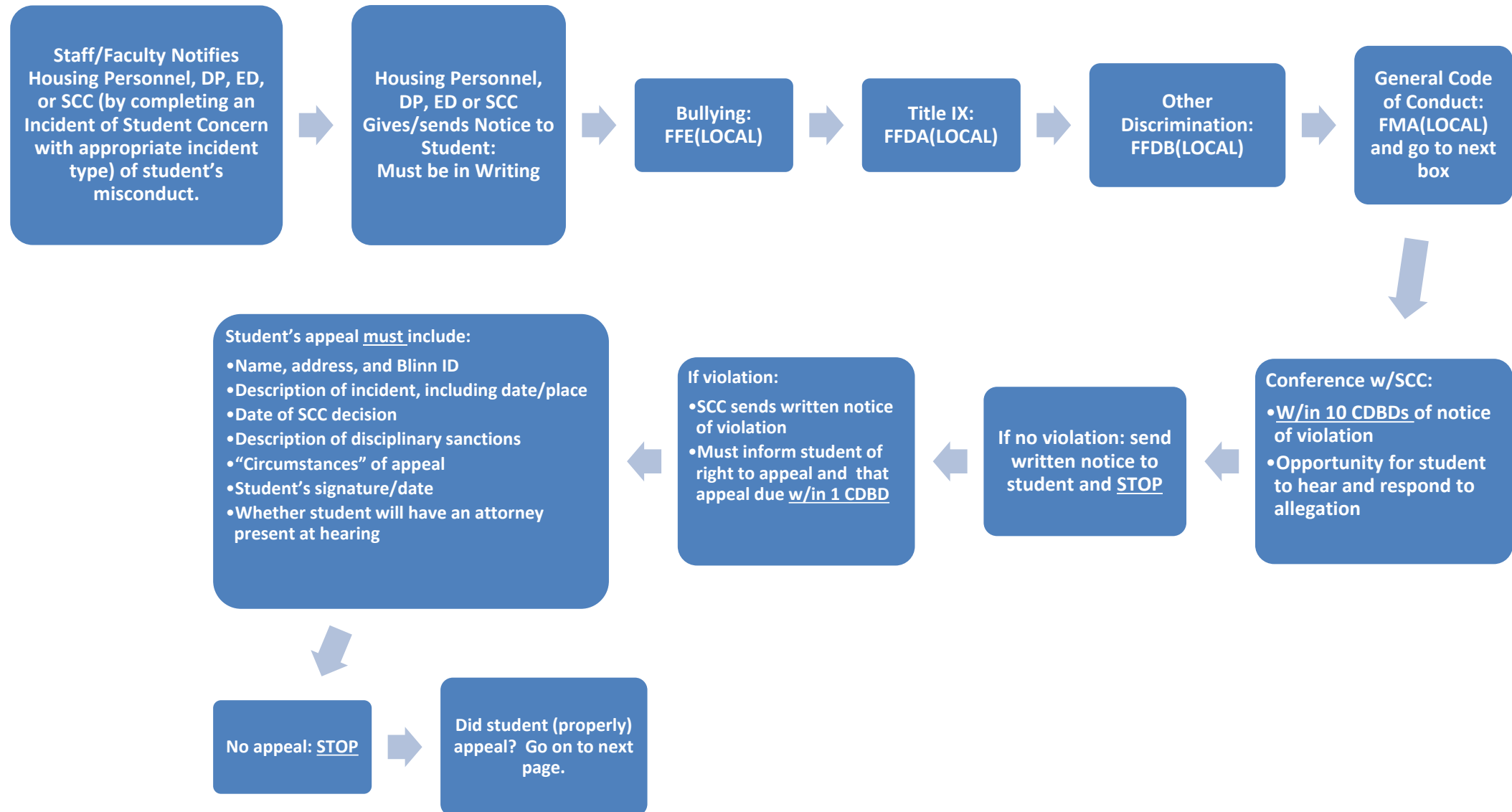
- Student Conduct Overview – Jessica Brisco
- Stages of a Title IX Formal Investigation
- Role of the Decision Maker (Committee)
- Format of the Hearing
- Hearing Procedure
- Determining Responsibility

Student Code of Conduct

<https://www.blinn.edu/administrative-regulations/pdf/bcd-student-code-of-conduct.pdf>

- Per FLB(LOCAL), published in the Course Catalog.
- Applies to ALL students
- 6-point range
- Cumulative Sanction Matrix in the Addendum

ALLEGATIONS OF STUDENT MISCONDUCT



DAC APPEAL: FMA(LOCAL)

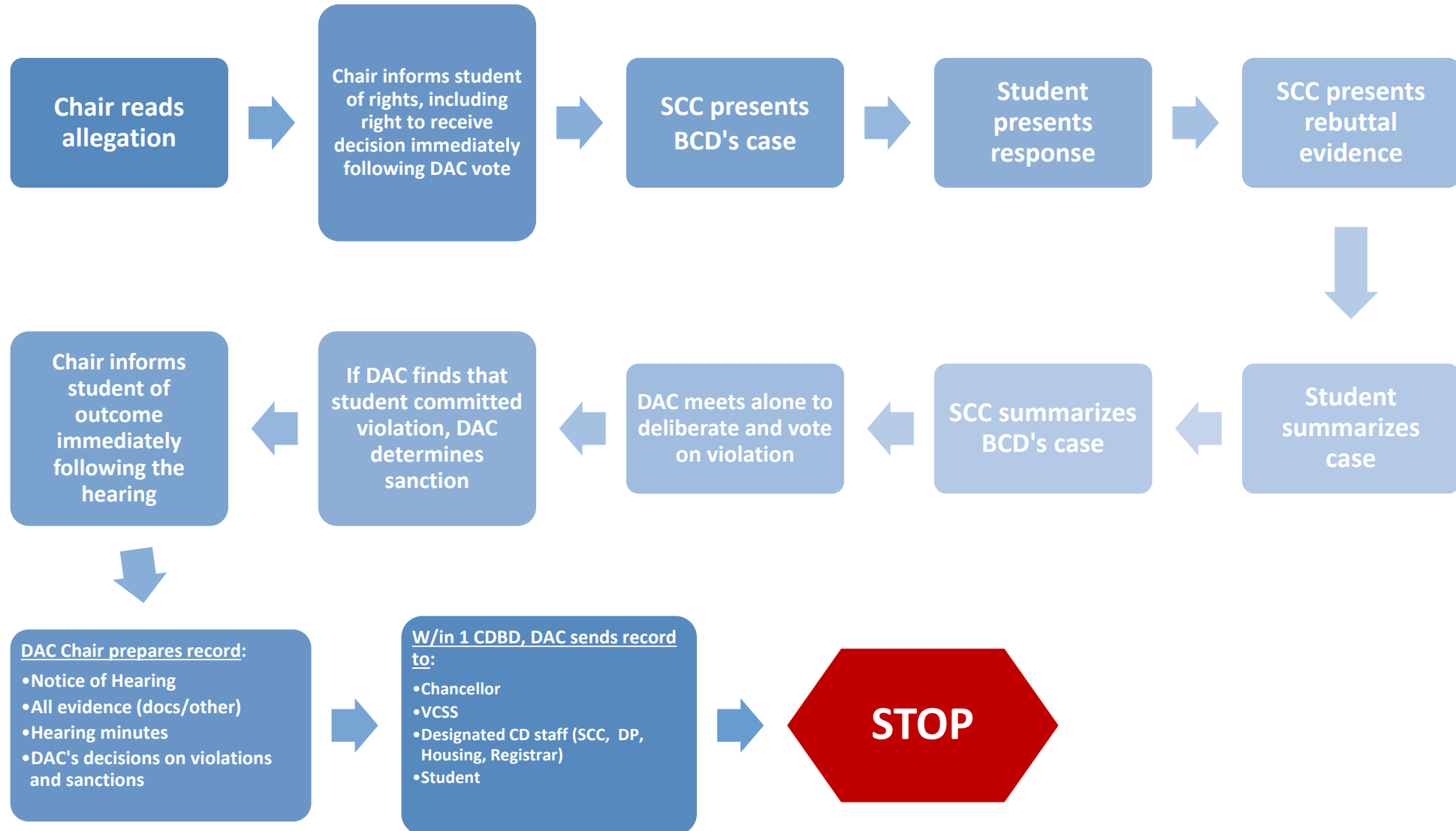
DAC Chair sends written notice to student w/in 1 CDBDs:

- Date/time/place of hearing
 - w/in reasonable time
 - no later than 5 CDBDs
- Student's right to
 - Private hearing
 - Have a parent or guardian present
 - Have attorney present
 - Require BCD to produce evidence of violation
 - Stenographer, at student's expense
- Possible sanctions for failure to appear at DAC hearing



Go to next page for Hearing procedure.

DAC HEARING



EVIDENCE AT THE DAC HEARING

- Legal rules of evidence do not apply
- To be admissible evidence at the DAC Hearing:
 - Must have probative value
 - Must be commonly accepted by reasonable persons in the conduct of affairs
- Evidence is not admissible at the DAC Hearing if it is
 - Irrelevant
 - Immaterial
 - Unduly repetitious
- DAC may question witnesses; student may not question DAC
- All admissible evidence becomes part of the record
- May be copies/photos of original
- Student's grades and disciplinary records are only relevant as to the sanction *after* determining whether a violation occurred.

TITLE IX LIVE HEARING TRAINING PARTICIPANTS

Hearing Panel Committee

- Brandon Franke – Hearing Advisor
- Karen Killion – Chair
- Dr. Kenneth Masenda – Member
- Kristen Westbrook – Member
- Kevin Patrick – Alternate
- Sophia Polk - Alternate

Title IX Office Staff

- Dr. Adrienne McCain – Title IX Coordinator
- Amy Anderson – Transcriber
- Jessica Brisco – Title IX Investigator
- Vacant – Title IX Investigator
- Marie Kirby – Vice Chancellor

Virtual Training – Friday, September 29, 2023, at 10:00a.m.

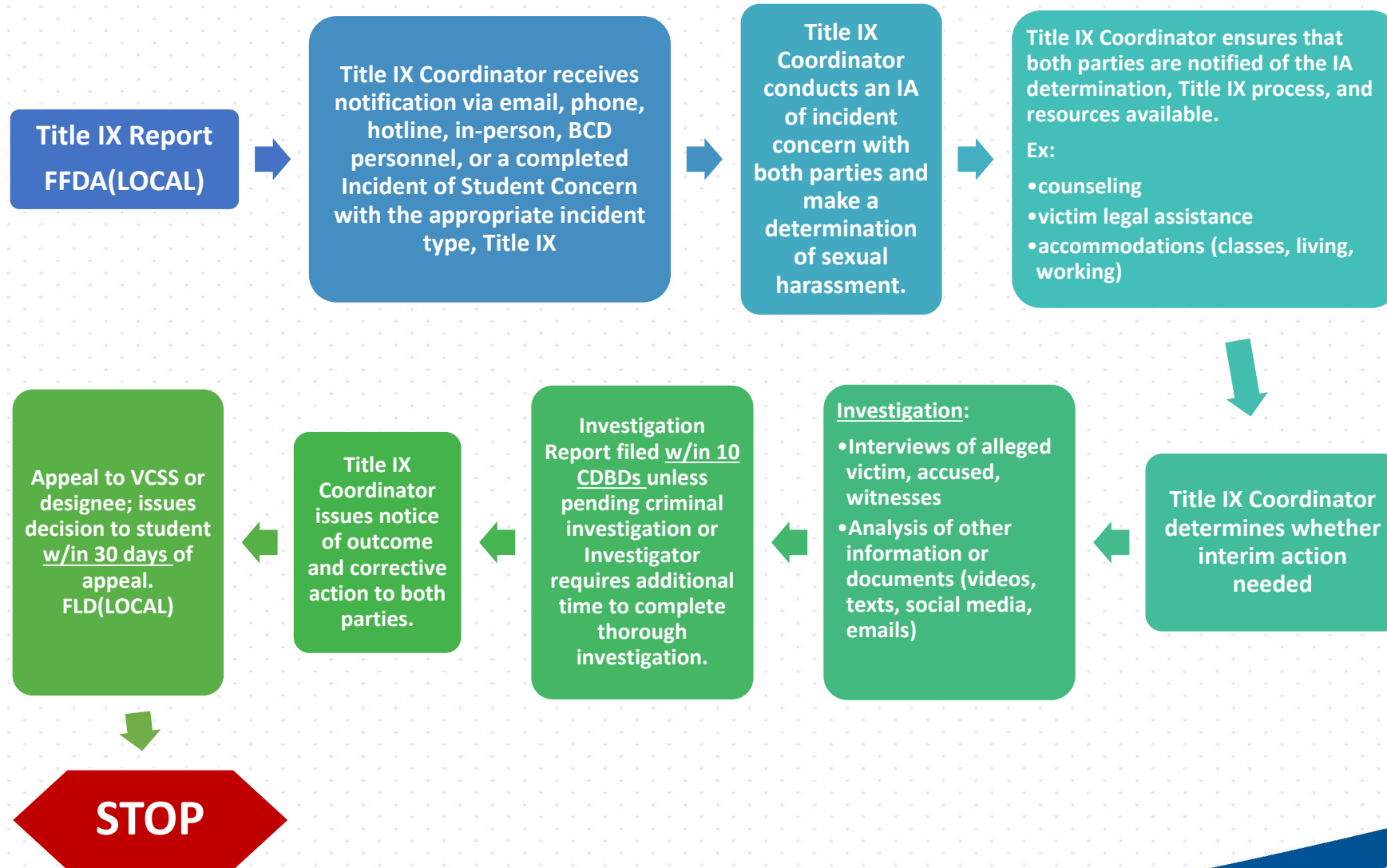
Title IX Live Hearing

- Under the Title IX Regulations, institutions are required to include a live hearing in the formal complaint process.
- The Live Hearing is an opportunity for Parties to appear before the Title IX Hearing Committee to respond to the evidence gathered during the investigation.
- Can choose whether to participate in the hearing and whether to answer cross-examination questions
- The respondent is presumed innocent prior to the allegations being proved.

Stages of a Title IX Formal Investigation

- Gathering of Evidence
- Live Hearing and Cross Examination
- Decision
- Appeal

TITLE IX: FFDA(LOCAL)



Role of the Decision Maker



- Conducts the hearing
- May ask Parties and witnesses questions
- Must objectively evaluate all relevant evidence, including inculpatory and exculpatory evidence
- No credibility determinations based on status as Complainant, Respondent, or witness
- Must independently reach a determination regarding responsibility without giving deference to the investigative report

Role of the Decision Maker (Continued)



- Must ensure the hearing process is impartial, objective, unbiased, neutral, and independent
- Cannot have a bias against a complainant or respondent in general or against the complainant or respondent
- Cannot have a conflict of interest
- Must be independent of the Title IX Coordinator and Investigator
- Can be one person or panel, internal or external

Format of the Hearing



- Live hearing with all Parties present in the same geographical location or virtual live hearing
- Must be able to see and hear each other in real time
- Must create audio or audiovisual recording of transcript, of any live hearing
 - Must make it available to Parties for inspection and review

Hearing Procedures



- Opening Statement: Each Advisor will have the opportunity to provide an opening statement to the Hearing Administrator presiding over the hearing as well as the Title IX Committee.
- Cross Examination:
 - Witnesses will be sworn in
 - Each Advisor will have the opportunity to question a witness
 - The side that originally called the witness shall have a second opportunity to question them through redirect examination if so desired
 - After the complainant concludes their case, the respondent may present its own evidence
 - The advisor for the complainant shall have the opportunity to cross examine any witnesses brought by the respondent.

Hearing Procedures (Continued)



- Once both sides have had the opportunity to present their case and to challenge the evidence presented by the others, both sides rest and no evidence shall be presented to the committee before closing arguments are made.
- Closing Arguments:
 - Both sides shall have the opportunity to sum up their case, recapping their evidence
 - This is the final chance for parties to address the committee before deliberation
- Committee Deliberation:
 - After closing arguments, the committee will meet to provide a written determination as to if a policy or procedure from Blinn College District was violated by the respondent.
 - The committee's written determination will be presented to the Title IX Coordinator by the Hearing Administrator.

Determining Responsibility

- Identify allegations
- Procedural steps
- Findings of fact
- Conclusions
- Statement and rationale for each determination regarding responsibility
- Statement whether Blinn College District will provide remedies for the Complainant
- Appeal Procedures for the Complainants and Respondents. 34 CFR § 106.45 (b)(7)(ii)

Determining Responsibility (Continued)

- Weighing Credibility: Believability of each party.
 - Statement previously made that is consistent with testimony at the hearing
 - A statement made that is inconsistent with testimony at the hearing
 - The existence or nonexistence of any fact testified to
 - Attitude toward the action at issue
 - Admission of untruthfulness
 - Decision makers decide the degree to which inaccuracy or implausibility in the Party's witness's response affects determination.
 - Not based solely on observing demeanor
 - Also, consider other factors

Determining Responsibility

- Sanctions and Remedies
 - Where a determination of responsibility for sexual harassment has been made against the respondent, the District has discretion regarding disciplinary sanctions but must also provide remedies to the complainant designed to restore or preserve equal access to the District's education program or activity. § 106.45(b)(1)(i)



Questions?



Thank you