

Bias and Credibility Assessment

February 16, 2021

Prep work

- Please watch the following videos discussing bias and reflect on the following questions.
 - Video 1 : [Understanding Implicit Bias](#)
 - Video 2: [Acknowledging and Managing Implicit Bias](#) – Watch from 12.39 minutes to 25.47 minutes
- Question prompts:
 - How is implicit bias different from explicit bias?
 - Is implicit bias always a bad thing? If no, when is it not?
 - How can what you learned in the video be applied to our work with investigations and hearings? Of which biases may we most need to be aware in these scenarios?

Topics covered today

- Unconscious or Implicit Bias
- Types of evidence
- Credibility

Implicit bias

- How can what you learned in the videos be applied to our work with investigations and hearings?
- Of which biases may we most need to be aware in these scenarios?
- How do we manage bias in the policy?
 - Party can submit written notice of concern of bias or conflict of interest
 - Review panel of three with at least 1 administrator and 1 Title IX official not involved
 - Determination made in 10 days

Weeding bias out of the process

- Utilize disclosure attestation form for panelists, administrators, investigators/advisors

UNIVERSITY OF HEALTH SCIENCES AND PHARMACY IN ST. LOUIS
TITLE IX DISCLOSURE/ATTESTATION FORM

The University is committed to providing fair and impartial grievance proceedings under its Title IX Sexual Harassment Policy. A person is presumed not responsible for an alleged policy violation until after a final determination is issued and the grievance process, including any appeal, has been completed. All persons involved with administering or participating in the College's Title IX proceedings must be free of conflicts of interest or bias.

DISCLOSURE

(If you answer yes, please attach a detailed explanation)

1. Do you know any party or witness identified in this matter?
2. Do you have any direct or indirect family, personal, social, business, financial, or other relationship with any party or witness or their immediate family members.
3. Do you have any other interest in the handling or outcome of this matter (e.g. advocacy, association or membership, professional, academic, research, scholarship)?
4. Have you or an immediate family member ever been a victim or accused of sexual misconduct?
5. Do you have any education, training, or prior experience involving alleged sexual misconduct?
6. Do you have any feelings or beliefs regarding the allegations in this matter and any party's or witness's sex, gender, gender identity, sexual orientation, race, ethnicity, national origin, age, abilities, or status as an alleged victim or accused?
7. Do you have any outside information, familiarity, or involvement with this matter?

Types of Evidence

- **Direct vs. Circumstantial**

- **Direct evidence** supports the truth of an assertion (in criminal law, an assertion of guilt or of innocence) directly, i.e., without an intervening inference.
- **Circumstantial evidence**, by contrast, consists of a fact or set of facts which, if proven, will support the creation of an inference that the matter asserted is true

- Evidence can be:

- Real evidence (physical)
- Demonstrative evidence (charts or diagrams)
- Documentary evidence
- Testimonial evidence

Credibility

- Inherent plausibility
- Story consistency
- Demeanor
- Motive to falsify
- Secondary corroboration
- Opportunity and capacity

The real test of credibility requires a decision-maker to put the witnesses' story in context, subjecting it to an examination of its consistency with the existing conditions; it must be in harmony with the preponderance of the probabilities that a practical and reasonable person would recognize as reasonable in the circumstances.

Credibility

- Fully credible, not credible, or partially credible
- Keep notes – keep it professional
- Cross examination on credibility

Discussion of credibility applied in a case

Health Sciences Association of Alberta v. Capital Care Group Inc.

- The complainant's story expanded on each re-telling.
- The independent witness supported the respondent's position.
- Internal inconsistencies in the complainant's evidence.
- The complainant failed to distinguish between something she had observed and something that someone had told her about.
- The complainant's version of events is not objectively reasonable
- The complainant's motivation.

Thank you!



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