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Title IX and Bias

Identifying and Reducing Bias in the Title IX Process

Tibisay Hernandez
Manager of Diversity,
Equity, and Inclusion
Solutions

Kelly Gallagher
Senior Solutions
Specialist





Vision

We exist to help create safe and equitable work and educational environments.



Mission

Bring systemic change to how school districts and institutions of higher education address their Clery Act & Title IX obligations.



Core Values

- ❖ Responsive Partnership
- ❖ Innovation
- ❖ Accountability
- ❖ Transformation
- ❖ Integrity

Your Facilitators

Tibisay Hernandez
(she/her/ella)



**Manager of DEI
Solutions**

Kelly Gallagher
(she/her/hers)



**Senior Solutions
Specialist**

Today's Agenda

01

What is Bias?

- The Neuroscience
- Preparing for Bias Mitigation

02

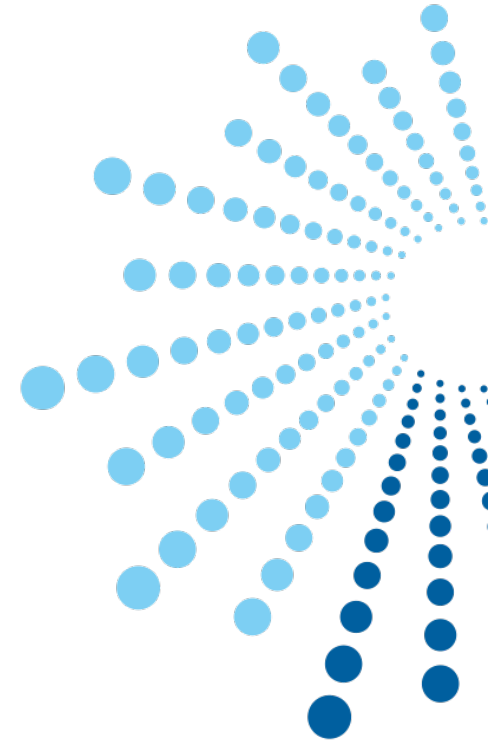
The Hearing

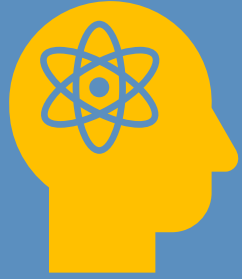
- Opening/Closing Statements, and Party Participation
- Relevancy Determinations

03

Decision-Making

- Evidence Weight
- Fact Finding and Credibility Determinations
- Policy Analysis





What is Bias?

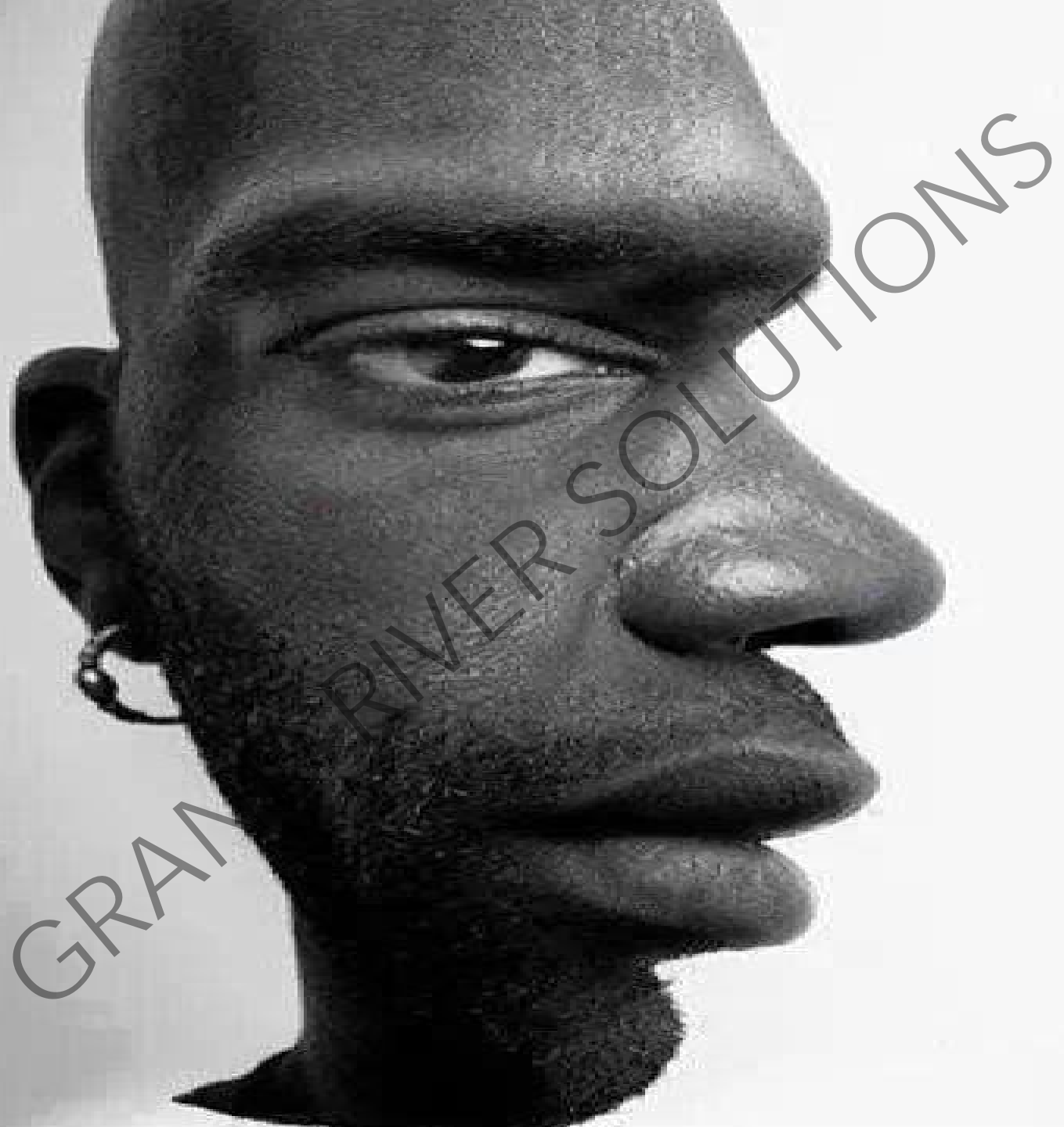
The Neuroscience of Bias

Preparing for Bias Mitigation

01

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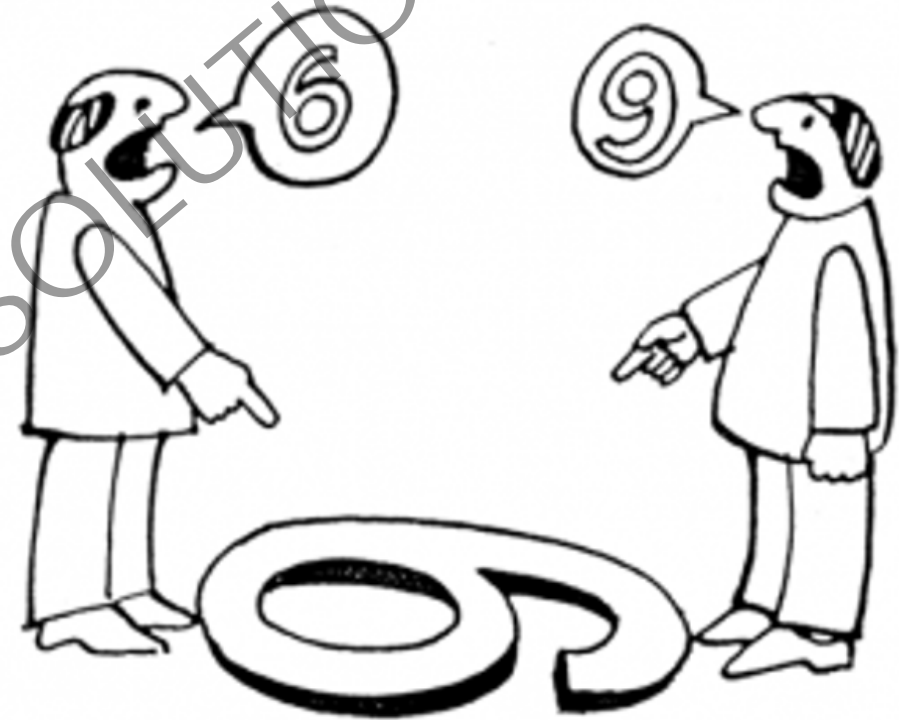
Perceptions and Bias

Your views are informed by your lived experiences.

- Media
- Family
- Friends
- Education
- Societal Cues
- Culture

Your identity informs how you see the world and how the world sees you.

Multiple truths exist!



YOUR VANTAGE POINT,
YOUR BIAS



- Media
- Beliefs
- Education



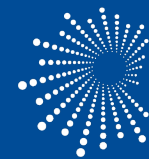
Implicit Bias

- Automatic Thoughts
- Feelings



- Discriminatory
- Non-Discriminatory
- Overt
- Covert

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We all have bias!

The impact of our bias on others depends on the roles and the power we have in different situations.

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4 Problems Biases Address

Biases are methods our minds use to process information in an efficient matter.

Too Much Information

Not Enough Information

Must Act Quickly

What To Remember



4 Consequences of Bias



-  We Don't See Everything
-  We See What We Believe
-  Quick Decisions Can Be Flawed
-  Our Memory Reinforces Errors



Mitigation Strategies For Your Process

1. Stay curious to obtain maximum information.
2. Preemptively commit to formal protocol to help decision makers.
3. Create bias checkpoints in your process.
4. Institute feedback mechanisms.
5. Consult with subject-matter experts.



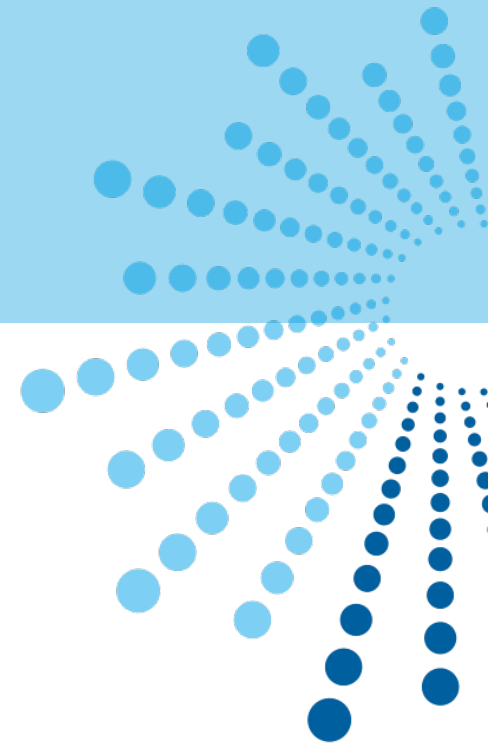


02

The Hearing

- Opening/Closing Statements
- Party Participation
- Relevancy Determinations

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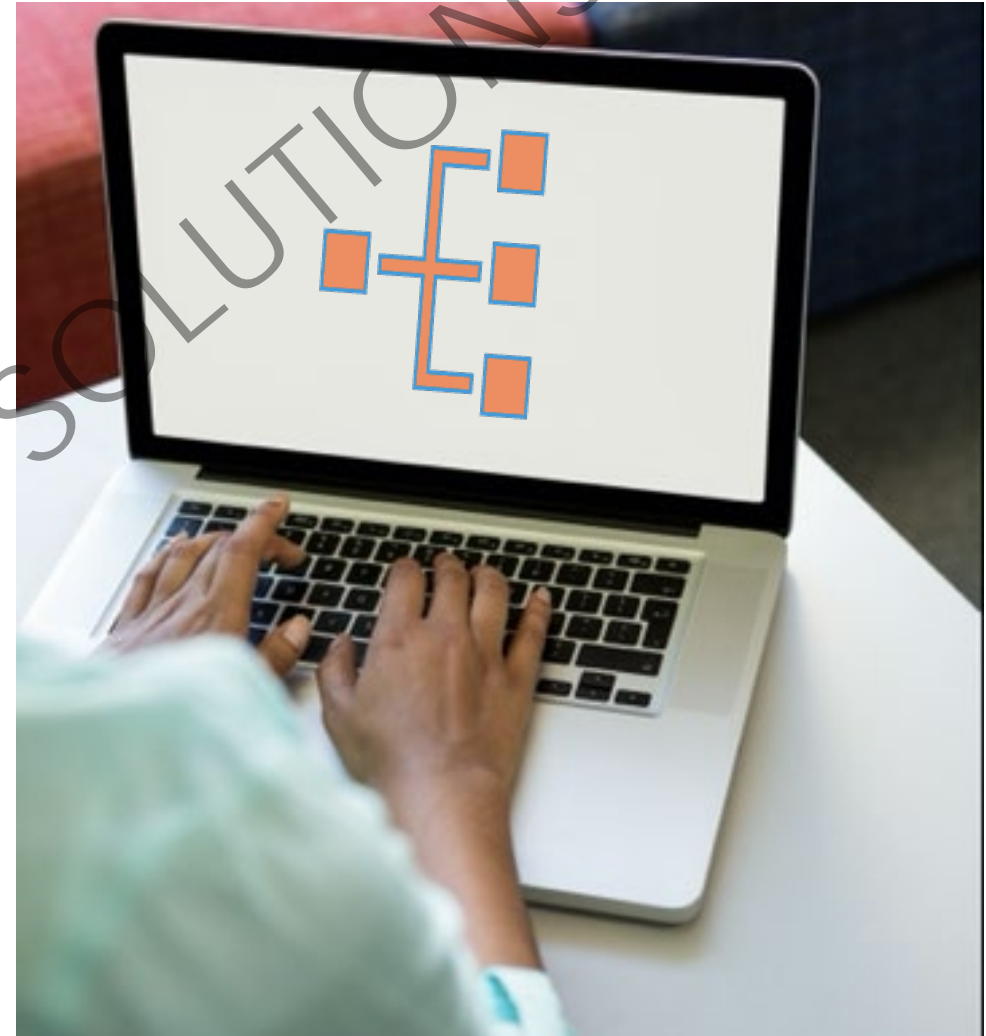
Strategic Foresight Promotes Bias Mitigation

Strategic foresight considers potential challenges; alternate possibilities to develop action plans to prepare or implement strategies that help us avoid inequitable outcomes.

Policy Analysis

Break down the policy into elements.

Organize the facts by the element to which they relate.



- Opening/Closing Statements
- Party Participation



How Our Minds Perceive People

- **Motivation Bias** (*Fundamental Attribution Error*) can be defined as an assumption about a person's motivations based on current behaviors.
 - We don't consider possible reasons for their behavior.
 - We believe their behaviors tell us something about who they are as people all the time.

Halo/Horns Bias

Halo/Horns Bias is more specific to someone's positive/negative impressions triggering positive/negative feelings toward them.

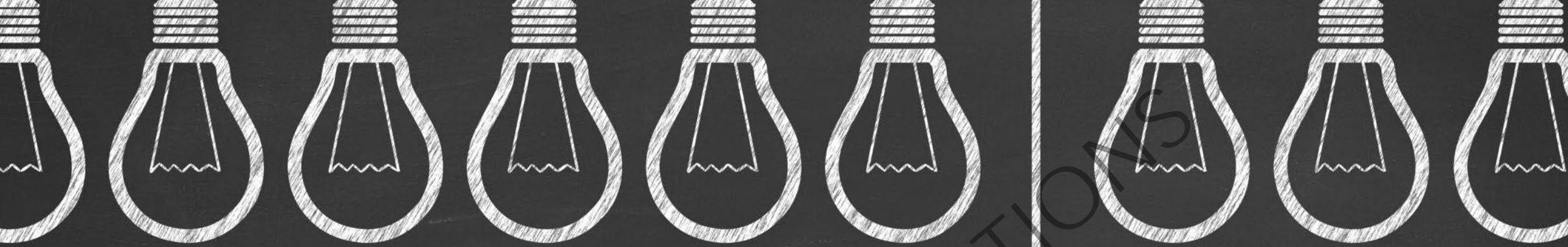
B.E. FOR DOGS:

HALO EFFECT

Duke



BERMAN, FOEHL, TROWER 2018



Relevancy Determinations

Relevancy Determination

In-the-moment decisions

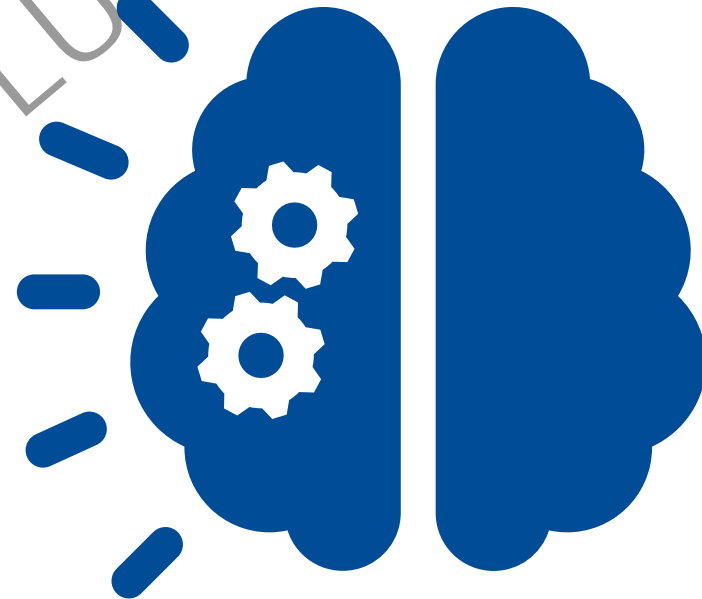
Broad definition

Have an approach you feel comfortable using



Bias Can Affect Relevancy Assessment

- Brain is in overdrive because you are doing this in the moment – time is limited.
- Your emotions may be triggered (Affect Bias).
 - Eg., Advisor interrupts or shows aggressive behavior.
 - Eg., Previous negative encounters with anyone in the hearing.



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Bias Mitigation During Hearings



Focus on the decision to be made.

Make definitions for relevancy or policy a visual.



Remember: you are in CHARGE!



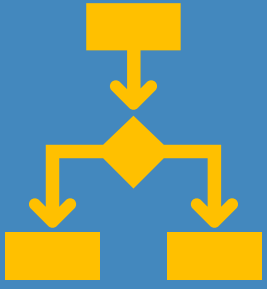
You have the opportunity to slow things down.



You have to be the person to control the room.

Have the presence and emotional intelligence to pause.

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Decision-Making

- Evidence Weight
- Fact-Finding and Credibility Determination
- Policy Analysis

03

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Evaluating the Evidence

Is it relevant?

Evidence is relevant if it has a tendency to make a material fact more or less likely to be true.



Is it authentic?

Is the item what it purports to be?



Is it credible?

Is it convincing?



Is it reliable?

Can you trust it or rely on it?



What weight, if any, should it be given?

Weight is determined by the finder of fact!

Bias in Evaluating Evidence

- The **Framing Effect** is when our decisions are influenced by the way information is presented.
 - Expert evidence
 - Character evidence
- They may be related or even relevant, but it does not mean that this evidence has a greater weight.



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Findings of Fact

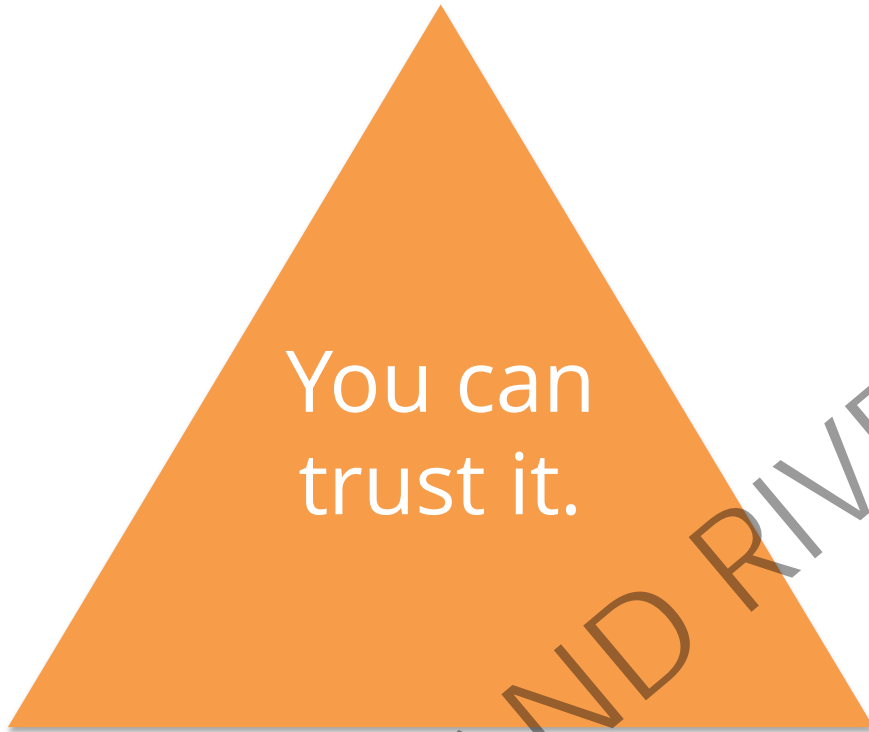
- **A "finding of fact"**
 - The decision whether events, actions, or conduct occurred, **or** a piece of evidence is what it purports to be
 - Based on available evidence and information
 - Determined by a preponderance of evidence standard
 - Determined by the fact finder(s)
- **For example...**
 - Complainant reports that they and Respondent ate ice cream prior to the incident.
 - Respondent says that they did not eat ice cream.
 - Witness 1 produces a photo of Respondent eating ice cream.
- **What to do when there are different versions?**

Judging Credibility Invites Bias

- Can you spot a liar?
 - Can investigators or hearing panel members understand clues that are culturally different from their own?
-



Reliability vs. Credibility



You can trust it.

Reliability

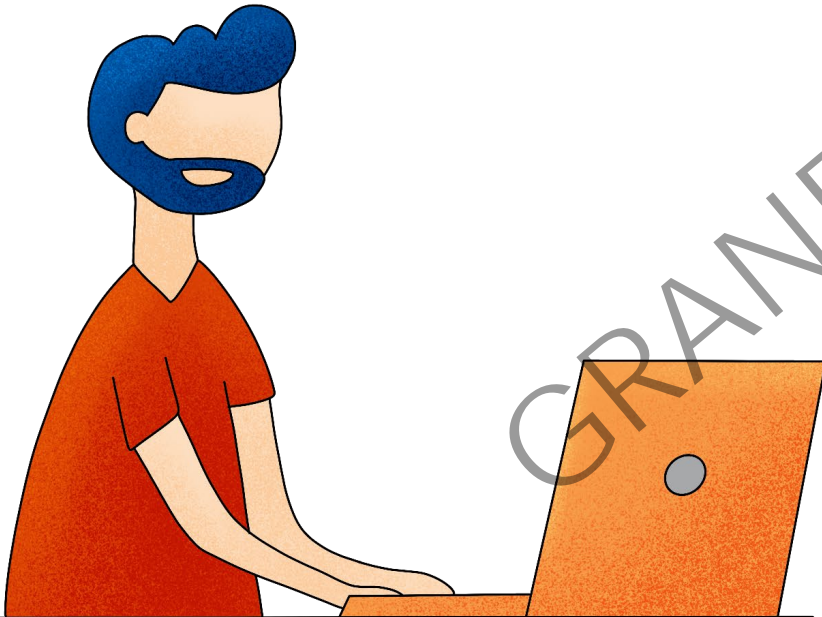


It is convincing.

Credibility

Final Determination

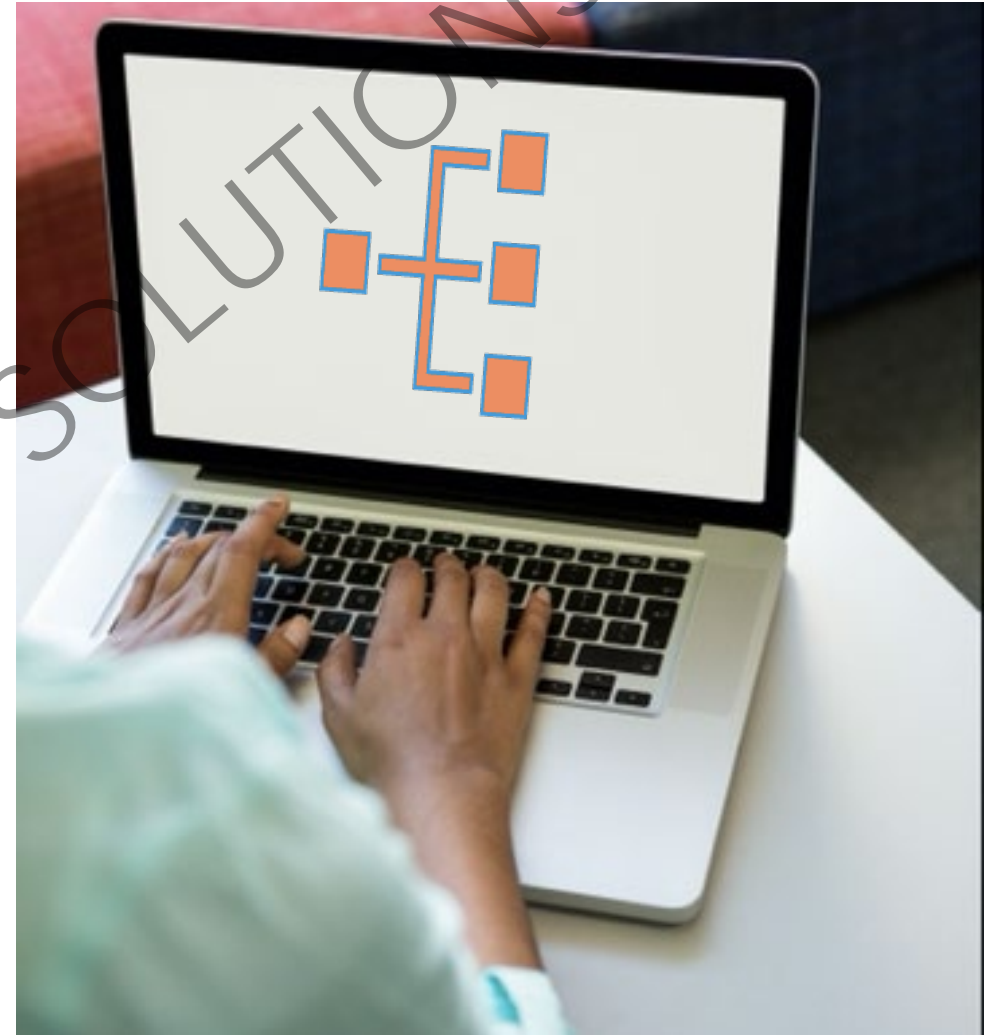
- The allegations
- Findings of fact
- Conclusion of application of facts to the policy
- Rationale for each allegation



Policy Analysis

Break down the policy into elements.

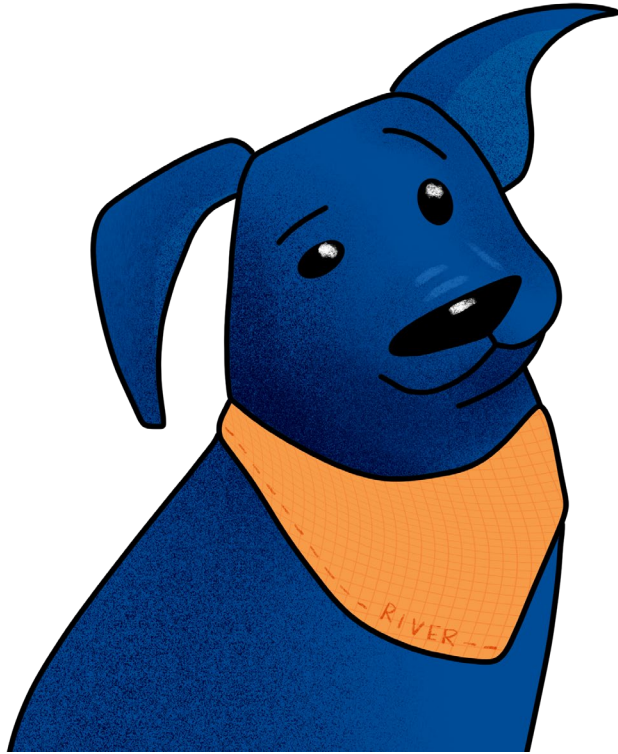
Organize the facts by the element to which they relate.



Analysis Grid

Touching of the private body parts of another person	For the purpose of sexual gratification	Without consent due to lack of capacity
<p>Undisputed: Complainant and Respondent agree that there was contact between Respondent's hand and Complainant's vagina.</p>	<p>Respondent acknowledges and admits this element in their statement with investigators.</p> <p>"We were hooking up. Complainant started kissing me and was really into it. It went from there. Complainant guided my hand down her pants..."</p>	<p>Complainant: drank more than 12 drinks, vomited, no recall Respondent: C was aware and participating Witness 1: observed C vomit Witness 2: C was playing beer pong and could barely stand Witness 3: C was drunk but seemed fine Witness 4: carried C to the basement couch and left her there to sleep it off.</p>

Questions?



Leave Us Feedback:



Email Us:

thernandez@grandriversolutions.com
kgallagher@grandriversolutions.com
info@grandriversolutions.com



@GrandRiverSols



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