



WELCOME

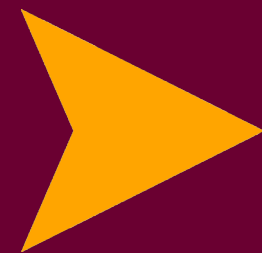
CARVER HALL



Bloomsburg University Hearing Board Training

**September 23, 2021
Zoom Training**





Background

Hearing Chair

Board Members

Why we do what we do...

Constitution

Laws/Regulations

BOG Policy

PRPs

BU

BU PHILOSOPHY

Integrity- Huskies exemplify honesty, honor, and respect for the truth in all of their actions.

Community- Huskies build and enhance their community; understand and appreciate how decisions and actions affect others and are just and equitable in the treatment of all members of the community.

Social Justice- Huskies respect the dignity of every person and act to discourage and challenge those whose actions may be harmful to or diminish the worth of others.

Respect- Huskies show positive regard for each other and for the community.

Responsibility- Huskies accept responsibility for learning, personal behavior, and future success, and appropriately challenge others to do the same. Huskies use good judgement, are trustworthy, and take personal responsibility for actions.



Educational Not Punitive

Due Process in Higher Ed

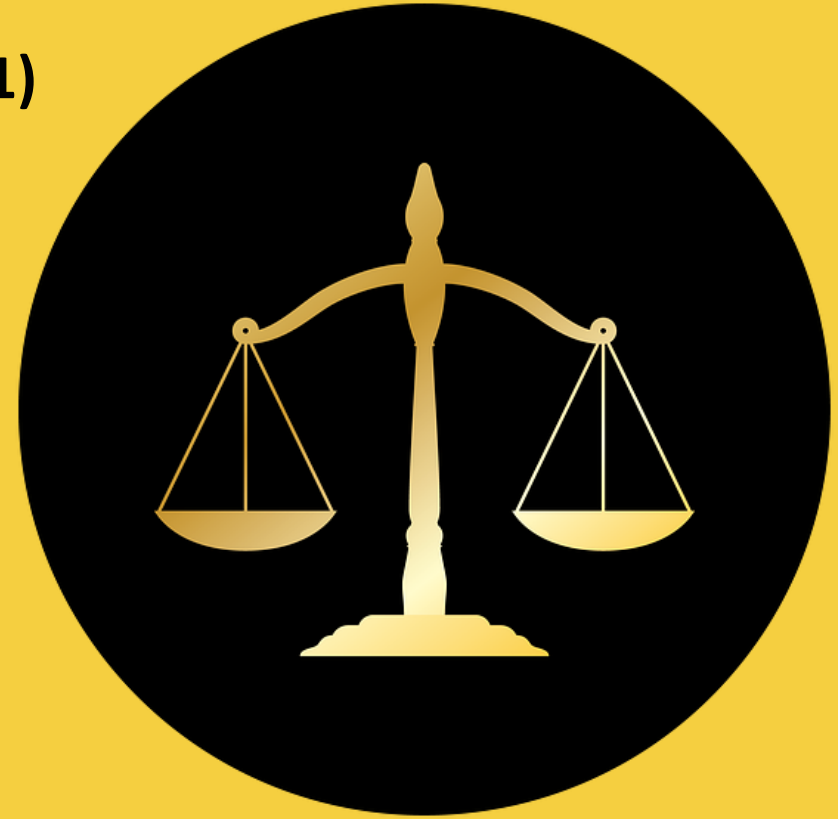
Background: Dixon v Alabama State Board of Education (1961)

Landmark case which set minimal due process procedures:

- 1) Notice of the specific conduct violations**
- 2) Opportunity for the accused student to be heard**

How do we do that?

- 1) Informed of Code/Expectations**
- 2) Notice to student(s)**
- 3) Rights**
- 4) Informal & Formal Hearings**
 - A) Fair & consistent with policies and past decisions**
- 5) Appeals**



General Definitions

1) Parties involved

- a) Respondent**
- b) Complainant**
- c) Advisor**
- d) Witness**
- e) Groups/Organizations**

2) Investigation

3) Informal Hearing

4) Formal Hearing

5) Chair

6) Board

7) Sanctions



Life Cycle of a Case

Incident

Intake/
Investigation

Hearing

Decision

Appeal

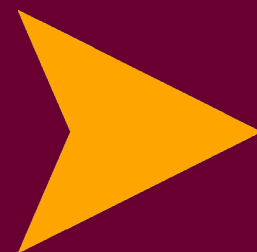


QUESTIONS





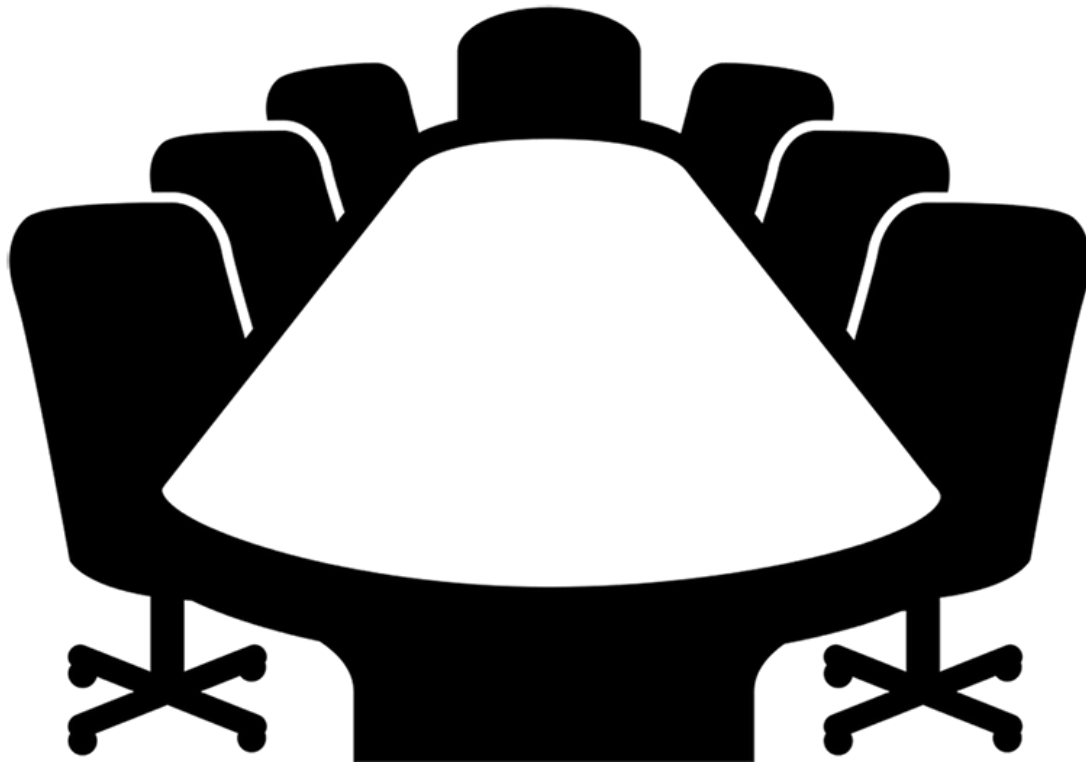
Background



Hearing Chair

Board Members

Hearing Chair



- ~~Preparations~~
- ~~Pre Notifications~~
- **Conducting a hearing**
- **Writing a Recommendation**

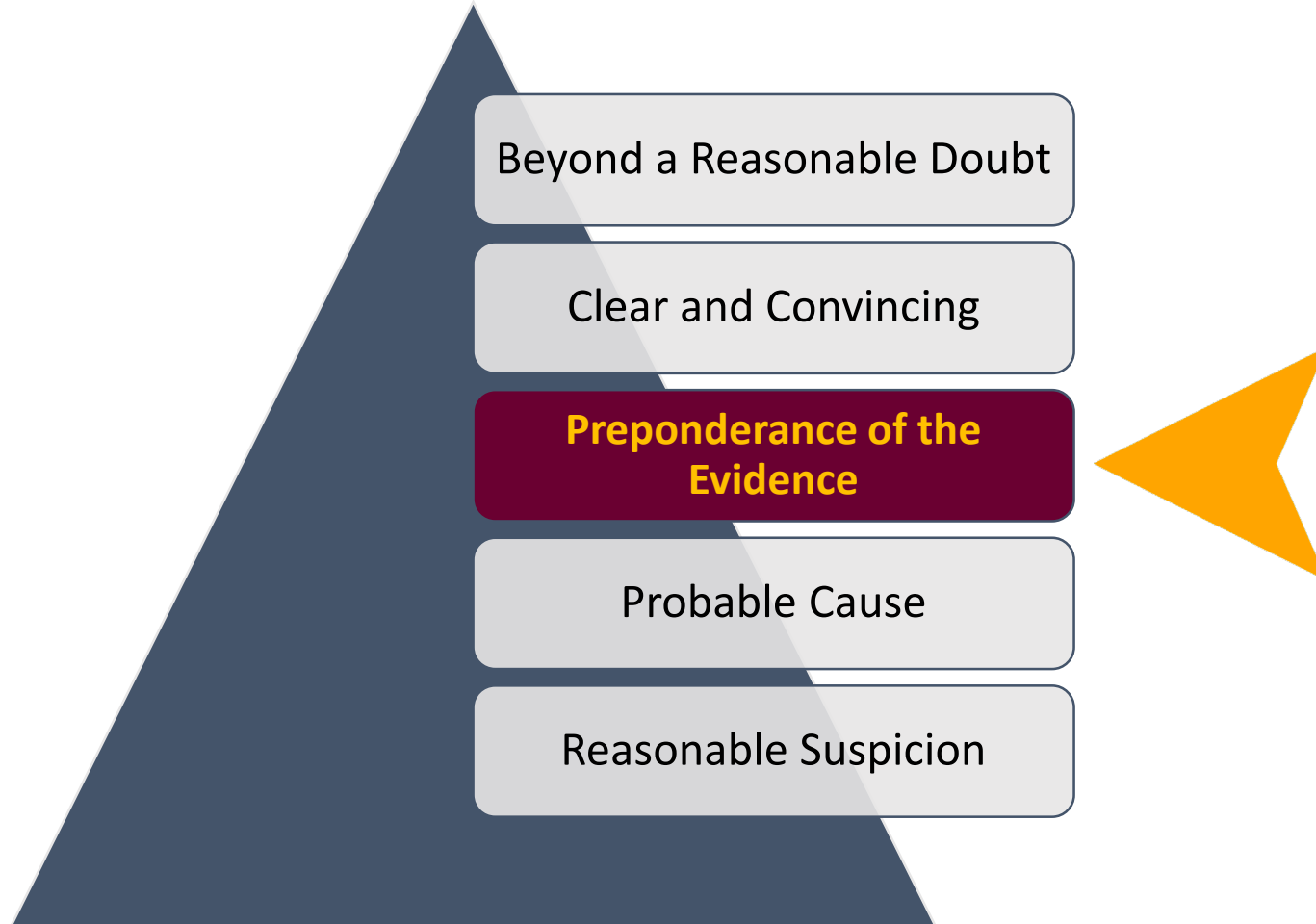
Potential Challenges

- 1) Chair not taking charge of the hearing
- 2) No shows
 - Complainant or Respondent
 - Advisor
 - Board Member
- 3) Difficult advisor
- 4) Uncommunicative student or unclear student
- 5) Board questioning
- 6) Recorder stops
- 7) What else...fire alarms?

What If...

1. An advisor asks a weird question or wants something that cannot be addressed at that time
2. You catch someone else recording the hearing
3. A party asks to have the recording
4. I skip a step in the hearing process during the hearing
5. The Board cannot agree on a decision or outcome
6. I feel a situation is escalating to the point in which I need to call the police
7. Someone storms out
8. Someone shows up with more than one advisor, or an unannounced advisor or unannounced witnesses
9. What if someone wants an advisor to phone in
10. There are 40 witnesses

The Standard of Evidence



Board Deliberation...

A Chair Should:

1. Guide the board
2. Remind the board of *the standard of evidence*
3. Review responsible v. not responsible
 - what about disputed facts?
4. Discuss/consider disciplinary history
5. Decide on outcome recommendations
 - write recommendation letter
 - include dissenting opinion

**When discussing responsibility,
help the board to:**

- Focus on important details (not irrelevant details)
- Consider factors part of the hearing and disregard anything that's not part of the hearing
- Not be distracted by a difficult advisor
- Not be distracted by a student's demeanor

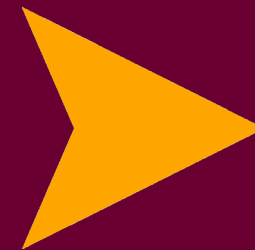
QUESTIONS





Background

Hearing Chair



Board Members

Confidentiality

Remember!

- FERPA protects student privacy, including disciplinary files and records.
- The Formal Hearing Board and conduct process is confidential. What happens in the hearing stays in the hearing.
- The FERPA Waiver for Financial Aid & Bursar is not applicable.
- Exception: Subpoenas.

FERPA Compliance



The Family Educational Rights and Privacy Act



FERPA is a federal law that protects the privacy of student records and applies to all schools that receive funds from the USDOE.

Types of Student Records:

- Financial information
- Disciplinary files
- Student transcripts
- Immunization & health records

To be compliant, schools can utilize a paperless system for storing student records. School's funding is based on compliance.

Janson, A., 2021. Ferpa compliance in Education. Record Nations. Available at: <https://www.recordnations.com/2019/07/ferpa-how-to-manage-student-records/> [Accessed September 2021].

Cultural Awareness

- Be sensitive to a student backgrounds
- Don't look into what they are wearing, how they are acting
- Not wanting to talk does not imply responsibility
- What are your biases?

Implicit Bias Module Series

KIRWAN INSTITUTE FOR THE STUDY OF RACE AND ETHNICITY



▶ Introduction Video

OVERVIEW

MODULE 1

MODULE 2

MODULE 3

MODULE 4

FINAL THOUGHTS

From the nation's leading
experts on **implicit bias**



01:02



Some Important Rights



Right not to appear

Right to not answer any questions

Right to appeal

Right to change their mind and go informal

No contact agreements/orders (not admission or assumption of responsibility)

The Questioning Process



- Ask questions!
- Get clarification!
- It's okay to keep getting clarification!
- Get DETAILS!
- If you are not sure, ask the Chair
- Define slang or lingo (I.E.- “Hooked Up”, “LFGGG”)
- Be ready to say uncomfortable words!
 - Fuck You, Penis, Vagina, Dickhead, Cut the Bitch, Homophobic/Racist language
- Ask why they are or not responsible specific to the Code of Conduct violations

**Do you have all the
information you
need to come up
with a final
determination on
responsibility?**

The Questioning Process



In a way you are re-investigating the case

Conduct a fact finding of your own in the hearing:

- What are the key issues
- What are the key facts in relation to the key issue(s)
- Material facts, undisputed facts, disputed facts
- What are the corroborating factors

Why are they responsible or not responsible for the policy violation?

Credibility

Remember the Standard - What would a reasonable person believe

The Questioning Process

The Art of Asking Questions

Two types of questions, important to consider both during a informal hearing: open-ended and closed-ended

Avoid leading questions or questions that are **judgmental and not relevant** to finding if the respondent is in violation of a policy.

Allow silence, even if it's uncomfortable.

Types of Questions

- **FACTUAL**

- Help you determine if a violation occurred.
- Goal: Preponderance of the evidence.
 - What time did the incident occur?
 - Where did the incident occur?
 - Who bought the alcohol?
 - How long were you there before staff arrived?
 - What did you tell staff?

- **DEVELOPMENTAL**

- Help the student understand the implications and affects of their behavior.
- Goal: Aha moment, aid in sanctioning.
 - Was this behavior typical for you?
 - In what ways was your behavior different during this incident?
 - Why did you choose to engage in this behavior?
 - How do you feel about the incident now?
 - How has your behavior impacted the community?
 - What's your understanding of this University policy?

- **What is problematic with these questions?**

- Why were you at Capitol from 1AM to 3AM if you didn't want to be drinking or dancing?
- I bet you've already gotten in trouble with student conduct quite a bit for cannabis. Can you tell me about those prior events?
- Why were you yelling at people if you didn't want to start a fight?

- **Instead, ask...**

- You said you were at Capitol at 1AM and didn't leave until 3AM. Can you walk me through what that timeline looked like?
- Can you tell me about your history with cannabis and your understanding of the drug policies in the Code of Conduct?
- What were your intentions when you were yelling at people?

Deliberations



- What is a board considering?
 - Responsibility
- Preponderance of the evidence standard
- Impact

**Possibly the
MOST
Pivotal & Important
Step in the Conduct
Process**

Board's Recommendation



What is the violation

What is the severity

Did they accept any responsibility

Prior disciplinary record



Possible Outcomes



Disciplinary Sanctions:

- Disciplinary Warning
- Disciplinary Probation
- Suspension
- Expulsion

Educational Sanctions:

- Community Service
- Reflection Paper
- Educational Workshop
- Counseling
- AA Meeting
- Referrals to Offices

TIX Cases



Notifications are even more structured

Will always have an investigation

We have to be cautious when questioning

Often include an Attorney as advisor

New regs are out

QUESTIONS

