

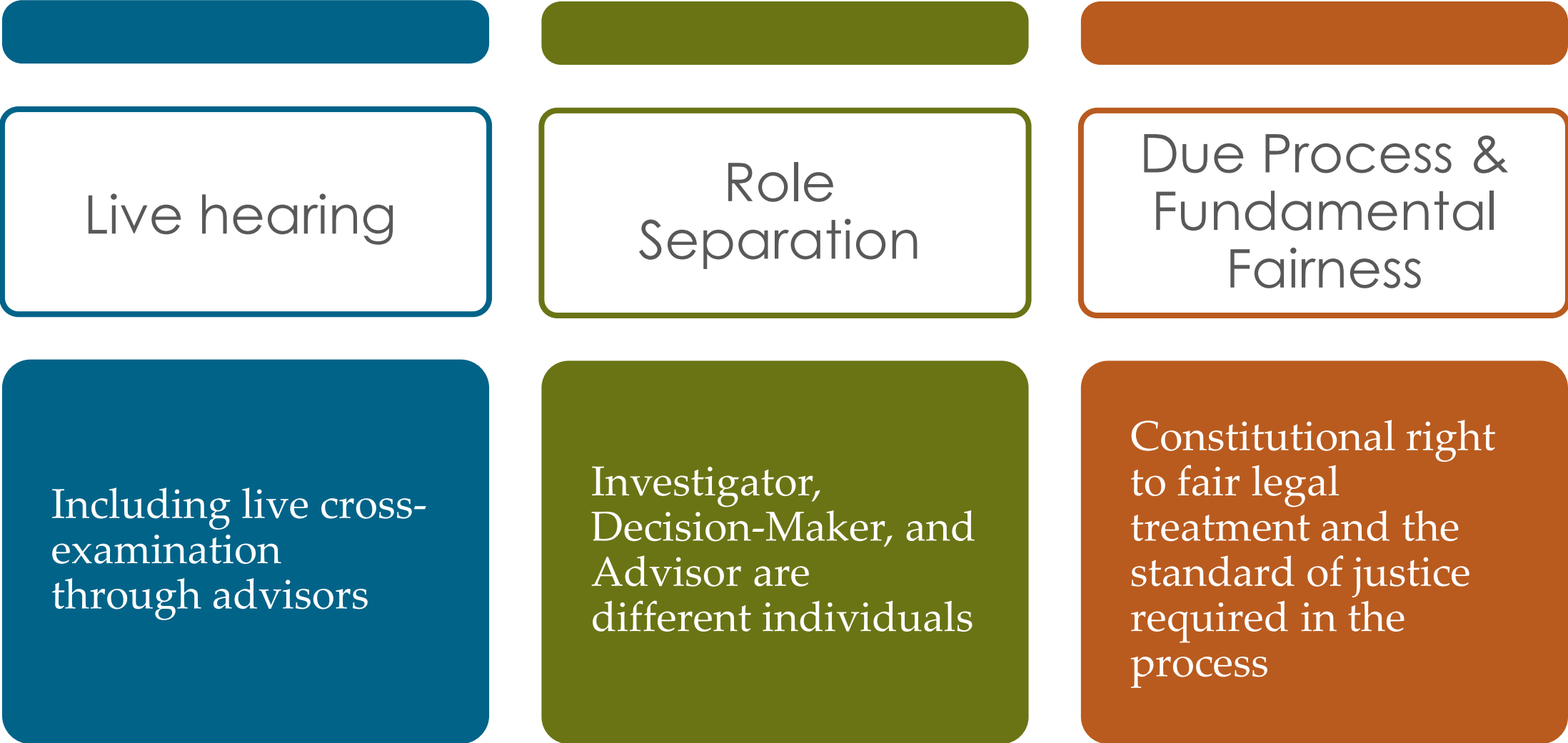
# ISSUES OF RELEVANCE FOR TITLE IX INVESTIGATORS:

How to ensure legally sound, trauma-informed, and policy-compliant relevance determinations

2026



# TITLE IX PROCESS IN HIGHER EDUCATION



The diagram illustrates the Title IX process in higher education through a 3x3 grid. Each column represents a different aspect of the process, color-coded in blue, olive green, and orange. Each row represents a different level of detail, from a single concept to a detailed description. The first row contains three empty colored bars. The second row contains three boxes with the concepts: 'Live hearing', 'Role Separation', and 'Due Process & Fundamental Fairness'. The third row contains three boxes with detailed descriptions: 'Including live cross-examination through advisors', 'Investigator, Decision-Maker, and Advisor are different individuals', and 'Constitutional right to fair legal treatment and the standard of justice required in the process'.

Live hearing

Role  
Separation

Due Process &  
Fundamental  
Fairness

Including live cross-  
examination  
through advisors

Investigator,  
Decision-Maker, and  
Advisor are  
different individuals

Constitutional right  
to fair legal  
treatment and the  
standard of justice  
required in the  
process

# ROLE OF THE INVESTIGATOR

01

Sort evidence  
appropriately

02

Identify relevant  
evidence during  
investigations

03

Sort evidence  
appropriately

04

Document  
relevance  
decisions clearly  
in reports

Your job is not to determine responsibility, but to gather relevant evidence fairly and completely.

Correctly apply the principles of relevance

# RELEVANCE DEFINED

*(Federal Rule of Evidence 401 Test for Relevant Evidence)*

Evidence is relevant if:

- It has a tendency to make a fact **more or less probable** than it would be without the evidence
- The fact is **of consequence** in determining the action

**Does this evidence make a material fact more or less likely?**



# RELEVANT EVIDENCE



Tends to make a fact more or less probable than it would be without the evidence

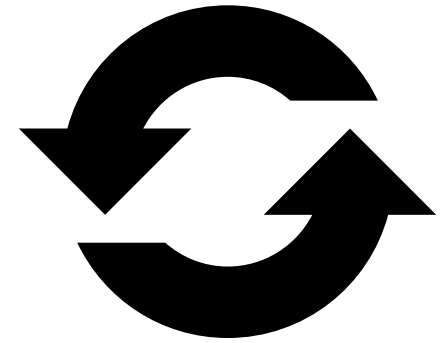
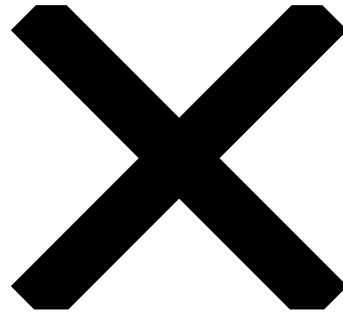
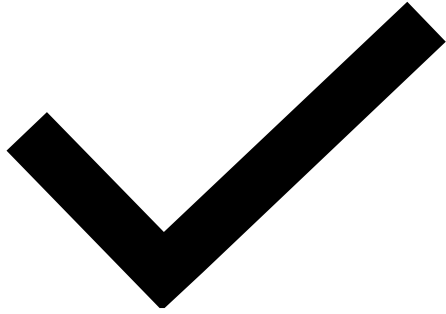


Logical connection between the evidence and the alleged conduct



Assists in coming to the conclusion – is it “of consequence?”/linked to policy elements

# GATHERING RELEVANT EVIDENCE



Relevant

Irrelevant

Directly  
Related

# EXAMPLES OF RELEVANT EVIDENCE



Testimony from a neutral witness (such as a resident assistant) that, earlier the same evening of the alleged conduct, Complainant asked the RA whether they could stay in a vacant room because they “didn’t feel comfortable being alone” with Respondent after Respondent repeatedly insisted they go back to the Respondent’s room.



Card swipe data showing the time at which Respondent had entered the residence hall, as Respondent had stated that he left the party at 1 pm and returned to his residence hall room to study, and the incident being investigated occurred at approximately 11:30 pm at a party across campus.



A long text thread between Complainant and a witness in which Complainant’s texts start to fill with typos and non-sensical words, considered to help determine whether Complainant had the capacity to consent after consuming many drinks at a party.

# DIRECTLY RELATED OR NO?

Directly Related



Evidence that is Directly Related might be vaguely related to the case, but does not necessarily prove or disprove what is alleged.

Why produce more than relevant evidence?



We want to provide the parties with the broadest view of the evidence, so they know all that was gathered by the investigator as part of the investigation.

# EXAMPLES OF DIRECTLY RELATED EVIDENCE

## Directly Related but NOT relevant

Let's suppose the Complainant and Respondent first met each other at a campus event, and they later went to a bar downtown to have drinks, and Complainant alleged that after returning to campus the Respondent fondled Complainant without consent. A text thread between a witness and Complainant about whether they are planning to attend that particular campus event and what they might wear could be Directly Related, but is not relevant to the allegations.

## Directly Related AND relevant

Security camera footage from the hallway outside the Respondent's residence showing Complainant and Respondent entering together and leaving separately within the timeframe of the alleged incident.

# APPLYING RELEVANCE STANDARDS CONSISTENTLY: ASSESSING CREDIBILITY & RELIABILITY

Department emphasizes in the Preamble that investigators have discretion to determine relevance at the investigation stage.

The ultimate determination of relevancy will be made by the decision maker at the hearing phase.

The final investigation report and all the evidence collected must be provided to the parties and the decision maker.

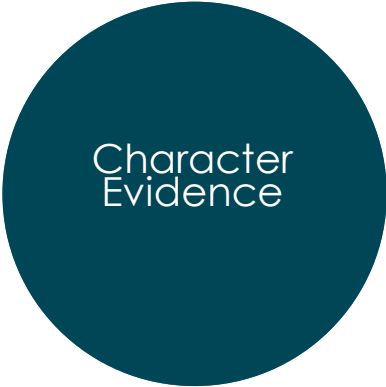
# MANDATORY EXCLUSIONS: EVIDENCE YOU CANNOT INCLUDE OR CONSIDER

- Evidence about a complainant's sexual history is prohibited with two limited exceptions.
- Privileged information without written consent is prohibited.



# WEIGHT AND RELEVANCE

Relevance determines what evidence is admissible



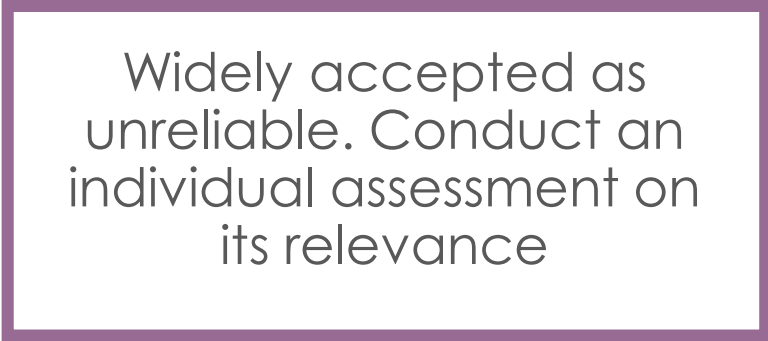
Character  
Evidence



Consult institution's policy  
and procedure and  
carefully assess if it is  
relevant



Polygraph



Widely accepted as  
unreliable. Conduct an  
individual assessment on  
its relevance

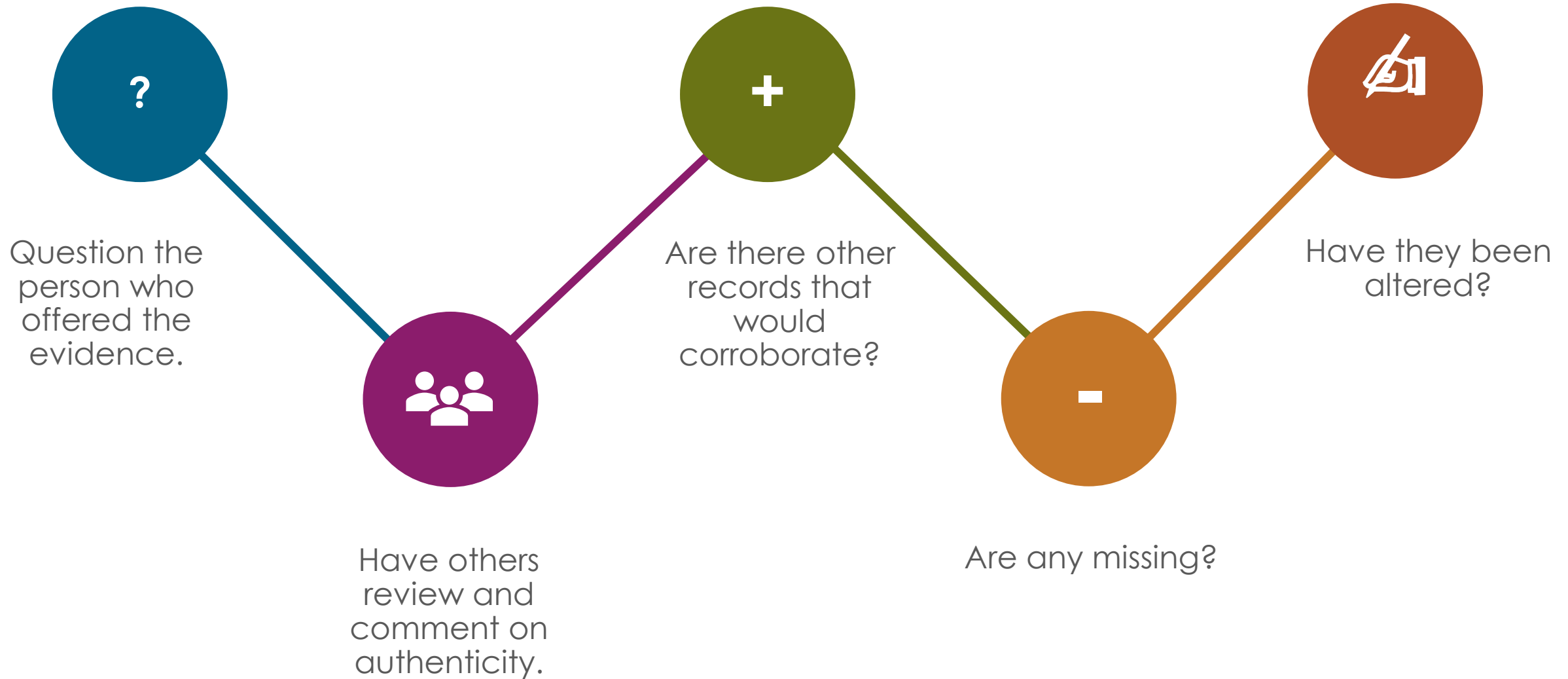


Opinion  
Evidence



May be relevant but is  
mostly unreliable unless  
the factual basis for the  
opinion is explored

# APPLYING RELEVANCE STANDARDS CONSISTENTLY: IS IT AUTHENTIC?



# APPLYING RELEVANCE STANDARDS CONSISTENTLY: THINGS TO AVOID

1

**Avoid credibility shortcuts**

3

**Avoid outcome-driven reasoning**

2

**Avoid assumptions based on trauma responses**

4

**Take a neutral approach**

# SCOPE OF RELEVANCE-RELEVANCE VS CURIOSITY

- **As an investigator think ahead about what information the decision maker will need:**
  - What will the decision maker be asked to decide?
  - What does the formal complaint allege?
  - What are the elements of each alleged act of prohibited conduct?
- **Relevancy:**
  - Focus on the alleged conduct, policy definitions, and elements.
- **Curiosity—Avoid probing into:**
  - Sexual preferences
  - Mental health unless directly relevant
  - Character unrelated to allegations



# TRAUMA INFORMED RELEVANCE

Investigators should keep an open mind and avoid immediately interpreting seemingly inconsistent behaviors as deception.

An understanding of trauma is essential to a fair and thorough investigation.

The department permits the use of trauma-informed practices and recognizes that trauma-informed practices can be used in an impartial and non-biased manner.

# COMMON CHARACTERISTICS OF DISCLOSURES DUE TO TRAUMA

Inconsistencies in  
memory or details

Changes in timeline

New details over  
time

Difficulty recalling  
peripheral details

Inconsistent  
emotional reactions

Confusion about  
dates or order of  
events

# IN CONCLUSION...

Investigator's  
role must be  
a separate  
role

Gather  
relevant  
evidence  
fairly and  
completely

Relevant  
evidence lends  
itself to making a  
material fact more  
likely than not

How to  
categorize  
evidence

Mandatory  
exclusions

Importance of  
thinking  
ahead throughout  
investigation

Ensure  
evidence is  
authentic

Use a trauma  
informed lens for  
investigation and  
relevancy  
determinations



info@grandriversolutions.com



/Grand-River-Solutions



/GrandRiverSolutions



/GrandRiverSolutions



/GrandRiverSolutions.com



@titleixandequity.bsky.social

## CONNECT WITH US