



**COLLIN
COLLEGE**

Live Hearing Advisor Training

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Bias and Value Neutrality

- **Unconscious bias** is a quick and often inaccurate judgment based on limited facts and our own life experiences. These judgments can give individuals and groups both unearned advantage and unearned disadvantage in the workplace. People can be biased about just about anything—not just things like gender, skin color, or age, but also things like communication style or what someone does in their free time. Unconscious bias is not intentional—it's part of the lens through which we see the world. In our everyday lives, when people don't fit our internalized expectations, we can sometimes have difficulty seeing their talents, motivations, and potential clearly which can mean we interact with them less effectively. When we understand how biases influence our behavior, we can take action to create an inclusive culture.
- **Value Neutrality:** refers to the duty and responsibility of [a person] overcome [their] personal biases while conducting any research. It aims to separate fact and emotion and stigmatize people less. It is not only important in sociology but outlines the basic ethics of many disciplines.

Unconscious Bias <https://www.mslearning.microsoft.com/course/72169/launch>

Value Neutrality: <https://www.sociologygroup.com/value-neutrality-meaning-examples/>

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Bias

- For purposes of the Title IX grievance process, the Title IX Coordinator and designated investigators, hearing officers, decision-makers, or any informal resolution facilitators must be free from the following:
 - Conflicts of interest or bias “for or against” complainants; and
 - Conflicts of interest or bias “for or against” respondents; or
 - Conflicts of interest or bias “for or against” an individual complainant; or
 - Conflicts of interest or bias “for or against” an individual respondent.

Relevance

- Evidence is relevant if:
 1. It has a tendency to make a fact more or less probable than it would be without the evidence; and
 2. The fact is of consequence in determining the action.
- Relevancy is not an inherent characteristic of any item of evidence, but exists only as a relation between an item of evidence and a matter properly provable in the case. Does the item of evidence tend to prove the matter sought to be proved? (As the famous legal authority McCormick put it long ago, “A brick is not a wall.”)

Examples of Relevance

- **Example:** Dolly Madison is charged with stealing costume makeup from a drugstore the night before Halloween. The prosecution wants to offer evidence that Dolly's mom had refused to buy her a Halloween costume. The evidence is relevant to prove that Dolly had a motive for stealing the makeup.
- **Example:** Same case. The prosecution also wants to call the drugstore manager to testify that the makeup department suffers more thefts than any other department of the drugstore. This testimony would be irrelevant because it does not relate specifically to Dolly.
- **Example:** Lance Sellot is charged with drunk driving. The prosecution wants to offer evidence that Lance is a member of a violent street gang. The evidence is irrelevant because the crime charged has nothing to do with gang activities. The evidence would only serve to stir up bias against Lance.
- **Example:** Clare Voyant is charged with car theft. She was arrested in her home, and the prosecution wants to offer evidence that the arresting officer found marijuana and an unregistered handgun there. Unless the prosecution can establish that the gun and drugs were somehow involved in the theft, there's nothing to connect them with the crime. Again, the evidence would do almost nothing other than predispose the judge or jury against the defendant.

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Excluding Evidence

- Under Federal Rule of Evidence 403, a court may exclude relevant evidence if its probative value is substantially outweighed by a danger of one or more of the following:
 - Unfair prejudice
 - Confusing the issues
 - Misleading the jury (or decision-maker)
 - Undue delay
 - Wasting time
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Excluding Evidence—General Examples

- Unfair prejudice
 - Evidence used to injection excessive emotion, hostility, or irrational effects (i.e. the citizenship, race, religion, pregnancy of an individual when such is not relevant)
- Confusing the issues
 - Evidence about developments in related legal proceedings
- Misleading the jury (or decision-maker)
 - Evidence about the failure to prosecute or discipline other parties
- Undue delay
- Wasting time
- “Needlessly” presenting cumulative evidence
 - Calling more than one witness to establish a fact already established
 - Playing a tape recording of a conversation when the matter has been established by testimony or other evidence

Rape Shield Law

- For the live hearing, the complainant's sexual predisposition or prior sexual behavior are not relevant, unless:
 - Offered to prove someone else committed the alleged conduct; or
 - Involve specific incidents of prior sexual behavior between the two parties, and are offered to prove consent.
- Under Federal Rule of Evidence 412, VAWA, and the laws of many states, a defendant in a rape case cannot introduce evidence of the victim's sexual history in an attempt to disprove the prosecution's case, subject to some statutory exceptions.
- Some general examples include:
 - Evidence of a victim's prior sexual history
 - Evidence of a victim's sexual behaviors or sexual predisposition
 - Evidence of a victim's alleged chastity or promiscuity
 - Evidence of prior accusations by the victim

Burden of Proof

- For purposes of investigations under the college's Title IX resolution process, the burden of gathering evidence and the burden of proof will fall on Collin College and the investigator, not on each of the parties.

Advisor's Role Pre-Hearing

- Both parties can have their chosen advisor with them through all parts of the Title IX process (i.e. investigation meetings, interviews, hearings).
- If a party chooses not to have an advisor or cannot provide their own advisor, Collin College will assign them an advisor for the live hearing only.
- In preparation for the live hearing, the Collin College assigned advisor's role will begin when the investigation report is sent to both parties.

Advisor's Role Pre-Hearing

- Prior to the live hearing, the advisor should meet with their assigned individual to review the investigation report.
- During this time, the advisor can assist their assigned individual in writing any response (if necessary) to the investigation report.
- Additionally, during this time, the advisor can assist their assigned individual with developing their relevant questions for cross examination.

Advisor's Role Pre-Hearing

- Assist the assigned individual with generalities in preparation for the hearing (i.e. go over the procedures, help them practice answering questions, etc.).
- Attend any pre-hearing meetings.

Advisor's Role Pre-Hearing

- Assist the assigned party with generalities in preparation for the hearing (i.e. go over the procedures, help them practice answering questions, etc.).
- Attend any pre-hearing meetings.

Advisor's Role During the Hearing

- An advisor's main objective during the live hearing is to handle cross-examination. The advisor's roles will be active during the cross-examination portion of the hearing (i.e. handling the questioning, consulting with their assigned individual, and interacting with the Hearing Officer regarding matters of relevancy).
- Questions and evidence concerning a complainant's sexual predisposition or prior sexual behavior are irrelevant and not permitted, unless these questions are offered to prove that someone other than the respondent committed the alleged misconduct or to prove consent.
- The hearing officer has the responsibility to determine the relevancy of questions and explain in real time any decision not to permit a question.

Advisor's Role During the Hearing

- An advisor may not speak on behalf of the party or otherwise participate in, or in any manner delay, disrupt, or interfere with meetings and/or proceedings, except as specifically permitted by the hearing procedures.
- Collin College reserves the right to take appropriate action regarding any advisor who disrupts the process, or who does not abide by the restrictions on their participation as determined in the hearing procedures.
- Failure to comply with all hearing procedures may result in the advisors removal and the appointment of an alternate Collin provided advisor.

Advisor's Role During the Hearing

- An advisor can consult with, discuss, and address issues of concerns with their assigned party during the hearing as needed.
- An advisor should be willing to offer support to their assigned individual during the hearing.
- A Collin assigned advisor's obligation ends at the completion of the live hearing.