

JUDICIAL COMMITTEE TRAINING

Training for Student Conduct Hearing Boards,
Title IX Hearing Boards, and Advisors

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AGENDA

- ❑ Introductions
- ❑ Student Conduct Boards (SCB)
- ❑ Roles of Advisors in SCBs
- ❑ Title IX Review
- ❑ Title IX Hearing Boards
- ❑ Roles of Advisors in Title IX Hearing Boards
- ❑ Closing



INTRODUCTIONS

- History of Student Conduct Hearings
- Updates to our processes
- Philosophy of SCBs and TIX Boards



STUDENT CONDUCT BOARDS

Student Conduct Boards (SCB) are called for Student Conduct violations that may be considered severe, may be a repeat contact with the same Respondent, at the request of a student, and/or perceived bias from a different Hearing Officer.

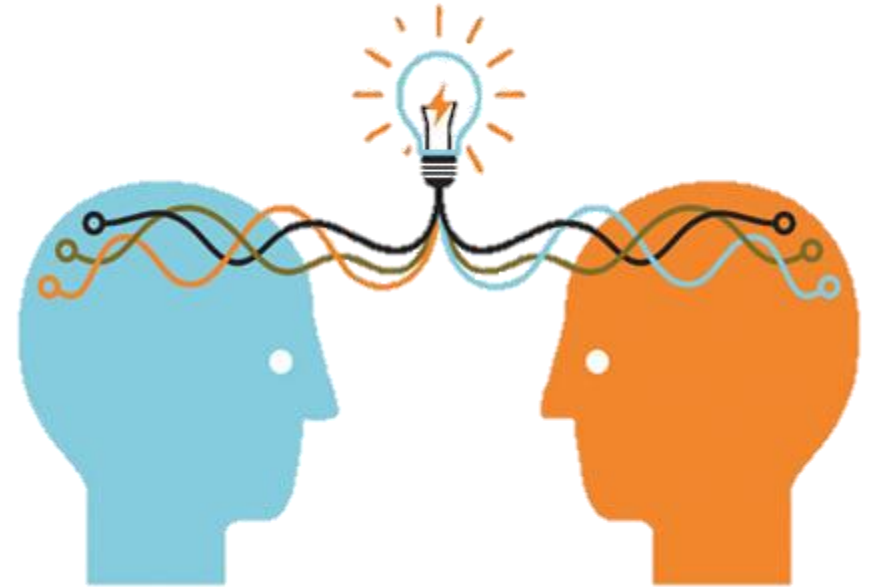
SCB HEARING PARTICIPANTS



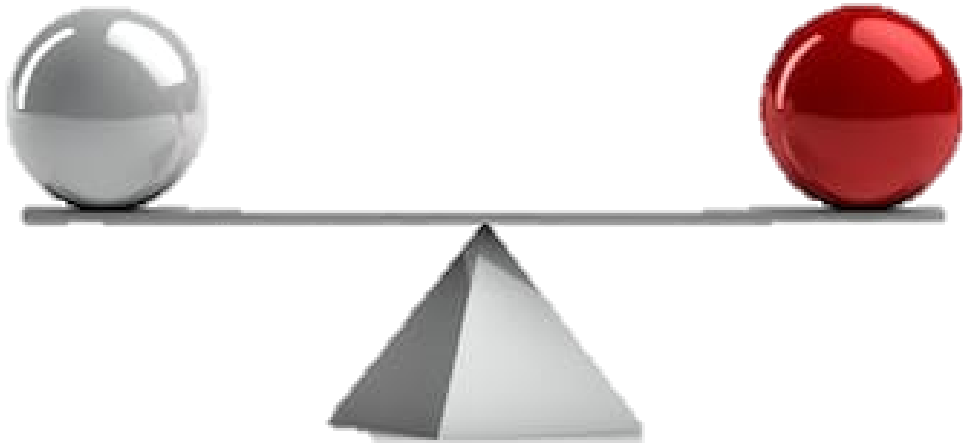
- 2-4 Decision Making Members
 - 1 Student
 - At least 1 faculty member
 - At least 1 staff member
- Coordinator of Student Conduct (not a decision making member)
- Respondent
- Advisors (optional)
- Complainant (optional)
- Witnesses (optional)

RESPONSIBILITIES OF THE SCB

- Familiarity of NHTI Code of Conduct and CCSNH policies
- Maintaining accurate records
- Providing a fair and objective outcome
- Attendance at training at least once a year



RESPONSIBILITIES OF THE CHAIRPERSON



- Ensure all rights are observed
- Facilitate hearing
- Facilitate determination of the outcome of the case
- Keep record of hearing proceedings
- Delivers outcome of the hearing to necessary parties

RESPONSIBILITIES OF ADVISORS

- Familiarity of NHTI Code of Conduct and CCSNH policies
- Unbiased and active guidance for students
- Attendance at annual training



STUDENT CONDUCT BOARD HEARING PROCESS

- Prior to the hearing:
 - Investigation
 - Case review by Coordinator of Student Conduct
 - Hearing Notice
 - Case review for SCB members, Respondent, and the Advisor



STUDENT CONDUCT BOARD HEARING PROCESS

Hearing Outline



- Introduction and call to order
- Verbal verification by Respondent
- Review of Charges
- General review of the case
- Opportunity to add information and/or clarify the investigation report/notes
- SCB Hearing Officers' opportunity to ask questions
- Closing and dismissal Respondent and other involved parties
- Closed door deliberation for decision makers

SANCTIONING

In the event that a Respondent is found responsible, the SCB will determine sanctioning. Sanctioning is meant to offer the Respondent the opportunity to reflect, restore, and reestablish and repair their role within the College community.

CONCLUSION OF STUDENT CONDUCT BOARDS

- Outcome delivered
- Opportunity to Appeal
- Case closure



TITLE IX STATES:

“ No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.”

Title IX of the Education Amendments of 1972
Implementing Regulations at:
20 U.S.C. § 1681 & 34 C.F.R. Part 106

LAWS AND REGULATIONS

- Title IX (1972): Federal law that prohibits sex discrimination in educational institutions.
- The Jeanne Clery Act (1998): Required colleges and universities in the United States to disclose information regarding crime on and around campus.

LAWS AND REGULATIONS, (CONTINUED)

- VAWA (2013): The Violence Against Women Act, aimed at improving how colleges address sexual violence; imposes obligations to revise policies and practices.
- SaVE Act (2014): Part of VAWA amendments, made changes to the Jeanne Clery Act; requires colleges to report additional sexually violent crimes.

SCOPE OF NEW REGULATIONS

Title IX applies to

- Any person registered, accepted or enrolled in any course, or program offered by any CCSNH college, as well as faculty, staff and 3rd party providers
- To all of a college's programs and activities, events, or circumstances
- Over which the college exercised substantial control over the respondent
- Including all locations within the United States,
- Occurring on-campus or off-campus.

TYPES OF SEXUAL HARASSMENT

New Title IX Regulations uses the umbrella term of “Sexual Harassment” to define acts of sexual misconduct and violence:

- Quid pro quo
- Sexual Harassment
- Sexual Violence
 - Sexual Assault
 - Domestic/Intimate Partner/ Dating Violence
 - Stalking

QUID PRO QUO



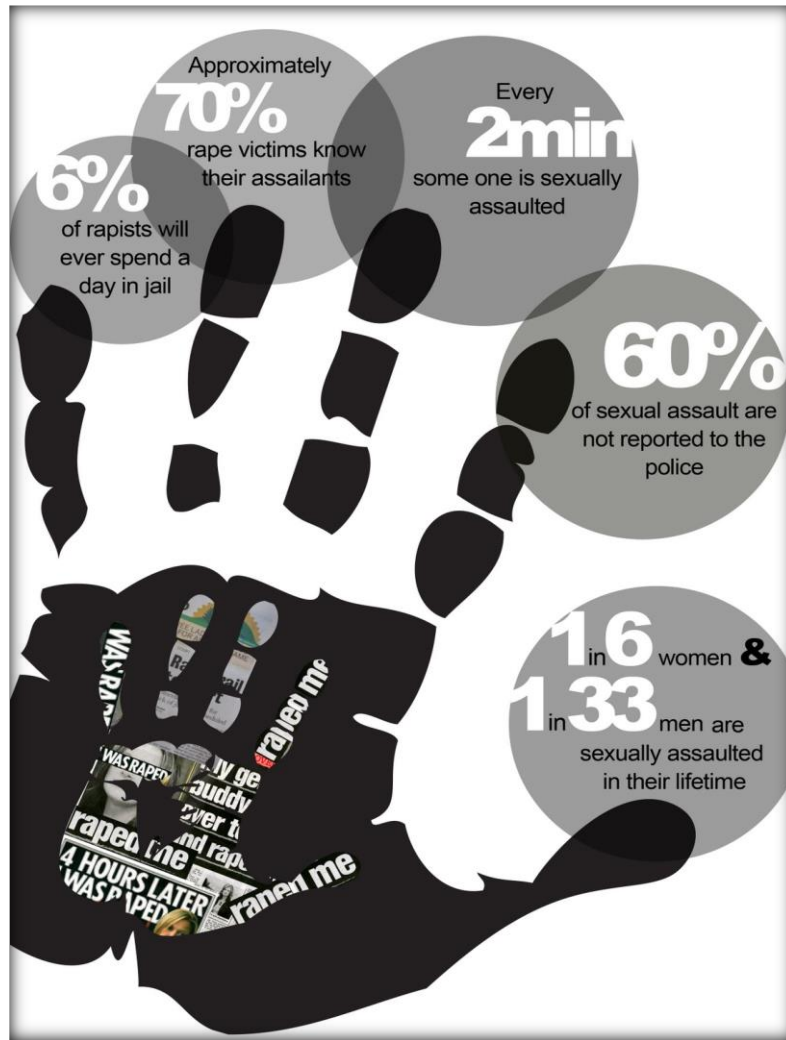
something that is **given** or **received** in **return** for something else.

NEW DEFINITION OF SEXUAL HARASSMENT

“Davis standard,” is based on a 1999 Supreme Court decision and defines sexual harassment as actions that are “so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the school’s education program or activity.”

Different than Title VII definitions

SEXUAL VIOLENCE



Sexual Violence is intentional physical sexual abuse committed against a person's will or consent. Sexual violence includes sexual assault, rape, fondling, incest, and statutory rape .

WHAT IS SEXUAL ASSAULT? CLEARLY DEFINITION

Sexual Assault includes any sexual act directed against another person, forcibly and/or against that person's will; or not forcibly or against the person's will where the victim is incapable of giving consent because of his/her temporary or permanent mental or physical incapacity (or because of his/her youth).

WHAT IS SEXUAL ASSAULT? CLEARLY DEFINITION

This offense includes the forcible rape of both males and females. There are four types of forcible sex offenses:

- Rape
- Fondling
- Incest
- Statutory Rape

CONSENT

Consent as used in this policy is an affirmative decision to engage in mutually acceptable sexual activity given by clear actions or words. It is an informed decision made freely, willingly, and actively by all parties.

- Consent is knowing and voluntary.
- Consent is active, not passive.
- Silence or absence of resistance cannot be interpreted as consent.
- Consent can be given by words or actions so long as those words or actions may be reasonably understood to give permission regarding sexual activity.
- Individuals cannot give consent if they are incapacitated due to alcohol or legal or illegal drugs, or under the age of 16.



DOMESTIC/INTIMATE PARTNER AND DATING VIOLENCE

- Domestic or Dating Violence is force or threat that results in injury (physically and/or psychologically);
- The act is committed by a person including:
 - A current or former spouse or intimate partner
 - A person which the victim is cohabitating or has cohabitated;
 - Family or household member

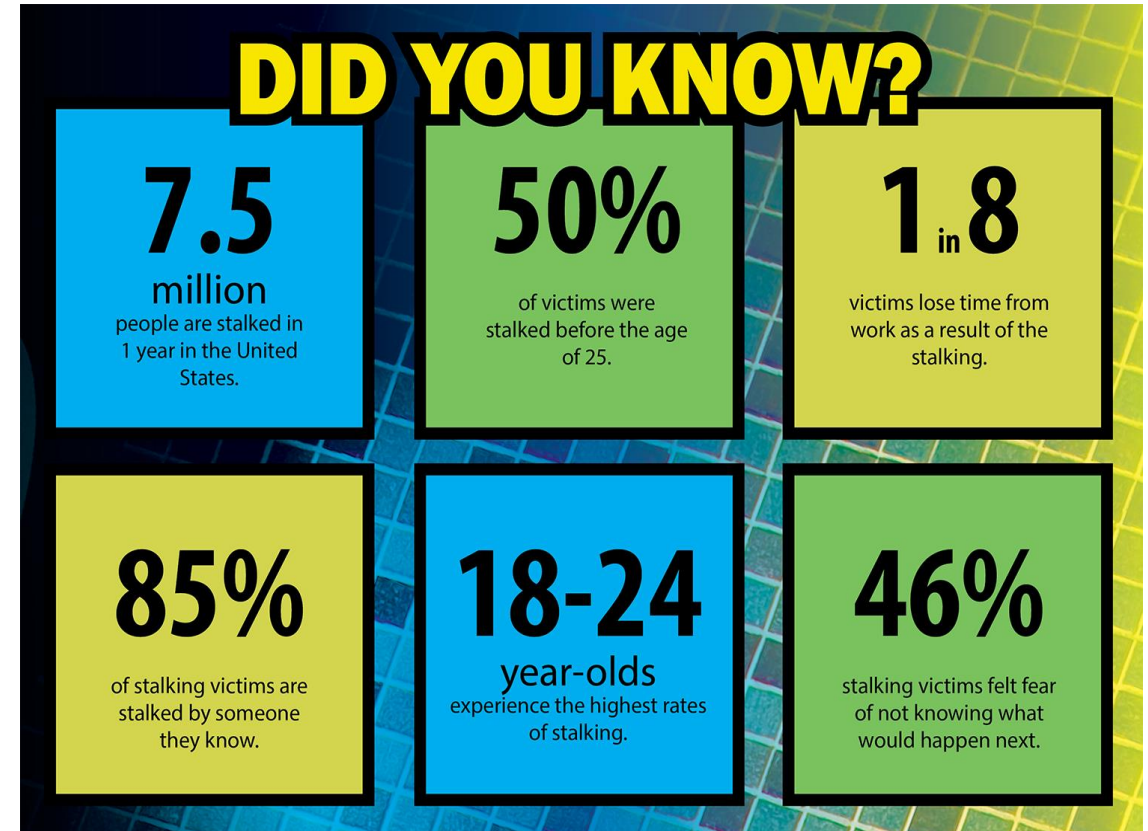
DOMESTIC/INTIMATE PARTNER AND DATING VIOLENCE. (CONTINUED)

It can include someone that you are dating or had been dating depending on length, type of relationship and interaction.



STALKING

Stalking is engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others; or suffer substantial emotional distress.



AMNESTY POLICY

- NHTI recognizes that an individual who has been drinking or using drugs at the time of the incident may be hesitant to make a report because of potential consequences for their own conduct.
- To encourage reporting, an individual who makes a good faith report of sexual misconduct that was directed at them or another person will not be subject to disciplinary action for a conduct or policy violation that is related to and revealed in the sexual misconduct report or investigation.
- Amnesty does not preclude or prevent action by police or other legal authorities. Amnesty shall also apply to student groups making a report of sexual misconduct

REPORT VS. FORMAL COMPLAINT

Report	Formal Complaint
Can be filed by ANYONE	Initiated by the Complainant
Informal collection of initial information on the alleged incident.	Formal investigation conducted by trained Title IX Investigators
Respondent not notified	Respondent notified
Supportive Measures can be applied	Sanctioning (if applicable), along with supportive measures
Advisor of Choice permitted	Advisor of Choice permitted
Access to materials by Complainant	Access to all investigation materials for both parties
	Structured hearing process
	Final outcome notification to both parties
Complainant may change mind at any time	Both parties may appeal

TITLE IX HEARING BOARD

Title IX Hearing Boards are called when the College has received actual notice of an alleged violation, an investigation has been conducted, and the Title IX Coordinator has determined there is sufficient evidence to move the case to a hearing.

HEARING PARTICIPANTS



- 3 Decision Making Members
 - Members are Faculty and Staff members of the College
- Coordinator of Student Conduct (not a responsibility decision making member)
- Respondent
- Complainant
- Advisors (required)
- Witnesses

RESPONSIBILITIES OF THE TIX HEARING BOARD

- Familiarity of Title IX policies and Regulations, the NHTI Code of Conduct, and CCSNH policies
- Maintaining accurate records
- Providing a fair and objective outcome
- Attendance at training at least once a year



RESPONSIBILITIES OF THE TIX HEARING BOARD CHAIRPERSON



- Ensure all rights are observed
- Facilitate hearing
- Facilitate determination of the outcome of the case
- Keep record of hearing proceedings
- Delivers outcome of the hearing to the Coordinator of Student Conduct

RESPONSIBILITIES OF THE TIX ADVISORS

- Familiarity of Title IX policies and Regulations, the NHTI Code of Conduct, and CCSNH policies
- Unbiased and active guidance for students
- Active questioning the Complainant, Respondent, and Witnesses
- Attendance at annual training



ASSUMPTION OF NOT RESPONSIBLE

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NHTI is required to apply an assumption of
not responsible
until it is determined otherwise through a hearing.

TIX HEARING PROCESS



Prior to the hearing:

Formal complaint made and submitted to the College

Investigation

Case review by TIX Coordinator

Investigation report provided to Complainant and Respondent

Case forwarded to Coordinator of Student Conduct

Hearing Notice

Case review for TIX Hearing Board members, Complainant, Respondent, and Advisors

TIX HEARING PROCESS

Hearing Outline

- Introduction and call to order
- Verbal verification by Complainant and Respondent
- Review of Charges
- General review of the case
- Opportunity to add information and/or clarify the investigation report
- Advisors' opportunity to ask questions
- TIX Hearing Board Members' opportunity to ask questions
- Closing and dismissal of Advisors, Complainant, Respondent, and witnesses
- Closed door deliberation for decision makers



ADVISER OF CHOICE

Both parties are allowed to have an Adviser of Choice support them through the investigation process.

An Adviser **MUST** be present during the Hearing process.

If a party does not have an Adviser of Choice, the College **MUST** appoint one to support the individual during the hearing.

LIVE CROSS EXAMINATION

New Title IX Regulations now require that both the Complainant and Respondent participate in live cross examination.

Live Cross Examination is conducted by the Adviser of Choice on behalf of the Complainant/Respondent.

Testimony and statements made by any party (Complainant, Respondent, Witnesses) **cannot** be taken into consideration if the party does not participate in the Live Cross Examination.

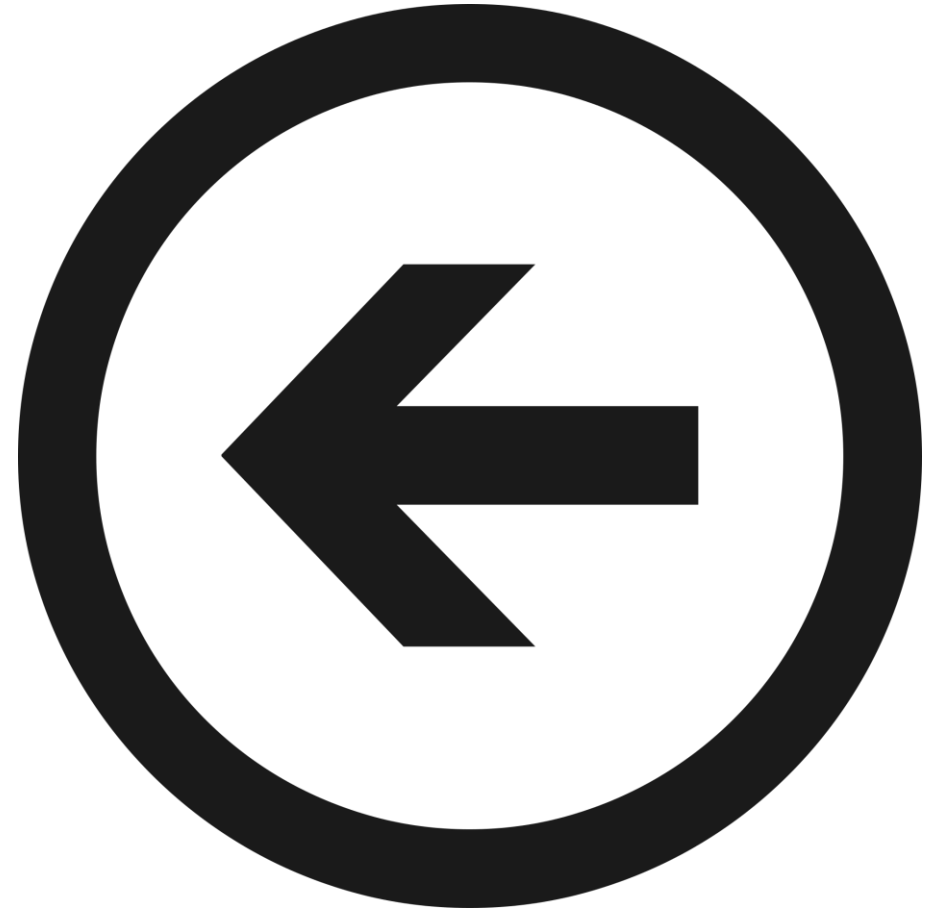
TIX OUTCOME DETERMINATION AND SANCTIONING

The TIX Hearing Board will deliberate and determine the outcome of the hearing. If the TIX Hearing Board determines an outcome of responsible the case will then be forwarded to the Coordinator of Student Conduct who then determines sanctioning.

Similar to Student Conduct violations, sanctioning is meant to offer the Respondent the opportunity to reflect, restore, and reestablish and repair their role within the College community.

TIX HEARING OUTCOME

- Once an determination is rendered and sanctions determined the following will occur:
 - Simultaneous notification of the outcome is given by the TIX Coordinator to Complainant and Respondent
 - Appeal may be submitted



RETALIATION

Under Title IX, it is unlawful to retaliate against an individual who has:

- Made a complaint of sexual harassment.
- Who has been accused of a violation
- Participated in the investigation of such a complaint (i.e. testifying as a witness, providing proof, etc.); or
- Against anyone involved in the decision regarding corrective and/or disciplinary action is prohibited



Trauma Informed Response

Individual trauma results from an event, series of events, or set of circumstances that is experienced by an individual as physically or emotionally harmful or life threatening and that has lasting adverse effects on the individual's functioning and mental, physical, social, emotional, or spiritual well-being.

Trauma Informed Response

- Due to the trauma response, victims may be living mainly in the 'survival' part of the brain.
- The victim may be constantly hyper-vigilant and scanning for threats and danger.
- Higher reasoning, problem solving and logical reasoning are often impacted.
- The brain stores memories of trauma that may be triggered by sounds, smells etc. and can result in an automatic, unconscious response.

What triggers the way someone responds?

- the nature of the assault itself,
- how long it lasted,
- the extent of the physical harm,
- the victim's relationship to the perpetrator,
- whether the victim has had an earlier childhood history of abuse or neglect, and
- how family, friends and others respond to what the victim says about the assault.

Possible Responses

- freeze,
- not report or delay reporting,
- not remember aspects of the event,
- have blanks in memory,
- have inconsistencies in memory,
- struggle with decision making,
- not say no clearly to unwanted sexual contact,
- exhibit no physical evidence of injury from a sexual assault,

Possible Responses

- be unable to identify the perpetrator to police,
- exhibit no apparent emotional expression following a sexual assault,
- provide what might appear to be inconsistent statements at different points in time,
- blame themselves for the assault,
- have a relationship with the perpetrator after the assault,
- deny or minimize the assault,
- recant the experience.

Trauma Informed Response

- A trauma informed response focuses not on what is 'wrong' with someone, but rather what they have experienced.
- A victim may appear to be disruptive or not engaging, but instead we need to understand that they have been triggered.
- Their reaction should not be responded to through "consequences" or "disbelief".
- Instead we should provide support and self-worth.

The 4 Rs to Trauma Informed Response

- **Realization:** A person's response to trauma should be understood in the context of coping strategies that are designed to deal with often overwhelming emotion from past or present experiences.
- **Recognize:** Trauma is complex. It looks different and is unique to each individual - gender, background, setting, age, and other sociodemographic variables impact this. Do not assume that trauma has not occurred just because it doesn't fit your description.

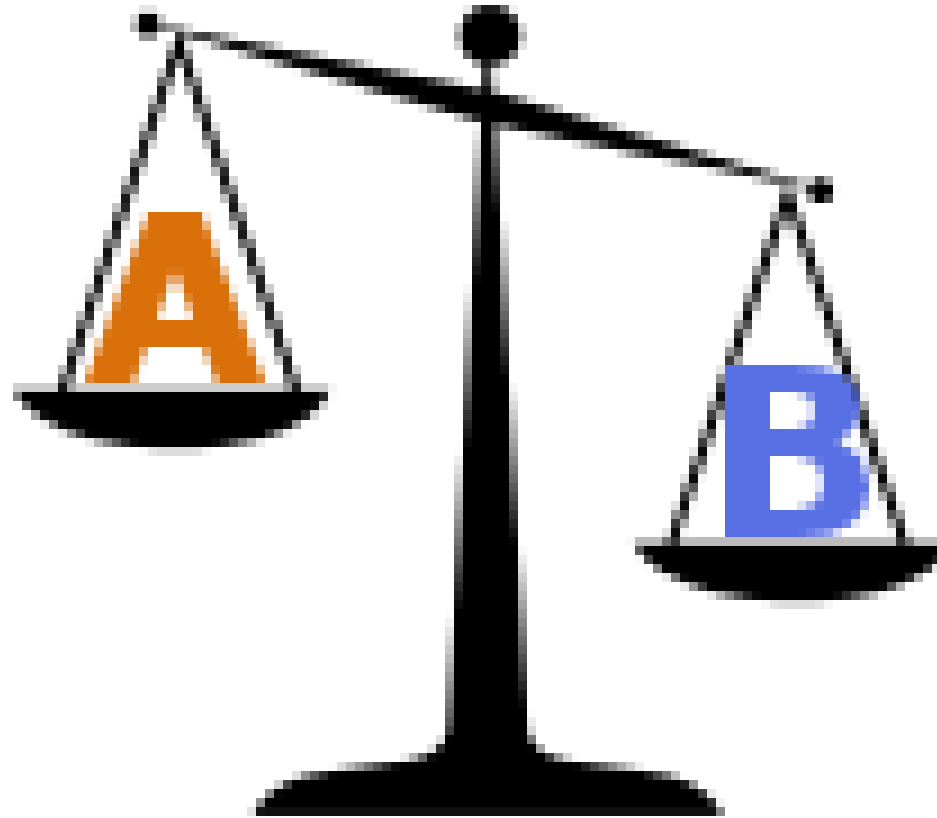
The 4 Rs to Trauma Informed Response

- **Response:** The way you respond to a victim makes a difference. We should establish an environment that promotes trust, fairness, and transparency. Our campus should provide a psychologically and physically safe and healing campus environment.
- **Resist Re-traumatization:** Your role is to listen and provide access to resources. Do not take on the role of investigator. This can re-traumatize the student.

REVIEW OF SCB AND TIX HEARING BOARDS

SCB

- Involved Parties
- Questioning
- Appeal
- Advisors



Title IX

- Involved Parties
- Questioning
- Appeal
- Advisors

REMINDERS

- Alternates for Hearing Boards
- Case Review
- Protocols for hearings and participation etiquette



THANK YOU!

Questions?