



# ADVANCED TITLE IX HEARINGS IN A POST REGULATORY WORLD

Davis Crow  
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# MEET YOUR FACILITATOR

**Davis Crow**



Senior Solutions Specialist  
*He/Him/His*

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Davis Crow serves as a Senior Solutions Specialist with Grand River Solutions. In this role, he serves as a hearing officer, investigator, and trainer for institutions of higher education. Davis has extensive experience serving as a hearing officer and adjudicating cases involving discrimination and sexual misconduct. Davis also has conducted numerous investigations into complaints involving Title VI, Title VII, and Title IX.

# PRACTICAL APPLICATION

06

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# THE INVESTIGATION IS COMPLETE!



## Rapid Fire #1

It is time to schedule the hearing...

Using the chat box:  
**share your "To Do" List for coordinating the hearing.**



# RAPID FIRE RECAP

Arranging for space

Arranging technology

Scheduling pre-hearing meetings with parties & advisors

Scheduling prehearing meetings of the panel

Providing report and record to panel and parties

Scheduling the hearing

Conflict checks

Call for written submissions

Accommodations

Other considerations?

# YOU AND YOUR TEAM DID A GREAT JOB SCHEDULING THE HEARING AND ARRANGING ALL THE LOGISTICS!

- It is now one week prior to the hearing. You have already received and reviewed the report and record and you will be meeting with the rest of the panel (or spending some quite time by yourself) to prepare for the hearing.

## Rapid Fire #2

Use the chat box to share what you plan to discuss/think about during the prehearing meeting.



# RAPID FIRE RECAP



Development  
of  
introductory  
comments

Initial discussion of  
the evidence

Areas for  
further  
exploration

List of  
questions for  
the parties  
and the  
witnesses

Anticipation  
of potential  
issues

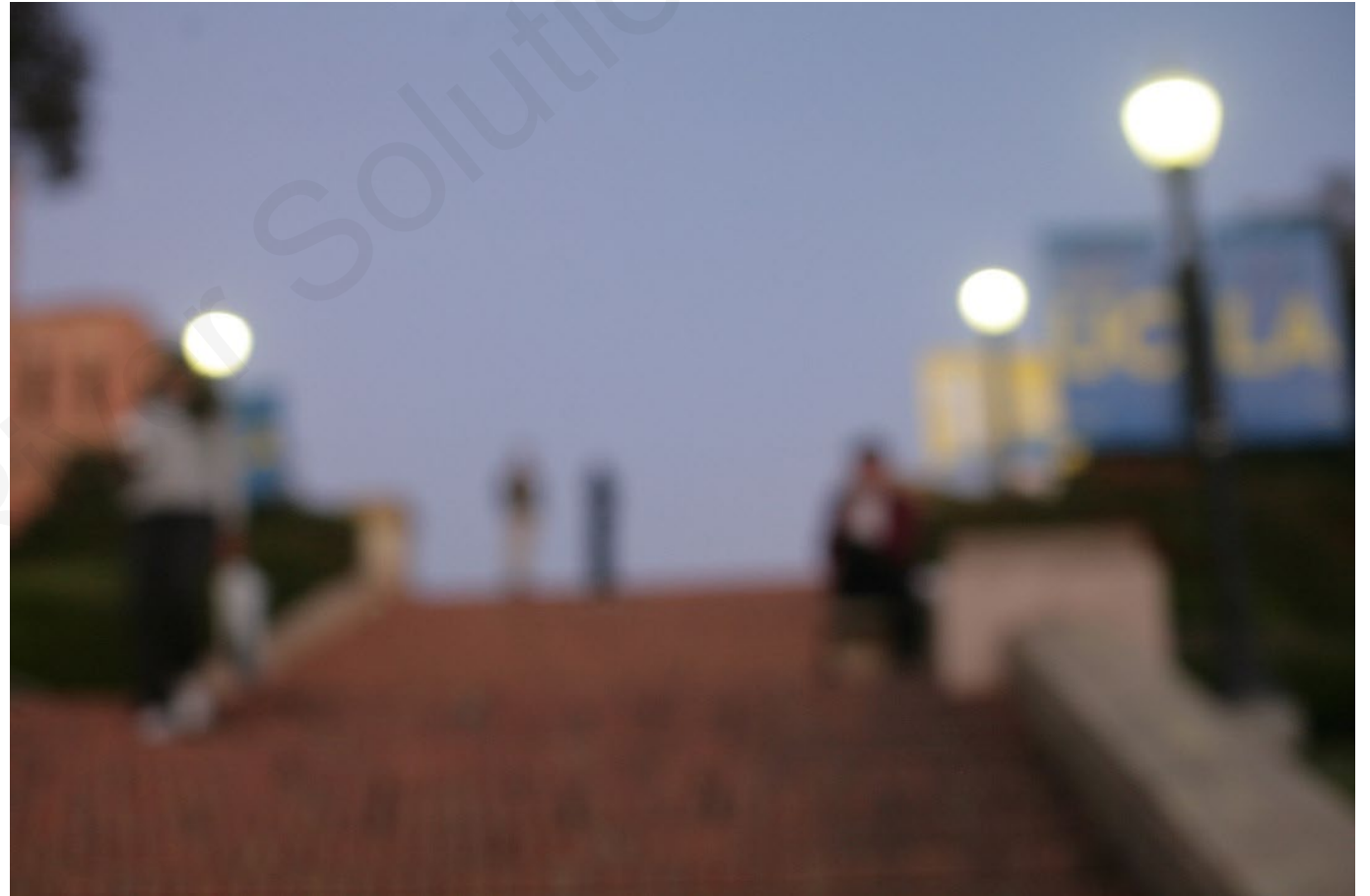
Logistics

Review of  
any written  
submissions  
by the  
parties

Other  
considerations?

# COMMON AREAS OF WHERE CLARITY OR ADDITIONAL INFORMATION IS NEEDED

- Credibility
- Reliability
- Timeliness
- Inconsistencies
- Details about the alleged misconduct
- Facts related to the elements of the alleged policy violation
- Relevancy of certain items of evidence
- Factual basis for opinions





# CHARLIE AND RAMONA HYPOTHETICAL ACTIVITY

You will read a short hypothetical & policy definition and then answer:

- What are the elements of the policy?
- Develop questions addressing each of the policy elements based upon the facts you know and what you need to find out at the hearing.
- What areas of concern/exploration do you have? Why are you asking?



# BREAK OUT! #1

All groups: Areas or topics that you would like to explore further in the hearing



Say hi!



Pick a scribe



Discuss

**Group 1:** Questions for Complainant and Witnesses Professor McPhee

**Group 2:** Questions for Respondent and Witness Taylor

**Group 3:** Questions for Witness Tom and Witness Charlie

# REPORT OUT



**Group 1:** Questions for Complainant and Witnesses Professor McPhee



**Group 2:** Questions for Respondent and Witness Taylor



**Group 3:** Questions for Witness Tom and Witness Charlie

# BREAK OUT! #2

All groups: Review questions and determine whether they are relevant and allowed to be asked or irrelevant/impermissible



Say hi again!



Pick a scribe



Discuss

**Group 1:** Questions for Complainant and Witnesses Professor McPhee

**Group 2:** Questions for Respondent and Witness Taylor

**Group 3:** Questions for Witness Tom and Witness Charlie

# REPORT OUT



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# **GROUP 1** QUESTIONS SUBMITTED BY **RESPONDENT'S** ADVISOR

## Questions for Complainant

- 1. Isn't it true you found Alex attractive after you first met?**
- 2. You wanted to hook up with Alex, didn't you?**
- 3. You made this complaint only because you wanted your boyfriend's attention, isn't that true?**
- 4. You kept calling Alex and asking him for help because you couldn't finish your part of the project without him, isn't that true?**
- 5. You told the investigator you imagined seeing Alex everywhere. Where do you think you saw him?**
- 6. Why were you always thinking of Alex?**
- 7. And how often do you hallucinate?**
- 8. How often has this happened in the past?**
- 9. Why did you ask your boyfriend to walk you to your car when you knew you were supposed to meet Alex there?**
- 10. You said you were frightened by seeing Alex in the parking garage. Did he have a weapon? Did he try to touch you? Did he try to hit you? Describe each and every way he tried to attack you that night.**

# **GROUP 2** QUESTIONS SUBMITTED BY **COMPLAINANT'S** ADVISOR

## Questions for Respondent

- 1. Do you keep stalking Stevie because you're OCD?**
- 2. Have you ever been removed from another group project because you could not get along with others?**
- 3. When you first talked to Stevie about your girlfriend breaking up with you, who was your girlfriend, or did you make that up just so you could talk to Stevie?**
- 4. Why did you keep offering to work with Taylor in person instead of by Zoom?**
- 5. Did you have a thing for Taylor?**
- 6. Did you and Taylor ever end up hooking up?**

# GROUP 3 QUESTIONS SUBMITTED BY COMPLAINANT'S ADVISOR

## Questions for Tom

1. Can you think of any reason for Alex to be hanging out in the garage with flowers, other than to frighten Stevie?
2. Alex was pretty creepy, wasn't he?
3. Did you see him throw an object at Stevie?
4. Do you believe he was acting in self-defense when he threw the object?
5. You said Stevie is really pretty and guys hit on her a lot. Don't you think someone who has had a lot of male attention would be in the best position to know which kind of male attention is acceptable, and when it is stalking?



# GROUP 1

QUESTIONS SUBMITTED BY **COMPLAINANT'S** ADVISOR

## Questions for Witness Professor McPhee

- 1. Why didn't you tell Alex to stop stalking Stevie?**
- 2. Weren't you supposed to forward Stevie's Title IX Complaint to the Coordinator, and don't you think that if you had done so, she would have been spared his stalking?**

# **GROUP 2** QUESTIONS SUBMITTED BY **COMPLAINANT'S** ADVISOR

## Questions for Taylor

- 1. Did Alex seem fixated on Stevie when you were all part of the class project?**
- 2. Did Alex insist that the two of you work together in person instead of online?**
- 3. How often did he force you to work in person with him after classes?**
- 4. Were you afraid of him?**

# GROUP 3

## QUESTIONS SUBMITTED BY RESPONDENT'S ADVISOR

### Questions for Tom

1. When you saw Alex in the parking garage, were you frightened?
2. What, specifically, did Alex do that was frightening?
3. Does Stevie always overreact?
4. What, specifically, did Alex throw at her?

# GROUP 1

QUESTIONS SUBMITTED BY **RESPONDENT'S** ADVISOR

## Questions for Witness Professor McPhee

- 1. What grade did she have up to the project and what grade did she get on the project?**
- 2. Isn't it true that Stevie was doing poorly in class?**
- 3. After she made this complaint, did she get some special treatment or accommodation in your class?**
- 4. Isn't it true that, once you told her she would have to do the work, she suddenly made up a story about Alex to paint him in a bad light?**
- 5. Isn't it true that, before she told you this lie, you had no reason to think poorly of Alex?**

# GROUP 2

## QUESTIONS SUBMITTED BY RESPONDENT'S ADVISOR

### Questions for Taylor

1. Were you frustrated when working on the group project? Why?
2. Why did you think Alex was more frustrated than others?
3. Why did you think he was “taking it out” on Stevie if he was frustrated with the whole group?
4. Are you and Stevie friends?
5. Did Stevie tell you what to say in the investigation? If so, what?
6. Are you one of those “Believe all victims” people?

# **GROUP 3** QUESTIONS SUBMITTED BY **COMPLAINANT'S ADVISOR**

## Questions for Witness Charlie

- 1. So are you the one who suggested Alex stalk Stevie's social media to find a food or drink she liked?**
- 2. Why do you think Stevie and Alex had a plan to get together one night and talk? Do you know for sure that there were confirmed plans?**
- 3. What proof did Alex give you to prove there was a real plan, and not an imaginary one?**
- 4. You said Stevie was "rude" because you could not do a lot of work on the group project. What did you mean by that?**
- 5. How long have you known Alex?**
- 6. Isn't it true you just don't like Stevie?**
- 7. Have you ever been accused of sexual harassment or stalking?**
- 8. Isn't it true that you would say anything to support a guy who has been accused?**

# GROUP 3

QUESTIONS SUBMITTED BY RESPONDENT'S ADVISOR

## Questions for Witness Charlie

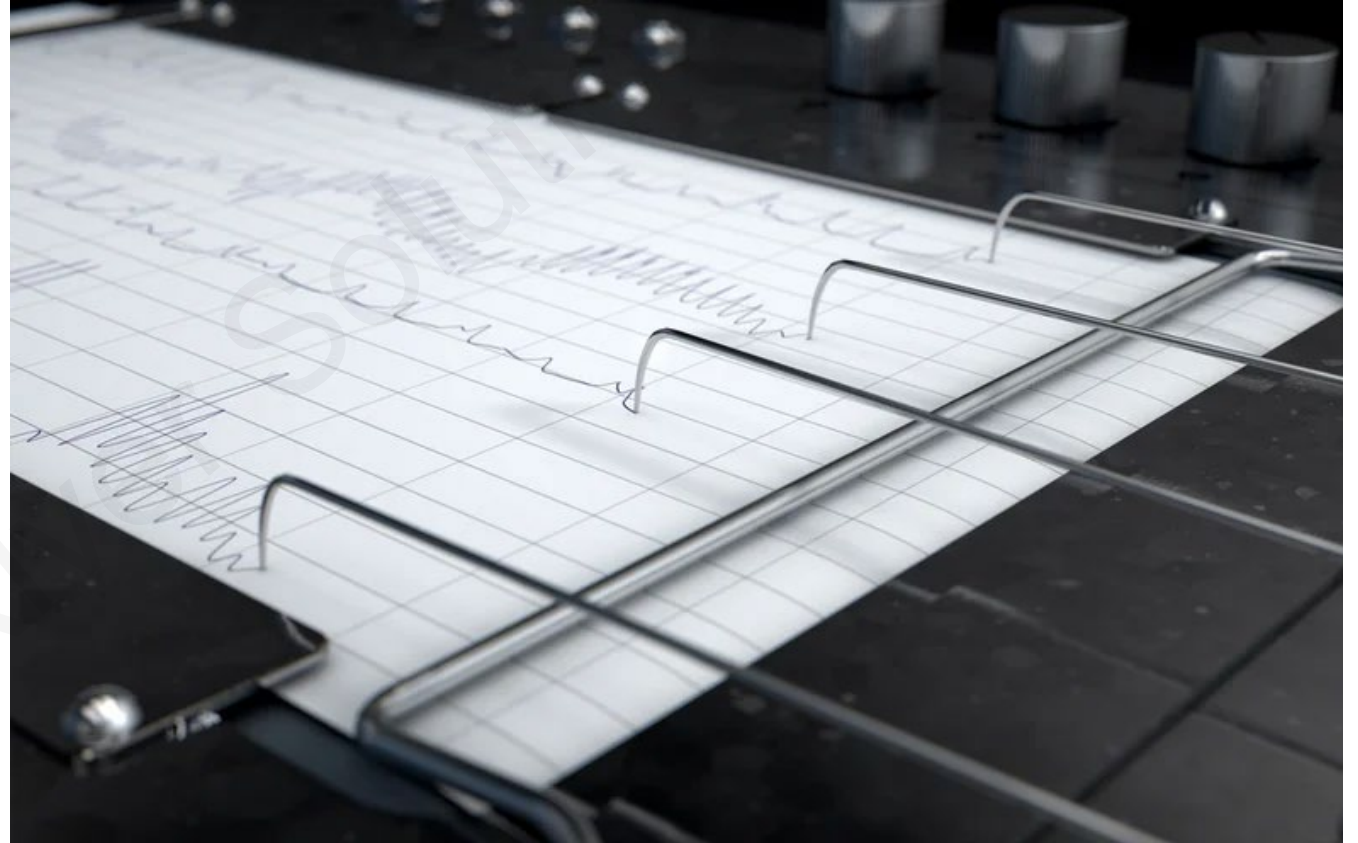
- No Questions

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# SCENARIO 1

Respondent provides a polygraph report to investigators wherein it is concluded that Respondent is not being deceptive when denying the allegations.

- **The Investigator determines the report is irrelevant. Must the Investigator share the report with the decision maker?**



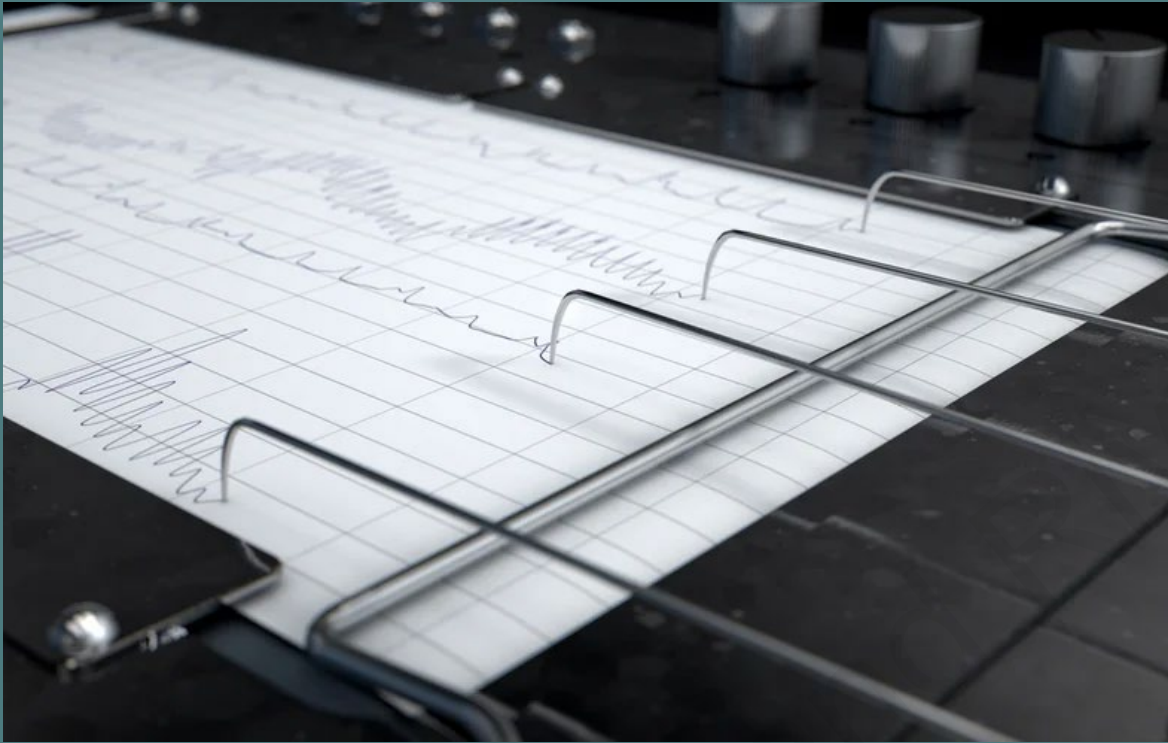


# SCENARIO 2



- Respondent appears at the hearing with Witness 7. Respondent would like Witness 7 to provide information testimony about text messages between them and Complainant that indicate that Complainant has made the allegations up.
- **Can the HP hear from Witness 7 at the hearing?**

# SCENARIO 3



Respondent provides a polygraph report to Investigators wherein it is concluded that Respondent is not being deceptive when denying the allegations. The polygrapher appears and answers all relevant questions on cross.

**Must the Hearing Panel find Respondent not responsible because of the findings in the report?**

# SCENARIO 4



During the hearing, the Complainant becomes upset, shuts down, and stops answering question.

**If you are the Hearing Chair, how do you respond?**

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