



## Live Hearing Basics

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Today's webinar is being conducted by the National Association of Clery Compliance Officers and Professionals (NACCOP).

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### Agenda

- Structure
- Hearing Preparation
- The Hearing

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### STRUCTURE

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### Live Hearing





In-person



Virtual

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See and hear (Regulations)



“...enabling the decision-maker(s) and parties to simultaneously see and hear the party or the witness answering questions”

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Record of Hearing

Audio

Video

Transcript

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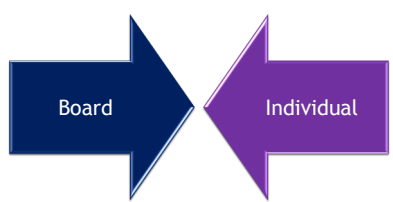
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Decision-makers



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### The Chair

- Board Chair
  - Manages the agenda
  - Determines relevancy of questions
  - Coordinates decision
- Procedural Chair
  - Logistics
  - Has no role in decisions, including relevancy

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### Chair-related Tasks



Recording

Introductions

Order of Questioning

Witness Management

Enforcing Rules of Decorum

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### Decision-maker(s) Task










Review Report

Ask Questions

Determine Relevancy

Assess Credibility

Make the Finding

Produce the Written Determination

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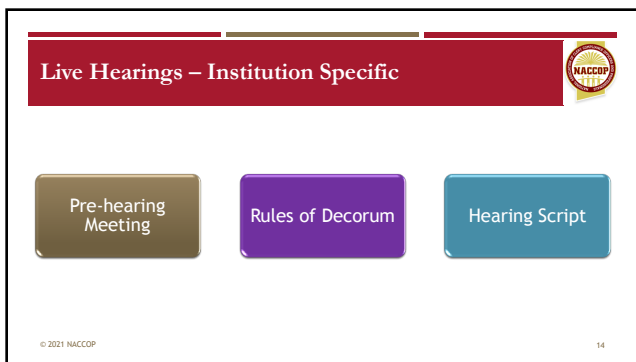
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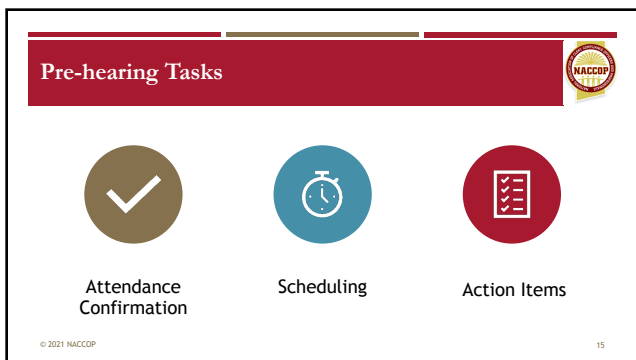
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# Preparing the Parties





- Hearing format
- Vetting of questions for relevancy
- Irrelevant questions (rape shield/privilege)
- Impact of attendance
- Impact of participation
- Role of advisor
- Appointed advisor

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# Decision-maker Pre-work







Review report



Review allegations



Review policy



Draft relevant questions

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# THE HEARING

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Participants





Decision-maker(s)



Respondent and Advisor



Complainant and Advisor



Witness(es)

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Roles in the Hearing

- Complainant and Respondent
  - Subject to cross-examination
  - Can be questioned by the board
  - Do you allow for a verbal statement?
- Witnesses
  - Subject to cross-examination
  - Can be questioned by the board

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Other Possible Personnel in Attendance




General Counsel

Advise on process?




Stenographer

Only needed if not recording



Accommodation

Interpreter or mandated support person



2<sup>nd</sup> Advisor

Is a support person allowed? Union rep?

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Mandatory Components



Complainant Cross-Examination



Respondent Cross-Examination



Witness Cross-Examination

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Optional Components



Introductions



Reading Allegation



Review of Rights and Rules



Opening/Closing Statements



Decision-maker Questions

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**Decision-maker Questions (from the Regulations)**

*“The degree to which any inaccuracy, inconsistency, or implausibility in a narrative provided by a party or witness should affect a determination regarding responsibility is a matter to be decided by the decision-maker, after having the opportunity to ask questions of parties and witnesses, and to observe how parties and witnesses answer the questions posed by the other party.”*

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Decision-maker Questions



Statement of Accuracy



Credibility



Clarity

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Impartial Hearings



Consistent application



Ask clarifying questions



Avoid bias

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Advisor

- Each party's advisor asks of other party and witnesses "all relevant questions and follow-up questions, including those challenging credibility."
- "Only relevant cross-examination and other questions may be asked of a party or witness."
- "...simply of posing questions intended to advance the asking party's perspective..." (Preamble)

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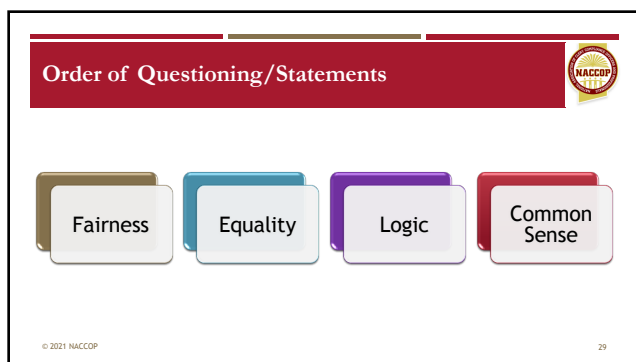
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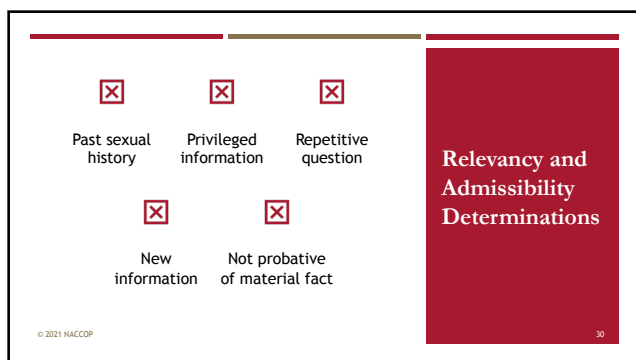
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Reason for Relevancy Determination

Not a lengthy or complicated explanation

Logic and common sense

Shows neutrality

May trigger appeal ("procedural irregularity")

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"New Evidence" at the Hearing

APPEAL GROUND: "New evidence that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter"

Allow

Disallow

Stop Hearing

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Party Issues

REQUEST FOR INFORMAL

DISRUPTIVE

INAPPROPRIATE QUESTION

NOT PARTICIPATING

NO SHOW

EMOTIONAL ...

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Situational Issues

Safety

Disability

Length

Phrasing

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Decision-maker Issues (Appeal Grounds)

Procedural Error

New Evidence

Bias/Conflict

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For more information:  
dstaffordandassociates.com

**Upcoming D. Stafford Virtual Classes**

- Title IX Coordinator (11:00 AM - 5:00 PM Eastern)
  - May 3 - 7, 2021
  - October 4 - 8, 2021
- Combined Sexual Misconduct and Domestic/Dating Violence and Stalking Investigation (11:00 AM - 5:00 PM Eastern)
  - August 23 - 27, 2021
- Advanced Investigations (9:00 AM - 5:00 PM (Eastern Time))
  - June 7 - 11, 2021
  - November 8 - 12, 2021

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**Upcoming D. Stafford Virtual Classes**

- Behavioral Intervention Team/Threat Assessment Team Training (10:00 AM - 5:30 PM Eastern)
  - June 22 - 24, 2021
  - December 1 - 3, 2021

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Register at [www.naccop.org](http://www.naccop.org)

**8<sup>TH</sup> ANNUAL NACCOP CONFERENCE:**  
A Live, Virtual Event

Conference - July 21-23, 2021  
Pre-Conferences - July 20, 2021

- Pre-Con #1 for CCOs - Addressing VAWA Policy Statements for Non-Title IX Procedures in the Annual Security Report
- Pre-Con #2 for CCOs - Developing Internal Memorandums of Understanding (MOUs) with Key Departments to Facilitate a Higher Level of Institutional Cooperation with Clery Act Compliance
- 2021 ADVANCED TRACK OPTION - Case Reviews: These sessions include a Case Review where attendees will participate in reviewing a sample incident report narrative to determine the correct classification and count for each report and to practice adding entries to the Daily Crime Log. This session will provide practitioners with an opportunity to apply their knowledge to real-world scenarios.
- The finalized agenda will be released in the late Spring of 2021.

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