DIALECTIC THINKING & EVIDENCE

NEW INVESTIGATOR TRAINING (adapted from atixa.org)
DIALECTIC THINKING

- Dialectic is the art of reasoning or disputing, or that branch of logic which teaches the rules and modes of reasoning, or of distinguishing truth from error…method of investigating the truth by analysis (Sokolow, 2002)
- Ordered Process
- Can be used with any policy
DIALECTIC THINKING – STEP 1

- Parsing the Policy
  - Identify Each Offense that is Alleged in the Policy
  - Identify the elements that need to be analyzed in each offense
  - Example: Sexual Harassment defined as unwelcome conduct determined by a reasonable person to be so severe and pervasive and objectively offensive, that it effectively denies a person equal access to the University’s education program or activity.

1. Unwelcome conduct
2. Reasonable person
3. So severe and pervasive and objectively offensive
4. Effectively denies a person
5. Equal access
6. University’s education program or activity
DIALECTIC THINKING – STEP 2

Was there unwelcome conduct?

Are there statements or non-verbal acts committed?

What evidence of verbal statements exists?

Are there any witnesses to non-verbal acts?

What evidence or statements exist that show the conduct was unwelcome?
DIALECTIC THINKING – STEP 3

- Matching
  - For each question – evaluate the weight/credibility of the evidence in order to answer the overall question.

- Direct Evidence
  - Facts
  - Eye Witness
  - Documentation/Video
  - Social Media (Caution: could be also circumstantial or even opinion)

- Indirect (Circumstantial)
  - Information that needs an additional source to be weighed with high weight
  - Emotional responses
  - Observation of human behavior

- Hearsay or Opinion
  - Character witnesses
  - 3rd party communication
  - If supported by additional sources can be considered with higher weight in credibility
Evidence Credibility – Different than determining the credibility of the source (person)

- 0% - 100% Credible
  - Most live in a range
  - If evidence is more likely than not (direct or supported indirect) – it is 51% at least
    - Preponderance/More likely than not
  - If evidence is less likely (unsupported indirect or hearsay, etc.) it is less than 50% or 50%
    - At 50% it is not more likely than not
Knowing what you need in the end determines the PATH

Asking not helpful questions will get us know helpful answers

Determining credibility is difficult, but using an ORDERED plan is helpful

Working from Broad to Narrow with the violation allows for a SPECIFIC plan

An ORDERED process to our questioning decreases the opportunity for bias in our processes and analysis