

15th Annual OEO Adjudicator Training

Summer 2026



Jill Zellmer

Associate Vice President
Title VI Officer and Title IX Coordinator
Office of Equal Opportunity

With a cameo of Ari Kristan, Esq.
New Associate Counsel for Tufts

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Agenda

1. **Introductions:** Ari Kristan, Esq. and welcome back to Tufts; Associate investigator role is new and open; Welcome to Mohammad in his permanent role; Don't steal our intern, Ciaran!
2. **Review key principles from past trainings:** Evidentiary considerations; Consent, relationship violence, incapacity; Avoiding bias & considering trauma; Sexual harassment and stalking
3. Group work: 3 practice investigative reports/scenarios
4. Data and statistics
5. Closing remarks from Jill – pick up your swag!

Office of Equal Opportunity Staff

Alida Bográn-Acosta, JD, Title VI Investigator
Amin Fahimi Moghadam, MA, MSc, Accommodations Specialist
April Robbins, Resources and Support Specialist
Christine Colacino, MA, OEO Coordinator
Jennifer Magrone, MSW, Deputy Director and Title VII Investigator
Jill Zellmer, MSW, AVP, Title VI Officer and Title IX Coordinator
Johny Lainé, Senior Specialist, Accommodations and Leaves
Katherine Vosker, Ed.M., Accommodations Manager and 504 Officer
Pam Ring, JD, Deputy Title IX Coordinator and Investigator
Marcia Blanchard, MHR, OEO Investigator
Mohammad Ahmadi, Data Analyst and Investigation Generalist
Nadra Sultan, MS, Compliance Specialist
Ciaran Maher, intern



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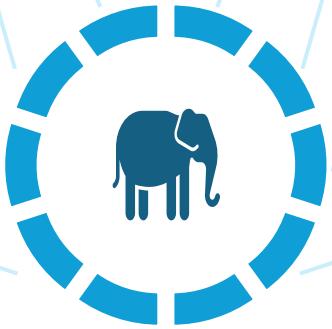
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Tufts' Core Equity Principles

- Implements non-harassment policies through several processes; SMAP and SMAP-X are focal points for today
- Grievance procedures require prompt and equitable response for all; parties treated equitably
- No conflicts of interest, no bias, trauma-informed, understand impact of alcohol/drugs (see MA CSVP)
- Focus on fair process: opportunities to review information (inculpatory and exculpatory), direct questions
- Supportive measures available to anyone

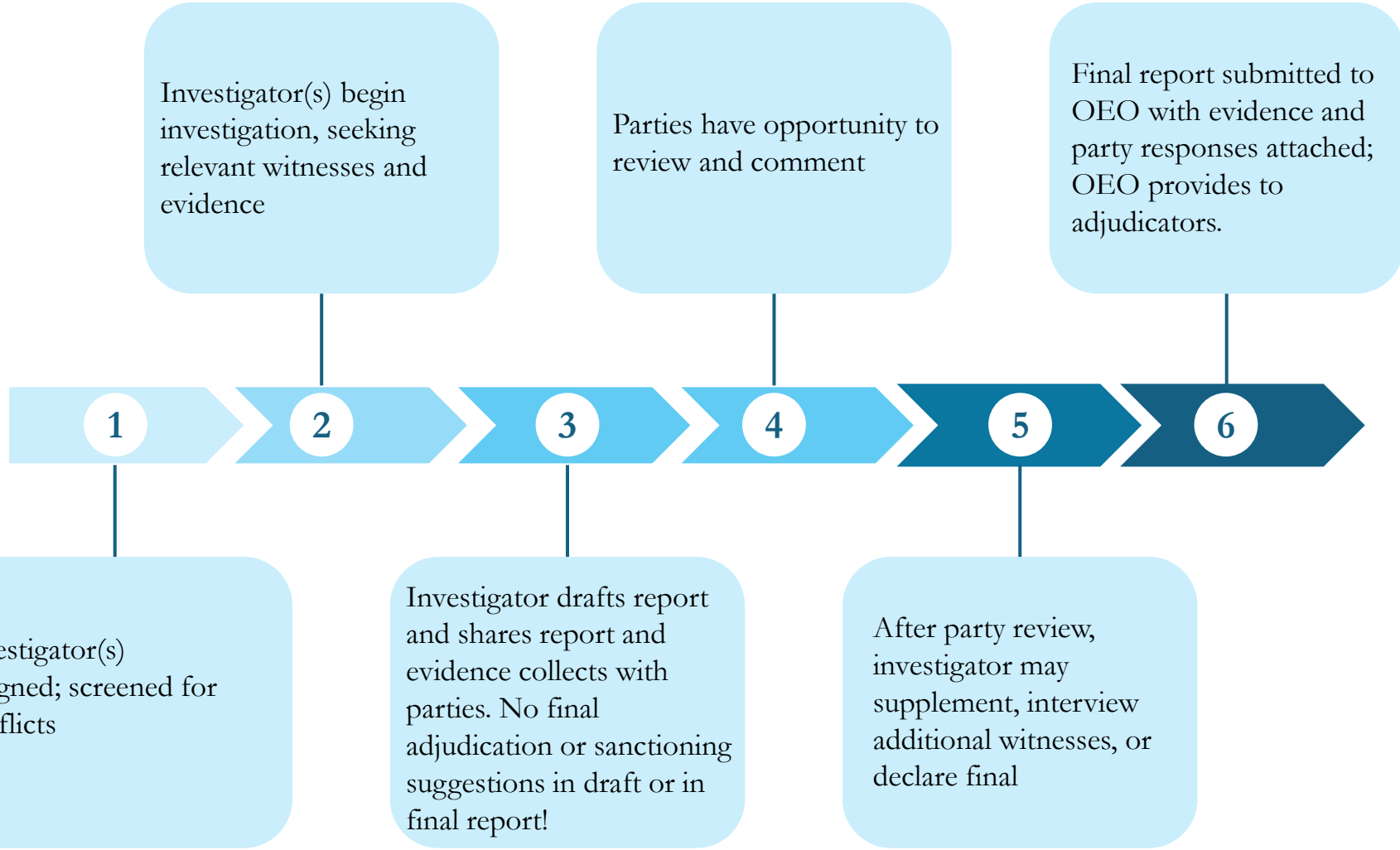


- Utilize preponderance of the evidence standard
- Presumption of not responsible; no discipline or punitive measures until a finding of responsibility
- Notifications in writing to include determination, rationale, relevant procedures, and appeal options
- Title IX Coordinator coordinates remedies and sanctions (CARE Office has been applying educative sanctions; OEO assures consistency)
- Note that Tufts does apply transcript notations

Nuts and Bolts: Intake and Notice

1. Meet with individual making allegations
2. Assess safety of the individuals and community (emergency removal considerations)
3. Determine if facts implicate policy
4. Draft a robust charge letter (notice letter)
5. Continue providing supportive messages and coordinating with other offices (e.g., CARE) re: same
6. No Contact Orders (NCO) if desired and/or necessary (see sample in your folder)

Nuts and Bolts: Investigation



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Adjudication: SMAP v. SMAP-X

SMAP

- Cases that do not meet Title IX requirements (jurisdictional, definitional or otherwise)
- **Decision-Making Panel:** three trained, impartial individuals (no conflicts):
  - Utilize preponderance of the evidence standard
  - Majority decision; not unanimous
  - May request more investigation
- Separate **Preliminary Decision Conferences** with the parties to discuss preliminary findings; notify parties of the panel's preliminary outcome so parties can rebut

Adjudication: SMAP v. SMAP-X

SMAP Cont.

- After preliminary decision, additional information (typically rebuttal or impact evidence/statements) can be submitted by parties within 5 business days
- Decision-Making Panel considers additional information before they finalize decision
  - May again determine additional inquiry is needed
  - May finalize preliminary finding
- Determine responsibility for each noticed charge
- **If responsible**, determine sanction and/or remedy; panel will consult with OEO for consistency in sanction decision.

Adjudication: SMAP v. SMAP-X

SMAP-X

- Cases that meet Title IX jurisdictional requirements
- **Decision-Making Panel:** three trained, impartial individuals (no conflicts):
  - Utilize preponderance of the evidence standard
  - Majority decision; not unanimous
  - May request more investigation
- A pre-hearing meeting, usually with just advisors to provide an overview of the hearing and to go over order of operations; schedule of witnesses; identification of agreed upon facts or evidence; discussion of the handling of any prior sexual history issues; technology used in the hearing, etc.

Adjudication: SMAP v. SMAP-X

SMAP-X Cont.

- Adjudicated through live (recorded) hearings conducted in person or virtually. (Primarily virtual to separate parties)
- Advisors required for cross-examination; if no advisor, Tufts provides **at the onset of the investigation**
- Panel members all have equal vote, Chair runs hearing and determines relevancy issues (with panel member support)
- No adverse inferences for a party's failure to take part, but panel can consider the totality of what is learned in the entire process
- **If responsible**, Panel will consult with OEO to understand sanctions for similar adjudications and consistency

Evidentiary Standards

In both SMAP and SMAP-X

1. Evidence includes inculpatory and exculpatory evidence

2. Evidence must be relevant: related to allegations of sex/gender discrimination under investigation; does it aid the decisionmakers in adjudicating this matter?
   - Redundant witnesses, e.g., everyone at the party?
   - Character witness?

3. Impermissible evidence:
   - Privileged information unless privilege waived (in writing)
   - Treatment records unless voluntary written consent.

Sexual Predisposition* or Prior Sexual Behavior

The Investigator will typically not gather evidence (including asking questions) about a party's "sexual predisposition or prior sexual behavior" unless the evidence:

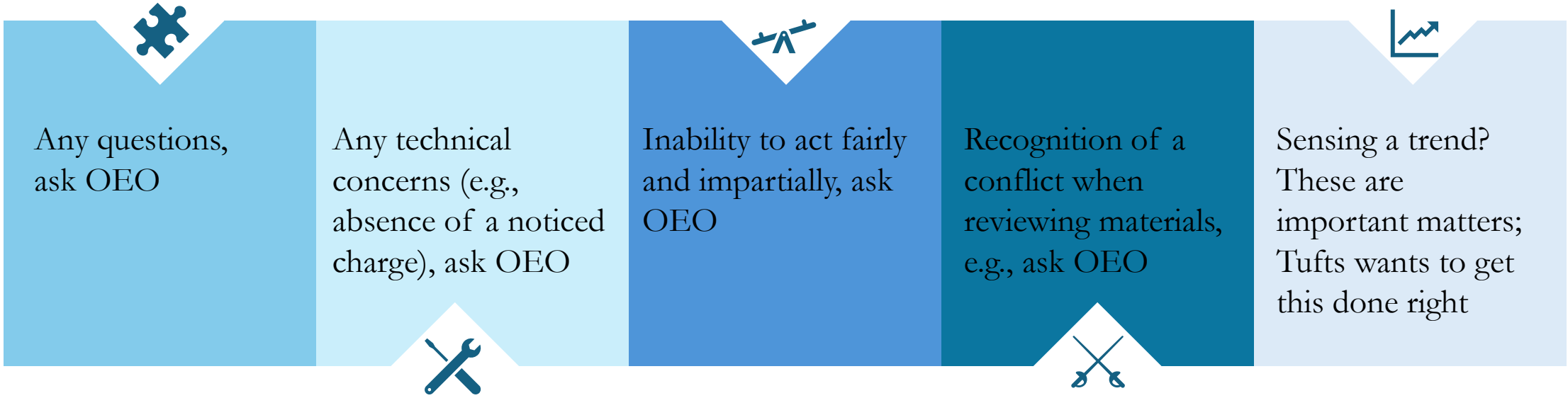
- Is offered to prove someone other than Respondent committed the alleged conduct
- Relates to specific instances of the parties' prior sexual behavior with each other and is offered to prove or disprove consent in the issue at hand
- Is relevant to explain an injury; and/or
- Is relevant to show a pattern of behavior

*OEO usually screens this out with advisors but sometimes advisors try to introduce this information during cross-examination

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Adjudication Basics

Adjudicators are expected to review the investigation report and all evidence prior to the meeting/hearing:



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Scenario #1 - SMAP

1

Meet up with your assigned group to review and discuss the final investigative reports

2

Discuss the facts and arrive at preliminary findings:

- Is there enough evidence for a policy violation or not?
- If yes, what policy violation and if not, why not?

3

How would you write your decision?

4

Considerations:

- How will you frame your preliminary determination?
- What if either party asks you the equivalent of "what else do you need to change your answer?" when they submit their rebuttal?
- If time, what sanction would you consider?

SMAP-X Adjudication Basics

During SMAP-X hearing, Chair and Panel ask questions of parties and any relevant witnesses called:

1. Panel has final say on who is called as a witness or not but must justify denials or limitations
2. No direct questioning by parties/advisors, parties suggest questions
3. Panel should not ask redundant, repetitive, or badgering questions
4. Investigators are not witnesses but may be called in to clarify
5. No prohibited testimony (sexual history, medical information without a waiver, character witnesses)
6. Parties do not need to participate, no adverse inferences
7. Panel should consult with OEO for sanctions only after finding responsibility

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Questioning Witnesses

1. What does the investigation report say? Is it clear?
2. What are the elements of the offense charged? What information do you need in the context of those elements?
3. Avoid compound questions
4. Avoid overly complicated questions
5. Avoid leading questions
6. Think of how your question will sound and make sure appropriate:
   - "What were you wearing?" vs. "Did the Party remove your clothing? What was removed?"
   - "Why did you get so drunk" vs. "how much of X did you have to drink? How much do you normally drink?"



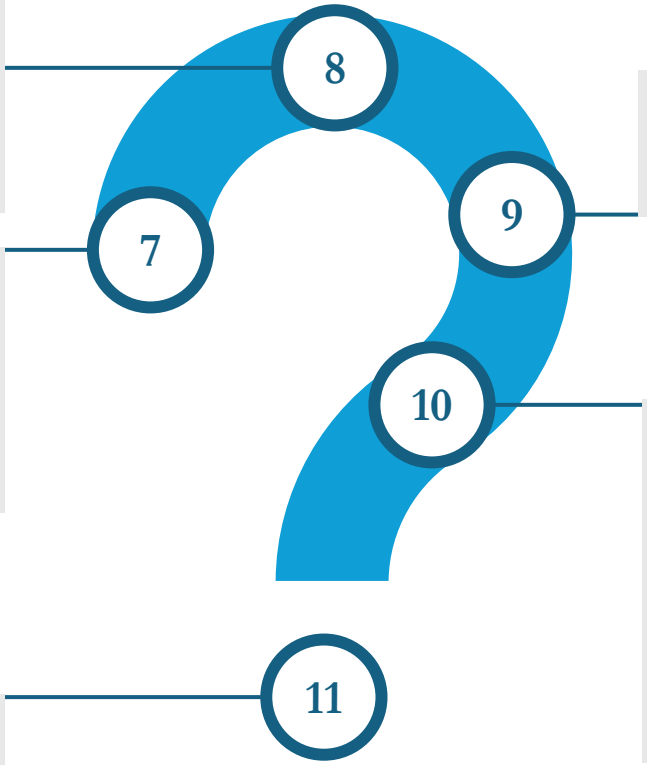
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Questioning Witnesses, cont.

Do not be bullied or pressured into asking a question. If guidance is needed, OEO can support the Panel against pressure (though OEO may not give you an answer if it means overstepping their role)

Don't promise a question will be asked or not asked because it might change in the process, e.g., redundant questions may not need be asked and irrelevant questions may become relevant

Considering trauma is important, but if a question is critical to the analysis, it must be asked…just asked appropriately.



Rules of decorum apply – no belligerent parties or advisors

Consider shared ancestry, disability, and related issue – is a party behaving in a specific way because of a disability, is behavior tied to culture, e.g., might people of a certain race or a certain status not cooperate with a process? Does not excuse violations; may mitigate sanction.

Trauma

Understanding Trauma in our Process

1. Anyone can experience trauma: either party, any witness
2. Can be from the event at issue or prior events, e.g., triggering events
3. Does that mean an individual who experienced trauma is always being truthful?
5. Being trauma-informed does not mean you should avoid critical questions; rather, it is a matter of how you ask the questions in a thoughtful manner.
6. Be mindful not to assume credibility or truth – in either direction – solely based on trauma, e.g., "Party A was traumatized by this event, which means it must have happened."

SMAP-X Scenario #2

1

Think about the following:

- What are the elements of the conduct charged?
- What information are you unclear about?
- How will you ask questions to get best answers?

2

Reach a determination (in a real case, the Chair would also be charged with drafting an outcome letter to the parties)

3

Discuss what you all think and report back to the main group about whether you found a policy violation or not. If not, why not? If you did what is your proposed sanction?

SMAP-X Scenario #3

1

Think about the following:

- What are the elements of the conduct charged?
- What information are you unclear about?
- How will you ask questions to get best answers?

2

Reach a determination (in a real case, the Chair would also be charged with drafting an outcome letter to the parties)

3

Discuss what you all think and report back to the main group about whether you found a policy violation or not. If not, why not? If you did what is your proposed sanction?

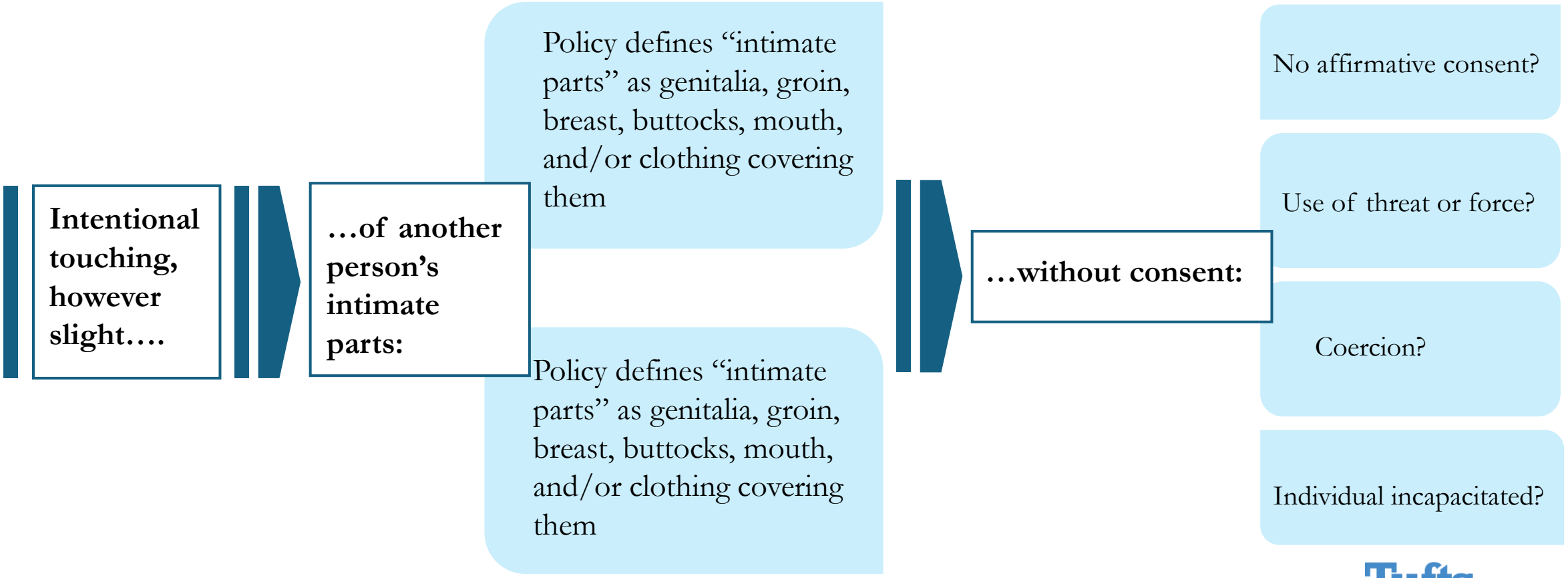
Hostile Environment Standard

> "…unwelcome (or non-consensual) conduct determined by a reasonable person to be so severe, pervasive and objectively offensive that it effectively denies a person equal access to the University's education program or activity…"

- Fact specific inquiry
- Totality of the evidence
- Type, frequency, and duration of the conduct
- Whether unwelcome may come down to consent
- "Education program or activity" – what is the scope?
- Hostile environment standard key in Title VI cases, too!

Elements of Sexual Assault

Sample Checklist: Non-consensual Sexual Touching



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Elements of Sexual Assault

Sample Checklist: Stalking

Intentional course of repeated conduct or behavior over time, which may include:

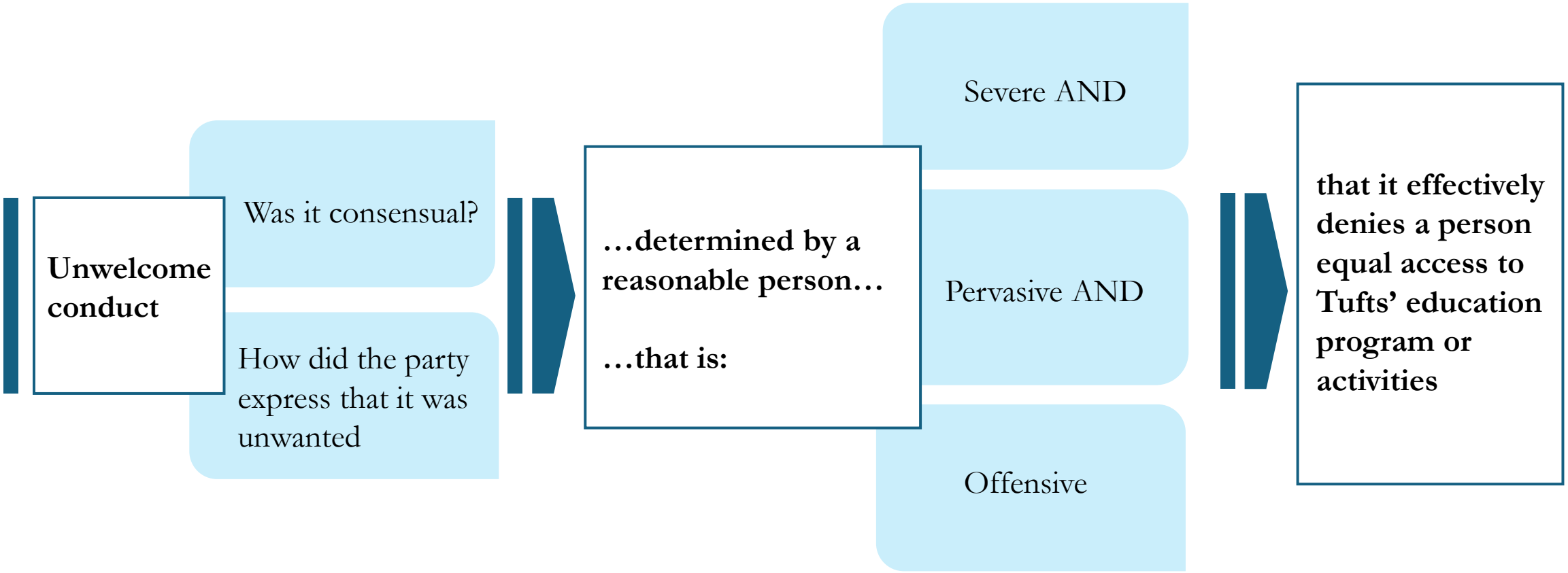
- Following a person
- Appearing at a person's home, class, work, or other place they have a right to be
- Making frequent phone calls, e-mails, texts messages, etc.
- Leaving written messages or objects
- Vandalizing a person's property

…which causes a person to feel alarm, annoyance, emotional distress and/or fear

Was the person's fear reasonable?*

Elements of Sexual Assault

Sample Checklist: Sexual Harassment



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Review: Avoiding Bias

- Stereotypes based on race, gender, sexual orientation, religion, etc.
- "People of that religious faith would never/always…"
- "Transgender relationships are always/never like…"



Stereotype-Based Bias vs. Cultural Competency

Phenomenon explaining how people tend to seek out information that:

- Confirms their existing opinions, and
- Overlooks or ignores information that refutes their beliefs



Confirmation Bias

- You should not prejudge a case or a fact based on bias of any form.
- Tufts seeks to avoid any conflicts of interest.
- Pre-hearing meeting: "I read the file and the Respondent did it…"



Prejudgment & Conflicts

Review: Impact of Drugs and Alcohol

Drugs and alcohol can cloud judgment and interfere with clear communication, and clear communication is necessary for consent

Use of drugs and alcohol may impact understanding, communication, and/or ability to take part in any form of sexual activity

The big question: intoxication versus incapacitation

What types of drugs/alcohol?	How much? Usual amount ingested?	Physical impact? Cognitive impact?	Visible signs?	Witness statements?	Other forms of evidence?

What did you encounter this year? Let's discuss!

Adjudicators and Chairs:

"What did you encounter this year that you want to talk about and/or share either from a Tufts case or elsewhere? (Please no names and keep confidentiality)"

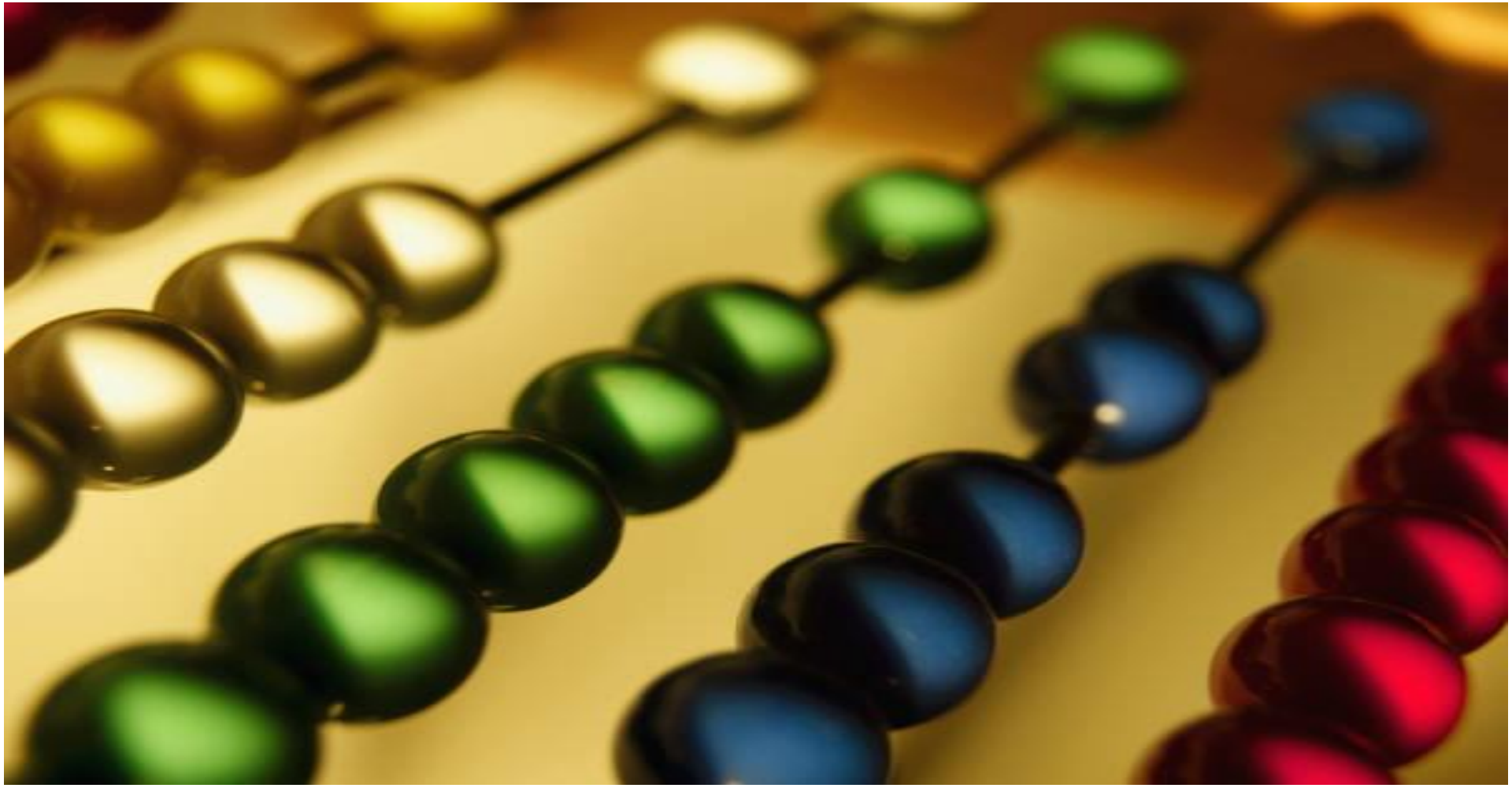
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OEO Statistics from the last decade



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OEO Caseload of Reported Allegations AY 2015-2025

- Data for AY2026 is currently being finalized.
- For data from past years:
- https://oeo.tufts.edu/
  - Click on “About” in upper left corner
  - Click on “Data and Reports”
- https://oeo.tufts.edu/wp-content/uploads/OEO-Reporting-Statistics_AY2014_AY2024.pdf

* Cases with more than one issue type are not counted twice.
** Title VI allegations were not tracked separately before 2016-2017 but were tracked in the Title VII tier
*** ADA cases are monitored long-term and do not have set closed dates.

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OEO Caseload of Reported Allegations AY 2014-2024

Case Type	AY14	AY15	AY16	AY17	AY18	AY19	AY20	AY21	AY22	AY23	AY24	AY25
Title IX - Sexual Misconduct	109	135	145	208	189	157	166	225	226	194	230	203
Title VII - Employee Issues	101	93	83	145	176	188	177	205	195	224	164	163
Title VI - Student Non-Sexual	0	0	34	31	45	91	93	77	45	77	57	57
Referred to Others	10	55	75	82	108	100	115	188	218	355	350	329
Accommodations	102	119	148	133	150	182	266	556	679	649	715	791
Total Cases	**322**	**402**	**485**	**599**	**668**	**718**	**817**	**1251**	**1363**	**1499**	**1516**	**1543**

AY refers to the Academic Year. OEO measures academic year by its starting semester. For instance, AY 2024 refers to the academic year from July 1, 2024 till June 30, 2025.

AY 2025-2026 data is current as of June 25, 2026. OEO typically finalizes the year end data by end of July each year.

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