

# **TITLE IX/SIM TRAINING SERIES EVIDENCE & RELEVANCE**

**Office of Student Conduct & Community Responsibility**

**Title IX Office**



**Loyola Marymount University**  
**Student Conduct  
and Community  
Responsibility**

# WHAT IS RELEVANT TO A CASE?



# DEFINITION OF EVIDENCE

The available body of facts or information indicating whether a belief or proposition is true or valid.

Information drawn from personal testimony, a document or a material object, used to establish facts in a legal investigation or admissible as testimony in a court of law.

Something that furnishes proof.

“Truth exists. Evidence of truth exists...sometimes.”



# DEFINITION OF EVIDENCE

## Inculpatory

Evidence that shows or tends to show, a person's involvement in an act

Evidence that can establish guilt

## Exculpatory

Favorable to a defendant (respondent)

Exonerates or tends to exonerate the defendant (respondent) of guilt



# CALIFORNIA LAW

## Rape Shield Law (Evidence Code 1103 & 782)

A defendant in a rape case is not allowed to introduce evidence about the alleged victim's past sexual conduct in order to prove that they consented to the sexual act.

Another section of the rape shield law does provide for a defendant to introduce this type of evidence, but only if the defendant follows specified procedures and gets permission from the judge

In practice: An accused person is not permitted to provide evidence that the victim is promiscuous to prove that the sex they had was consensual



# 2020 TITLE IX REGULATIONS

## Section 106.45(b)(6)(i)

Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

If a party or witness does not submit to cross-examination at the live hearing, the decision-maker(s) must not rely on any statement of that party or witness in reaching a determination regarding responsibility



# 2020 TITLE IX REGULATIONS

A recipient may not adopt a rule excluding relevant evidence because such relevant evidence may be unduly prejudicial, concern prior bad acts, or constitute character evidence

Questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

If a party or witness does not submit to cross-examination at the live hearing, the decision-maker(s) must not rely on any statement of that party or witness in reaching a determination regarding responsibility



# HEARINGS WITH CROSS EXAMINATION

Advisors for each party ask the questions of the opposing party and witnesses.

After each question is asked, Conduct Officers will rule on whether the question is relevant and need by answered.

In regards to relevancy:

Is the information the question is asking for relevant to alleged misconduct?

Will it assist the Conduct Officers in deciding the responsibility of the Respondent?

Is the question redundant? Has the party already answered a similar question?

If a question is deemed not relevant, a brief explanation of why is required.

Once the Conduct Officers have deemed a question not relevant, the proceeding moves forward. The student may cite the question not being asked as part of their appeal.

