



EMORY  
UNIVERSITY

Department of Title IX  
Office of Diversity, Equity,  
and Inclusion

# Emory University Appeals Panelist Lunch and Learn

**Emory University**  
**Department of Title IX**  
**October 30, 2020**

# Agenda

- Welcome/Overview of Agenda: Nicole Babcock
- Highlights from New Title IX Policy and Process: Yolanda Buckner
- 30,000-foot view of the Title IX Misconduct Process: Yolanda Buckner
- Federal Regulatory Requirements for Appeals: Yolanda Buckner
- Emory's Policy and Process for Appeals: Yolanda Buckner
  - Relevance Determinations
- Q & A: Judith, Yolanda, Nicole, Kristy, and Crystal

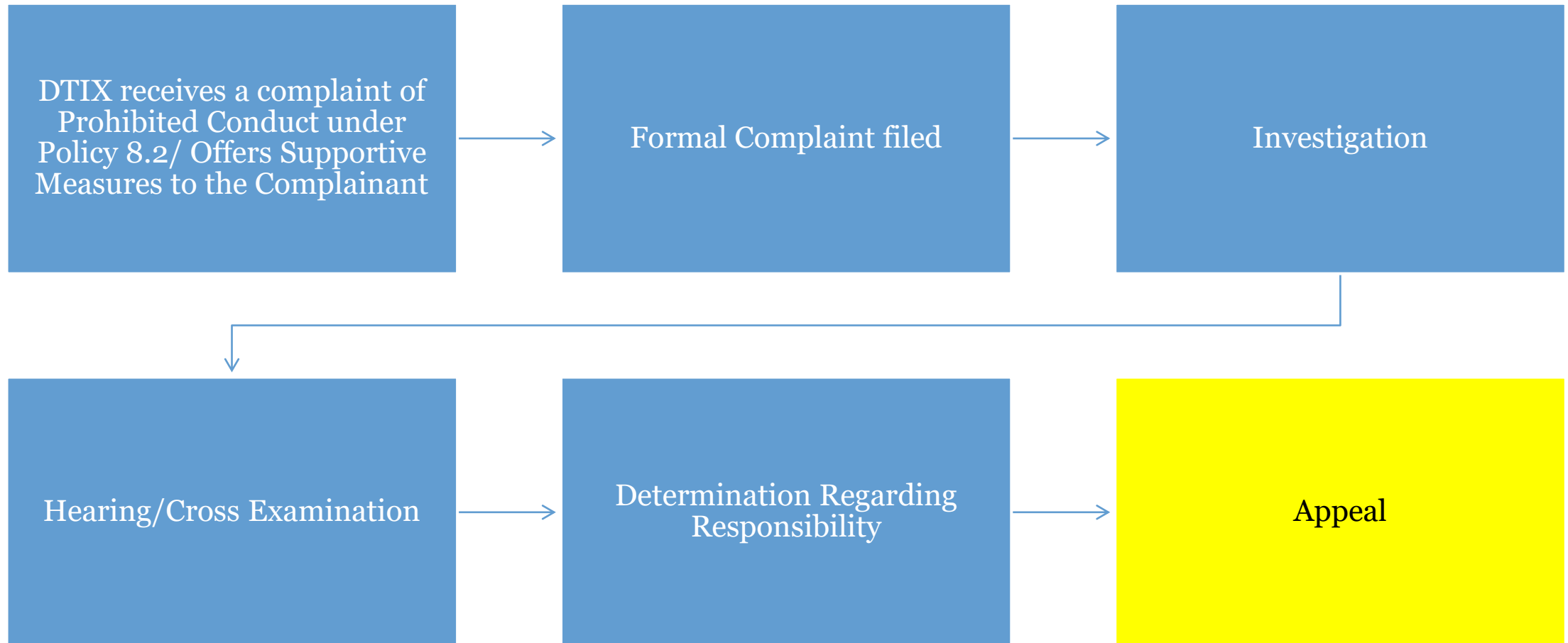
# Highlights from the New Title IX Policy and Process

- Policy applies to faculty, staff, and students
- New Department of Title IX Position: Title IX Coordinator for Faculty and Staff
- Emory's policy expands the scope of Title IX Misconduct and includes conduct outside of the new Title IX regulations as "Prohibited Conduct."
- The Department of Title IX (DTIX) will address all Sexual Misconduct (Prohibited Conduct and Title IX Misconduct) reports for complaints involving students, faculty and staff.

# Highlights from the New Title IX Policy and Process Cont.

- When **both parties are students**, DTIX will internally investigate and adjudicate all complaints of Prohibited Conduct (conduct that falls outside of Title IX) through its prohibited conduct process outlined in Appendix B of Policy 8.2.
- When the complaint involves **a faculty or staff member**, DTIX will channel the complaint of Prohibited Conduct to the Department of Equity and Inclusion (DEI).
- Right to Appeal
  - In *student* matters, both parties have **a right to appeal Prohibited Conduct violations, which includes Title IX Misconduct**, adjudicated internally by DTIX.
  - In *faculty and staff* matters, both parties have the **right to appeal Title IX Misconduct** violations adjudicated internally by DTIX.

# Title IX Misconduct Process Overview



# Parties Rights under Federal Law- Appeals

Both parties have the right to appeal the determination of responsibility on the following bases:

(A) **Procedural irregularity** that affected the outcome of the matter (this includes challenges to relevance determinations during the hearing);

(B) **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; and

(C) The Title IX Coordinator, investigator(s) or decision-maker(s) had a **conflict of interest or bias** for or against complainants or respondents generally or the individual complainant or respondent that affected the outcome of the matter.

# Relevance Determinations

“The final regulations do not define relevance, and the **ordinary meaning** of the word should be understood and applied.”

## **Federal Rules- 401**

Evidence is relevant if:

(a) it has any tendency to make a fact more or less probable than it would be without the evidence; and

(b) the fact is of consequence in determining the action.

## Relevance Cont.

Betty White and Rue McClanahan are best friends and graduate students at Emory University. Betty and Rue attended a Halloween party and after the party, Rue told Betty, “I think I was raped last night.” Betty submitted a complaint to Emory’s DTIX against Zach Ephron for non-consensual sexual intercourse. During the hearing, Complainant introduced evidence of a picture that shows her asleep in a chair while attending Kai Fi Chi’s Halloween party to show that she was incapacitated that night. Respondent stated that the photo is not relevant. The Hearing officer agreed with Respondent and excluded the photo.

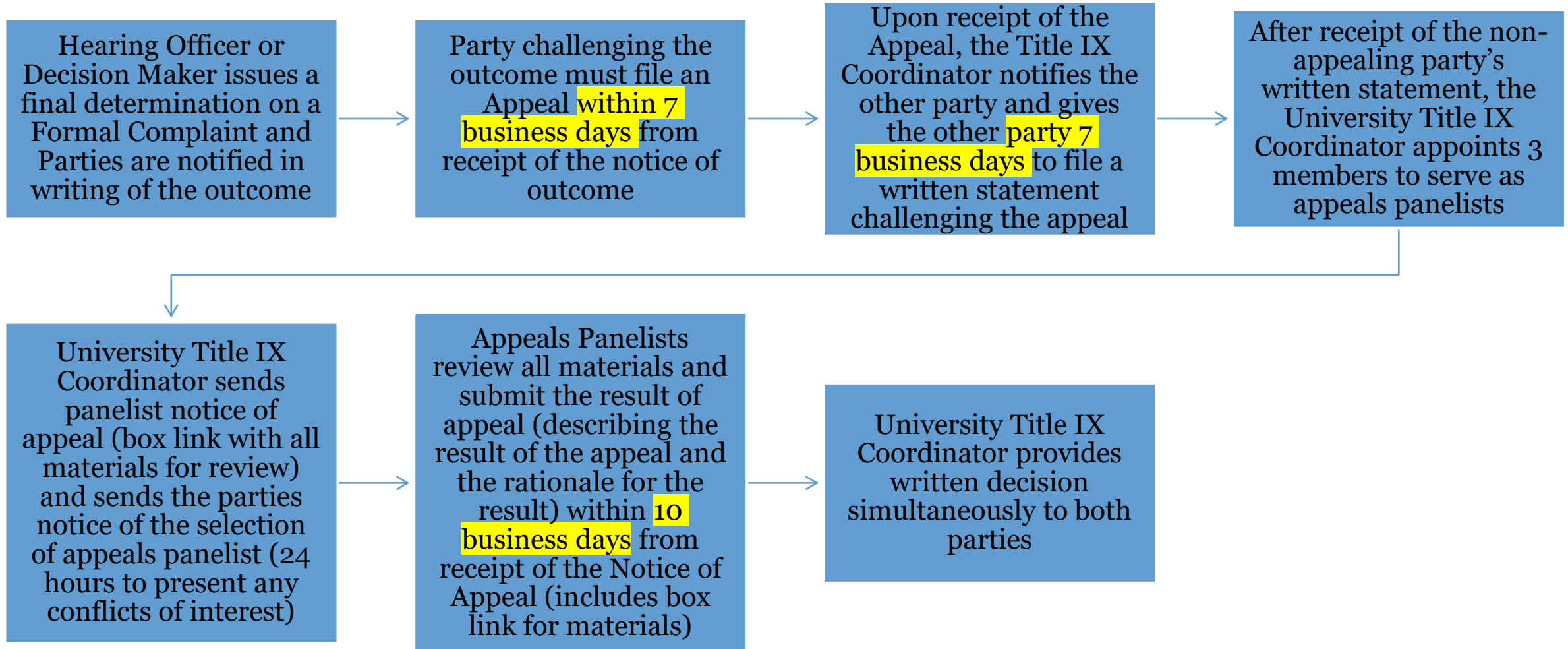
**Question:** On appeal, Complainant challenges the H.O. relevance determination. Was there an error? If so, why?



# Federal Regulatory Requirements on Appeals

1. **Notify the other party in writing** when an appeal is filed and implement appeal procedures equally for both parties (TIXC);
2. **Ensure that the decision-maker(s) for the appeal** is not the same person as the decision-maker(s) that reached the determination regarding responsibility or dismissal, the investigator(s), or the Title IX Coordinator (**neutral/impartial**);
3. Implement procedures equitably;
4. **Give both parties a reasonable, equal opportunity to submit a written statement** in support of, or challenging, the outcome [of the initial determination];
5. **Issue a written decision** describing the result of the appeal and the rationale for the result; and
6. **Provide the written decision** simultaneously to both parties.

# Emory Policy and Process on Appeals



# Emory Policy and Process for Appeals cont.

Appeals Panelist may request that the TIXC take the following steps:

- Affirm original finding & sanction
- Affirm original finding but issue a new sanction
- Remand to the Hearing Officers to correct defect
- Dismiss case if defect cannot be remedied by remand

# DTIX Staff – Contact Us

- Dr. Judith Pannell – Title IX Coordinator for Students
- Yolanda Buckner – University Title IX Coordinator
- Nicole Babcock – Interim Title IX Coordinator for Faculty and Staff
- Kristy Seidenberg – Title IX Investigator and Training Specialist
- Crystal Anderson – Title IX Administrative Assistant



Questions?