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THE PRESUMPTION



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PRESUMPTION OF NON-RESPONSIBILITY

- Respondent is **presumed not responsible** for any violation; determination regarding responsibility should be made *only* at the conclusion of the process after consideration of the relevant evidence.
- Fact-finders are not charged with finding a *particular* outcome.
- Fact-finders should avoid pre-conceived notions and consider *only* the information provided during the process.



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WHAT IS RELEVANT EVIDENCE?

- Evidence is relevant if:
 - It has a tendency to make a fact more or less probable than it would be without the evidence; and
 - The fact is of consequence in determining the action. (FRE 401)
- The Hearing Officer or Panel Chair _____ to determine the relevance of any witness or documentary evidence and may exclude information that is **irrelevant, immaterial, cumulative, or more prejudicial than informative.**



TEST FOR RELEVANCY

- To determine the relevancy of evidence that is being offered at a hearing, follow these steps:
 1. Consider the evidence that is being offered.
 2. Consider the allegations of the (Formal) Complaint.
 3. Does the evidence that is being offered 3(s)-12(f)-2(e)



QUESTIONING & CROSS-EXAMINATION
UNDER T



BURDEN OF PROOF

BURDEN OF PROOF



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BURDEN OF PROOF

What is "Burden of Proof?"

The level of certainty and the degree of evidence necessary to establish a violation of policy.



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COMMON BURDENS OF PROOF

Beyond a Reasonable Doubt: "firmly convinced"

Clear and Convincing: "substantially more likely than not"

Preponderance of the Evidence: "more likely than not"; 50%+

This is the standard of proof in the Title IX and Equity Resolution processes.



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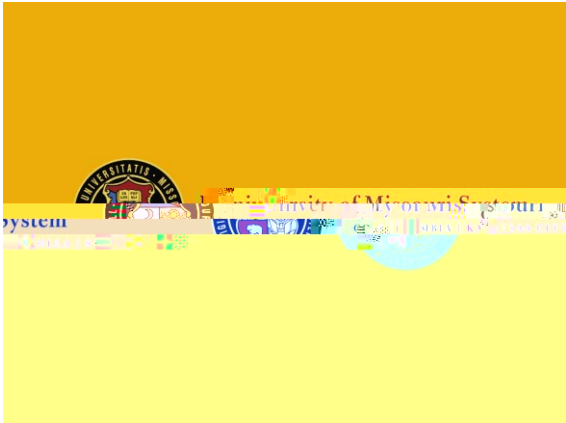
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PREPONDERANCE OF THE EVIDENCE

- This preponderance is based on the **more convincing evidence and its probable truth or accuracy and not on the amount of evidence.** ... A preponderance of evidence has been described as “just enough” evidence to make it more likely that the fact the claimant seeks to prove is true.



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