



Complainant's Sexual Predisposition and Prior Sexual History

Generally, the Complainant's sexual predisposition and prior sexual history are not relevant, except where offered to prove:


- Someone other than the Respondent committed the misconduct at issue
- The parties have a prior sexual relationship and the information is provided to show consent


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Relevancy and Character Evidence

Evidence Law: The Rule of Relevance and Admissibility of Character Evidence

Exceptions to the Rule Against Character Evidence






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Adequacy of Cross-Examination



Question to OCR:
 Suppose the respondent's advisor isn't well-prepared and forgets to cross-examine the complainant during the hearing on a key statement related to credibility. What is the effect of this on the statement made by the complainant – may or may not the decision-maker consider it, and please explain why or why not?





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Adequacy of Cross-Examination

OCR's Answer: The new Title IX Rule requires that postsecondary institutions hold a live hearing at which each party has the opportunity to cross-examine other parties and witnesses, where such cross-examination is conducted by a party's advisor and never by a party personally. [citation omitted]. If a party [through their advisor] does not pose a cross-examination question to the other party, then the answering party cannot be said to have "not submitted" to cross-examination, and the provision of [the Title IX provision] prohibiting the decision-maker from relying on the statements of a party who has not submitted to cross-examination would not apply to the regulations are necessary.



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