

## SANCTIONING:

Goal of any sanction:

- Steps reasonably calculated to end the harassment and prevent the recurrence.
- Can you articulate why *this* sanction is reasonably calculated to that goal?
- Title IX Coordinator is charged with remedy - restoring or preserving Complainant's **equal access**

To consider when sanctioning	To avoid considering
Impact of the conduct, harm to others	Strength of the evidence in your opinion
Past misconduct (on record, not referenced in passing by a witness)	Past emergency removal of respondent
Multiple violations	Character of the respondent
Abuse of power or position	Whether or not you agree with the finding
Enhancements (filming the act, predation, use of weapon)	Belief respondent was too drunk to know what they were doing
Efforts to conceal or hide evidence, or the incident	Respondent's disagreement with conclusion
Past failures to comply with directives (including training), or behavior that continued even after an intervention	Complainant's behavior

Remember, if suspending a student or employee; what steps will be put in place at end of suspension to ensure (a) they are ready to re-enter and abide by behavioral expectations, how will you ensure smooth re-entry for all (including respondent)

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## APPEALS:

- This is neither a do-over, nor an opportunity for appeals officers to substitute their own judgement as to how they might have decided the matter if starting from scratch.
- Burden of persuasion is on the party; burden to ensure error correction is on the institution/appeals officer(s).
- The non-appealing party has an opportunity to respond to appeal; the decision to stay silent is not evidence that they agree with the grounds for the appeal.
- Precision of language matters: drunk, or incapacitated?
- There is no such thing as a lesser-included charge. An appeals panel cannot come up with new reasons to find respondent responsible for something less severe.

Options:

Procedural errors – did it affect the outcome? Can you articulate how it likely affected the outcome? If not likely to have affected the outcome, not a successful appeal.

New evidence that might impact the outcome; send it back (for limited consideration)

Bias: Think about actual conflict of interest and demonstrated bias, not speculative, then send back.

If you change the ultimate conclusion, look at whether sanction now has to change