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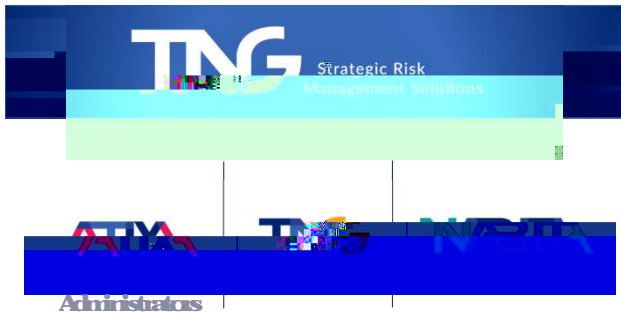
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**CONTENT ADVISORY**

The content and discussion in this course will necessarily engage with sex and gender-based harassment, discrimination and violence and associated sensitive topics that can evoke strong emotional responses. ATIX faculty members may offer examples that emulate the language and vocabulary that Title IX practitioners may encounter in their roles including slang profanity and other graphic/offensive language.

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## BEST PRACTICE TIPS

**Write with one voice, not a committee**

**All panelists should contribute to and/or review the rationale**

**Don't issue dissents, or indicate what the vote was (2 to 1)**

**Commonly 1-15 pages in length, depending on complexity**

**Write in active voice (Ex. I determined vs. it was determined)**

**If more than one Respondent, write a separate rationale for each one**

**If the investigation report offers a rationale, and you simply adopt it as the final determination, it will be harder to defend the objectivity of the hearing decision**

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## BEST PRACTICE TIPS (CONT)

**When there are multiple alleged violations, the rationale should typically flow from analysis of the broadest offense to the narrowest (rather than from most severe to least severe)**

**Include a rationale for each policy violation (if more than one)**

**Ensure that the Decision maker(s) arrive at the rationale independently and impartially. Your IJBC and legal counsel are there as guides, and to ask probing questions, but should not exert undue influence on the outcome (assuming the IJBC is not a Decision maker, though they may be for dismissals or emergency removal).**

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## CASE STUDY

### Phoebe and Simon - A Bridge Too Far?

Simon and Phoebe have been dating for several months. They have been sexually active, including vaginal intercourse, multiple times. They have never discussed protection or contraception, but neither has ever used any during their sexual activities with each other. Phoebe is clear that Simon has never worn a condom during sex with her. Simon is unaware whether Phoebe has ever used any form of contraception.

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## CASE STUDY

In discussing life goals generally, Simon has made it clear to Phoebe that he does not ever see himself having kids.

During all of their sexual interactions, as intercourse was

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## CASE STUDY

Simon clarified for investigators that his insistence in saying "wait" twice, plus the clear distress on his face should have made it clear to Phoebe that he meant to stop.

Phoebe responded to this evidence by stating that the look on his face was one of extreme pleasure, and that this was very clear to her. She also clarified that she was not pregnant.

## CASE STUDY

You have now been placed into a position of having to decide this matter and stating your rationale.

By a preponderance of the evidence, did Phoebe sexually assault Simon by having non-consensual sexual activity with him?

Yes, why?

No, why not?

Be very clear in your reasoning.

## POLICY

**Sexual assault, defined as**

Any sexual act directed against the Complainant, without their consent, including instances in which the Complainant is incapable of giving consent.

**Consent, defined as**

Knowing and voluntary and clear permission

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**Thanks for joining us today.**