

Questioning Techniques

The Purpose and Use of Questioning

The purpose of questioning is to enable you to obtain the details you need in order to clarify and evaluate the information presented by both parties. You and the other panel members will need to gather enough information that you can determine the facts and their relative importance, and assess the credibility of those who speak during the hearing.

As a hearing panel member, you will be seeking to discover all of the following: relevant facts about what happened during the alleged incident and related events leading up to the incident; facts necessary to establish a time-line; background information about the situation, the parties, witnesses; and information about the subject matter (where necessary). You will acquire important information simply by listening carefully to what witnesses say at the hearing. You can then use questions to elicit details, eliminate vagueness, fill in the gaps where significant information seems to be missing, establish a clear sequence of events or time-line, and/or assess the credibility of witnesses who speak at the hearing.

Please remember that there are many questions that one can ask during a hearing, and many ways in which any particular question can be asked. But try to stay clear about what kind of information you are seeking, and how best to phrase your question in order to elicit that information. Also realize that the person who is responding to your question may only wish to present selected information in a certain way to lead you to a particular conclusion.

General Guidelines For Questioning

- * You should have a purpose for asking every question that you ask. If you don't have a purpose, don't ask it.
- * Remember that you are asking a question –not making a speech.
- * Watch body language, eye contact, and how the person responds [but be aware that the after effects of trauma, personality, culture, and other factors may impact how a witness presents him/herself and that no one or two behaviors, in and of themselves, “prove” that a witness is lying (e.g., the simple fact that a witness does not “look you in the eye” does NOT, in and of itself, mean that the witness is lying – you must take all of the factors into account)].
- * Also watch for “cued” responses and apparently rehearsed or memorized answers.
- * Don't be afraid of silence: allow time for a person to consider his/her answer.
- * Don't feel that you have to ask questions of every witness.
- * Remember, you are working as a team with other panel members. It is important to listen to their questions so (1) you don't repeat them and (2) because it is helpful to complete the questioning about one issue before moving to the next to avoid jumping from topic to topic. If you forget to ask a question while on a certain topic, you can ask it later.
- * Write your questions down as you think of them so you'll have them ready when the time comes. It's better to keep a list than to forget key questions or issues until deliberations, when it is too late to ask the witnesses.
- * Start and keep a time-line if the timing of an incident may be important.

Do's & Don'ts For Asking Good Questions

1. Ask one question at a time. Don't ask compound questions (e.g., *Had you just met the complainant that night or were you friends or had you been previously involved sexually, or what?*)
2. Don't ask accusing or argumentative questions. To the respondent: *Isn't it true that you never asked the complainant if she wanted to have sex?* To the reporting party: *Didn't you falsely accuse another male friend of sexually assaulting you in December, 2009?*
3. Keep your questions relatively simple -- don't make the question too long or confusing.
4. Don't ask a question that does not avoid double negatives (*Translation: avoid double negatives*).
5. Listen to the questions that the other panel members ask
 - Don't ask questions that have already been asked/answered.
 - Try to complete one line of questioning before moving on to a new topic.
6. In general, ask open-ended questions; i.e. don't suggest an answer in your question, and don't ask multiple choice questions.

Examples of open-ended questions

How much did you have to drink that night?

Please tell us what you remember about what happened at the party.

Could you elaborate on what happened while you were in the kitchen?

Examples of non-open-ended (leading) questions: *Is it possible that you were so intoxicated that you don't really have any specific memory of what actually happened?*

Didn't the complainant show that she was interested in having sex with you by helping to undo your pants? [These are questions that may be appropriate during cross-examination, but should in general be avoided by panel members.]

7. Ask factual questions before asking philosophical or policy questions. *By what specific statements and/or actions did the complainant give consent to having sex with you?* should come before *What is your understanding of the legal definition of "consent"?*
8. Don't argue with the person you are questioning.
9. Don't make comments on the response to your question (either positive or negative).
10. Listen actively: and if a statement is long or complicated, paraphrase it and ask if your understanding is correct.
(Note: This is a good technique, as it indicates that you are trying to understand what happened and also allows the person to clarify or correct your perception. Just be sure to state that you are paraphrasing, not quoting exactly, and be specific and concise. Don't overuse this technique, though, or it gets tedious.)

TRUST YOUR OWN INTELLIGENCE AND INTUITION! If you're confused about something that seems relevant, keep asking questions until you've ascertained that it's *not* relevant or you get clarity on the issue.

Finally, remember that the Chair is the moderator; if s/he says that it's time to move on to another topic, you should do that. If you disagree and really feel you need to ask more questions, you might ask if you can explain what you're getting at (on the record) and how much longer you think it will take. In the alternative, you can ask for a quick break and talk to the Chair. Note that either of these tactics may "tip off" the witness you're questioning and affect the statements s/he makes, so it might be better just to let it go.