

## Scenario

Carlos, a first-generation college student, and Derrick, a New England prep school graduate, are sophomores at your university. Though Derrick finds Carlos attractive, he has never approached him because, since freshman year, Carlos has been in a relationship with Antwon, a senior at your university. Derrick has heard stories about Carlos's sexual preferences and the crazy fights between Carlos and Antwon and knows that Carlos left campus last semester to deal with a mental health issue.

On September 30, 2020, Carlos and Derrick attend a party at an on-campus house. At around 10:00pm, Carlos and Derrick begin talking. Carlos tells Derrick that it is "totally over" between him and Antwon and Carlos plans to celebrate the "breakup" by getting "wasted." Over the course of the evening, Carlos – who, unbeknownst to Derrick, had pre-gamed heavily – consumes four or five 12-oz solo cups of a punch mixed with grain alcohol. At around 12:30pm, Derrick notices that Carlos is nodding off on the couch and suggests that they go back to his dorm room so he can go to "sleep it off." Derrick assists Carlos on the 5-minute walk to his dorm. When they arrive, Carlos flops on Derrick's bed and closes his eyes. Derrick sits next to Carlos and they begin to mutually kiss and fondle each other. After a few minutes, Derrick asks Carlos if he can perform oral sex on him. Carlos doesn't say anything but cooperates when Derrick removes his pants. While performing oral sex on Carlos, Carlos is stroking Derrick's hair. Carlos then rolls onto his stomach and Derrick puts on a condom and proceeds to penetrate Carlos. After Derrick is finished, he and Carlos fall asleep together on his bed.

When Carlos wakes up, he is alone and naked in Derrick's bed. Carlos cannot remember what happened the previous night but sees a used condom and a condom wrapper in the trash can. Carlos walks back to his dorm, takes a long hot shower, and sleeps for the rest of his day. Over the course of the next few weeks, Carlos talks to a number of friends about his encounter with Derrick who convince him to go to the emergency room for a physical exam, which he does. Derrick also has a telemedicine appointment with his psychiatrist to discuss the incident and, after a few sessions, decides to report the incident as a sexual assault to the Title IX coordinator.

## **Party Interview Questions – Investigation Phase**

### **Carlos – Complainant**

- When you ask, what are you able to tell me about your experience, Carlos says, “I don’t remember.” Walk through how to elicit further information.
- Carlos responds to detailed questions about the sexual contact with one-word answers. Walk through how to elicit further information.
- Carlos begins to share information about his mental health diagnosis, how do you handle this disclosure?
- Carlos offers to provide counseling notes and medical documentation from an inpatient stay at a mental health facility last semester but asks you not to share it or to destroy it. How do you handle his disclosure/request?

### **Derrick – Respondent**

- Derrick comes into the interview angry, gets frustrated and shuts down/says “I don’t want to answer that”—how do you respond and illicit information?
- Derrick insist that you interview Antwon about Carlos’s sexual preferences. What do you say/what do you do?
- Derrick asks you to ask Carlos about his mental health diagnosis/treatment. How do you handle?
- Derrick offers to provide you with evidence that he (Derrick) suffers from erectile disfunction and therefore would not have been able to penetrate Carlos on the night of the incident. What do you say/what do you do?
- Derrick tells you he has not come out as gay and that this was his first sexual encounter with a man. He tells you he does not want anyone, especially university administrators, witnesses, his parents, to know. How do you handle his request?

### **Questions Posed by Derrick's Advisor During Hearing Phase**

Derrick's attorney advisor, Alice B. Payne, requests that you, the hearing officer, ask Carlos the following questions:

- Did you and Antwon have intercourse earlier in the week leading up to the incident and/or on the day of the incident?
- What is your mental health diagnosis?
- Could your mental health diagnosis have impacted your experience with Derrick?
- How many sexual partners have you had at the university?
- Did you experience childhood sexual abuse/trauma that may have been triggered by the encounter with Derrick?

Carlos's advisor, a social worker from a local victims' advocacy organization, requests that you ask Derrick the following questions:

- Have you ever been accused of sexual assault before?
- How many relationships/sexual encounters have you had with men?
- Did you date men at your prep school? Who?
- Did you or Attorney Payne speak to any of the witnesses in this investigation? What did you say to them? What did they say to you?