TITLE IX SOLUTIONS

2020 TITLE IX INVESTIGATOR TRAINING

A Certificate Course



TITLE IX SOLUTIONS, LLC

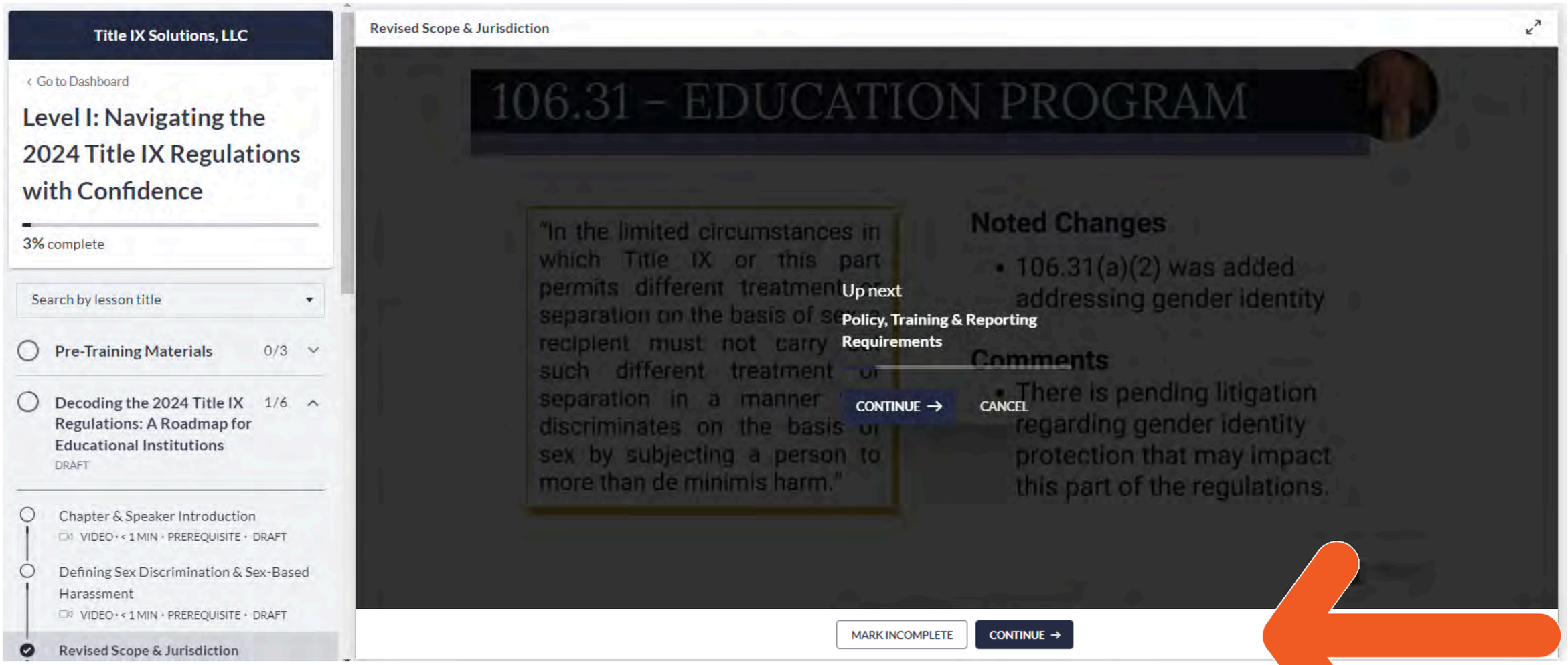
COURSE OVERVIEW

1. An Introduction to Title IX
2. Overview of the Title IX Regulations
3. Role of the Title IX Investigator
4. Investigation Planning and Design
5. Investigative Interview Techniques
6. Investigative Report Writing
7. Understanding Trauma
8. Sample Interview

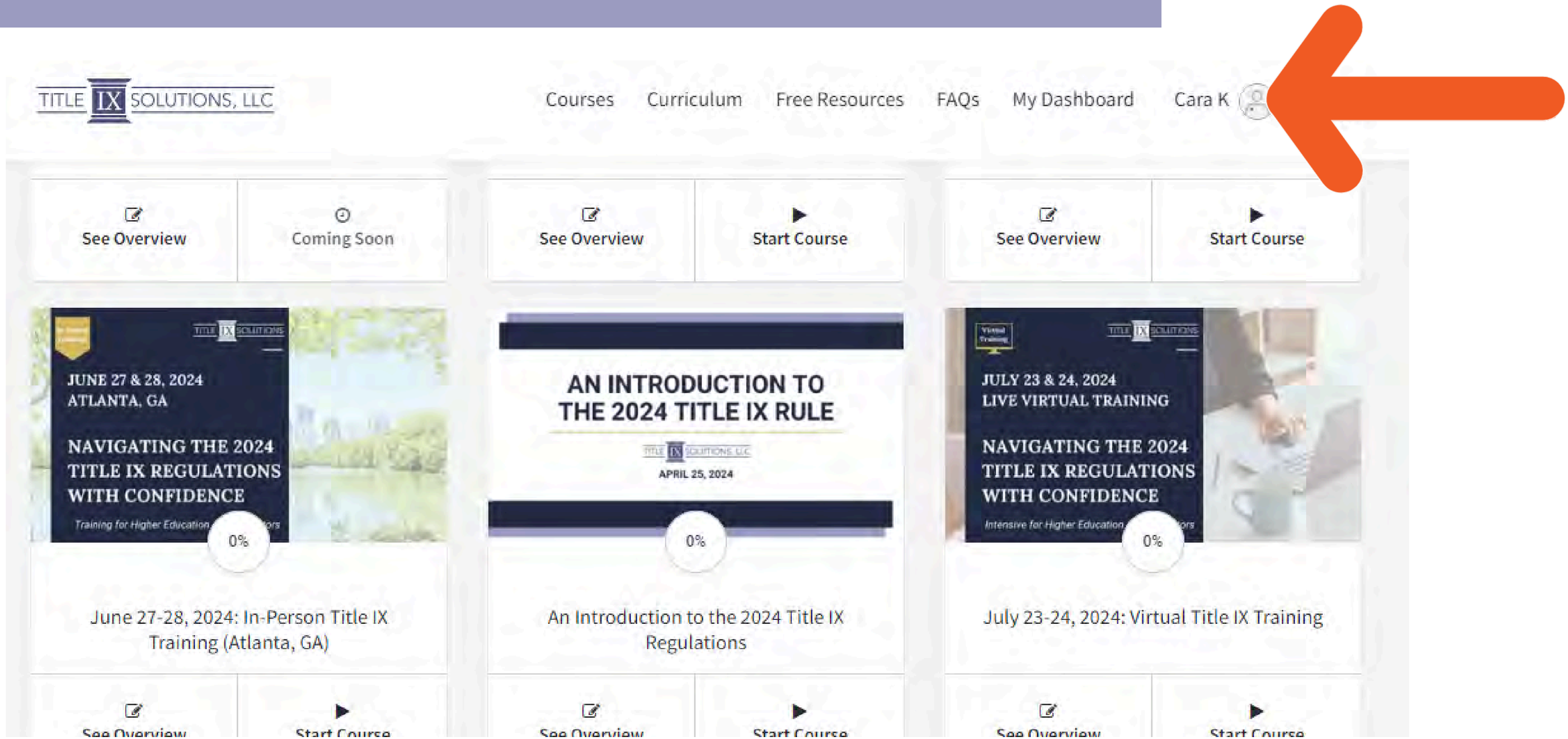
LEARNING OBJECTIVES

- Describe the role of a Title IX Investigator as it relates to the formal grievance process.
- Understand investigation procedural requirements under Title IX.
- Identify steps to designing a thorough investigation plan.
- Develop a trauma-informed interviewing style, including crafting sound questions.
- Prepare a comprehensive and informative investigation report.

LESSON COMPLETION



STEPPING AWAY



CERTIFICATE OF COMPLETION



THIS CERTIFICATION OF COMPLETION IS AWARDED TO:

CARTER WILSON

FOR SUCCESSFULLY COMPLETING

LEVEL I: NAVIGATING THE 2020 TITLE IX REGULATIONS WITH CONFIDENCE

ON JULY 18, 2020

Learning Objectives:

- Articulate the key changes outlined in the revised 2024 Title IX regulations, including the updated scope of sex-based harassment and discrimination
- Explain the new requirements for institutions in responding to complaints, including investigation procedures and timelines
- Identify and differentiate the roles of various Title IX personnel within your institution
- Develop strategies for implementing the new Title IX regulations effectively within your educational setting through policy and practice
- Facilitate prompt, equitable, and compliant grievance processes of sex-based harassment and discrimination complaints
- Apply best practices to foster a safe and inclusive education program

IX INSTITUTE

Cara Kuhn

CARA KUHN
Training Coordinator
Title IX Solutions, LLC

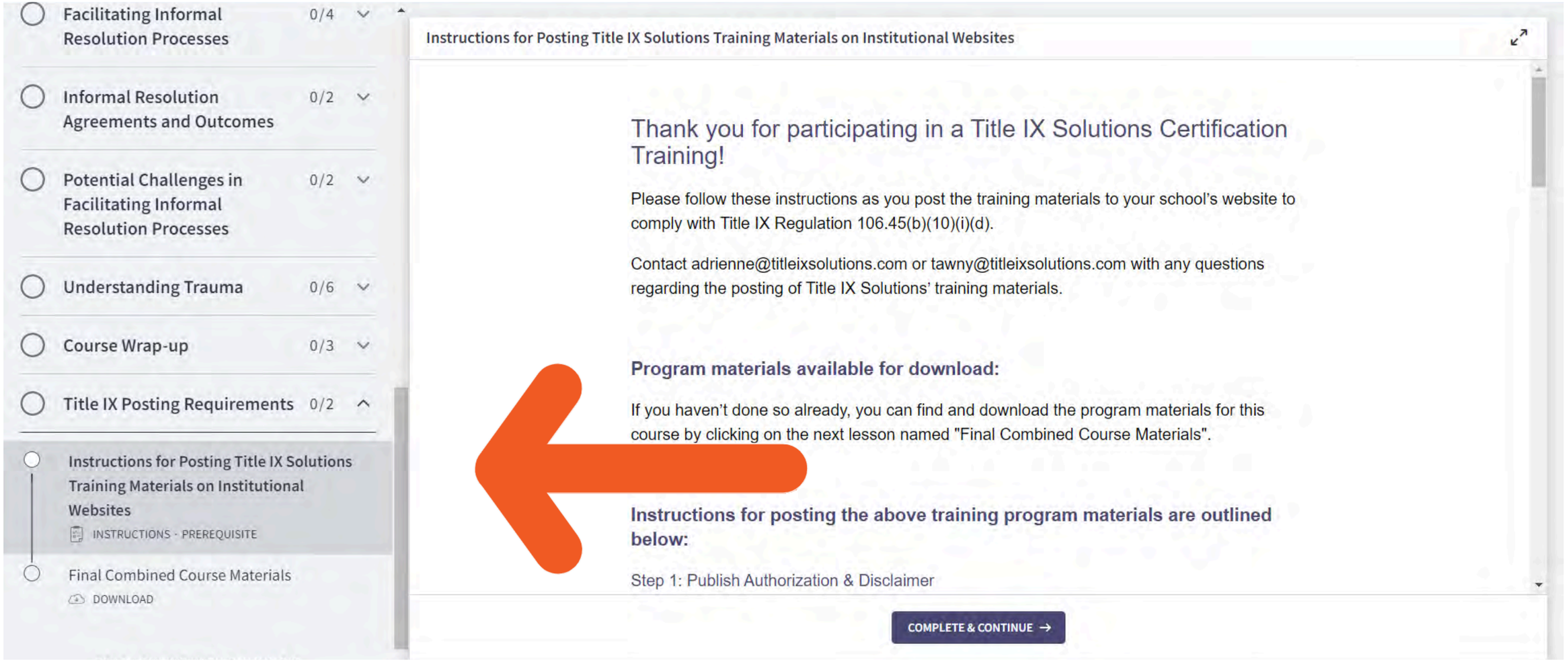
TITLE IX SOLUTIONS, LLC

POSTING REQUIREMENTS

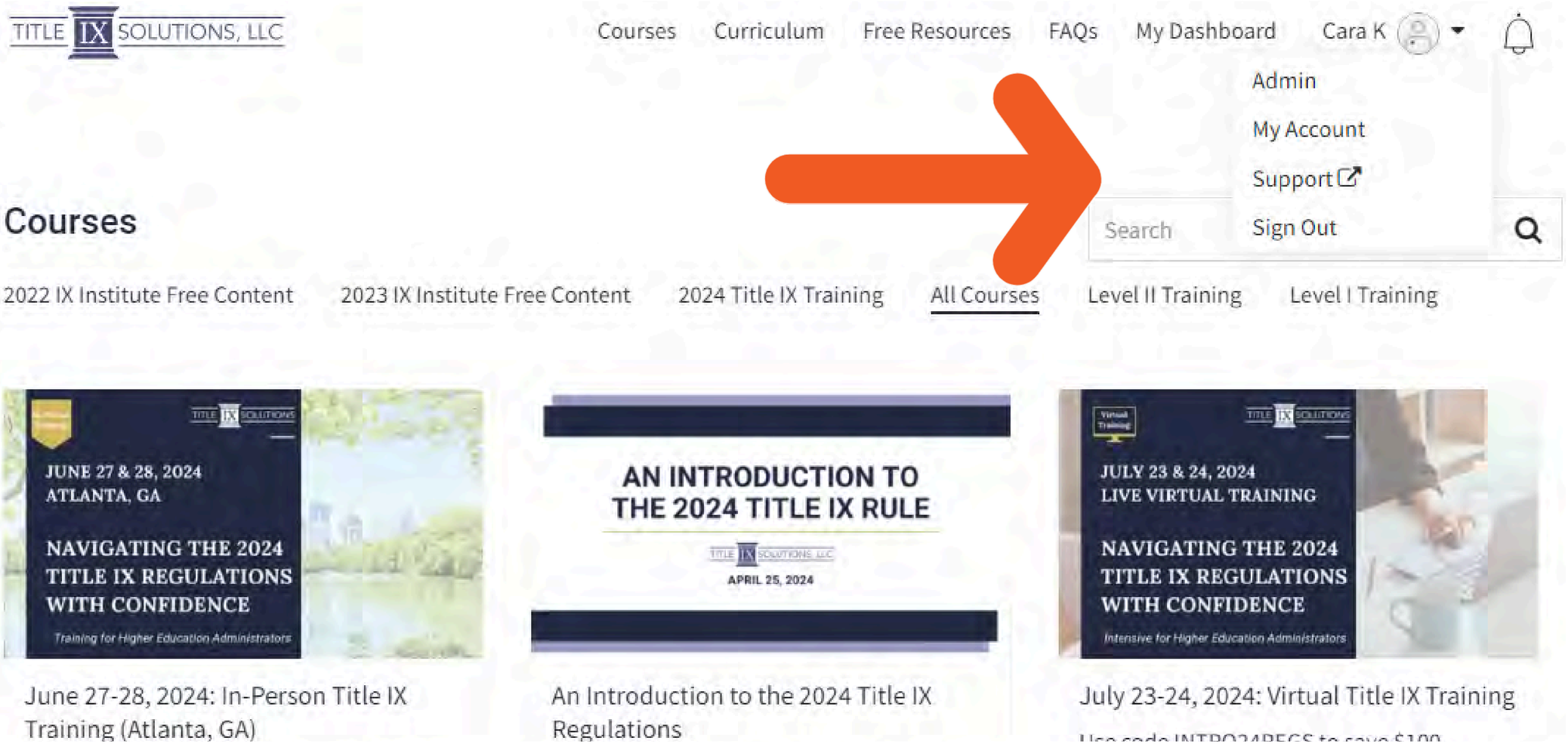
In accordance with the 2020 Title IX Regulations, institutions must post "all materials used to train Title IX Coordinators, Investigators, Decision-Makers, and any person who facilitates an informal resolution process." 34 C.F.R. 106.45(b)(10)(i)(D).

Such training materials must also be kept for seven years.

POSTING REQUIREMENTS



COURSE SUPPORT

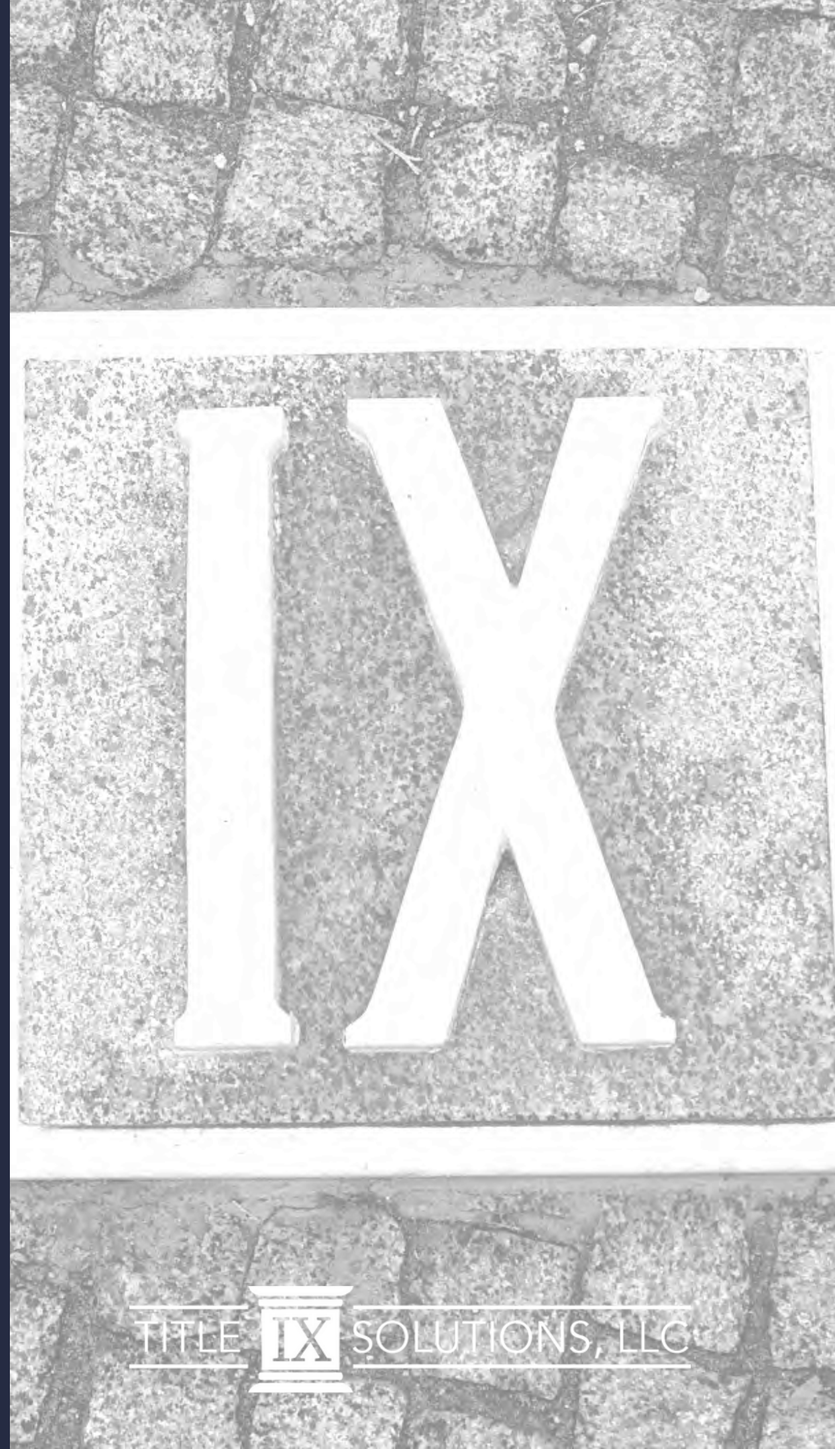


THANK YOU!



TITLE IX SOLUTIONS, LLC

AN INTRODUCTION TO TITLE IX





SPEAKER

CARA KUHN

TRAINING COORDINATOR

TITLE IX SOLUTIONS

IN THIS CHAPTER

IX

HISTORY OF TITLE IX



TITLE IX DEFINITIONS



PARTICIPANTS IN THE TITLE IX PROCESS



OVERVIEW OF THE TITLE IX PROCESS

HISTORY OF TITLE IX



Title IX of the Education Amendments of 1972

> "No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance[.]"

20 U.S.C. §1681(a)

CREATION OF TITLE IX

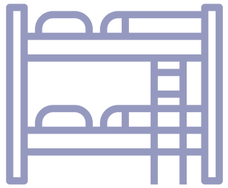
Followed the Civil Rights Act of 1964 to address discrimination on the basis of sex

Created and enacted for educational institutions (K to Postsecondary)

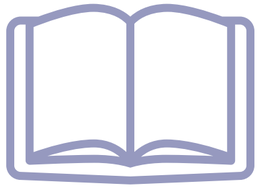
Designed initially to address inequities in:



Admissions



Residence Life



Academic Opportunities



Extracurricular Activities

WHO IS PROTECTED?

All students regardless of:

- Sexual Orientation
- Gender Identity
- Nationality
- Immigration Status
- Race
- Ability

All genders are included

Employees - faculty, staff, administrators

Applies to:

- State and local educational agencies that receive federal funding
    - Vocational, professional, and higher education institutions

BRIEF HISTORY OF TITLE IX



JUNE 23, 1972

Title IX becomes law and addresses sex-based discrimination

BRIEF HISTORY OF TITLE IX



JUNE 23, 1972

Title IX becomes law and addresses sex-based discrimination



APRIL 4, 2011

Guidance expands Title IX to include sexual harassment, dating and domestic violence, sexual assault, and stalking

BRIEF HISTORY OF TITLE IX



JUNE 23, 1972

Title IX becomes law and addresses sex-based discrimination



APRIL 4, 2011

Guidance expands Title IX to include sexual harassment, dating and domestic violence, sexual assault, and stalking



AUGUST 14, 2020

New regulations go into effect, requiring all educational institutions to follow specific procedures in response to sexual harassment

NOTE ON THE 2024 REGULATIONS

IN APRIL OF 2024, THE DEPARTMENT OF EDUCATION RELEASED NEW REGULATIONS EXPANDING THE SCOPE OF TITLE IX.

- Many states have challenged these new regulations through injunctions which has led to different school and states following different Title IX guidance.
- Title IX is a continually evolving landscape which makes training that much more important!

TITLE IX DEFINITIONS



ACTUAL KNOWLEDGE

- "[N]otice of sexual harassment or allegations of sexual harassment to a recipient's Title IX Coordinator or any official of the recipient who has authority to institute corrective measures on behalf of the recipient" (Postsecondary)
- Notice of sexual harassment or allegations by ANY employee of an elementary or secondary school
- Includes reports sent to the Title IX Coordinator in person, by mail, by telephone, by email, or by any other means that results in the Title IX Coordinator receiving a person’s written or oral report

REPORT VS. COMPLAINT

REPORT

- May allege sexual harassment, sex discrimination, or sexual misconduct
- May be written or oral
- May be submitted by any person, not just the alleged victim
- May be anonymous
- May be made at any time
- May be made in person or by mail, phone, email or any other means

FORMAL COMPLAINT

- Required for initiation of the Title IX grievance process
- Can be oral or written
- Cannot be filed anonymously or by a third-party
- Request to the school that **objectively can be understood** as a **request for the school to investigate** and make a determination

REPORT VS. COMPLAINT

REPORT

- May allege sexual harassment, sex discrimination, or sexual misconduct
- May be written or oral
- May be submitted by any person, not just the alleged victim
- May be anonymous
- May be made at any time
- May be made in person or by mail, phone, email or any other means

FORMAL COMPLAINT

- Required for initiation of the Title IX grievance process
- Can be oral or written
- Cannot be filed anonymously or by a third-party
- Request to the school that **objectively can be understood** as a **request for the school to investigate** and make a determination

REMINDER:



MAKING A REPORT OR A COMPLAINT TO YOUR INSTITUTION OR CONFIDENTIAL RESOURCE IS NOT EQUIVALENT TO FILING CHARGES WITH LAW ENFORCEMENT.

SUPPORTIVE MEASURES

WHAT?

- Non-disciplinary, non-punitive services offered to the Complainant & Respondent
- Includes measures designed to protect the safety of all Parties or the school's educational environment, or to deter sex discrimination and sexual harassment

WHEN?

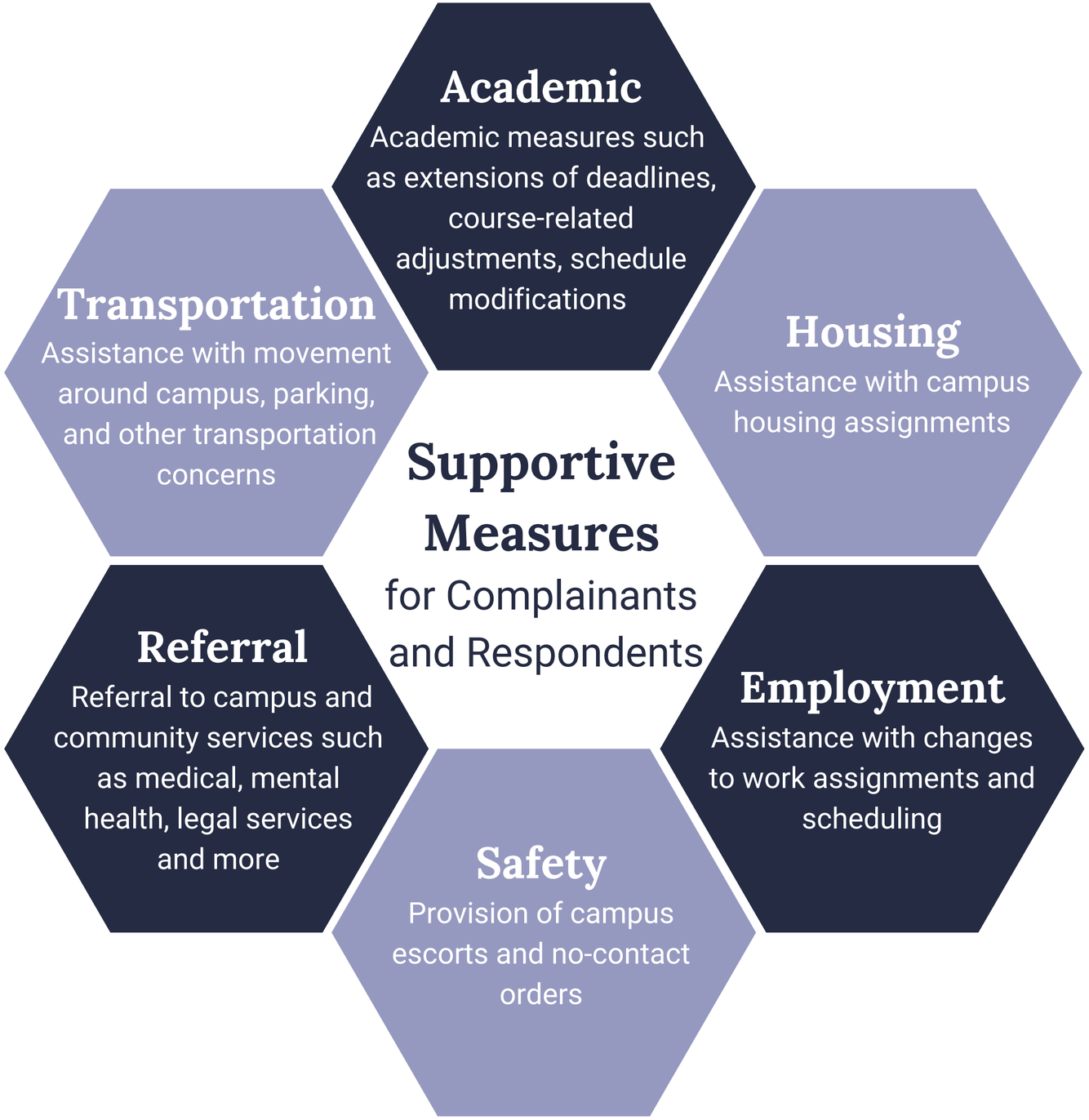
- Available before or after filing a complaint or where no complaint has been filed

WHY?

- Offered without fee or charge to the Complainant or Respondent; as appropriate and reasonably available

HOW?

- Designed to restore or preserve equal access to the school's education program or activity without unreasonably burdening the other party


Academic
Academic measures such as extensions of deadlines, course-related adjustments, schedule modifications
Housing
Assistance with campus housing assignments
Employment
Assistance with changes to work assignments and scheduling
Safety
Provision of campus escorts and no-contact orders
Referral
Referral to campus and community services such as medical, mental health, legal services and more
Transportation
Assistance with movement around campus, parking, and other transportation concerns
Supportive Measures
for Complainants and Respondents

AMNESTY PROVISION

- Not required under Title IX but often included in the policy to encourage reporting
- Individuals may not be subject to disciplinary action for a minor violation of other school polies (e.g., Code of Conduct) when participating in a Title IX investigation

SCENARIO



Sam is a college freshman and was sexually assaulted at a house party. Sam had been drinking heavily and is scared to report the assault as they are underage.

CONFIDENTIALITY

- Explicitly stated in Title IX
- Identities of the reporting parties, Complainants, Respondents, and Witnesses are to remain confidential
  - Identities of these individuals will be known to the individuals conducting the Title IX process

RETALIATION

- Intimidation, threats, coercion, or discrimination against any individual for either of the following reasons:
  - Interfering with any right or privilege under Title IX
  - Because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding, or hearing under Title IX

RETALIATION

All persons are prohibited from retaliating against reporting parties, Complainants, Respondents, Witnesses, and others who participate in the Title IX process.



EXAMPLE ONE:

Friends of the Complainant intimidating the Respondent, or vice versa.



EXAMPLE TWO:

School personnel discriminating against an individual for refusing to participate in the Title IX process.

REMEDIES AND SANCTIONS

REMEDIES

- Offered to Complainants
- Designed to restore or preserve equal access to the school's education program or activity
- May be the same as supportive measures
- DO NOT need to be "non-punitive" or avoid burdening the respondent

- Available after the grievance process is complete
- List or range of remedies and sanctions should be listed in policy

SANCTIONS

- Issued to Respondents found responsible for violating the school's sexual harassment policy, following the conclusion of the Title IX grievance process

EDUCATION PROGRAM OR ACTIVITY

THE EDUCATIONAL PROGRAM OR ACTIVITY INCLUDES ALL OPERATIONS OF THE SCHOOL, BOTH ON OR OFF CAMPUS.

- Includes locations, events, or circumstances over which the school exercises substantial control over both:
  - The Respondent, and
  - The context in which an incident of sexual harassment occurs
- Includes any building owned or controlled by student organizations which are officially recognized by the school (including fraternity & sorority houses)
- Includes computer and internet networks, digital platforms and computer hardware or software owned or operated by, or used in the operations of the school

STANDARD OF PROOF

STANDARD USED TO DETERMINE WHETHER OR NOT A SEXUAL HARASSMENT POLICY VIOLATION OCCURRED.

Preponderance of the Evidence

- Evidence demonstrates it is “more likely than not” the alleged conduct or policy violation occurred
- Greater than 50% chance a policy violation occurred

Clear and Convincing

- Evidence is highly and substantially more likely to be true than untrue
- A higher standard of evidence to meet when compared to the “preponderance of the evidence” standard

STANDARD OF PROOF

Preponderance of the Evidence

Anything that tips the scale to more than 50/50

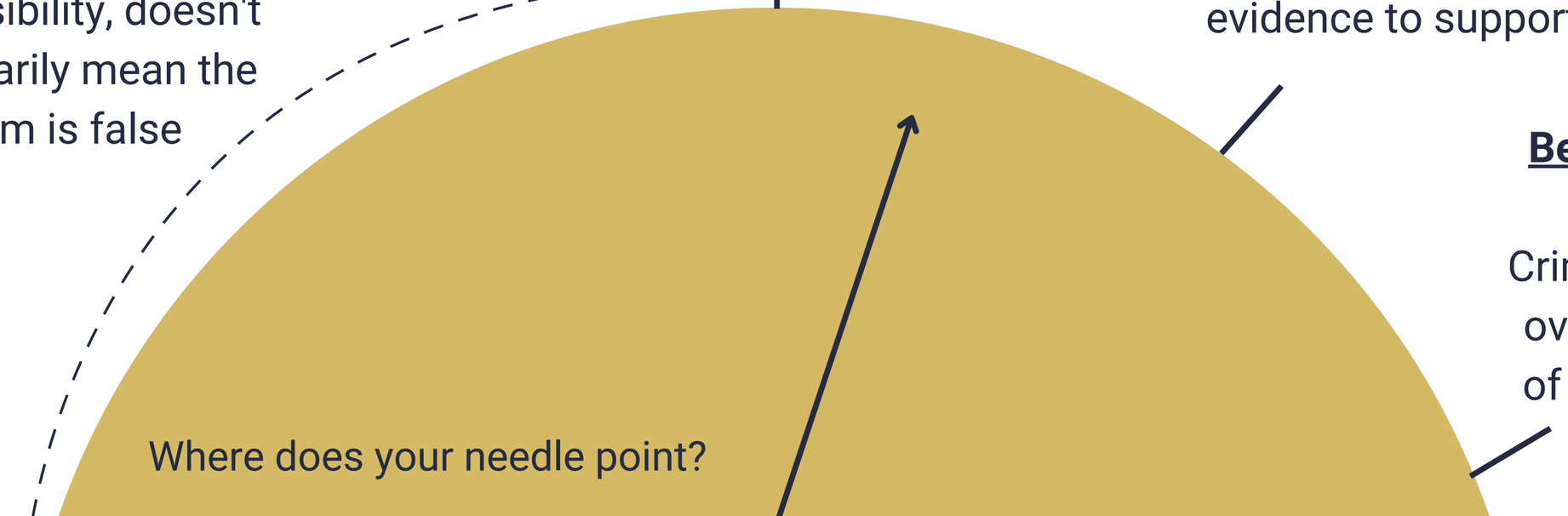
Not enough evidence to support a finding of responsibility, doesn't necessarily mean the claim is false

Clear and Convincing

More likely to be true than untrue, substantial evidence to support

Beyond a Reasonable Doubt

Criminal court standard, overwhelming amount of evidence to support



TITLE IX SOLUTIONS, LLC

PARTICIPANTS IN THE TITLE IX PROCESS



OVERVIEW

TITLE IX PERSONNEL VARY, DEPENDING UPON SEVERAL FACTORS:

- Institution size
- Institution type
  - K-12
  - Community/two-year colleges
  - Four year colleges and universities
  - Public/private
- Institution structure and resources
  - Organizational charts and reporting
  - Full-time/part-time
  - Budget



TITLE IX PERSONNEL

EXCEPT FOR THE TITLE IX COORDINATOR, TITLE IX PERSONNEL MAY BE INTERNAL OR EXTERNAL.



Title IX Coordinator



Deputy Coordinators



Title IX Investigator



Decision-Maker



Informal Resolution Facilitator



Advisor



Appellate Decision-Maker

TITLE IX SOLUTIONS, LLC

TITLE IX COORDINATOR

EVERY SCHOOL MUST HAVE A DESIGNATED TITLE IX COORDINATOR.

CAN

- Serve as the Title IX Investigator
- Serve as the Informal Resolution Facilitator
- Have other roles on campus
  - Dean of Students, Director of Human Resources, etc.

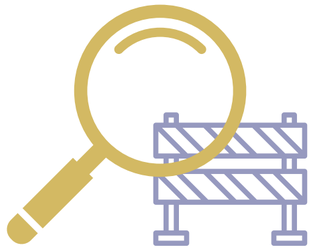
CANNOT

- Serve as the Title IX Decision-Maker
- Serve as the Appeals Decision-Maker

TITLE IX COORDINATOR



Ensure Compliance



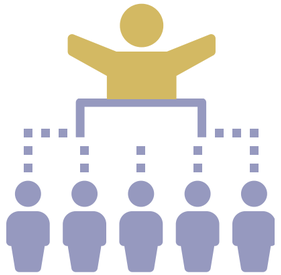
Monitors barriers to reporting



Receive reports



Training



Oversees grievance procedures



Offers supportive measures

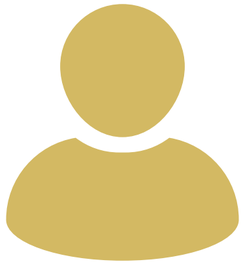


Creates policy and procedures



Determine initiation of complaint

TITLE IX INVESTIGATOR

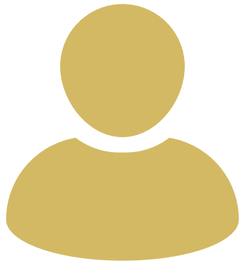


MAY BE THE TITLE IX COORDINATOR, OTHER SCHOOL EMPLOYEE, OR INDEPENDENT CONTRACTOR.

RESPONSIBILITIES:

- Collects evidence and interviews the Parties and Witnesses
- Provides all evidence to the Parties and their Advisors for inspection and review
- Creates an investigative report that fairly summarizes relevant evidence
- Sends the investigative report to the Complainant, Respondent, Advisors, and Decision-Maker

TITLE IX DECISION-MAKER



MAY BE A SINGLE DECISION-MAKER OR A HEARING PANEL, SCHOOL EMPLOYEE(S), OR INDEPENDENT CONTRACTOR(S).

RESPONSIBILITIES:

- Oversees and facilitates the Title IX adjudication process, including a hearing if the school has one
- Supervises the conduct of the involved Parties and their Advisors
- Determines the relevance of evidence and questions presented during the credibility assessment process
- Drafts and issues the written determination regarding responsibility
- Issues sanctions when appropriate

APPELLATE DECISION-MAKER

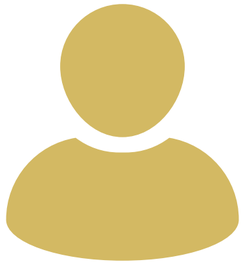
MAY BE A SINGLE APPELLATE DECISION-MAKER OR APPELLATE PANEL, SCHOOL EMPLOYEE(S), OR INDEPENDENT CONTRACTOR(S).

RESPONSIBILITIES:

- Reviews the appeal from the Party & the other Party's response (if any)
- Drafts and issues the final determination

Specific appellate procedures vary at every school, so refer to the school's policy for details.

INFORMAL RESOLUTION FACILITATOR



MAY BE A SCHOOL EMPLOYEE, OR INDEPENDENT CONTRACTOR. CANNOT BE THE TITLE IX COORDINATOR.

RESPONSIBILITIES:

- Provides information to the Parties and Advisors about the informal resolution process
- Various forms of informal resolution may be available
- Facilitates the informal resolution process
- Drafts informal resolution settlement agreements at the conclusion of the process (if the complaint is resolved)

ADVISOR

COMPLAINANT AND RESPONDENT HAVE THE RIGHT TO AN ADVISOR OF THEIR CHOICE.



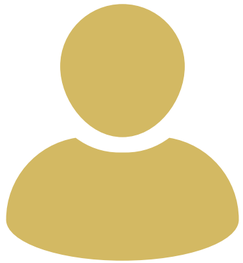
An Advisor may be, but is not required to be, an attorney.



A party's Advisor may be a friend, teacher, parent, professor, etc.

- School must provide an Advisor for the live hearing if a Party does not have one present
- School cannot limit the choice or presence of the Advisor for either Party in any meeting
- Parties have the option to include the Advisor in any meeting or investigative interview
- Schools may set specific expectations or provide guidelines for Advisors to follow during meetings, investigative interviews, and the hearing

ADVISOR



COMPLAINANT AND RESPONDENT HAVE THE RIGHT TO AN ADVISOR OF THEIR CHOICE.

RESPONSIBILITIES:

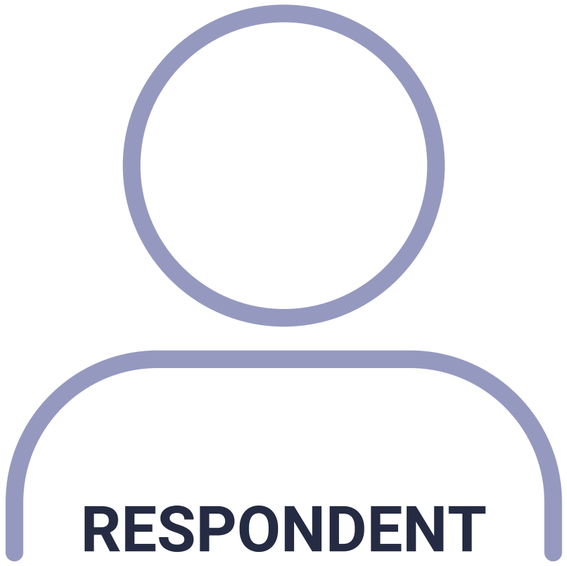
- Supports their Party by accompanying them during interviews, meetings, and the credibility assessment process
- Provides information regarding the Title IX process and resources available
- Reviews the investigative report and all evidence, as well as help craft a response
- Participates in the hearing and conducts cross-examination

PARTIES IN THE PROCESS

ASIDE FROM THE TITLE IX PERSONNEL WHO TAKE PART IN THE FACILITATION OF THE GRIEVANCE PROCESS, WE WILL ALSO SEE THESE INDIVIDUALS INVOLVED:



COMPLAINANT



RESPONDENT



WITNESS

COMPLAINANT

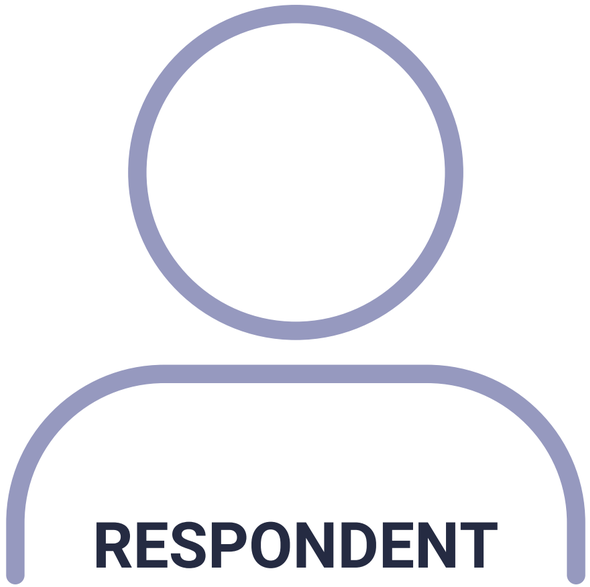
ALLEGED TO BE THE VICTIM OF CONDUCT THAT COULD CONSTITUTE SEXUAL HARASSMENT



- May be a student, employee, or other community member
- Must be participating in or attempting to participate in the school's education program or activity with which the complaint is filed
- There may be more than one Complainant in a case

RESPONDENT

REPORTED TO BE THE ALLEGED PERPETRATOR OF CONDUCT THAT COULD CONSTITUTE SEXUAL HARASSMENT.



- May be a student, employee, community member, or non-community member
  - The school's ability to respond to incidents perpetrated by non-community member Respondents may be limited
- School may dismiss the complaint if the Respondent is no longer enrolled or employed by the school
- There may be more than one Respondent in a case

WITNESS

INDIVIDUALS THAT ARE IDENTIFIED IN THE GRIEVANCE PROCESS AS HAVING INFORMATION THAT MAY SUPPORT OR REFUTE ALLEGATIONS OF SEXUAL HARASSMENT.



WITNESS

- May be identified by the Complainant, Respondent, or institution
- Could have first-hand knowledge regarding allegations or may have other information that could be helpful in an investigation
- There may be multiple witnesses in a case

OVERVIEW OF THE TITLE IX PROCESS



DURING THE TITLE IX GRIEVANCE PROCESS:

A SCHOOL MUST:

- Treat Complainants and Respondents equitably
- Require objective review of all relevant evidence
- Train Coordinators, Investigators, Decision-Makers, and Informal Resolution Facilitators and ensure they are free of conflicts of interest and bias
- Include a presumption that Respondent is not responsible for allegations until determination is reached at conclusion of grievance process

DURING THE TITLE IX GRIEVANCE PROCESS:

A SCHOOL MUST:

- Include reasonably prompt time frames for the conclusion of the grievance process
- Describe the range of possible disciplinary sanctions and remedies
- State the standard of proof
- Describe the range of supportive measures available to Complainants and Respondents
- Not require or seek the disclosure of information protected under a legally recognized privilege

GOAL OF TITLE

ULTIMATELY, THE GOAL OF TITLE IX IS TO:



Stop the harassment or discrimination



Prevent future recurrence of harassment or discrimination



Remedy the effects of harassment or discrimination

GRIEVANCE PROCESS

1. **INTAKE & REVIEW**
2. FORMAL COMPLAINT
3. NOTICE OF ALLEGATIONS
4. INVESTIGATION
5. DECISION-MAKING PROCESS
6. WRITTEN DETERMINATION
7. APPEAL

- Title IX Coordinator must respond in a way that’s not deliberately indifferent
- Meet with the Complainant to discuss supportive measures and process for a formal complaint

GRIEVANCE PROCESS

1. INTAKE & REVIEW
2. **FORMAL COMPLAINT**
3. NOTICE OF ALLEGATIONS
4. INVESTIGATION
5. DECISION-MAKING PROCESS
6. WRITTEN DETERMINATION
7. APPEAL

- Starts the grievance process
- Must be a written document

TITLE IX SOLUTIONS, LLC

GRIEVANCE PROCESS

1. INTAKE & REVIEW
2. FORMAL COMPLAINT
3. **NOTICE OF ALLEGATIONS**
4. INVESTIGATION
5. DECISION-MAKING PROCESS
6. WRITTEN DETERMINATION
7. APPEAL

- Provided to both parties outlining the grievance procedures, information about the allegations, prohibition of retaliation, and the parties' rights

TITLE IX SOLUTIONS, LLC

GRIEVANCE PROCESS

1. INTAKE & REVIEW
2. FORMAL COMPLAINT
3. NOTICE OF ALLEGATIONS
4. **INVESTIGATION**
5. DECISION-MAKING PROCESS
6. WRITTEN DETERMINATION
7. APPEAL

- Parties have the opportunity present witnesses and evidence
- Parties also have the right to access, review and respond to evidence gathered during the investigation

TITLE IX SOLUTIONS, LLC

GRIEVANCE PROCESS

1. INTAKE & REVIEW
2. FORMAL COMPLAINT
3. NOTICE OF ALLEGATIONS
4. INVESTIGATION
5. **DECISION MAKING PROCESS**
6. WRITTEN DETERMINATION
7. APPEAL

- Decision-maker has opportunity to question parties and witnesses to evaluate allegations and assess credibility

*Some conduct does not require a live hearing. The Title IX Coordinator will be able to help identify cases when a live hearing is required and cases when it is not.

TITLE IX SOLUTIONS, LLC

GRIEVANCE PROCESS

1. INTAKE & REVIEW
2. FORMAL COMPLAINT
3. NOTICE OF ALLEGATIONS
4. INVESTIGATION
5. DECISION MAKING PROCESS
6. **WRITTEN DETERMINATION**
7. APPEAL

- Standard of evidence is used to determine whether a policy violation occurred
- Notification is issued to the parties in writing

GRIEVANCE PROCESS

1. INTAKE & REVIEW
2. FORMAL COMPLAINT
3. NOTICE OF ALLEGATIONS
4. INVESTIGATION
5. DECISION MAKING PROCESS
6. WRITTEN DETERMINATION
7. **APPEAL**

- Parties have the right to appeal the process on the following bases:
  - Procedural irregularity that would change the outcome
  - New evidence that would change the outcome and that was not reasonably available when the determination was made
  - The Title IX Coordinator, investigator, or decisionmaker had a conflict of interest or bias that would change the outcome

TITLE IX SOLUTIONS, LLC

INFORMAL RESOLUTION

AT ANY TIME PRIOR TO DETERMINING WHETHER SEXUAL HARASSMENT OCCURRED, A SCHOOL MAY OFFER TO A COMPLAINANT AND RESPONDENT AN INFORMAL RESOLUTION PROCESS.

- Cannot offer informal resolution if the complaint includes allegations that:
  - An employee engaged in sexual harassment of an elementary school or secondary school student
  - Process would conflict with Federal, State or local law
- Schools cannot require or pressure the parties to participate in an informal resolution process.
- The school must obtain the parties' voluntary consent to the informal resolution process

TITLE IX SOLUTIONS, LLC

OVERVIEW OF THE TITLE IX REGULATIONS



IN THIS CHAPTER



INTRODUCTION TO THE TITLE IX REGULATIONS



SEXUAL HARASSMENT AND RECIPIENT RESPONSE



TITLE IX GRIEVANCE PROCESS FOR FORMAL COMPLAINTS



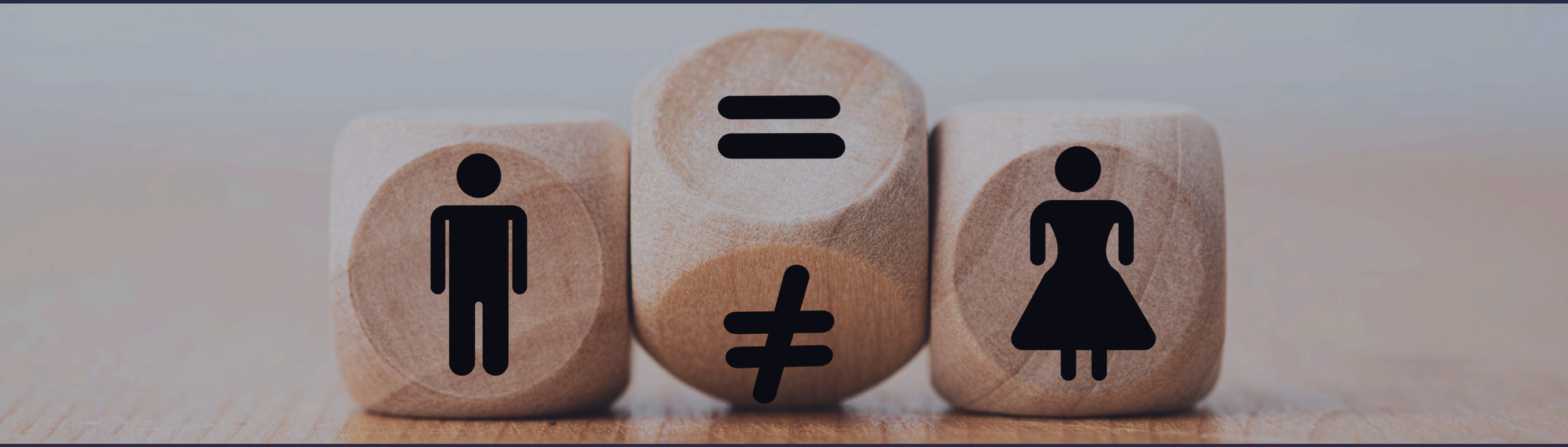
SPEAKER

PATRICK MATHIS, J.D.

CO-FOUNDER & MANAGING MEMBER

TITLE IX SOLUTIONS

INTRODUCTION TO THE TITLE IX REGULATIONS



TITLE IX COVERAGE

POSTSECONDARY INSTITUTIONS

Includes:

- Undergraduate schools
- Graduate schools
- Vocational schools
- Professional schools/programs

ELEMENTARY & SECONDARY SCHOOLS

Includes:

- Preschools and Pre-K programs
- Private elementary and secondary schools
- Charter schools

WHAT IS A RECIPIENT?

§106.2

Definitions

"Any State or political subdivision thereof, or any instrumentality of a State or political subdivision thereof, any public or private agency, institution, or organization, or other entity, or any person, to whom Federal financial assistance is extended directly or through another recipient and which operates an education program or activity which receives such assistance, including any subunit, successor, assignee, or transferee thereof."

COMPLIANCE WITH THE REGULATIONS

RECIPIENTS MUST COMPLY WITH THE REQUIREMENTS OF TITLE IX AS OUTLINED UNDER THE REGULATIONS.

Recipients may:

- Provide guidelines, policies or protocols through their codes of conduct beyond the scope of the regulations;

and/or

- Provide details regarding policies or procedures which are not addressed in the regulations

SCHOOL'S REQUIRED RESPONSE

PROMPT AND EQUITABLE GRIEVANCE PROCEDURES



Sex Discrimination



Sexual Harassment

(§106.45)

ALWAYS REFER TO YOUR SCHOOL'S TITLE IX POLICY!

WHEN IS SEX-BASED HARASSMENT ACTIONABLE?



When it denies a person equal access to education

TITLE IX'S APPLICATION

REGULATIONS APPLY EQUALLY TO ALL PERSONS, REGARDLESS OF:



Gender Identity or Expression

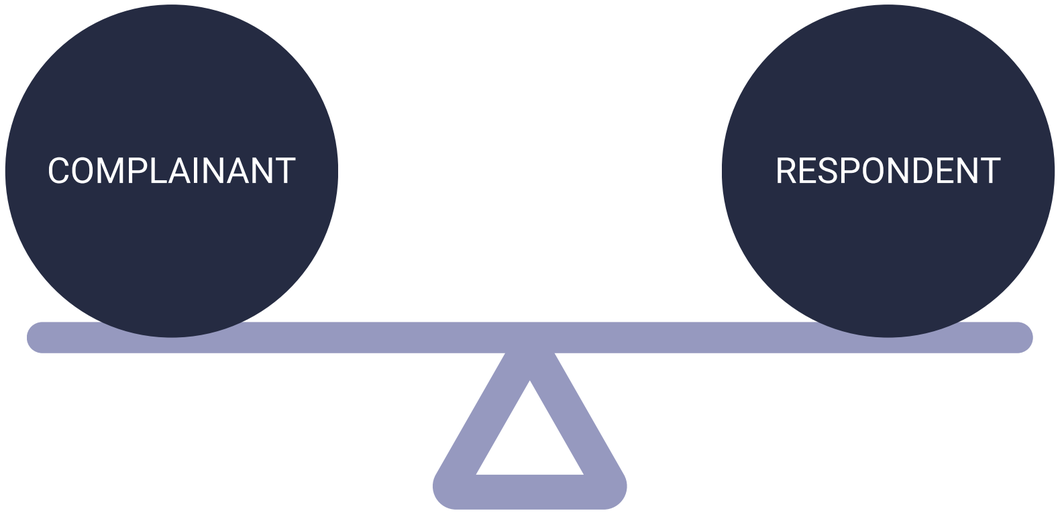


Sexual Orientation

TREATMENT OF THE PARTIES

A SCHOOL MUST TREAT BOTH PARTIES EQUITABLY AND EQUALLY THROUGHOUT THE PROCESS.

This includes supportive measures, investigations, and the grievance process



BIAS AND CONFLICT OF INTEREST

§106.45 (b)(1)(3)

Grievance process for formal complaints of sexual harassment

"…that any individual designated by a recipient as a Title IX Coordinator, Investigator, Decision-Maker, or any person designated by a recipient to facilitate an informal resolution process, not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent."

TITLE IX PERSONNEL

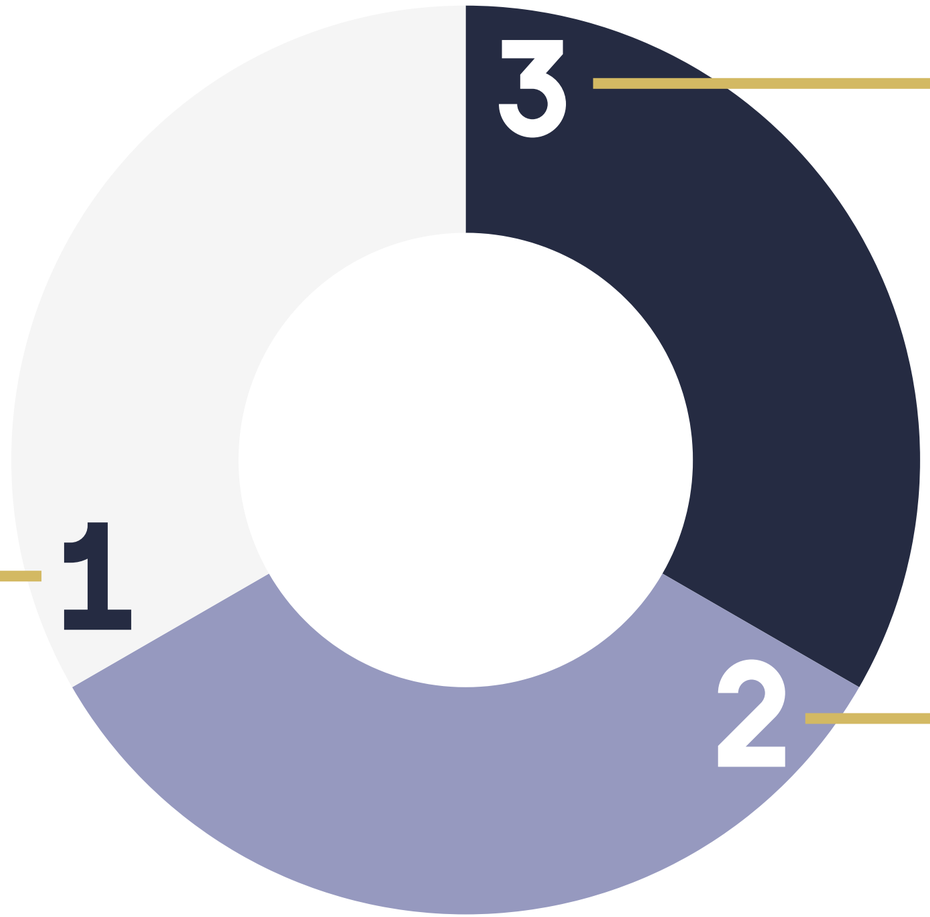


Recipients have the flexibility to use their own employees or external Title IX Investigators, Adjudicators, or Informal Resolution Facilitators

SEXUAL HARASSMENT AND RECIPIENT RESPONSE



SEXUAL HARASSMENT



SPECIFIC OFFENSES

- Sexual Assault
- Dating Violence
- Domestic Violence
- Stalking

HOSTILE ENVIRONMENT HARASSMENT

- Davis Standard

QUID PRO QUO HARASSMENT

*conduct **on the basis of sex** that satisfies one or more of the following categories

SEXUAL HARASSMENT

1

QUID PRO QUO

DEFINITION:

An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient of an individual's participation in unwelcome sexual conduct.

- May be expressed or implied
- Need not be “severe” or “pervasive” as a single incident
- Considered inherently “offensive” and jeopardizes equal educational access

SEXUAL HARASSMENT

2

HOSTILE ENVIRONMENT

DEFINITION:

Unwelcome conduct determined by a reasonable person to be so **severe**, **pervasive** and **objectively offensive** that it effectively denies a person equal access to the recipient's education program or activity.

SEXUAL HARASSMENT

3

DEFINED ACTS

SPECIFIC OFFENSES DEFINED UNDER THE FBI'S UNIFORM CRIME REPORTING (U.C.R) PROGRAM.

- Sexual Assault
- Dating Violence
- Domestic Violence
- Stalking

SEXUAL ASSAULT

SEX OFFENSES, FORCIBLE:

Any sexual act directed against another person, without the consent of the victim including instances where the victim is incapable of giving consent.

- Forcible Rape
- Forcible Sodomy
- Sexual Assault with an Object
- Forcible Fondling

SEX OFFENSES, NONFORCIBLE:

Unlawful, nonforcible sexual intercourse (not including prostitution offenses).

- Incest
- Statutory Rape

20 U.S.C. 1092(f)(6)(A)(v)

DATING VIOLENCE

VIOLENCE COMMITTED BY A PERSON:

a. who is or has been in a social relationship of a romantic or intimate nature with the victim; and
b. where the existence of such a relationship shall be determined based on a consideration of the following factors:
    i. The length of the relationship.
    ii. The type of relationship.
    iii. The frequency of interaction between the persons involved in the relationship.

34 U.S.C. 12291(a)(10)

DOMESTIC VIOLENCE

FELONY OR MISDEMEANOR CRIMES OF VIOLENCE COMMITTED BY A CURRENT OR FORMER SPOUSE OR INTIMATE PARTNER OF THE VICTIM:

a. by a person with whom the victim shares a child in common,

b. by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner,

c. by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies,

d. or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction.

34 U.S.C. 12291(a)(8)

STALKING

ENGAGING IN A COURSE OF CONDUCT DIRECTED AT A SPECIFIC PERSON THAT WOULD CAUSE A REASONABLE PERSON TO:

1. Fear for his or her safety or the safety of others; or
2. Suffer substantial emotional distress

34 U.S.C. 12291(a)(30)

CONSENT



The Regulations do not include a definition of consent and do not require recipients to adopt a particular definition of consent, including "affirmative consent," with respect to sexual assault.

RECIPIENT'S RESPONSE

THRESHOLD CRITERIA (ALL FOUR MUST BE MET):

- Incident constitutes sexual harassment as previously defined
- School must have “actual knowledge” of an allegation of the incident of sexual harassment
- Conduct must have occurred within the school’s own education program or activity
- Alleged harassment must have occurred within the United States

ACTUAL KNOWLEDGE DEFINED

§ 106.30 Definitions

"Notice of sexual harassment or allegations of sexual harassment to a recipient's Title IX Coordinator or any official of the recipient who has authority to institute corrective measures on behalf of the recipient, or to any employee of an elementary and secondary school"

- Does not need to be a written statement or a formal complaint
- May be conveyed by any person, not just the Complainant
- May be "written or oral, by observation, via a newspaper article or other means"



Postsecondary Institutions - reporting to Title IX Coordinator always constitutes actual knowledge

Elementary and Secondary Institutions - reporting to ANY employee constitutes actual knowledge

EDUCATION PROGRAM OR ACTIVITY DEFINED

§ 106.11
Application

Recipient’s education program or activity includes but is not limited to conduct that occurs in a building owned or controlled by a student organization that is officially recognized by a postsecondary institution, and conduct that is subject to the recipient’s disciplinary authority.

- School may offer supportive measures if harassment occurred outside of the educational program or activity
- School's responsibility is limited under Title IX regulations, though conduct outside of this jurisdiction may be addressed by Code of Conduct or other policies
- Schools must make fact-specific determinations regarding substantial control over the respondent and the context

RECIPIENT'S RESPONSE

Schools must not act in a manner that is deliberately indifferent, meaning:

"...clearly unreasonable in light of the known circumstances."

RECIPIENT'S RESPONSE

QUALIFYING INCIDENTS OF SEXUAL HARASSMENT

- Treat Complainants and Respondents equitably by offering supportive measures

WHEN DO THEY APPLY?

WHAT DO THEY INCLUDE?

- Follow a grievance process that complies with §106.45 of the Title IX Regulations

RECIPIENT'S RESPONSE

QUALIFYING INCIDENTS OF SEXUAL HARASSMENT

The Title IX Coordinator must promptly contact the Complainant to:

1. Discuss the availability of supportive measures as defined in §106.30;
2. Consider the Complainant's wishes with respect to supportive measures;
3. Inform the Complainant of the availability of supportive measures with or without the filing of a formal complaint;
4. Explain to the Complainant the process for filing a formal complaint.

RECIPIENT'S RESPONSE

SUPPORTIVE MEASURES

§ 106.30 Definitions.

"non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed"

- Intended to restore Complainant's access to educational program or activity

RECIPIENT'S RESPONSE

EMERGENCY REMOVAL

- Safety and risk analysis
- Immediate threat to physical health or safety
- Provide Respondent with notice and opportunity to challenge the decision

RECIPIENT'S RESPONSE

ADMINISTRATIVE LEAVE



- Applies to non-student employees

TITLE IX GRIEVANCE PROCESS FOR FORMAL COMPLAINTS



GRIEVANCE PROCESS

1. INTAKE & REVIEW
2. FORMAL COMPLAINT
3. NOTICE OF ALLEGATIONS
4. INVESTIGATION
5. DECISION-MAKING PROCESS
6. WRITTEN DETERMINATION
7. APPEAL

INFORMAL RESOLUTION WINDOW

TITLE IX SOLUTIONS, LLC

BASIC REQUIREMENTS

A RECIPIENT'S GRIEVANCE PROCESS MUST:



TREAT COMPLAINANTS AND RESPONDENTS EQUALLY

- Ensure processes do not differ based on status as a Complainant or Respondent
- Communicate rights of the parties

BASIC REQUIREMENTS

A RECIPIENT'S GRIEVANCE PROCESS MUST:

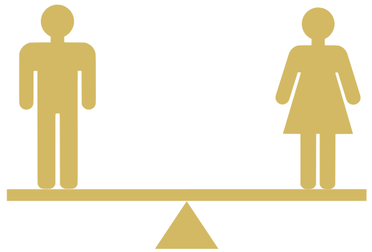


REQUIRE OBJECTIVE EVALUATION OF RELEVANT EVIDENCE

- Consider both inculpatory and exculpatory evidence
  - Inculpatory = Corroborating evidence
  - Exculpatory = Contradictory evidence
- Do not determine credibility based solely on a person's status as a Complainant, Respondent, or witness

BASIC REQUIREMENTS

A RECIPIENT'S GRIEVANCE PROCESS MUST:



REQUIRE TITLE IX PERSONNEL NOT HAVE BIAS AND CONFLICT OF INTEREST

- Title IX personnel must be trained
- Title IX personnel must *“not have a conflict of interest or bias for or against Complainants or Respondents generally or an individual Complainant or Respondent"*
- Title IX personnel should consider recusing themself if they are unable to serve impartially.

BASIC REQUIREMENTS

A RECIPIENT'S GRIEVANCE PROCESS MUST:

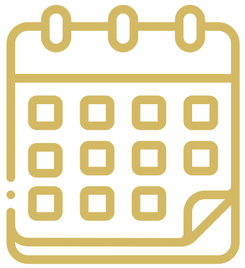


INCLUDE A PRESUMPTION THAT RESPONDENT IS NOT RESPONSIBLE UNTIL A DETERMINATION IS MADE

- Punitive measures may not be put in place until a finding of responsibility has been issued
- Think *"innocent until proven guilty"* in the criminal justice system

BASIC REQUIREMENTS

A RECIPIENT'S GRIEVANCE PROCESS MUST:



INCLUDE REASONABLY PROMPT TIME FRAMES

- Title IX policies should include reasonably prompt time frames for filing and resolving appeals, informal resolution processes, and more
- The grievance process may be delayed for good cause, which could include:
  - Absence of a party or party's advisor
  - Request from law enforcement to pause for concurrent investigation
  - Acquiring accommodations such as language assistance, disabilities

BASIC REQUIREMENTS

A RECIPIENT'S GRIEVANCE PROCESS MUST:



DESCRIBE RANGE OF POSSIBLE DISCIPLINARY SANCTIONS AND REMEDIES

- Ensure these ranges are communicated in policy and procedural documents

BASIC REQUIREMENTS

A RECIPIENT'S GRIEVANCE PROCESS MUST:



STATE THE STANDARD OF EVIDENCE

- A school may elect to apply either:
  - The preponderance of evidence (“more likely than not”) standard; or
  - The clear and convincing evidence (“highly probable") standard
- The same standard of evidence must be used for:
  - Formal complaints against students as is used for formal complaints against employees, including faculty
  - All formal complaints of sexual harassment

BASIC REQUIREMENTS

A RECIPIENT'S GRIEVANCE PROCESS MUST:



INCLUDE THE PERMISSIBLE BASES FOR APPEAL

- Title IX allows for appeals of the final determination of responsibility

BASIC REQUIREMENTS

A RECIPIENT'S GRIEVANCE PROCESS MUST:



DESCRIBE THE RANGE OF SUPPORTIVE MEASURES AVAILABLE

- Ensure these ranges are communicated in policy

BASIC REQUIREMENTS

A RECIPIENT'S GRIEVANCE PROCESS MUST:



NOT REQUIRE OR RELY ON PRIVILEGED INFORMATION, UNLESS WAIVED

- This would include information such as:
  - Medical records
  - Academic records protected under FERPA
  - Conversations with privileged individuals such as counselors or clergy

TITLE IX SOLUTIONS, LLC

ROLE OF THE TITLE IX INVESTIGATOR



IN THIS CHAPTER



ROLE OF THE TITLE IX INVESTIGATOR

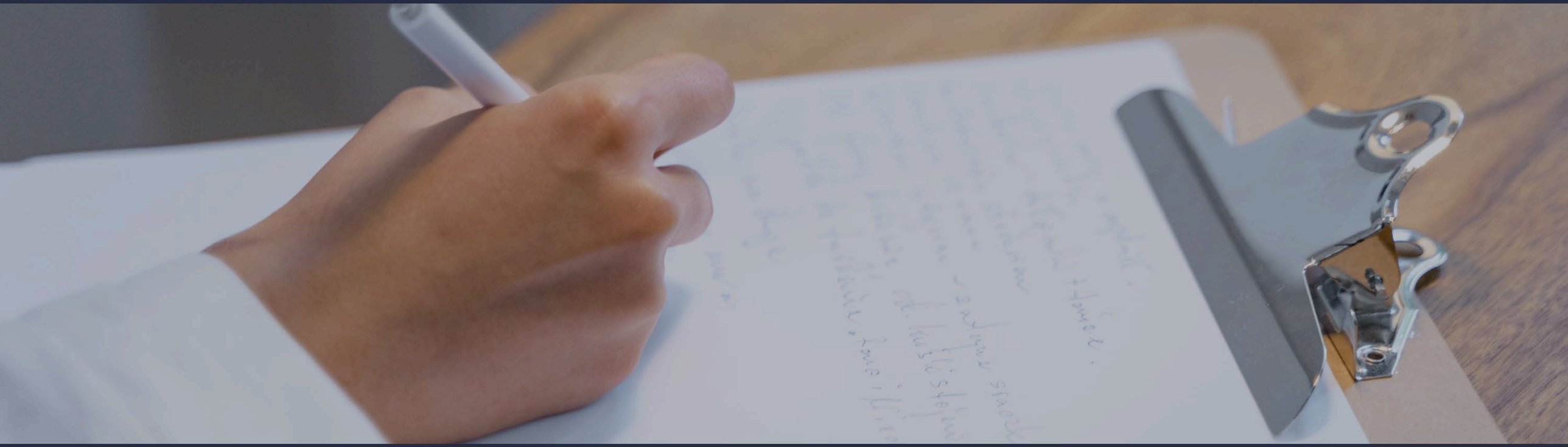


SPEAKER

LIZ ABDNOUR

INDEPENDENT INVESTIGATOR & ADVISOR

ROLE OF THE TITLE IX INVESTIGATOR



OVERVIEW OF TITLE IX

- Schools have an obligation to respond to allegations of anything that falls under the umbrella of Title IX
- When a school has actual knowledge, they must respond promptly in a manner that is not deliberately indifferent
- Investigators become a part of the process once a formal complaint has been filed.

INVESTIGATORS ARE:

IMPARTIAL

UNBIASED

FREE OF CONFLICT

CONFLICT CHECK POINTS

BEFORE STARTING THE INVESTIGATION, CHECK IF YOU HAVE A CONFLICT OF INTEREST WITH THE FOLLOWING PARTIES:

- ☑ Complainant
- ☑ Respondent
- ☑ Witnesses (if available before the investigation)
- ☑ Advisors

CONFLICT OF INTEREST

WHAT TO DO WHEN YOU DO HAVE A CONFLICT OF INTEREST

- Let the Title IX Coordinator know
- Always best to proceed on the side of caution
- Have the discussion up front and document the basis for your decision
- Often more common in smaller schools that don't have a full time investigator
    - Example: *Director of Human Resources investigating a case where the complainant is a student worker in the HR department but doesn't work for the director directly.*

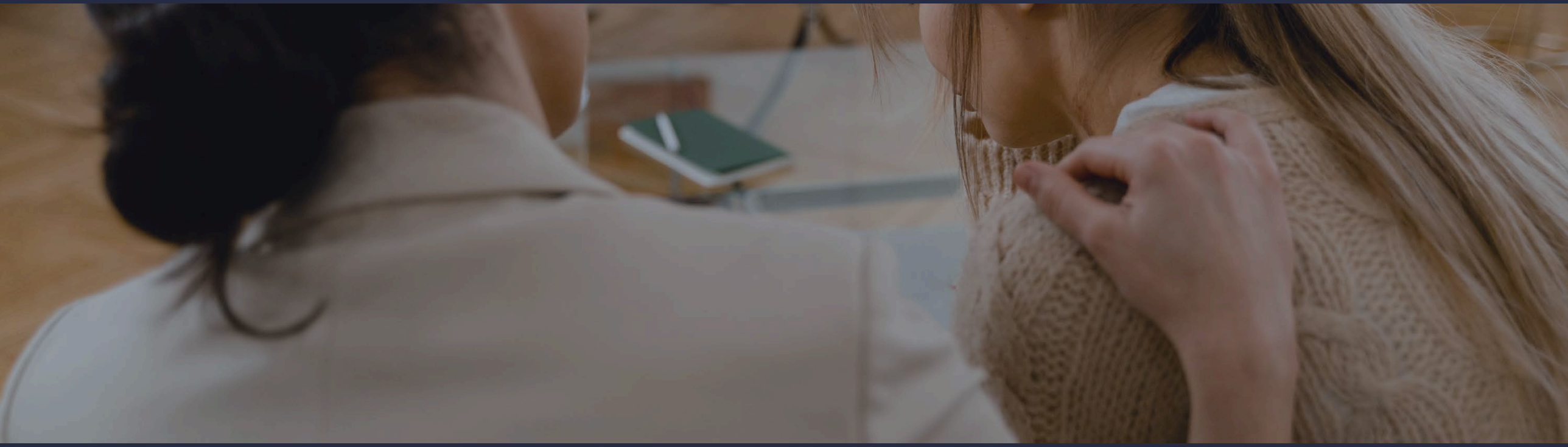
INVESTIGATORS ARE:

IMPARTIAL

UNBIASED

FREE OF CONFLICT

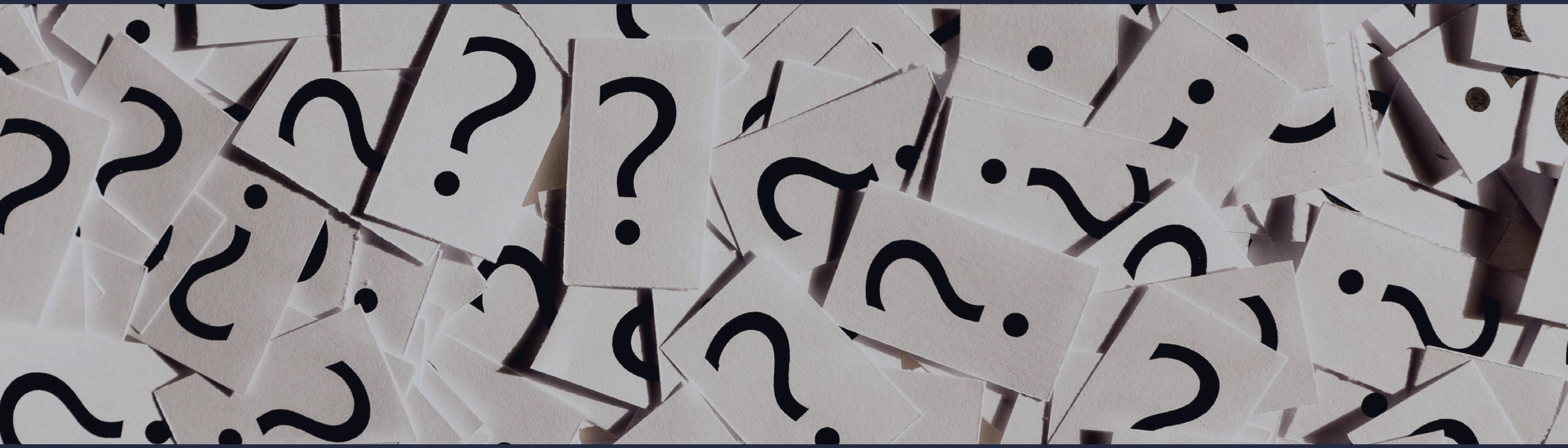
TRAUMA - INFORMED INTERVIEWING



BEST PRACTICES

- Make sure you aren’t asking anything in an accusatory way
- You will have to ask uncomfortable questions that may seem accusatory or victim-blaming when asked
  - Make sure you explain and give rationale for why you are asking those questions.
- Allow the individual to tell their account through their narrative
  - Gives the party power and control and help them feel comfortable
- Make sure parties are aware of their right to bring an advisor
- Let parties know that they can ask for a break, water, tissues, etc.
- Acknowledge the parties experience and stress

KEY QUESTIONS OF THE TITLE IX GRIEVANCE PROCESS



KEY QUESTIONS

THREE QUESTIONS THAT FORM THE BASIS OF WHAT YOU WILL BE COLLECTING INFORMATION ABOUT AS AN INVESTIGATOR

? What is the alleged conduct?

? Does the evidence support a finding that the alleged conduct occurred?

? If that conduct did occur, was that conduct a violation of the school's policy?

BEST PRACTICES

RELEVANCY

- You will receive lots of pieces of information during your investigation and you will need to assess if something is relevant
- Talk with your Title IX Coordinator about how much information they would like included in your report

REVIEW THE POLICY

- You will have an allegation that you are investigating, but during the investigation you may identify conduct that is an additional policy violation

BEST PRACTICES

RIGHTS AND RESPONSIBILITIES OF THE PARTIES

- Neither party is ever required to participate in the investigation
- Get guidance from your Title IX Coordinator if the Complainant or Respondent is not participating

ADVISORS

- Know the role of the advisor and remind them of their role
- Maintain interview decorum that is beneficial for the party, advisor, and the investigator

INTERVIEWING MINORS



INTERVIEWING MINORS

INFORMATION SHARING

- Information may need to be shared with police or child protective services
- Varies state by state

PARENT AND GUARDIAN INVOLVEMENT

- Involve them as much as possible
- Communicate with parents/guardians
- Check state law

GENERAL TIPS FOR THE INVESTIGATION PROCESS



TEAM OF TWO INVESTIGATORS

MAKE SURE YOU PLAN AHEAD AND DISCUSS THE ROLES AND RESPONSIBILITIES OF EACH INVESTIGATOR.



LEAD INVESTIGATOR

- Coordinates with the Title IX Coordinator and the Parties
- Leads investigative interviews
- Drafts the Investigative Report and prepares the Investigation File



CO-INVESTIGATOR

- Takes notes during interviews
- Notes questions
- Asks questions during the interview if prompted by the Lead Investigator

QUESTIONING

INTERVIEW QUESTION PREPARATION

- Think about flow of your questioning
  - Will you write out every questions or general outline with bullet points of the topics you need to cover?

PERSONAL AND INTIMATE QUESTIONS

- Be prepared to follow up and keep asking questions
- Get comfortable with uncomfortability.
  - Use scientific terms
  - Practice saying these terms if you’re uncomfortable
- You will lose the confidence of the interviewee if you are uncomfortable



CREDIBILITY ASSESSMENT

YOUR JOB IS TO COLLECT INFORMATION, NOT ASSESS OR PUT ANY JUDGEMENT ON THAT INFORMATION.

- Title IX Regulations allow for investigators to collect evidence related to credibility and summarize that in a report.
- Use evidence and interviews to show parties credibility
- Remember you cannot draw any conclusions. Leave those out of your report.

ADDITIONAL TIPS

- **BE FLEXIBLE**
- **BE TRANSPARENT**
- **UNDERSTAND THE TIME COMMITMENT**
- **SELF CARE & COMMUNITY CARE**

LAWSUITS

WHAT SHOULD I DO IF I AM NAMED IN A LAWSUIT?

- Before starting an investigation, make sure you are indemnified by the institution
- If you're named:
  - Get a good lawyer
  - Cooperate with your lawyer
  - Do not panic!
- Even though this is scary and hard, it makes the work worth doing
- This work needs really good people -- like you!

TITLE IX SOLUTIONS, LLC

INVESTIGATION PLANNING AND DESIGN



IN THIS CHAPTER



FORMING AN INVESTIGATIVE TEAM



REVIEWING KEY DOCUMENTS



DRAFTING AN INVESTIGATIVE PLAN



SPEAKER

ADRIENNE MATHIS

EXECUTIVE DIRECTOR

TITLE IX SOLUTIONS

FORMING AN INVESTIGATIVE TEAM



FORMING AN INVESTIGATIVE TEAM

FACTORS TO CONSIDER:

- Experience with Title IX investigations, specific forms of sexual harassment, student or employee cases, etc.
- Availability to conduct an investigation
- Conflicts of interest and/or actual and perceived biases



ADDITIONAL FACTORS TO CONSIDER

GENDER BALANCE

- Investigators of different genders are present during Complainant, Respondent, and Witness interviews
- Interviewees can converse with the gender with which they feel most comfortable
- Regardless, Investigators must work to develop rapport with interviewee

NATIVE LANGUAGE OF THE PARTIES

- Lead Investigator is a native speaker or very fluent in the interviewee's language
- If not possible, interviews may require a translator
  - The translator should be briefed on the Title IX process and relevant terms

TEAM OF TWO INVESTIGATORS



LEAD INVESTIGATOR

- Coordinates with the Title IX Coordinator and the Parties
- Leads investigative interviews
- Drafts the Investigative Report and prepares the Investigation File



CO-INVESTIGATOR

- Takes notes during interviews
- Notes questions
- Asks questions during the interview if prompted by the Lead Investigator

Ideally, a team will consist of two Investigators. It is not required under Title IX. Due to lack of personnel, availability, or resources, this may not be possible at every investigation at your institution. Consult with your Title IX Coordinator about your school's options.

COMMUNICATING WITH YOUR CO-INVESTIGATOR

AS A TEAM, IT IS IMPORTANT TO DELEGATE TASKS AND PLAY OFF ONE ANOTHER'S SKILLS AND EXPERIENCES. AT A MINIMUM, DISCUSS THE FOLLOWING TOPICS WITH YOUR CO-INVESTIGATOR:



- Who is the Lead Investigator?
- Who will take notes during interviews?
- Who will communicate with the Title IX Coordinator?
- Who will communicate with the parties and witnesses?
- Who will draft the Investigative Report?

REVIEWING KEY DOCUMENTS



DOCUMENTS TO REVIEW

- Institutional Title IX / Sexual Harassment Policy and Procedures
  (May be called "Sexual Misconduct Policy")
- Incident Report (if available)
- Formal Complaint
- Notice of Allegations
- Internal Templates

TITLE IX POLICY

THIS POLICY OUTLINES KEY DEFINITIONS, GRIEVANCE PROCESSES, RIGHTS OF THE PARTIES, AND THE INSTITUTION'S TITLE IX REQUIREMENTS.

- Review the Policy and Procedures numerous times and at every stage of the investigation process
  - The Policy and Procedures must be followed throughout the investigation
  - Ensure you are following the correct grievance process based upon the complaint
- Review the Rights of the Parties
  - For example: Parties are not required to participate in the investigation, have the right to share their account and have it on the record, and may have an Advisor
- Direct Parties and Witnesses to the Policy and Procedures
- Direct questions or concerns about the Policy or Procedures to the Title IX Coordinator

INCIDENT REPORT AND FORMAL COMPLAINT

INCIDENT REPORT

- Submitted by Complainant or a third party
- May be anonymous
- Makes the institution aware of an alleged incident
- Does not initiate the Title IX grievance process

FORMAL COMPLAINT

- Signed and submitted by the Complainant or Title IX Coordinator
- Alleges sexual harassment against a Respondent
- Requests the school investigate the allegation
- Required for the Title IX grievance process to begin

SAMPLE REPORT

January 12, 2022: Mr. Jones emailed Title IX Coordinator Adrienne Mathis about an incident that may have occurred on a recent Outdoor Adventure Club excursion. Mr. Jones is Brittnay Jones' father, who is a freshman at Sample High School. Mr. Jones was chaperoning the club's recent hiking excursion and witnessed senior Kelly Brown grab sophomore Jose Torres' buttocks numerous times while walking behind Jose on the trails. Mr. Jones says that Kelly also grabbed Jose's genital area over his pants while taking a water break and seemed to attempt to put her hand down his hiking pants while in the woods. Although Kelly appeared to be flirting or joking with Jose, Jose was not smiling or laughing like Kelly.

SAMPLE FORMAL COMPLAINT

On January 10, 2022, I went on a hiking excursion with the Outdoor Adventure Club. When I was hiking, Kelly Brown grabbed my butt and privates while we were hiking. She even tried to put her hand down my pants while Mr. Diaz was teaching us about the birds. In our Club meeting this week, Kelly touched my hair, rubbed my back, and put her hand on my knee, and I didn't want her to do that. I don't know how to get her to stop touching me. My best friend Diego Robles recorded her touching my hair. I want Sample High School to investigate.

Signed: Jose Torres, January 19, 2022

NOTICE OF ALLEGATIONS

- Prepared by the Title IX Coordinator and sent to the Complainant and Respondent at the start of the investigation
- Contains significant detail about the alleged incident, including the identities of the involved parties, conduct allegedly constituting sexual harassment, and the date and location of the reported incident
- Ideally includes the definitions of the alleged policy violations

SAMPLE NOTICE OF ALLEGATIONS

Complainant sophomore Jose Torres alleges that senior Kelly Brown grabbed his buttocks and genital area while on an Outdoor Adventure Club excursion. Torres also alleges that Brown attempted to put her hand down his pants. This incident occurred on January 10, 2022. Torres also alleges that Brown inappropriately touched his hair, back, and knee during an Outdoor Adventure Club meeting on January 18, 2022.

- Violation of Sample University Sexual Harassment Policy (Policy 237): Sexual Assault (Forcible Fondling): *Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the district's education program or activity*

WHY IS THE NOTICE OF ALLEGATIONS IMPORTANT?

IF WRITTEN CORRECTLY, IT CAN LAY THE FOUNDATION FOR AN INVESTIGATION.

- Outlines details from the alleged incident to be verified during the investigation
- Contains names of potential witnesses and/or sources of evidence to be collected
- Presents the timeline of the incident and reporting process
- Helps investigators focus on the key questions that are to be addressed during the Title X Grievance Process

INTERNAL TEMPLATES

YOUR INSTITUTION MAY PROVIDE TEMPLATES FOR YOU TO USE DURING THE INVESTIGATION PROCESS. TEMPLATES MAY INCLUDE:



Invitation to Interview



Interview Preamble



Advisor Agreement



Notice of Investigative Report



Investigative Report Format

DRAFTING AN INVESTIGATIVE PLAN



GETTING STARTED

BEFORE DRAFTING YOUR PLAN, CONFIRM THAT YOU HAVE COMPLETED THE FOLLOWING STEPS:

- Formed your investigative team
- Reviewed key documents, including the Title IX/Sexual Harassment Policy, Notice of Allegations, and the Formal Complaint
- Conducted an assessment for potential conflicts of interest or biases
- Preserved any potential evidence
- Communicated with the Title IX Coordinator about the case

KEY QUESTIONS TO KEEP IN MIND



WHAT IS THE ALLEGED INCIDENT AND DID IT OCCUR?

IS THE ALLEGED INCIDENT A POLICY VIOLATION?

As investigators, these questions help us:

- Understand the scope of the investigation and what is “relevant” and “directly related”
- Recognize key words from policy violations to address during the investigation
- Focus the investigation planning, interview questions, interview summaries & investigative report

DRAFTING THE INVESTIGATION PLAN

AT A MINIMUM, THE INVESTIGATION PLAN INCLUDES:

1. Names of the Investigators
2. Names of the involved parties
3. Summary of allegations
4. Definitions of alleged policy violations
5. Witness list
6. Order of interviews for parties and witnesses
7. Evidence list
8. Preliminary investigation timeline

⚠ Investigation plans may change and evolve throughout the investigation!



START WITH ANY INFORMATION YOU ALREADY KNOW.

INPUT INFORMATION FROM THE NOTICE OF ALLEGATIONS, FORMAL COMPLAINT, AND REPORT!

1 NAMES OF INVESTIGATORS

INCLUDE ANY KNOWN INFORMATION, SUCH AS:

- Full name
- Title
- Email address
- Phone number
- Designation of Lead Investigator
- Known scheduling conflicts (vacations, conferences, etc.)

2 NAMES OF THE PARTIES

INCLUDE ANY KNOWN INFORMATION, SUCH AS:

- Full name
- Contact information
- Parent and/or guardian name(s)
- Parent and/or guardian contact information
- Status at institution
- Age, Grade/Year
- Native language
- Other special considerations (accommodations, IEPs, etc.)
- Name of Advisor (if known), relationship to Advisor (friend, mother, attorney, etc.)

3 SUMMARY OF ALLEGATIONS

INCLUDE INFORMATION FROM THE NOTICE OF ALLEGATIONS, FORMAL COMPLAINT, AND REPORT, SUCH AS:

- Summary of the incident
- Date of the incident
- Location of the incident
- Encounters between the parties before and/or after the incident
- Other available information

4 DEFINITIONS OF POLICY VIOLATIONS

INCLUDE VERBATIM DEFINITIONS:

- Ideally provided in the Notice of Allegations
    - If not provided in the Notice of Allegations, consult with the Title IX Coordinator about potential policy violations
- Analyze the language of the policy violation
- Recognize if more than one policy violation is listed

A thorough understanding of the policy violation will assist you in preparing interview questions.

ANALYZING POTENTIAL POLICY VIOLATIONS

Forcible Fondling: The touching of the private body parts of another person (buttocks, groin, breasts), for the purpose of sexual gratification, forcibly, and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances in which the victim is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the district's education program or activity.

5 WITNESS LIST

INCLUDE ANY KNOWN INFORMATION, SUCH AS:

- Full name
- Contact information
- Status at institution
- Age, Grade/Year
- Relationship with Complainant or Respondent
- When and how they were identified as a witness

6 ORDER OF INTERVIEWS

ORDER INVESTIGATIVE INTERVIEWS LOGICALLY

- Typically, Complainant is interviewed first
- Then, Respondent and witness interviews follow

BE STRATEGIC PLANNING INTERVIEWS, PARTICULARLY WITH RESPONDENT AND WITNESSES

- Scheduling conflicts, delays, or a refusal by the witness to participate may impact your ideal order of interviews
- Witnesses may be added throughout the investigation

7 EVIDENCE LIST

IDENTIFY KNOWN AND POTENTIAL SOURCES OF EVIDENCE, SUCH AS:

- Communication between Complainant and Respondent
- Digital evidence and social media posts/messages
- Surveillance footage, key card logs, etc.

Document which evidence has already been obtained or provided, noting who provided the evidence

Outline how other sources of evidence will be obtained (i.e., asking parties for evidence, coordinating with campus police/campus security, etc.)

8 TIMELINE OF INVESTIGATION

CONSIDER THE DURATION OF EACH STAGE OF THE INVESTIGATION:

- Confirm the investigation's start date
- Set investigation milestones
  - Can be helpful to work backwards from the goal end date of the investigation
- Many timeframes are outside of the investigator’s control
- Check policy to determine timeframes for:
  - Number of days required between noticing Parties of an interview and conducting the interview
  - Amount of time allotted for Parties to review and respond to preliminary Investigative Report
- You will have additional responsibilities to juggle while investigating
- Consider potential roadblocks (school breaks, party/advisor conflicts, personal conflicts, etc.)



REMAIN FLEXIBLE AND FOCUSED.

EVEN THE MOST EFFICIENT INVESTIGATIONS CAN BE TIME-CONSUMING.



PRACTICE DRAFTING AN INVESTIGATION PLAN!

- Review the Sample Report, Formal Complaint, and Notice of Allegations from part two of this chapter.

- Input the appropriate information into the downloadable Investigation Plan sample.

SAMPLE REPORT

January 12, 2022: Mr. Jones emailed Title IX Coordinator Adrienne Mathis about an incident that may have occurred on a recent Outdoor Adventure Club excursion. Mr. Jones is Brittnay Jones' father, who is a freshman at Sample High School. Mr. Jones was chaperoning the club's recent hiking excursion and witnessed senior Kelly Brown grab sophomore Jose Torres' buttocks numerous times while walking behind Jose on the trails. Mr. Jones says that Kelly also grabbed Jose's genital area over his pants while taking a water break and seemed to attempt to put her hand down his hiking pants while in the woods. Although Kelly appeared to be flirting or joking with Jose, Jose was not smiling or laughing like Kelly.

SAMPLE FORMAL COMPLAINT

On January 10, 2022, I went on a hiking excursion with the Outdoor Adventure Club. When I was hiking, Kelly Brown grabbed my butt and privates while we were hiking. She even tried to put her hand down my pants while Mr. Diaz was teaching us about the birds. In our Club meeting this week, Kelly touched my hair, rubbed my back, and put her hand on my knee, and I didn't want her to do that. I don't know how to get her to stop touching me. My best friend Diego Robles recorded her touching my hair. I want Sample High School to investigate.

Signed: Jose Torres, January 19, 2022

SAMPLE NOTICE OF ALLEGATIONS

Complainant sophomore Jose Torres alleges that senior Kelly Brown grabbed his buttocks and genital area while on an Outdoor Adventure Club excursion. Torres also alleges that Brown attempted to put her hand down his pants. This incident occurred on January 10, 2022. Torres also alleges that Brown inappropriately touched his hair, back, and knee during an Outdoor Adventure Club meeting on January 18, 2022.

- Violation of Sample University Sexual Harassment Policy (Policy 237): Sexual Assault (Forcible Fondling): *Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the district's education program or activity*

ELEMENTS OF THE INVESTIGATION PLAN

1. Names of the Investigators
2. Names of the Involved Parties
3. Summary of Allegations
4. Definitions of Alleged Policy Violations
5. Witness List
6. Order of Interviews for Parties and Witnesses
7. Evidence List
8. Preliminary Investigation Timeline

TITLE IX SOLUTIONS, LLC

INVESTIGATIVE INTERVIEW TECHNIQUES



IN THIS CHAPTER



PREPARING A PREAMBLE



RECORDING INTERVIEWS



BUILDING RAPPORT AND TRUST



QUESTIONING THE PARTIES



INTERVIEWING MINORS



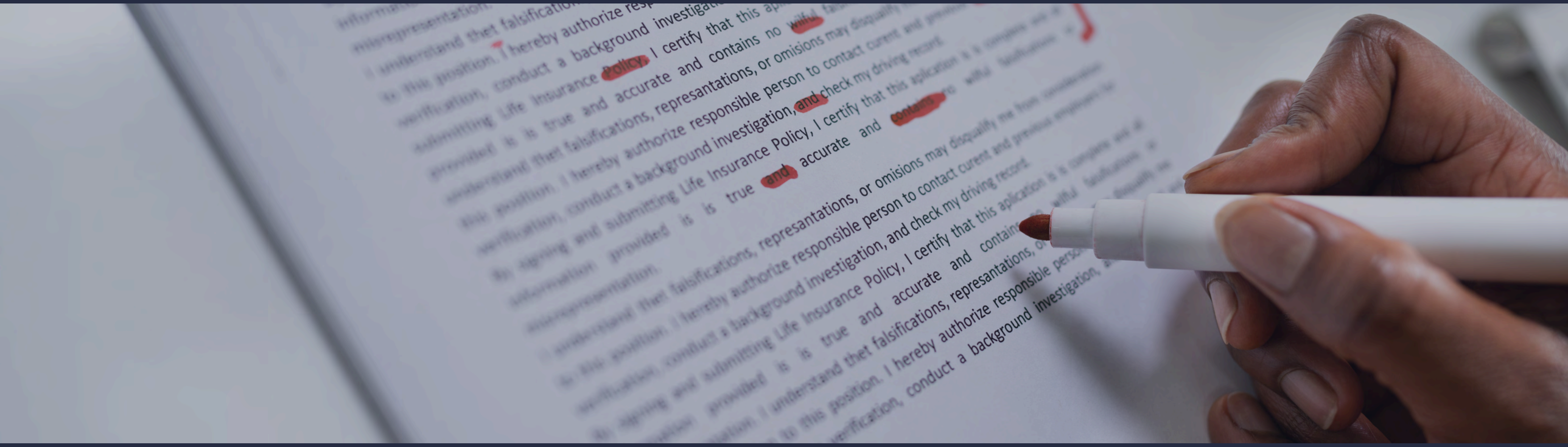
SPEAKER

TOM DENTON

DIRECTOR OF INVESTIGATIONS

TITLE IX SOLUTIONS

PREPARING A PREAMBLE



WHAT IS A PREAMBLE?

READ BY INVESTIGATOR AT THE BEGINNING OF THE INTERVIEW

- State date, time, purpose of the interview, location, persons present and verbal consent of all persons participating
- Ask each person to state their name for later voice identification during transcription
- Time and date should be read onto the recording at the end of the recorded interview

WHAT IS A PREAMBLE?

- Provides Consistency throughout interviews
- Ensures consent, policy violations in question, relevant sections of the policy in question are on the record
- Helps if the Investigator is called as a witness during the hearing or litigation
- Assists in putting the party or witness at ease – they become used to Investigator's voice, presence, etc.

OTHER ELEMENTS TO INCLUDE

- Explain investigative process (refer to policy) and roles and names of Title IX personnel (Coordinator, Investigator(s), Decision-Maker, etc.)
- Cover rights under Title IX and policy
- Inform party of their opportunity to share what actually happened
- Remind party of Advisor's role
- Provide clarification of policy, procedure, and timeline
- Establish meeting decorum (breaks, use of phone, etc.)
- Share Investigator's comfort with difficult topics

SAMPLE PREAMBLE



RECORDING INTERVIEWS



RECORDING BEST PRACTICES

ONLY THE INVESTIGATOR MAY RECORD INTERVIEWS.

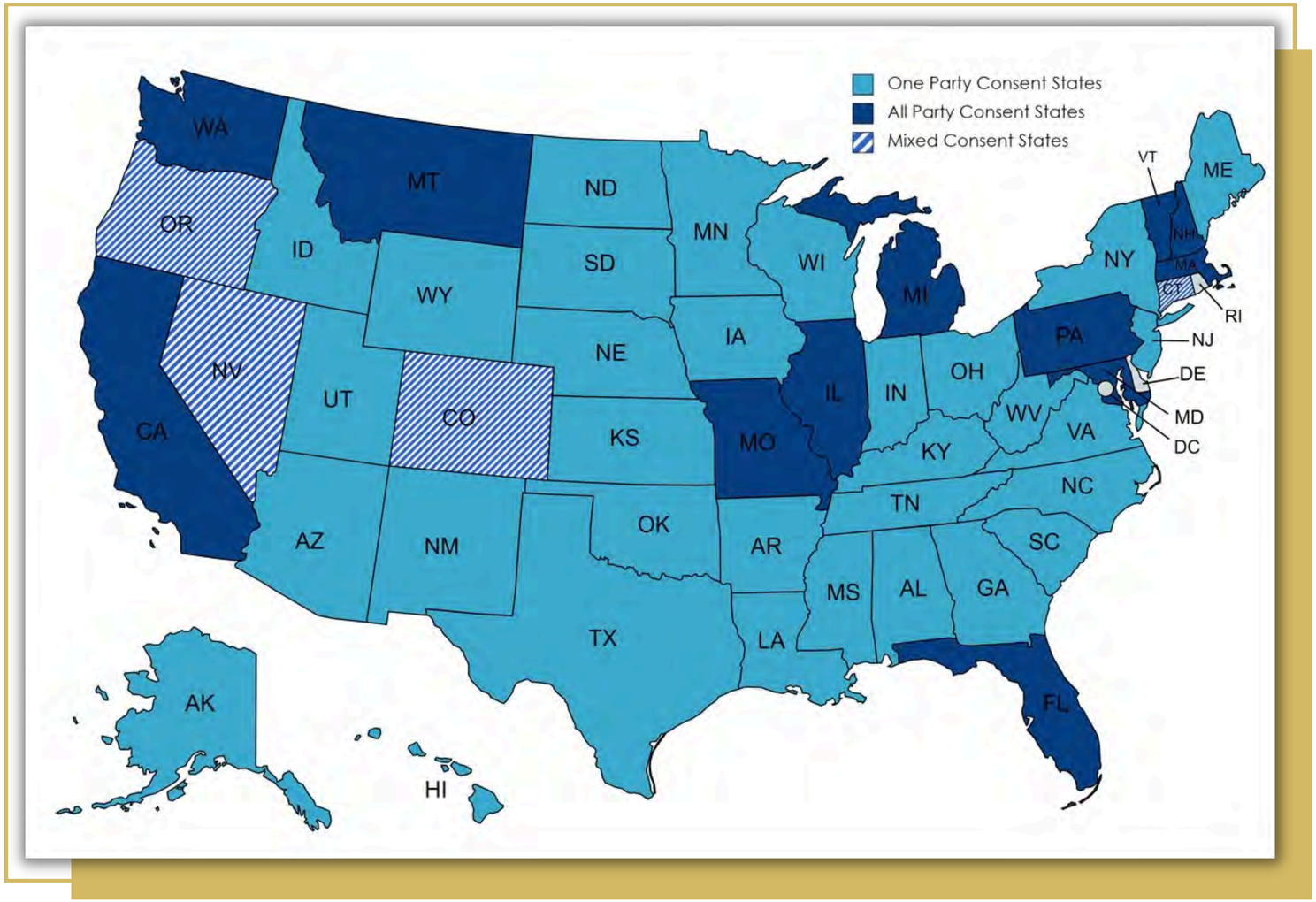
BEST PRACTICES INCLUDE:

- ☑ Obtain consent from the interviewed party
- ☑ Use HD recording application on a phone for the least intimidating in-person option
- ☑ Have the interview transcribed
- ☑ Share transcript and recording of interview with the Parties and Advisors
- ☑ Include transcription and audio recording in the final investigation report and/or file



Recording frees up the Investigator to focus on the interview and interviewee.

OBTAINING CONSENT



- Review state and local law, as well as school policy
- Check for one-party consent, two-party consent, etc.
- Prepare for what you will do if a Party does not give consent to record

TRANSCRIPTION

TRANSCRIPTS WILL PROVIDE QUOTES AND NARRATIVES FOR INVESTIGATIVE REPORT

- Provides a complete word-for-word record of the investigative interviews
  - Does not contain paraphrasing of questions or responses
  - May contain grammatical or syntax errors depending on speech of parties
- Should be reviewed and approved by parties for accuracy before including in the investigation report

TRANSCRIPTION BY A SERVICE VS. SELF-TRANSCRIPTION



Cost



Accuracy



Efficiency

BUILDING RAPPORT AND TRUST



STARTING THE INTERVIEW

- Visualize conducting a successful interview before walking into the room
- Consider how the interviewee perceives the Investigator
- Make the interviewee feel comfortable
- DO NO HARM
- Explain the investigative process at the beginning of the interview
- Use non-threatening questions help to put the interviewee at ease

IMPORTANT REMINDERS

- This is an interview not an interrogation!
- Respondents should be treated with the same respect as the Complainant
- School must presume that Respondent is not responsible for the alleged conduct unless and until a determination of responsibility for a violation of the Title IX policy is made at the conclusion of the grievance process
    - This should be a guiding principle throughout the interview process (and beyond)
- Good cop/bad cop does not work

QUESTIONING THE PARTIES



FOUNDATIONS OF INTERVIEWING

1. SEEKING THE NARRATIVE
2. CONTROLLING THE INTERVIEW FLOW
3. ASKING CLARIFYING QUESTIONS
4. PROVIDING RATIONALE FOR QUESTIONS
5. GATHERING INFORMATION TO SUPPORT ANSWERS

TITLE IX SOLUTIONS, LLC

GUIDELINES FOR GOOD QUESTIONS

OPEN-ENDED

Prompts the party to share more broadly.

NON-LEADING

Do not guide the Parties to the answer you want to hear.

SINGULAR

Avoid complicated, multi-part questions.

CLEAR

Ensure questions use the most clear, concise language aimed at arriving at the information needed.

SENSITIVE

Though questions need to be direct, consider emotions that may be evoked by asking. Practice empathy.

SEEKING THE NARRATIVE

1

YOUR FIRST BROAD QUESTION

"Tell me what happened on the night of August 15, 2022."
"Start at the beginning and tell me what's been going on."

- This may elicit a long-form response
  - Listen carefully to determine which clarifying questions you would like to ask
  - Allow the party to speak, uninterrupted
  - The party may go through a range of emotions
- Allow yourself a way to bring the conversation back

CONTROLLING THE INTERVIEW FLOW

2

CHRONOLOGY-BASED INTERVIEW

- Conducted in the order of events
- May start with the first relevant interaction between the Parties
- Can allow for easy organization of the investigative report
- Allows Parties to recall events in a meaningful order
- Has a clear stopping-point
- May be helpful for incidents with only one allegation or type of policy violation *(For example- an alleged sexual assault taking place in the duration of one-evening)*

TOPIC-BASED INTERVIEW

- Conducted according to themes or topics (allegations, locations, Parties, etc.)
- May jump from date to date
- Can allow for organization of the investigative report according to each allegation
- May help Parties think through each separate allegation
- May be helpful for incidents with multiple allegations over a long period of time (*For example- Quid Pro Quo harassment with an allegations of stalking in multiple locations*) or incidents with multiple Complainants and/or Respondents (*For example- Walking through allegations by each involved person*)

ASK CLARIFYING QUESTIONS



ASK FOR SPECIFICITY

- Encourage Parties to be as descriptive as possible
  - Sense questions (see, smell, hear, taste, touch)
  - Feelings and emotions experienced
  - Full names of individuals mentioned, contact information, relationships
  - Locations, times, dates
  - Quantities of substances consumed
- When in doubt, use, "Tell me more about that..."
  - Allows the Party to dig deeper and recall on their own
- Now is not the time to be shy
  - Explicit details must be shared in many instances

ASK CLARIFYING QUESTIONS

"We started the night at a bar downtown. I can't remember which one. And he started buying me drinks. I got really drunk."

EXAMPLE

What time did you arrive at the bar?
How did you get there?
Can you describe the area?
Had you been to this bar before?
What did the inside of the bar look like?
What types of drinks did he purchase for you?
How many total drinks did you consume?
Did you observe him drinking any alcoholic drinks?

ASK CLARIFYING QUESTIONS

"When I woke up, he was doing stuff to me. I didn't want that to happen, and I never said it was ok. I barely even know him."

EXAMPLE

I know this may be difficult or uncomfortable, but I need to understand the specifics of what he was doing to you. This will help me when I'm writing the report and we are providing your narrative of the events. You can use the terms you feel comfortable using. Can you tell me what he was doing?

ASK CLARIFYING QUESTIONS

"He was having sex with me."

EXAMPLE

Sometimes sex has different definitions to different people. I just want to be sure I am understanding your definition of sex. Can you tell me exactly what acts he was engaging in?

"Yes. First, he fingered me and then started going down on me. Then he penetrated me vaginally with his penis. I told him no, but he just kept going until he got off. I didn't want any of that. I never even wanted to kiss him."

PROVIDING RATIONALE FOR QUESTIONS



- Some questions may sound as though they are victim-blaming without an explanation
  - Help the Party understand why you are seeking this information
- "Why" questions are seen as taboo, but there are times we may need to ask them
  - Explain the need to ask "why" questions

PROVIDING RATIONALE FOR QUESTIONS

EXAMPLE

Instead of:

What were you wearing that night?

Which may be met with:

"Are you saying I deserved this because I was in a little dress? That's exactly what my friends said. I knew I shouldn't have worn that."

Try:

The security system in Oakley Hall recorded a large group returning to the residence hall that night at 1:30 AM. The footage is a little grainy. Could you give me a description of what you were wearing so I can better identify you on the video? Could you describe what Tristan was wearing as well?

PROVIDING RATIONALE FOR QUESTIONS

EXAMPLE

Instead of:

Why did you go into her room?

Which may be met with:

"See, I knew you would think I was stupid for going in there alone. I guess I just wasn't thinking."

Try:

What was your mindset when she invited you into her room? Walk me through what you were thinking and feeling so I can understand your decision to accept her invitation.

TITLE IX SOLUTIONS, LLC

GATHERING INFORMATION TO SUPPORT ANSWERS

5

- Attempt to go one layer deeper
- Seek information that will support or refute certain elements of the allegations



INCAPACITATION
(Due to alcohol or other substances)



CONSENT



POLICY VIOLATIONS
(Elements of the potential policy violation)

GATHERING INFORMATION TO SUPPORT ANSWERS

EXAMPLE

Establishing Consent:

(To Respondent) What verbal or non-verbal cues did he give you to indicate he wanted to have sex?

"I don't know. He didn't say anything when I moved on top of him, so I figured he wanted it. He would have said no or moved away otherwise."

(To Complainant) What was your reaction when you woke up and discovered him on top of you?

"I completely froze. I tried to speak, but I couldn't. I wanted to push him off of me, but it is like my body wasn't listening to my brain. I think I was in shock. I didn't do anything."

GATHERING INFORMATION TO SUPPORT ANSWERS

EXAMPLE

Intoxication/Incapacitation:

(To Respondent) Can you tell me about her mental and physical faculties that led you to believe she was not incapacitated?

"She seemed completely normal. On the bus back from the event, she had a long conversation with my buddy Jace. She got off the bus without any help and was giving everyone hugs before we got in my car to go to the dorm. She sang to the radio and made TikToks the whole way home."

GATHERING INFORMATION TO SUPPORT ANSWERS

EXAMPLE

Elements of a Policy Violation:

Policy Language
Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to (1) fear for the person's safety or the safety of others; or (2) suffer substantial emotional distress.

Can you tell me the number of times the Respondent came to your campus office uninvited during the month of March?

"She came to my office about three times a day, every single day. I didn't even know she knew where I worked. My supervisor finally told her to stop because she was starting to become a disruption."

GATHERING INFORMATION TO SUPPORT ANSWERS

EXAMPLE

Can you tell me the frequency and content of the text messages sent by the Respondent during that same week?

"I think I counted over 450 text messages from her. They came at all hours of the day, asking to meet up for sex and saying she would make sure my girlfriend was out of the picture. I eventually had to block her."

Policy Language

*Stalking: **Engaging in a course of conduct directed at a specific person** that would cause a reasonable person to (1) fear for the person's safety or the safety of others; or (2) suffer substantial emotional distress.*

GATHERING INFORMATION TO SUPPORT ANSWERS

EXAMPLE

How did the office visits and text messages make you feel?

"It got to the point where I was scared to go to work. I didn't know if she'd corner me in the hall or what. I stopped sleeping at night because I figured her next step might be finding out where I lived. I was also afraid for my girlfriend. What did she mean by 'making sure she was out of the picture?' I was terrified she was going to hurt her. All of it is really unsettling and I can't go about my normal day without the worry that she'll be there."

Policy Language

Stalking: Engaging in a course of conduct directed at a specific person that would cause a reasonable person to ***(1) fear for the person's safety or the safety of others; or (2) suffer substantial emotional distress.***

ADVISORS



- As an Investigator, it is your job to maintain authority in the room
- The role of the Advisor is for emotional support and private consultation
- Do not allow the Advisor to speak on behalf of the Party as this is the Party's interview, and you need to hear their story from them

CLOSING



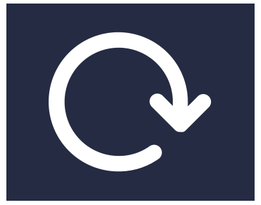
Thank Party for their participation and willingness to speak openly regarding the allegations



Ensure Parties have asked any questions they may have



Provide timeline or next steps, as well as contact information



Close any loops, so the party has a clear understanding of what is to come and what options are available to them at this point in the process

CIRCLING BACK

- Do not be afraid to re-interview a party or witness if you require more information
- Make your contact information available to interviewees
- After completing your first round of interviews, you may become aware of new witnesses
- Promptly contact and schedule interviews with those witnesses

QUICK TIPS

- More information is always better
  - It is easier to pare down than to move forward with incomplete information
- Let your future investigative report be your guide
  - Think through the sections you need to complete and ensure you will have the information needed to do so
  - A thorough investigation means easier report writing
- Measure twice, cut once (prepare and be twice as thorough, interview once)

INTERVIEWING MINORS



CONSIDERATIONS FOR MINORS

CHILDREN ARE VERY DIFFERENT THAN ADULTS

AGE OF THE CHILD IS ALSO IMPORTANT

- Emotional maturity of a child must be considered
- Tailor interviews accordingly
  - Provide clear guidelines for the interview
  - Use age-appropriate language

USEFUL QUESTIONS FOR MINOR RESPONDENTS:

- "Where was this behavior learned?" and/or
- "Why are they behaving in this way?"
  - Actions may be a reflection of their own experiences with abuse
  - May warrant a safety and risk assessment of their own situation

CONSIDERATIONS FOR MINORS

HELPFUL TO UTILIZE ANATOMICALLY CORRECT DOLLS

ENSURE PRESENCE OF PARENT OR GUARDIAN AND OUTLINE RULES OF PARTICIPATION FOR PARENTS

- If a parent allows child to interview alone, NEVER interview without another adult in the room

USE ONLY THE CHILD'S FIRST NAME OR INITIALS TO PROTECT THEIR IDENTITY

- Transcripts
- Recording
- Investigation report and file

TITLE IX SOLUTIONS, LLC

INVESTIGATIVE REPORT WRITING



TITLE IX SOLUTIONS, LLC

IN THIS CHAPTER



SHARING EVIDENCE WITHOUT AN INVESTIGATIVE REPORT



ELEMENTS OF THE INVESTIGATIVE REPORT



SUMMARIZING INTERVIEWS & EVIDENCE



REVIEWING THE REPORT



THE INVESTIGATION FILE



SAMPLE REPORT

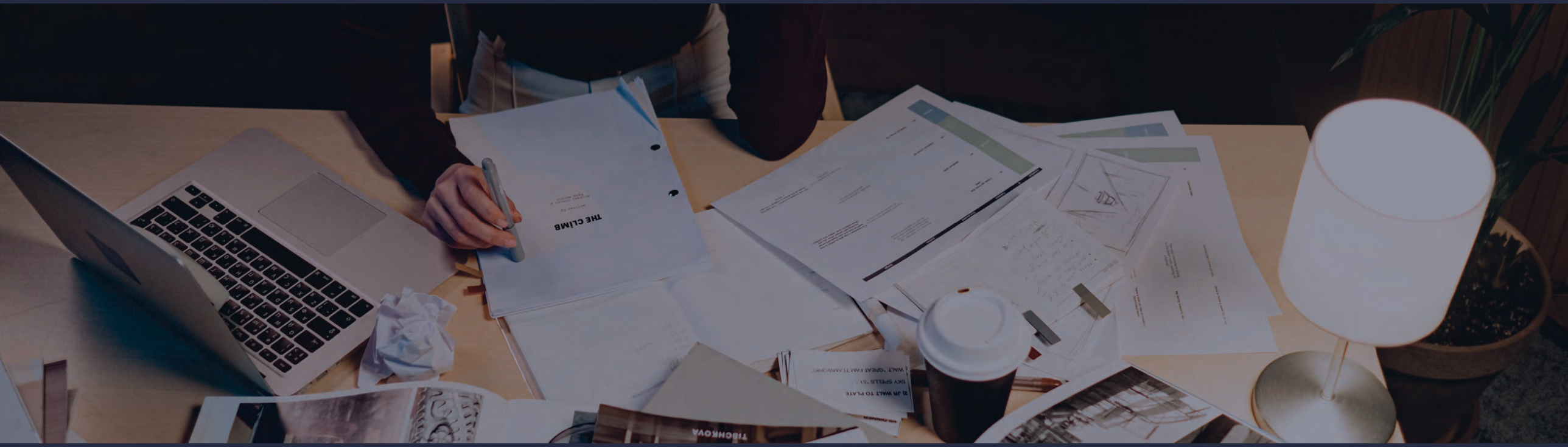


SPEAKER

SUSANNA MURPHY

TITLE IX SOLUTIONS
LEAD INVESTIGATOR

ELEMENTS OF THE INVESTIGATIVE REPORT



REPORT WRITING PREPARATION

- This may be the area where you feel exposed
  - Parties will have the chance to observe your work
- Preparation can be your safety net
- As you're interviewing:
  - Interview back and forth
  - Write up each interview or transcribe immediately following or as soon as possible
  - Write in large blocks of time
- You may see questions you forgot to ask or points that need clarification - go back and ask

ELEMENTS OF THE INVESTIGATIVE REPORT

AT THE CONCLUSION OF THE INVESTIGATION, THE INVESTIGATOR WILL PREPARE A WRITTEN REPORT WHICH WILL:

- Identify the allegations
- Identify relevant policies, guidelines, and other standards
- Explain the procedural steps taken between initiation of the complaint and the conclusion of the investigation, including all notifications to the Parties, interviews with the Parties, interviews with other Witnesses, dates of all interviews, any site visits, and the methods used to gather evidence
- Fairly summarize relevant evidence

ELEMENTS OF THE INVESTIGATIVE REPORT

ALLEGATIONS INVESTIGATED

Allegations, if proved, that meet the definition of Sexual Misconduct

- Should be roughly identified in the Formal Complaint

Alleged form(s) of sexual misconduct

- Sexual Harassment, Dating Violence, Domestic Violence, Sexual Assault, Stalking
- Copy full definitions from policy
- Many forms of prohibited conduct are also dependent upon factors such as consent, length or type of relationship between the Parties, number of alleged incidents, etc.

ELEMENTS OF THE INVESTIGATIVE REPORT

ALLEGATIONS INVESTIGATED

Allegations, if proved, that DO NOT meet the definition of Sexual Misconduct

- Other policies implicated?
- Harassment not based on sex or gender
- Sexual misconduct that does not fall under Title IX's scope, but may need to be addressed under another policy

ELEMENTS OF THE INVESTIGATIVE REPORT

RELEVANT POLICIES, PROCEDURES, GUIDELINES AND STANDARDS



Sexual Misconduct Policy



Additional Relevant Institutional Policies

TITLE IX SOLUTIONS, LLC

ELEMENTS OF THE INVESTIGATIVE REPORT

PROCEDURAL STEPS TAKEN BETWEEN RECEIPT OF FORMAL COMPLAINT AND CONCLUSION OF INVESTIGATION

TIMELINE

- The importance of documentation during the interviewing process presents here
- Investigator should utilize communication logs, activity logs, or other templates that document your information-gathering timeline
- The following should be provided:
  - Dates of notices
  - Interview dates
  - Date of provision of investigation file
  - Dates of responses to investigation file, etc.

ELEMENTS OF THE INVESTIGATIVE REPORT

PROCEDURAL STEPS TAKEN BETWEEN RECEIPT OF FORMAL COMPLAINT AND CONCLUSION OF INVESTIGATION

- Thoroughness is key
- Document if a Party or Witness does not respond or declines to participate in the investigation
- Document communication with other departments or off-campus sources (i.e., local police)
- Document supportive measures in place during the investigation (Work with Title IX Coordinator to obtain this information)



Does your Title IX office utilize a case management system?

ELEMENTS OF THE INVESTIGATIVE REPORT

SUMMARY OF RELEVANT EVIDENCE

The “meat” of the Investigation Report which should include:

- Summaries of interviews with Complainant, Respondent, and witnesses
- Summaries of evidence, with exhibits attached
  - Reference the evidence log and appendix which should contain relevant information collected, including any evidence obtained or submitted as part of the investigation, electronic records, written statements, photographs, or other documentation

REMINDER:

THE WRITTEN REPORT SHALL NOT MAKE FINDINGS OF FACTS OR CONCLUSIONS REGARDING THE APPLICATION OF FACTS TO THIS POLICY.

This is the responsibility of the Decision-Maker.

ELEMENTS OF THE INVESTIGATIVE REPORT

A presentation of facts and analysis of consistencies and inconsistencies in the information collected

**Optional to Include*

SUMMARIZING INTERVIEWS



SUMMARIZING INTERVIEWS

STAY FOCUSED WHEN SUMMARIZING INTERVIEWS.

- Key questions for the Title IX grievance process:
  - Did the alleged incident occur?
  - Is the alleged incident a policy violation?

STEP 1

IDENTITIES AND DATES

NOTE TIME, DATE, LOCATION OF INTERVIEW, AND IF AN ADVISOR WAS PRESENT

- Explain the interviewee's relation to the case
  - Complainant, Respondent
  - If a witness, who are they?

EXAMPLE



"Joshua Kaplan was the person working the front door of Myers Hall on the night of November 28."

STEP

2

SUMMARY OF RESPONSES

TELL THE STORY

Transform the individual's responses into a coherent narrative

TITLE IX SOLUTIONS, LLC

STEP

2

SUMMARY OF RESPONSES

INCLUDE DIRECT QUOTES FROM THE INDIVIDUALS

- Direct quotes are extremely powerful and useful for those reading the report
- Cite direct quotes either from the specific line in the transcript or timing of the recording (annotate footnotes or endnotes)

STEP

2

SUMMARY OF RESPONSES

ORGANIZE INTERVIEWS INTO SUB-SECTIONS WHEN DEALING WITH MULTIPLE ALLEGATIONS

- If a complaint alleges multiple policy violations or forms of sex discrimination or sex-based harassment, consider organizing the interview into sub-sections related to each policy violation

EXAMPLE



Relationship with a history of dating violence and sexual assault

STEP

2

SUMMARY OF RESPONSES

DO NOT CONFLATE AN INDIVIDUAL'S STATEMENTS WITH FACT.

- If a Complainant says the incident occurred at 9:00 PM, your summary should read: "NAME OF COMPLAINANT stated that the incident occurred at 9:00 PM" rather than "The incident occurred at 9:00 PM."
    - Start a longer narrative section with: "The following is what Sam recalled:"
- CONSIDER: Note at the conclusion of your interview summary if evidence (photographs, text messages, surveillance footage, etc.) support or refute the interviewee's statements

DO NOT INCLUDE YOUR OPINIONS

STEP

3

INTERVIEW OBSERVATIONS

OPTIONAL (BUT BE CONSISTENT ACROSS PARTIES):

- Did the individual ask for a break?
  - Note how many breaks
- Was the individual accompanied by an Advisor?
- Did the Advisor attempt to speak on the individual's behalf?
  - What occurred?
  - Only include if noteworthy
- Did the individual bring any evidence to the interview?
  - What was brought?
  - How was it presented?

STEP 4

SHARE INTERVIEW SUMMARY?

- Summaries of interviews are a presentation of the individual's statements and do not include the Investigator's analysis, assessments, etc.
- Some Investigators share the summary of interview with the individual as soon as available to ensure accuracy of note-taking or transcription

SUMMARIZING EVIDENCE



EXAMPLES OF SUMMARIZING EVIDENCE

MAY SIMPLY BE A LIST OF ALL EVIDENCE, REFERENCING ITS APPENDIX NUMBER.

VIII. Table of Appendices

Documents and evidence obtained during the course of the investigation such as the formal complaints and Notices of Investigation can be found in the attached Appendices.

Additionally, each investigative interview was recorded by Investigator Chapman with the consent of the interviewee. The transcripts of each interview can also be found in the attached Appendices.

A list of Appendices is as follows:

Appendix No.	Description	Date Received
Appendix A	Jacob Smith Formal Complaint to the Title IX Coordinator	January 3, 2022
Appendix B	Amanda Parsons Formal Complaint to the Title IX Coordinator	January 4, 2022
Appendix C	Jacob Smith Email to the Title IX Coordinator with additional allegations	January 6, 2022
Appendix D	Notice of Allegations to Smith - Complainant	January 7, 2022
Appendix E	Notice of Allegations to Parsons - Complainant	January 7, 2022
Appendix F	Notice of Allegations to Thompson – Respondent	January 7, 2022
Appendix G	Smith Interview Transcript	January 9, 2022
Appendix G-1	Smith Interview Recording	January 9, 2022

EXAMPLES OF SUMMARIZING EVIDENCE

YOU MAY ALSO DECIDE THAT SPECIFIC PIECES OF EVIDENCE REQUIRE AN EXPLANATION.

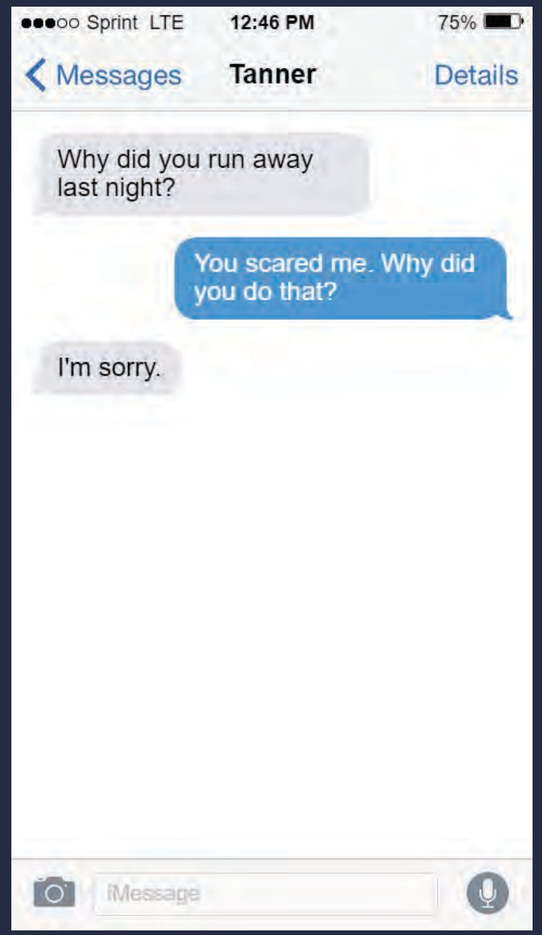


Example: Security camera video recording from Sentry Hall timestamped from January 1, 2022 at 9:00 PM to January 2, 2022 at 6:00 AM.

Security camera video recording was obtained from Sample University Police Department (SUPD)

Saved as SUPD_Evidence_2.mp4 in Investigation File

Still image from 00:18:14 Attached to Investigation Report as Appendix K



Example: Screenshot of text message received by Complainant Jacob Smith timestamped on January 2, 2022 at 8:07 AM. Alleged to be sent by Respondent Tanner Thompson. Screenshot was provided by Complainant Smith.

Saved as Smith_Evidence_1.png in Investigation File

Attached to Investigation Report as Appendix H

TITLE IX SOLUTIONS, LLC

EXAMPLES OF SUMMARIZING EVIDENCE

NOTING INCONSISTENCIES

Example: Screenshot of text message exchange alleged to be between Complainant Jacob Smith and Respondent Tanner Thompson on January 2, 2022 timestamped at 8:07 AM. Screenshot was provided by Respondent Thompson.

NOTE: There are inconsistencies between the messages displayed on the screenshot of the exchange provided by Complainant Smith and the screenshot provided by Respondent Thompson.

The screenshot provided by Respondent Thompson contains a text message from the Respondent stating, "My bad. I just wanted to play a prank and jump out with that Halloween mask on. You always say how much you like scary movies. I saw how much it upset you and then you just ran back to your dorm room. I didn't mean to scare you that badly."

The text reply from Complainant Smith states, "It's totally ok. I just didn't know what was going on!"

These messages are absent from the image provided by Complainant Smith.



REVIEWING THE REPORT



KEEP IN MIND

- As you review your investigation report, ask yourself if your investigation answers these questions
- Your summaries of interview and evidence should address these questions:

WHO
Who was involved?

WHAT
What are the allegations?

WHEN
When did the incident occur?

WHERE
Where did the incident occur?

WHY
Why and how did the incident occur?

TITLE IX SOLUTIONS, LLC

KEEP IN MIND

IT MAY NOT BE POSSIBLE TO DEFINITIVELY ANSWER THE QUESTIONS, BUT YOU SHOULD PROVIDE THE INDIVIDUALS' RESPONSES TO THE QUESTIONS.

- Complainant states that the incident occurred at 1:00 PM on Tuesday, June 15th
- Respondent states that the incident occurred at 11:30 AM on Tuesday, June 15th
- Access logs to the campus building where the incident occurred show that the Complainant swiped in to access the building at 11:00 AM, and the Respondent swiped in to access the building at 12:00 PM

NEXT STEPS



EDIT



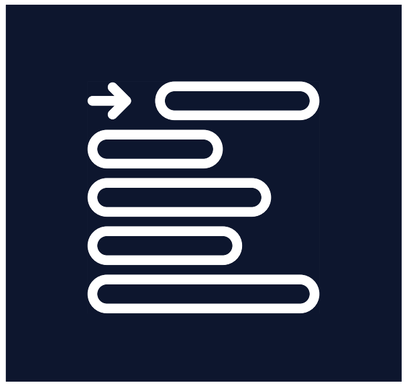
PROOFREAD



PRINT



PROOFREAD AGAIN



FORMAT



Pronouns - Use as few as possible, but ensure the ones you use are accurate. Too many "he", "she", and "they" pronouns can become confusing to the reader.

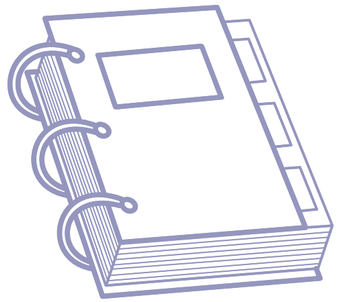
THE INVESTIGATION FILE



WHAT IS THE INVESTIGATION FILE?

AT THE CONCLUSION OF THE INVESTIGATION, PREPARE WHAT WE REFER TO AS AN INVESTIGATION FILE:

- May also be referred to as a case file or case binder
- Can be:



hard copy

or



digital

WHAT DOES THE INVESTIGATION FILE CONTAIN?

ALL EVIDENCE OBTAINED AS PART OF THE INVESTIGATION THAT IS DIRECTLY RELATED TO THE ALLEGATIONS RAISED IN A FORMAL COMPLAINT TO THE COMPLAINANT AND RESPONDENT

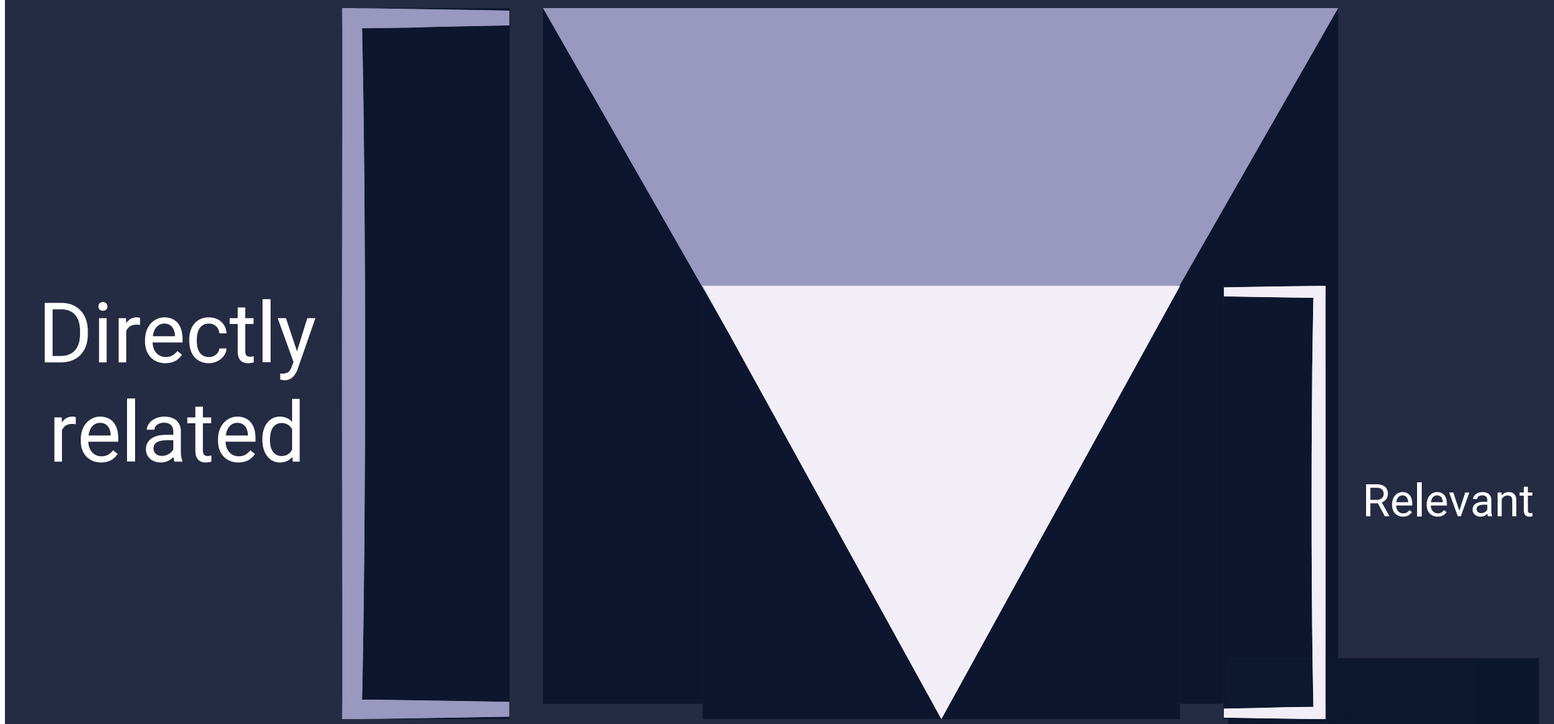
- Do not filter out any information from the file at this point unless completely unrelated
- Parties must have an equal opportunity to inspect and review all of the directly related evidence
    - Investigators may also send evidence to Advisors, with consent
- Includes evidence that tends to prove and disprove the allegations (inculpatory and exculpatory), whether obtained from a party or witness

WHAT DOES THE INVESTIGATION FILE CONTAIN?

- Includes evidence that is directly related to the allegations but upon which the institution does not intend to rely in reaching a determination regarding responsibility
    - For instance, where evidence is directly related to the allegations, but the investigator does not believe the evidence to be credible and thus does not intend to rely on it
- All evidence must be made available to the parties, but not all evidence may be “relevant”
    - Reviewing the investigation file provides the Advisor and the party the opportunity to argue whether certain evidence is relevant or not

RELEVANT VS. DIRECTLY RELATED

Directly related evidence is a broader term than relevant evidence. All directly related evidence is included in the investigation file. Only relevant evidence, however, is summarized in the investigation report.



WHAT IS NEVER RELEVANT?

AS WRITTEN INTO THE TITLE IX REGULATIONS, THE FOLLOWING EVIDENCE IS NEVER RELEVANT:

- Evidence about a Complainant's sexual predisposition
- Evidence about a Complainant's prior sexual behavior, except when:
  - Questions and evidence are offered to prove someone other than Respondent committed alleged conduct; or
  - Questions and evidence concern specific incidents of the Complainant's prior sexual behavior with respect to the Respondent are offered to prove consent.

EXAMPLE: "She slept with half the frisbee team, already. She obviously was up for this encounter."

PROHIBITED EVIDENCE

AS WRITTEN INTO THE TITLE IX REGULATIONS, THE FOLLOWING EVIDENCE IS PROHIBITED:

- The school cannot access, consider, disclose, or otherwise use a Party's records protected under a legally recognized privilege such as those that are made or maintained by:



A physician



A psychiatrist or psychologist



Other recognized professional or paraprofessional acting in the professional's or paraprofessional's capacity, or assisting in that capacity



Schools must obtain that party's voluntary, written consent to include this evidence in the Title IX grievance process.

ONCE THE FILE IS PREPARED

- Title IX Coordinator will provide the file to the Complainant, Respondent, and Advisors
- School must provide at least 10 calendar days for the Parties to respond to the evidence
- Investigators will share any written response with the other Party and will consider any written response prior to completing the investigation report



The audience for the Investigation File is the Complainant, Respondent, Advisors, and Decision-Maker.

AFTER PARTIES REVIEW

CREATE THE FINAL INVESTIGATION REPORT:

- Incorporate relevant elements of the Parties' written responses (or absence thereof) into the investigation report
- Include any additional relevant evidence
- Make any necessary revisions
- Finalize the report
- Document all rationales for changes made after the review and comment period

ELEMENTS OF INVESTIGATION FILE



First, check to see if your school has a template or predetermined method of organizing the investigation file.

Generally, it should contain the following elements:

TABLE OF CONTENTS

1

- Organized for quick reference as the files can become large
- Separated into major sections and even subsections, if necessary, to help parties, Advisors, and Decision-Maker locate key information

INVESTIGATION REPORT

2

- Will not be finalized until the Parties and Advisors review and respond within the required 10 day review period
- Includes allegations, relevant policies/guidelines and other standards, procedural steps; and
- Fairly summarizes relevant evidence
  - Summaries of Interview (summary for every interview conducted)
  - Summaries of Evidence

TITLE IX SOLUTIONS, LLC

LIST OF INTERVIEWS & EVIDENCE



- Communications log
- Evidence log

WITNESS INTERVIEWS



- If interviews are recorded, each interview should have the following documentation:
  - Transcript of interview
  - Recording of interview (if available)

APPENDICES

5

- Contains relevant documentary and physical evidence
  - Examples: electronic records, written statements, photographs, surveillance video, copies of text messages or emails, snapchats, restraining orders, or other documentation
- Evidence should be catalogued and organized into appendices with numbers or letters corresponding to the line in the evidence log
  - Save for the final task

TITLE IX SOLUTIONS, LLC

SAMPLE REPORT



TITLE IX SOLUTIONS, LLC

CONTENTS

I. ALLEGATIONS

II. IMPLICATED POLICY

III. STANDARD OF PROOF

IV. PRESUMPTION OF NON-RESPONSIBILITY

V. PROCEDURAL STEPS AND INVESTIGATION TIMELINE

- A. CASE PROGRESSION
- B. LIST OF INTERVIEWS

VI. SUMMARY

VII. EVIDENCE

VIII. APPENDIX

TITLE IX SOLUTIONS, LLC

I. ALLEGATIONS:

The following was alleged in the ABC College Notice of Investigation and Allegation (NOAI) (Appendix A):

“The alleged actions include Respondent John Doe engaging in unwanted sexual contact through touching the Complainant’s [Jane Smith’s] buttocks under her underwear. Respondent also allegedly placed hands on Complainant’s face and leaned in and tried to kiss the Complainant prior to her turning their head and verbally refused. This allegedly occurred while in the bathroom at the XX Eating Club Fall formal."

This is alleged to have occurred on or about January 25, 2021 at the Madison Performing Arts Halls on ABC College’s campus.

II. IMPLICATED POLICY

The Complaint was filed alleging the following 2020 Sexual Discrimination and Sexual Misconduct Policy “Title IX Policy” (hereinafter referred to as “the Policy”), and section was violated:

Then cite to the specific policy and sections and definitions.

PROHIBITED CONDUCT:

- Allegation/Incident 1: Section B. Sexual Misconduct

- Sexual Assault- Sexual assault defined in 20 U.S.C. 1092(f)(6)(A)(v), is an offense classified as a forcible or non-forcible sex offense ....

Sections III(A) and III(C) of The Policy provides its definition and examples of consent, as follows:

Consent: Lack of consent ...

III. STANDARD OF PROOF

The Hearing Panel shall employ the Preponderance of Evidence/Clear and Convincing Standard in evaluating the facts and circumstances of this matter, according to the ABC College 2020 Title IX Sexual Harassment Complaint Resolution Procedures. (Sec.6b)

IV. PRESUMPTION OF NOT RESPONSIBLE

Pursuant to the ABC College Sex Discrimination and Sexual Misconduct Policy there is a presumption that the Respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the investigation and resolution process.

V. PROCEDURAL STEPS AND INVESTIGATION TIMELINE

a. Case Progression

Pre-Formal Complaint

On Saturday, March 17, 2021 Jane Doe contacted her advisor, Chantel Johnson, to arrange a meeting. On Sunday, March 18, 2021, Jane Doe sent an email to the ABC Title IX office stating that she “was the victim of non-consensual sexual touching while asleep” (Appendix B). She attached to that email a statement she had typed detailing her allegations and including electronic messages between herself and John Doe (Appendix C).

On March 19, 2021, Jane met with Chantel Johnson. Jane alleged that she had been sexually assaulted by John. Rather than discuss the details of her allegations, Jane shared with MS. Johnson her typed allegations that she had forwarded to the Title IX office (Appendix C). On March 21, 2021, Jane met with Title IX Coordinator Victor Ramirez, to discuss her reporting options, her rights and discuss supportive measures. …

Formal Investigation

On March 30, 2021, Jane filed a formal, written and signed Complaint with the Title IX Office. That Complaint alleged “sexual assault” and “Unwelcome Sexual Contact”.

On April 2, 2021, a Notice of Investigation and Allegation was sent to the ...

DATE	ACTION
x/x/2021	Formal written complaint filed by Complainant via email and acknowledged by Title IX Office x/x/21
x/x/2021	Title IX Coordinator held follow up with meeting with Complainant post formal written complaint to clarify and questions about the process, rights or options shared at time of initial reporting
xxxx	Notice letter issued to Complainant and Respondent via email
xxxx	Title IX Coordinator email to External Investigator with instruction to begin investigation process
xxxx	Title IX Coordinator Informed Respondent they have the right to meet to discuss rights and options
xxxx	Investigator reached out to Complainant to establish initial contact to begin scheduling initial interviews

DATE	ACTION
xxxx	Informed Parties the name of the external Investigator, Martha Collins
xxxx	Title IX Coordinator met with Respondent to share rights, options and procedural steps
xxxx	Process Delay-Investigation due to campus spring recess; Parties and Investigator Notified by Title IX Coordinator
xxxx	Title IX Coordinator informed Respondent, Complainant, and Investigator that the process (investigation phase) will continue effective this date.
xxxx	Investigator shared Draft Investigation Report with Complainant and Respondent
xxxx	Respondent emailed Investigator Response to Draft Report
xxxx	Complainant emailed Investigator Response to Draft Report

b. List of Interviews

- On April 22, 2022, Jane Doe was interviewed via Zoom. Jane did not choose to have an Advisor present.
- Witness 1 was interviewed via Zoom on April 24, 2022.
- Witness 2 was interviewed via Zoom on April 28, 2022.
- Etc.

VI. SUMMARY

All relevant information that was shared during the interviews of the Parties and Witnesses are contained in this report. Other information that is directly related but not deemed relevant, remain in the Investigation File but were not incorporated herein.

The following is a summary of undisputed facts:

Jane Doe is a student at ABC College and lives in Smithson Hall on the Burlington Campus with a roommate. As of the date of the alleged incident Jane was dating Witness 1 who also is a student at ABC.

INTERVIEW OF JANE SMITH

The following is an account of Jane’s interview:

Jane was planning to attend the Fall Formal with Witness 1 after attending an off-campus "pre-gaming party.....

Interview of John Doe:

...

Interview of Witness 1:

...

VII. EVIDENCE

Jane provided the following items:

- Word document description of what occurred including most of her texts with John
- Messages between herself and Witness 1 (Appendix C)
- Messages between herself and John

John provided the following items:

- Snapchat screenshot (Appendix H)

Witness 1 provided the following items:

- Messages between himself and ...

Witness 2 provided the following items:

- Messages between herself and Jane

Witness 3 did not provide any physical evidence

VIII. RESPONSES TO DRAFT REPORT

On May 11, 2021 Respondent submitted a response to the Draft Report (Appendix J) requesting the investigator include the description he provided in his interview of Jane's jeans being "very tight". This was incorporated into the report.

On May 14, 2021 Jane submitted a response to the Draft Report, which suggested a number of edits. The following changes were made in response to her submission:

- The labelling of Appendix H was corrected from G to H;
- Jane first arrived on campus after winter break, before the rest of the student body, for basketball practice.

IX.	Appendix
A.	Notice of Investigation and Allegations
B.	Email from Jane to Title IX Office, first reporting the allegation
C.	Formal Written Complaint of Jane, attached to email to TIX Office
D.	Case Report
E.	Floor Plan of Simpson Concert Hall
F.	Messages between Jane and Witness 1 provided by Jane
G.	Messages between Jane and Witness 1 provided by Witness 1
H.	Messages between John and Witness 4 provided by Witness 4
I.	Respondent's Response to Draft Report
J.	Complainant's Response to Draft Report

TITLE IX SOLUTIONS, LLC

UNDERSTANDING TRAUMA

Dr. Jessica Groleau, Ph.D



IN THIS CHAPTER



INTRODUCTION TO TRAUMA



RECOGNIZING PERSONAL BIAS



TRAUMA-INFORMED COMMUNICATION



PROMOTING EMPOWERMENT



UNDERSTANDING TRAUMA AS AN INVESTIGATOR

SPEAKER



DR. JESSICA GROLEAU, PH.D

LICENSED CLINICAL PSYCHOLOGIST

UNDERSTANDING TRAUMA



WHAT IS TRAUMA?

DEFINITION OF TRAUMA

- Subjective
- Real or perceived threat
- Manifests differently in each person

CONSIDER EACH PARTY'S EXPERIENCES

- One or both Parties have likely already experienced trauma, either:
  - Prior to the incident (childhood experiences, family history, collective memory, etc.)
  - During the incident
  - As a result of being accused of the alleged incident
  - Through a combination of these experiences
- One or both Parties may be currently experiencing trauma during the Title IX grievance process

NEUROBIOLOGY OF TRAUMA

BRAIN STEM ("REPTILIAN BRAIN")

- Involuntary survival processes (heartbeat, breathing, etc.)

LIMBIC SYSTEM ("EMOTIONAL BRAIN")

- Regulates the body’s stress response
- Plays an important role in memory and learning

FRONTAL LOBES ("EXECUTIVE BRAIN")

- Responsible for cognitive skills including ability to rationalize, plan, self-monitor, and control one’s responses
- Important for voluntary movement

NEUROBIOLOGY OF TRAUMA

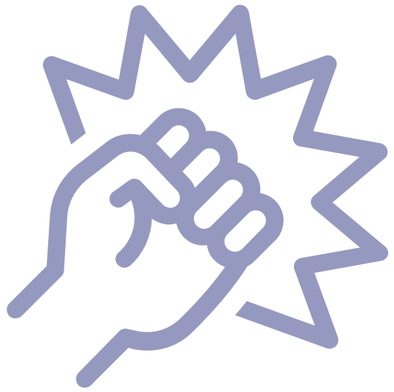
LIMBIC SYSTEM RESPONSE

- Amygdala (“fear center”) is activated
  - All resources are re-directed toward survival

DISCONNECTION OF FRONTAL LOBES

- Executive functioning goes “offline”
- Interferes with cognition, voluntary muscle movement, and ability to process the experience later on
  - This is functional and protective

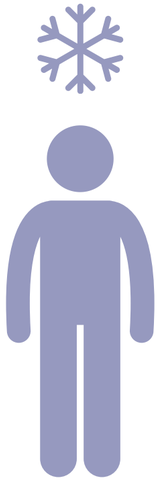
HUMAN STRESS RESPONSE



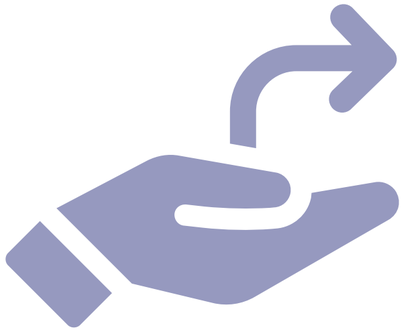
FIGHT



FLIGHT



FREEZE

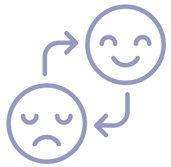


FAWN

WHAT DOES THIS MEAN FOR TITLE IX?



Fragmented, incomplete memories are common



Emotional dysregulation is expected

- Can appear in a variety of ways: inappropriate affect (laughter), extreme anxiety, numbing/disconnection



The fawn or freeze responses may appear to be consent



Discussing the event is retraumatizing

- Try to limit the number of interviews, questions, etc.

RECOGNIZING PERSONAL BIAS



PERSONAL BIAS

A TENDENCY, INCLINATION, OR PREJUDICE TOWARD OR AGAINST SOMETHING OR SOMEONE.

- Biases are universal
  - We are all products of our own personal histories, cultures, and many other factors that shape the ways in which we see the world
  - Biases are automatic and often outside of conscious control
- Biases are not always bad
  - i.e. an inclination toward healthy lifestyle behaviors
- Biases can be based on stereotypes or inaccurate information



It is crucial that you understand your biases in order to be most effective in your role.

BIAS VS. CONFLICT OF INTEREST

BIAS

- Having a personal history with sexual misconduct
- Holding stereotyped gender beliefs about sexual violence
  - i.e. perpetrators are males
- Internalization of rape culture
  - Often leads to skepticism or blaming of the Complainant

CONFLICT OF INTEREST

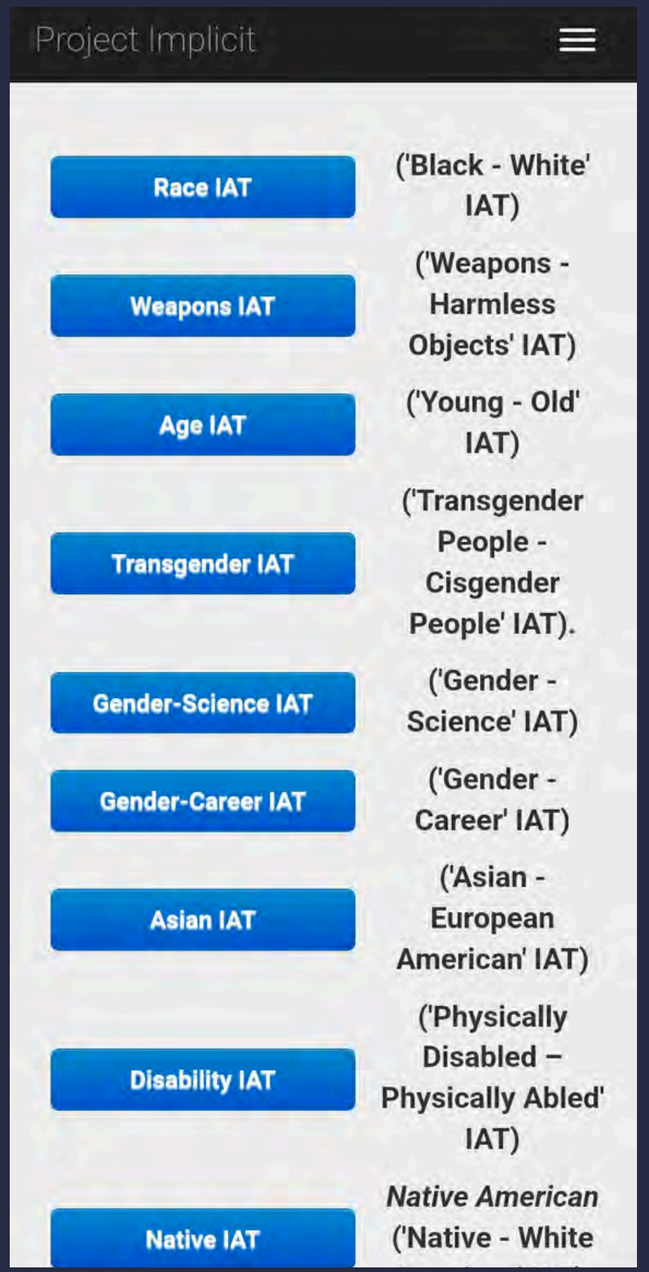
- Having a personal relationship with one or more parties
- Holding multiple relationships with one or more parties
- There is any way in which you could benefit (or be harmed) from the outcome of the investigation

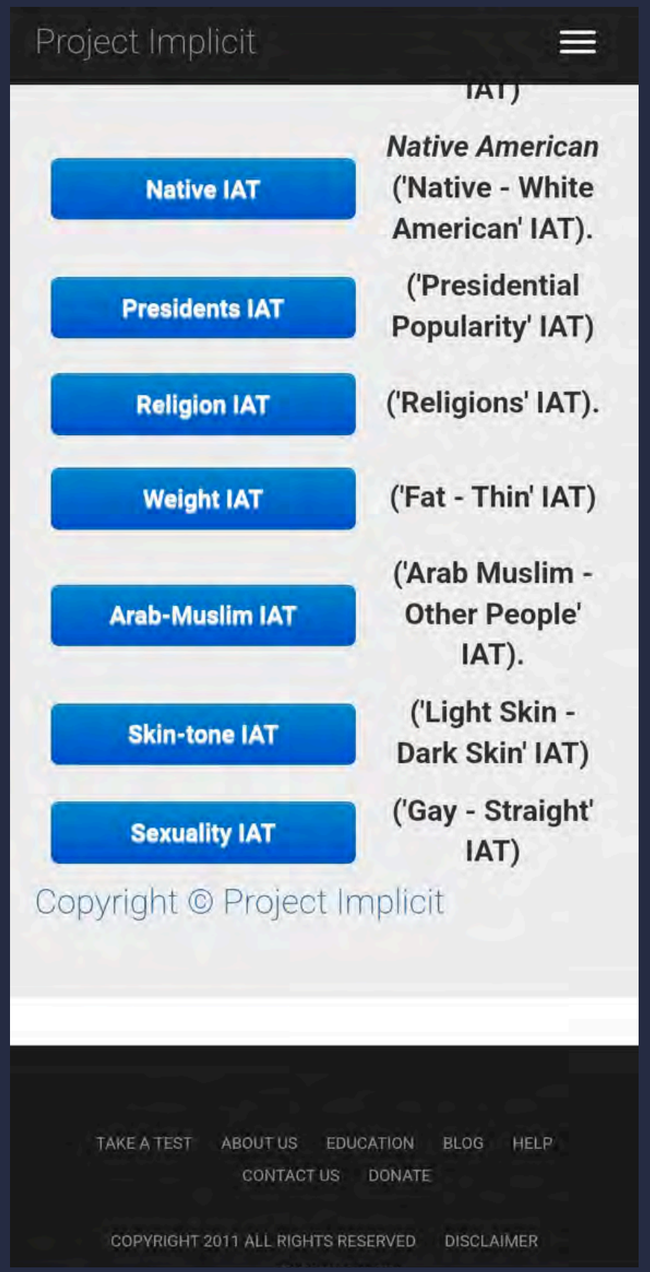
RECOGNIZING PERSONAL BIAS

IS YOUR PERSONAL BIAS AFFECTING YOUR ABILITY TO BE OBJECTIVE?

- Introspection
  - Implicit Bias Tests
    - https://implicit.harvard.edu/implicit/selectatest.html
- Having implicit bias does not make you a bad person (we all have it)
  - Managing your implicit biases will make you a better Title IX professional
- Questions to ask yourself:
  - What does the information at hand cause me to believe about those involved? Why?
  - When should an individual recuse themself from a case because they are unable to overcome personal bias?

IMPLICIT BIAS TESTS





RECOGNIZING PERSONAL BIAS

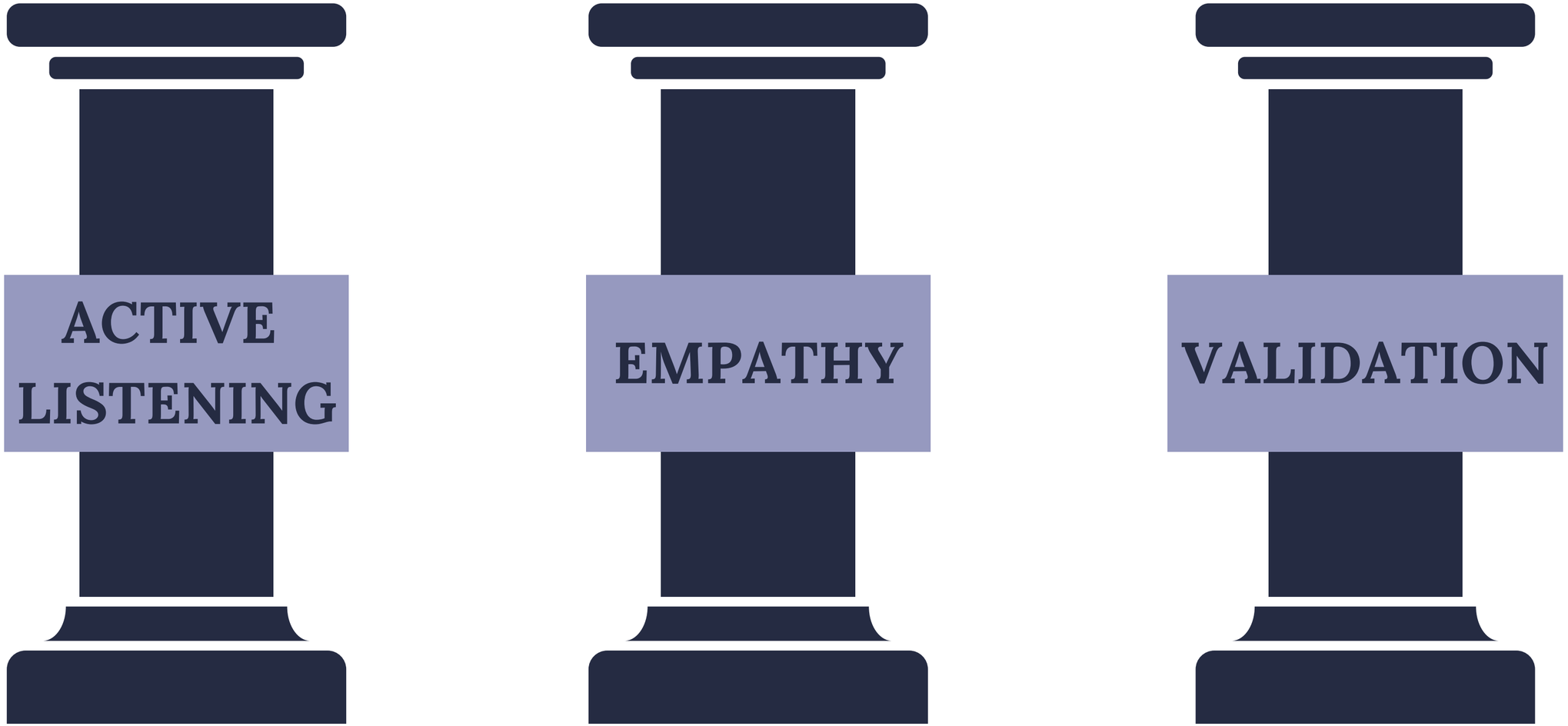
IS YOUR PERSONAL BIAS AFFECTING YOUR ABILITY TO BE OBJECTIVE?

- Introspection
  - Implicit Bias Tests
    - https://implicit.harvard.edu/implicit/selectatest.html
- Having implicit bias does not make you a bad person (we all have it)
  - Managing your implicit biases will make you a better Title IX professional
- Questions to ask yourself:
  - What does the information at hand cause me to believe about those involved? Why?
  - When should an individual recuse themself from a case because they are unable to overcome personal bias?

TRAUMA-INFORMED COMMUNICATION



FOUNDATIONS OF A TRAUMA-INFORMED APPROACH



EMPATHY

- The ability to understand and share the feelings of another
  - Doesn’t mean that you fully “get it” – because you don’t
  - You can try to put yourself in your party’s shoes
- Not the same as sympathy!
  - Sympathy is rarely helpful in these situations
  - Most trauma survivors report that sympathy exacerbates feelings of shame/embarrassment

COMMUNICATING EMPATHY

"I can see how painful this is for you to talk about."

"That sounds incredibly scary."

"There are resources here on campus to support you through this."

VALIDATION

Recognition or affirmation that a person or their feelings, opinions, and experiences are real or worthwhile.

DO

Share your own similar reactions, if you have them:

“I would feel really angry too.”

“It makes sense that you would feel that way.”

DON’T

Tell someone how they should feel:

“You shouldn’t let this bother you so much.”

Question their responses:

“Are you sure that is what happened?”

Validation ≠ Agreement

TITLE IX SOLUTIONS, LLC

ACTIVE LISTENING

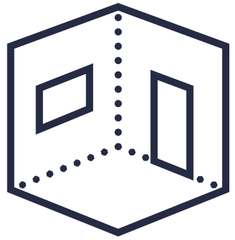
A COMMUNICATION TECHNIQUE THAT SERVES THE FOLLOWING PURPOSES:

1. Ensures that you understand what the other person is saying accurately
2. Communicates to the other person that you are listening

STRATEGIES FOR ACTIVE LISTENING

- Avoid distractions
  - Cell phones, emails, knocks on the door
- Use frequent brief paraphrases of what you heard
- Use nonverbal cues
  - Nodding, smiling or frowning, leaning forward
- Remain neutral and nonjudgmental
- Use phrases to communicate your desire to understand:
  - *“Did I understand that correctly?”*
  - *“I want to make sure I am hearing you.”*
- Ask open-ended questions:
  - *“Can you tell me more about…”*

ADDITIONAL STRATEGIES



CONSIDER THE ENVIRONMENT

- Allow each Party to choose the meeting place, if possible
- Consider comfortable seating, tissues, water, privacy, etc.



FOCUS ON EACH PARTY AND THEIR NEEDS

- Refrain from sharing own stories & experiences
- Create an open space for them to talk (no judgement)
- Aim to understand each Party's perspective



KEEP A HEALTHY EMOTIONAL DISTANCE

- Self-care is crucial
- Boundaries are okay (and even healing!)
- Direct each Party to campus resources that can provide support

DE-ESCALATION

CONFRONTATION IS POSSIBLE

- Title IX processes may be intense, and emotions may run high
- Confrontation may occur between you and either Party or their Advisor

STRATEGIES FOR DE-ESCALATION

- Keep personal emotions in check
- Create physical space
- Allow for silence & patience for decisions
- Practice validation, active listening & empathy

PROMOTING EMPOWERMENT



EMPOWERMENT

EMPOWERMENT = VOICE AND CHOICE

- What could empowerment look like for each Party?
- How can you, as an administrator in the Title IX process, identify resources to help empower a Party?
  - You need to be neutral and objective, but you can refer each Party to other sources of support or advocacy
- What may each Party consider to be possible obstacles to empowerment?
- How may you address them?

TOOLS FOR EMPOWERMENT

ASK THE PARTY:



How are you feeling?
Do you feel safe?
How can I help you feel safer?
What do you need right now?
What do you need throughout the duration of the Title IX process?
How do you feel about participating in the Title IX process?
What steps of the Title IX process concern you?



Remember the foundations of empathy, validation, and listening.
How can you best support each Party and address their needs?

UNDERSTADING TRAUMA AS AN INVESTIGATOR





INVESTIGATOR QUESTION AND ANSWER

1. How might trauma show up in my interactions with various parties?

2. What can I do to minimize re-traumatization throughout the Title IX process?

TITLE IX SOLUTIONS, LLC

SAMPLE INTERVIEW



IN THIS CHAPTER



SCENARIO
INTRODUCTION

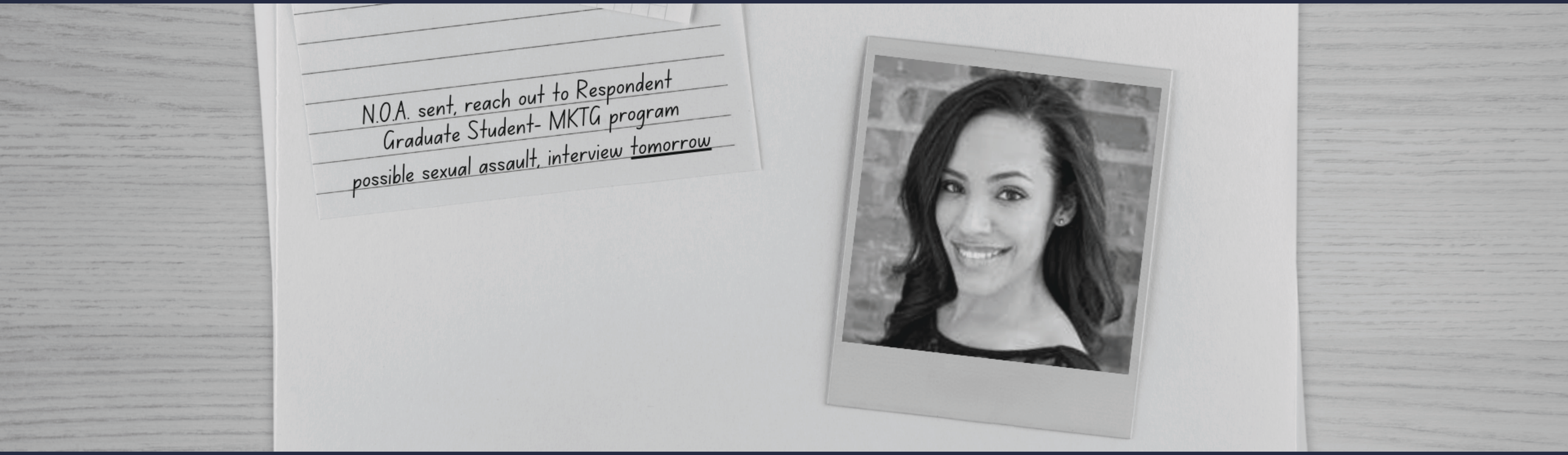


INTERVIEW WITH
COMMENTARY



INTERVIEW
SUMMARY

SCENARIO INTRODUCTION



THE SETTING

Sample University

- Four-year public postsecondary institution with undergraduate and graduate programs
- 22,000 students



TITLE IX TEAM



CARA KUHN
Title IX Coordinator

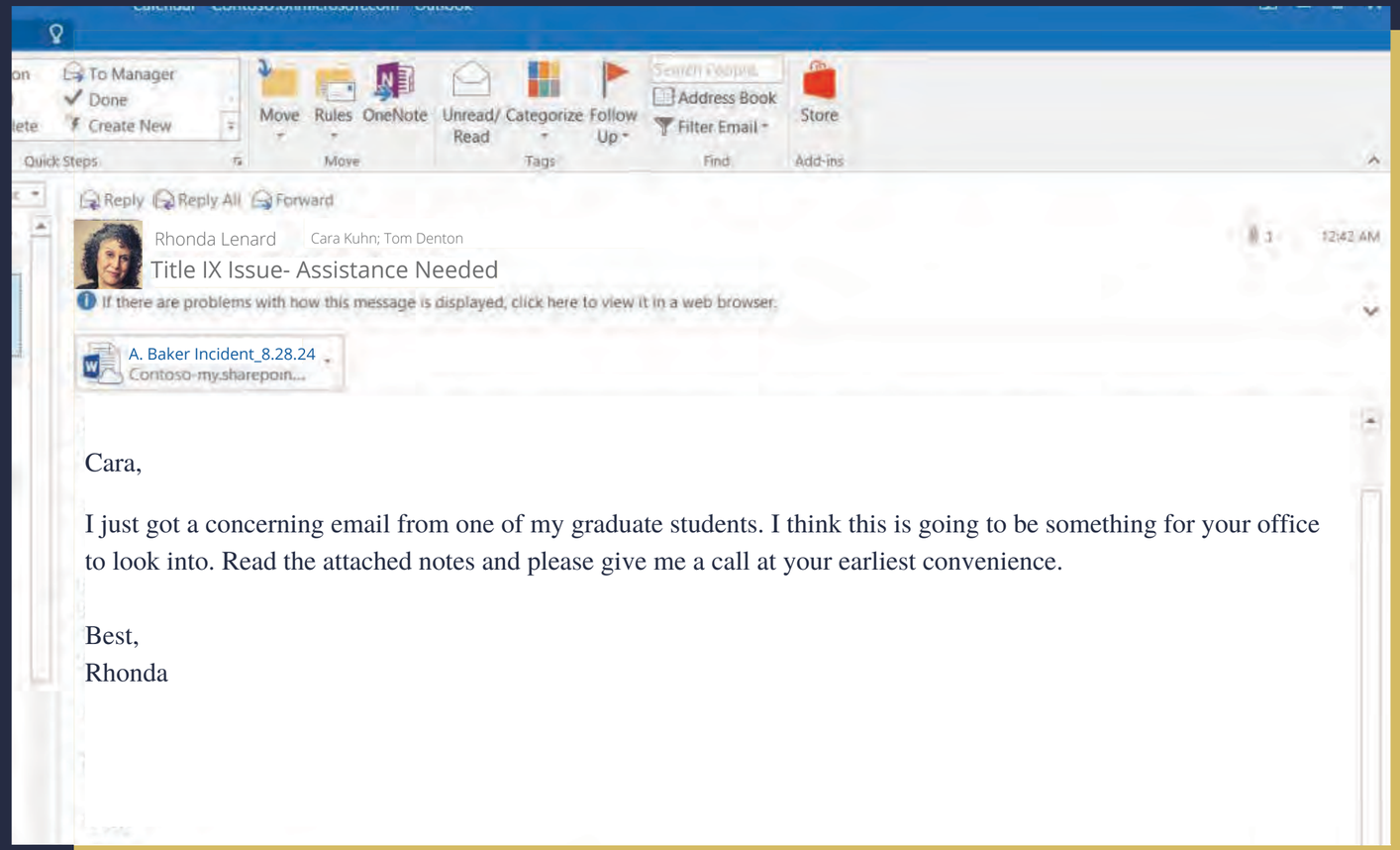


SUSANNA MURPHY
Lead Title IX Investigator



YOU
Title IX Investigator

INITIAL REPORT



- Title IX Coordinator Cara Kuhn received report from faculty member Dr. Rhonda Lenard on August 28, 2024
- Upon contacting Dr. Lenard, Cara learned more about Angela's allegation of sexual assault
- Cara immediately reached out to Angela for a meeting to discuss the incident and supportive measures



COMPLAINANT

TITLE IX SOLUTIONS, LLC

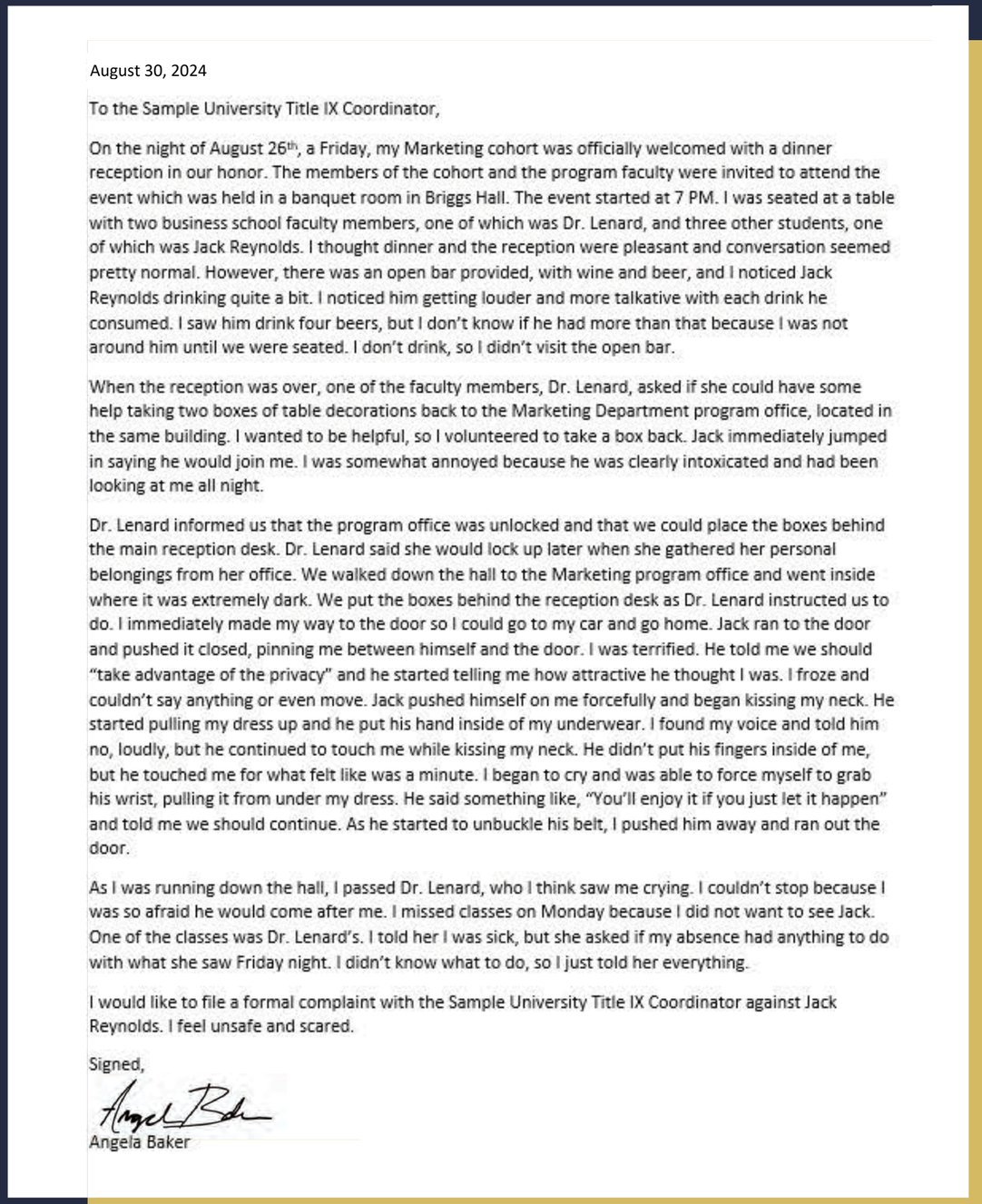


RESPONDENT

TITLE IX SOLUTIONS, LLC

COMPLAINT

- Submitted to Title IX Coordinator on August 30, 2024, signed by Angela Baker
- Alleged sexual assault on the evening of August 26, 2024 at a marketing graduate program function
- Named Jack Reynolds as the alleged perpetrator of the conduct



August 30, 2024

To the Sample University Title IX Coordinator,

On the night of August 26th, a Friday, my Marketing cohort was officially welcomed with a dinner reception in our honor. The members of the cohort and the program faculty were invited to attend the event which was held in a banquet room in Briggs Hall. The event started at 7 PM. I was seated at a table with two business school faculty members, one of which was Dr. Lenard, and three other students, one of which was Jack Reynolds. I thought dinner and the reception were pleasant and conversation seemed pretty normal. However, there was an open bar provided, with wine and beer, and I noticed Jack Reynolds drinking quite a bit. I noticed him getting louder and more talkative with each drink he consumed. I saw him drink four beers, but I don't know if he had more than that because I was not around him until we were seated. I don't drink, so I didn't visit the open bar.

When the reception was over, one of the faculty members, Dr. Lenard, asked if she could have some help taking two boxes of table decorations back to the Marketing Department program office, located in the same building. I wanted to be helpful, so I volunteered to take a box back. Jack immediately jumped in saying he would join me. I was somewhat annoyed because he was clearly intoxicated and had been looking at me all night.

Dr. Lenard informed us that the program office was unlocked and that we could place the boxes behind the main reception desk. Dr. Lenard said she would lock up later when she gathered her personal belongings from her office. We walked down the hall to the Marketing program office and went inside where it was extremely dark. We put the boxes behind the reception desk as Dr. Lenard instructed us to do. I immediately made my way to the door so I could go to my car and go home. Jack ran to the door and pushed it closed, pinning me between himself and the door. I was terrified. He told me we should "take advantage of the privacy" and he started telling me how attractive he thought I was. I froze and couldn't say anything or even move. Jack pushed himself on me forcefully and began kissing my neck. He started pulling my dress up and he put his hand inside of my underwear. I found my voice and told him no, loudly, but he continued to touch me while kissing my neck. He didn't put his fingers inside of me, but he touched me for what felt like was a minute. I began to cry and was able to force myself to grab his wrist, pulling it from under my dress. He said something like, "You'll enjoy it if you just let it happen" and told me we should continue. As he started to unbuckle his belt, I pushed him away and ran out the door.

As I was running down the hall, I passed Dr. Lenard, who I think saw me crying. I couldn't stop because I was so afraid he would come after me. I missed classes on Monday because I did not want to see Jack. One of the classes was Dr. Lenard's. I told her I was sick, but she asked if my absence had anything to do with what she saw Friday night. I didn't know what to do, so I just told her everything.

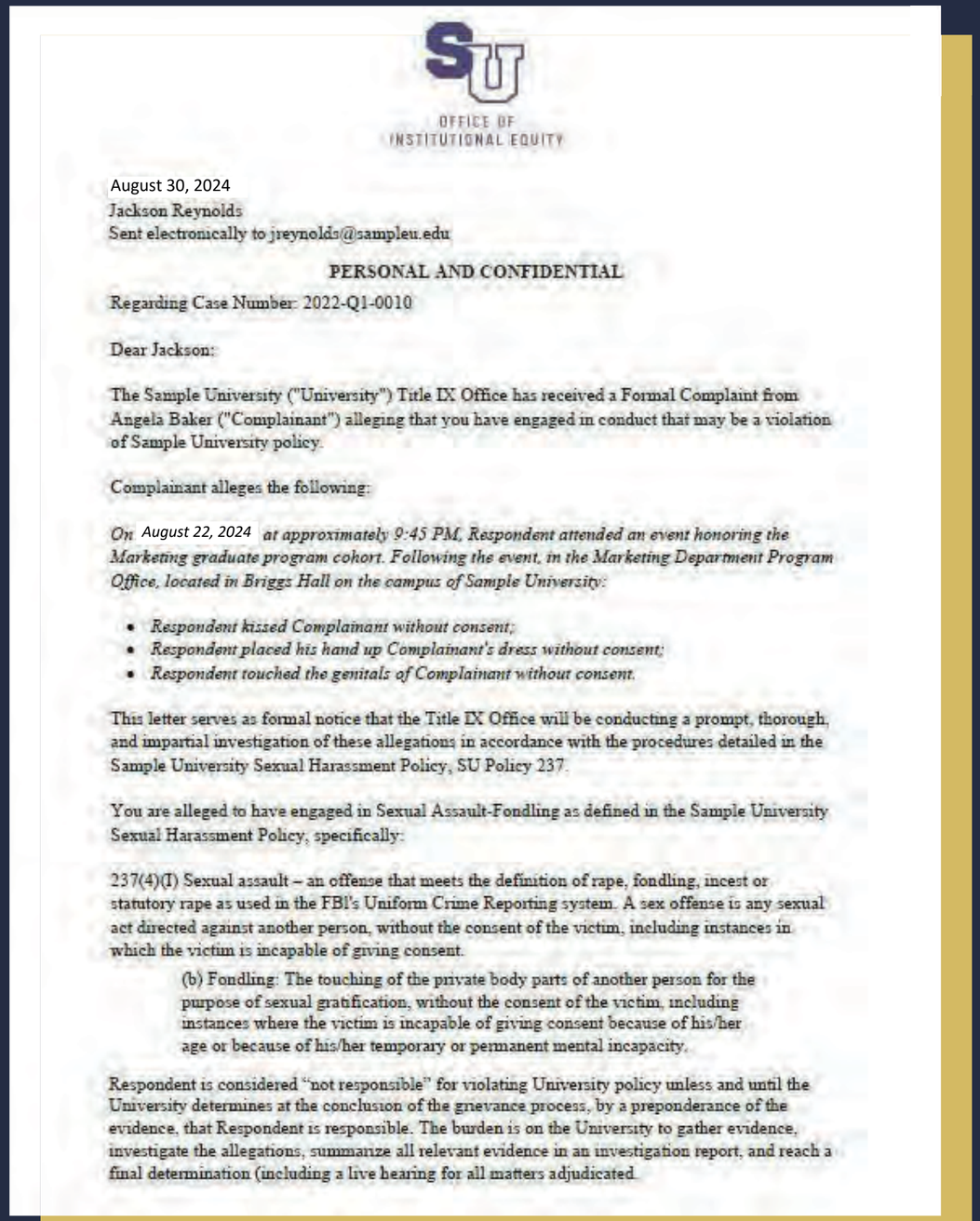
I would like to file a formal complaint with the Sample University Title IX Coordinator against Jack Reynolds. I feel unsafe and scared.

Signed,

Angela Baker

NOTICE OF ALLEGATIONS

- Lists Angela Baker as Complainant, Jack Reynolds as Respondent
- Sample University Sex-Based Harassment Policy (SU Policy 237) is listed, with the offense of Sexual Assault-Fondling listed as the potential policy violation
- Request for the Parties to interview is included in each of their Notices



OFFICE OF
INSTITUTIONAL EQUITY

August 30, 2024
Jackson Reynolds
Sent electronically to jreynolds@sampleu.edu

PERSONAL AND CONFIDENTIAL

Regarding Case Number: 2022-Q1-0010

Dear Jackson:

The Sample University ("University") Title IX Office has received a Formal Complaint from Angela Baker ("Complainant") alleging that you have engaged in conduct that may be a violation of Sample University policy.

Complainant alleges the following:

On August 22, 2024 at approximately 9:45 PM, Respondent attended an event honoring the Marketing graduate program cohort. Following the event, in the Marketing Department Program Office, located in Briggs Hall on the campus of Sample University:

- *Respondent kissed Complainant without consent;*
- *Respondent placed his hand up Complainant's dress without consent;*
- *Respondent touched the genitals of Complainant without consent.*

This letter serves as formal notice that the Title IX Office will be conducting a prompt, thorough, and impartial investigation of these allegations in accordance with the procedures detailed in the Sample University Sexual Harassment Policy, SU Policy 237.

You are alleged to have engaged in Sexual Assault-Fondling as defined in the Sample University Sexual Harassment Policy, specifically:

237(4)(I) Sexual assault – an offense that meets the definition of rape, fondling, incest or statutory rape as used in the FBI's Uniform Crime Reporting system. A sex offense is any sexual act directed against another person, without the consent of the victim, including instances in which the victim is incapable of giving consent.

(b) Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

Respondent is considered "not responsible" for violating University policy unless and until the University determines at the conclusion of the grievance process, by a preponderance of the evidence, that Respondent is responsible. The burden is on the University to gather evidence, investigate the allegations, summarize all relevant evidence in an investigation report, and reach a final determination (including a live hearing for all matters adjudicated.

SAMPLE UNIVERSITY SEXUAL HARASSMENT POLICY

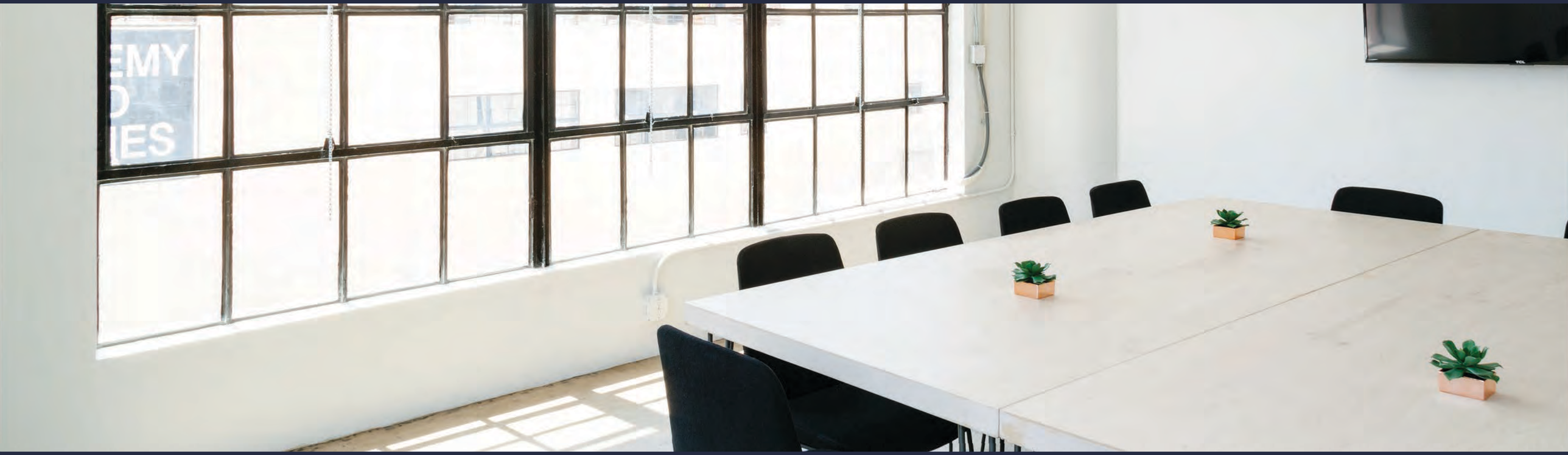
237(4)(I) Sexual assault – an offense that meets the definition of rape, fondling, incest or statutory rape as used in the FBI's Uniform Crime Reporting system. A sex offense is any sexual act directed against another person, without the consent of the victim, including instances in which the victim is incapable of giving consent. These offenses are defined as:

(b) Fondling: The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.

Today is August 31, 2024.

It is now time to interview the Complainant.

COMPLAINANT INTERVIEW WITH COMMENTARY



PREAMBLE



- Thanks the Party for participating
- Recognizes the Party's current state of being
- Checks for receipt of notice and preparation
- Acknowledges presence of an Advisor
- Solicits questions regarding the process and seeks clarification needed
- Establishes the record and consent to record

BUILDING RAPPORT AND TRUST



- Provides opportunity for human connection
- Allows for the chance to ease into the tougher topics
- Asks questions about family, hobbies, areas of study, etc.

SEEKING THE NARRATIVE



- Allows the Party to discuss the details of the incident in her own order, own words
- Gives the Party the uninterrupted opportunity to discuss the points she felt were important
- Provides a framework off of which to build clarifying questions
    - What do we want to know more about?

CLARIFYING QUESTIONS



Seeks to understand more about things such as:

- Relationship to Respondent
- Positionality/logistics
- Sequencing
- Conversations

CLARIFYING QUESTIONS



- It is our jobs as investigators to lead by example and demonstrate talking about these personal, intimate matters.
- You will deal with sensitive subject matter (i.e. naming intimate body parts, describing sexual acts), so you need to be comfortable asking those questions

PROVIDING RATIONALE FOR QUESTIONS



- Needs to understand what the party was wearing
- Explains the reason for asking the question
- Softens Complainant's response by informing her of the need for such a question

GATHERING INFORMATION TO SUPPORT ANSWERS



- Asks questions to clarify things such as:
  - Consent
    - Information that would prove consent was not given
  - Elements of the offense
    - Remember sexual assault - fondling
      - "The touching of the private body parts of another person for the purpose of sexual gratification..."
      - "...without the consent of the victim"

INTERVIEW SUMMARY



WHAT DID WE LEARN?

- Interviews go quickly!
- There is no one "right" way to conduct an interview...with two very important exceptions
  - Remain grounded in empathy and respect towards the party
  - Stay in compliance with Title IX Regulations
- Conducting an investigative interview is a skill
  - Develop your own style
  - Practice!
  - Allow scripts and the foundations of interviewing to be your guide

BLUEPRINT FOR SCRIPTING

- What information do you already know?
  - Initial report
  - Formal complaint
  - Initial meetings prior to the first interview
  - Interviews with other parties
- Attempt to answer the following questions:

WHO
Complainant(s)
Respondent(s)
Witness(es)

WHAT
Alleged conduct

WHEN
Timeline of events

WHERE
Locations

HOW
Logistics of commission of alleged policy violation

YOU'RE GOING TO BE GREAT!

