aalrr Atkinson, Andelson Loya, Ruud & Romo
A Professional Law Corporation

Title IX Investigator Training



September 29, 2026

SESSION TWO

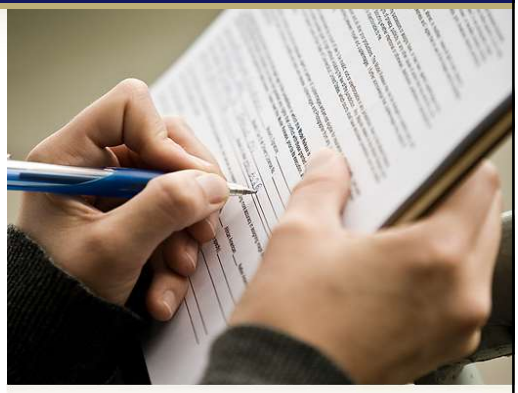
PRESENTED BY:
Jacqueline D. Hang, Partner
Rebeca Quintana, Senior Counsel

Cerritos • Fresno • Irvine • Marin • Pasadena • Pleasanton • Riverside • Sacramento • San Diego

0

Agenda

- Reminder of Investigator Role
- Build a Draft Report of Evidence and Attachments
- Share Draft Report of Evidence with the Parties and Advisors
- Prepare & Share Final Investigative Report
- Application to Hypothetical: Undisputed and Disputed Material Evidence
- Conclusion



aalrr

1

1

© 2026 Atkinson, Andelson, Loya, Ruud & Romo

Reminder: Title IX Investigator Roles

Investigator Role:

- Prepares and provides a ***Draft* Report of Evidence and Attachments** to Complainant/Advisor & Respondent/Advisor for review and comment; investigator gathers more evidence and/or revises, as needed
- After considering responses, prepares and provides ***Final Investigative Report*** to Parties/Advisors for review and comment; report describes relevant disputed and undisputed material facts
- Investigator does ***not*** make factual findings or decision about whether Respondent has engaged in sexual harassment

aalrr 2

2

BUILD A DRAFT REPORT OF EVIDENCE AND ATTACHMENTS

aalrr 3

3

© 2026 Atkinson, Andelson, Loya, Ruud & Romo

Draft Report of Evidence and Attachments

- Before completing the investigation, provide a ***Draft Report of Evidence and Attachments*** to both parties & advisors via electronic format or a hard copy.
  - Parties shall have an equal opportunity to inspect and review any evidence obtained during the investigation that is directly related to the allegations, including evidence which the investigator does *not* intend to rely upon, as well as inculpatory and exculpatory evidence regardless of where it was obtained, so the parties can meaningfully respond to the evidence *before* the conclusion of the investigation.
  - Prior to completion of the final investigative report, the parties must have at least 10 days to review the evidence and submit written responses for the investigator's consideration.
- During this review process, the investigator must share any new evidence with the parties and continue the investigation related to new information, if needed. *See 34 CFR §106.45(b)(5)(i-vii)*

aalrr 4

4

Contents of Draft Report of Evidence and Attachments

- Cover Page
- Body of Report with Headings
  - **Brief Introduction**
    - Date of formal complaint
    - Date investigator assigned
    - Name of Complainant and Respondent, with brief summary of allegation(s) against Respondent
    - Summary of scope of the investigation consistent with Notice of Allegations
    - *Type of writing*: Clear, concise, easy to read and understand; this section of the report sets the stage and provides first impression

aalrr 5

5

Contents of Draft Report of Evidence and Attachments

- Body of Report with Headings, continued
  - **Investigative Background**
    - List witnesses interviewed
      - Note unavailable witnesses & efforts to reach, refusals to participate, or decisions not to interview
      - Note advisor names, if any
      - Note any advisements, protocols, releases, and/or agreements, if any
    - List documents reviewed, released, unavailable, withheld, or not sought
    - List evidence not considered, not released, unavailable, withheld, or not sought
      - Examples may include audio/visual information, previously deleted evidence, or privileged information (e.g., mental health files, SANE evidence, etc.)

aalrr 6

6

Contents of Draft Report of Evidence & Attachments

- Body of Report with Headings, continued
  - **Investigative Background**
    - Relevant Policies and Procedures/Regulations guiding the investigation
      - Summarize and/or quote relevant parts
    - Evidentiary Standard for the Complaint Process
      - Preponderance of the Evidence or Clear and Convincing Evidence
    - Independence of the Investigator
    - Timing or Duration Issues
    - Other, if needed
    - *Type of Writing*: Demonstrates impartiality, fairness, and thoroughness of your investigation methods & your consideration of issues raised; preemptively addresses various reader questions (parties, decision-maker, appeal officer, etc.)

aalrr 7

7

Contents of Draft Report of Evidence & Attachments

- Body of Report with Headings, continued
  - **Evidence Regarding Allegations**
    - Complainant's Allegations & Perspective
      - Include interview summary and summary of documents provided by Complainant, if any
    - Respondent's Response & Perspective
      - Include interview summary and summary of documents provided by Respondent, if any
    - Witness Perspectives
      - Include interview summary and summary of documents provided, if any, by each witness

aalrr 8

8

Contents of Draft Report of Evidence & Attachments

- Body of Report with Headings, continued
  - **Evidence Regarding Allegations**
    - Documents or Other Evidence Gathered
      - Screenshots, photographs, text messages, videos, audio recordings, etc.
      - School calendars, bell schedules, and/or campus maps
      - Student or employee handbooks
    - Closing Statement
      - "This concludes the confidential Draft Report of Evidence"
    - *Type of Writing*: Write in a simple, clear, and "readable" style ***without*** altering the content or the meaning of the parties' or witnesses' testimony; use legal thinking to help identify and summarize the relevant, directly related, and material information for the parties, Decision-Maker, and other readers

aalrr 9

9

SHARE DRAFT REPORT OF EVIDENCE WITH PARTIES AND ADVISORS

aalrr

10

10

Consider Consent & Release Agreements

- Consider seeking Student/Parent Permission and Consent for the District to Share Evidence with Parties and Advisors
  - Seek written consent from Complainant for the District to speak with to the Respondent and both party advisors about the specific Title IX complaint process
  - Seek written consent for the District to provide the Parties and Advisors with the opportunity to review the Draft Report of Evidence and Attachments or other confidential documents
  - The goal is to seek permission to review confidential pupil records within the Title IX complaint process and to maintain confidentiality outside of the Title IX complaint process
  - Query: Response to refusals to consent? Deny access to information?

aalrr

11

11

Consider Consent & Release Agreements

- Consider seeking Agreement from Advisors Not to Disclose Confidential Information Outside of the Title IX Complaint Process
  - Seek agreement with Advisors to maintain the privacy and confidentiality of the records and evidence shared with Advisors during the complaint process
  - Seek agreement with Advisors not to share the records and evidence with other witnesses during the process or with the public outside of the Title IX process. Clarify that Advisors cannot use the records or evidence for purposes not explicitly authorized by the agreement
  - The District may restrict the role of any Advisor who does not respect the sensitive and confidential nature of the complaint process or who fails to abide by the District's privacy expectations; apply restrictions equitably

aalrr 12

12

Consider Redaction, Initials, or Pseudonyms

- Another tool to help protect confidentiality is to provide the Draft Report of Evidence and Attachments with:
  - Use redacted names
  - Use initials instead of full names
  - Use pseudonyms (i.e., Complainant, Respondent, Witness 1, Witness 2, etc.)
- Provide a "key" to the Parties and Advisors via a different delivery method to reduce risk of public disclosure

aalrr 13

13

Consider Logistics of Electronically Sharing Evidence

- Sharing the Draft Report of Evidence and Attachments Electronically
  - The goal is to allow the review of evidence with tools to maximize the confidentiality of the information and minimize the ability to share the confidential information or documents with people other than advisors
  - Consult IT staff about electronic options available within your organization
  - Electronic options may include, but are not limited to:
    - Dropbox
    - Google Drive
    - Adobe
    - One Hub
    - Box
    - Lock Lizard
    - One Drive

aalrr 14

14

Consider Logistics of Physically Sharing Evidence

- Sharing a Physical Copy of the Draft Report of Evidence and Attachments
  - The goal is to provide a physical review of evidence while maximizing confidentiality and minimizing the ability to share confidential information or documents with people other than advisors
  - Provide physical documents for review on-site during arranged times
  - Locations may include conference room, empty classroom, after hours in library, or other office space
- Allow multiple opportunities and lengths of time for review
- Retrieve the physical documents after each review, and provide the same physical documents for additional reviews

aalrr 15

15

Impact of Sharing Draft Report of Evidence

- During the review the evidence, the Parties or Advisors may:
  - Notice missing information
  - Review evidence that elicits an additional response, triggers a memory, helps identify other relevant documents or additional witnesses, and/or identifies additional questions for witnesses
  - Identify and understand the evidence that will **not** be relied upon during the complaint process
  - Seek informal resolution process before the determination
  - Identify potential investigator bias, conflict of interest, or lack of impartiality
- Investigator should report any issues to the Title IX Coordinator, as appropriate

aalrr 16

16

PREPARE & SHARE FINAL INVESTIGATIVE REPORT

aalrr 17

17

Final Investigative Report - Overview

- Prepare a ***Final Investigative Report*** that **fairly summarizes the relevant evidence**
  - Relevant evidence includes the ***who, what, where, when, why,*** and ***how*** information for each ***material*** allegation within the scope of the investigation
  - Relevant evidence *may* also include pointing out the weight of the evidence related to consistency/inconsistency, corroboration/lack of corroboration, plausibility/implausibility, opportunity/lack of opportunity to observe, and material omissions or admissions
- The Final Investigative Report helps the Decision-Maker understand the relevant evidence in order to help the Parties engage in written cross-examination and to ultimately make factual findings & a decision

aalrr 18

18

Contents of Final Investigative Report

- Similar Organization of Draft Report and duplication
- Amend Title of Cover Page
- Mostly the Same Headings as the Draft Report
  - **Introduction**
  - **Investigative Background**
    - Update the Investigative Background to include the Party's feedback and any new evidence
  - **Evidence Regarding Allegations**
    - Update the Evidence Section with any new evidence obtained by the Parties or Witnesses
  - **Fairly Summarize the Relevant Evidence for the Parties and Decision-Maker**
  - **Identify Undisputed and Disputed Material Facts**
    - Mention Investigator's observations about the weight of the evidence

aalrr 19

19

Share Final Investigative Report with Parties

- Provide the ***Final Investigative Report*** to each Party and the Party's Advisor(s) in an electronic format or hard copy for review and written response at least 10 days prior to the time of determination of responsibility by the Decision-Maker
- Investigator reviews written responses, attaches the written responses to the report, and delivers the Final Investigative Report to the Title IX Coordinator, Decision-Maker, and the Parties
- Unless the Decision-Maker has procedural questions or minor requests for additional information from the Investigator, the investigation phase of the Title IX complaint process is complete
- The Investigator could be called as a witness in a hearing, an appeal, or for a student or employee discipline hearing

aalrr 20

20

Application: Undisputed and Disputed Material Evidence

- Compare Complainant's version of events (1-7) with Respondent's version of events (A-I)
  - What material information is ***not*** in dispute or **UNDISPUTED**?
    - Example: The 2026-27 school year began on August 14, 2026. Complainant and Respondent met on the first day of school, August 14, 2026, during first period Math class.
    - Example: Complainant and Respondent shared their phone numbers with each other.
  - What material information is in dispute or **UNDISPUTED**?
    - Example: Complainant stated Respondent asked for Complainant's Instagram account. Respondent does not remember who asked for the Instagram account first.
  - **Discuss Audience Identification of Undisputed and Disputed *Material* Facts**

aalrr 21

21

Conclusion: Seek Assistance When Needed

- The Title IX regulations and the Office for Civil Rights' commentary on the regulations include extensive, complex, and legalistic principles
- When in doubt, consider seeking:
  - Additional training opportunities
  - Advice from legal counsel
  - Opportunities to shadow an experienced investigator, or
  - Legal counsel review of your Draft Report of Evidence or your Final Investigative Report
  - Outside, trained professionals to investigate for your educational entity

aalrr 22

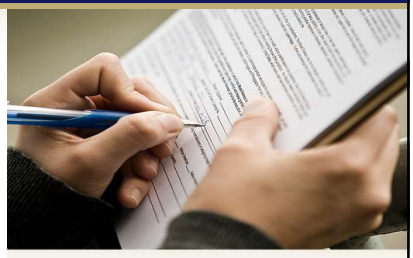
22

Question & Answer Session

23

Disclaimer

This AALRR presentation is intended for informational purposes only and should not be relied upon in reaching a conclusion in a particular area of law. Applicability of the legal principles discussed may differ substantially in individual situations. Receipt of this or any other AALRR presentation/publication does not create an attorney-client relationship. The firm is not responsible for inadvertent errors that may occur in the publishing process.



© 2026 Atkinson, Andelson, Loya, Ruud & Romo

aalrr

24

24

Thank You

For questions or comments, please contact:

Jacqueline D. Hang
(916) 923-1200
JHang@aalrr.com

Rebeca Quintana
(562) 653-3200
Rebeca.Quintana@aalrr.com

aalrr
Atkinson, Andelson
Loya, Ruud & Romo
A Professional Law Corporation

25