



TITLE IX COORDINATOR TRAINING

Day One | July 24, 2025

I N T R O S



Andrew Stammel
Associate Counsel
Student Affairs Practice Group
SUNY Office of General Counsel



Ryan Ribeiro, M.A.
Assistant Director
SUNY Student Conduct Institute

DISCLAIMER

This presentation shall not constitute legal advice, nor create an attorney-client relationship. This presentation is for informational purposes only.

If you have any specific legal questions or require legal advice for specific situations, please contact or refer to your institutional, general, or outside counsel.



DAY 1 AGENDA

TITLE IX OVERVIEW

- Statutory language & implementing regulations
- Misc: Athletics, pregnancy, & parenting
- Title IX history

TITLE IX 2020 FINAL RULE

- Scope & jurisdiction
- Definitions
- Due process
- Other federal laws

NEW YORK STATE LAW

- 129-B Enough is Enough
- GENDA & SONDA



TITLE IX OVERVIEW & KEY CONCEPTS





TITLE IX OVERVIEW

APPLICATION

Recipient: any entity which operates an education program or activity and receives federal funding.

Program or Activity: all operations of the college or university

EDUCATION PROGRAM OR ACTIVITY INCLUDES

ACCESS TO COMPARABLE CLASSES & FACILITIES

- Counseling & guidance
 - Employment
- Discrimination in Admissions & Recruitment
- Provide different aid, benefits, or services or provide aid, benefits, or services in a different manner
 - Health insurance
- Deny any person any such aid, benefit, or service

Subject any person to separate or different rules of behavior, sanctions, or other treatment;

- Apply any rule concerning the domicile or residence of a student or applicant, including eligibility for in-state fees and tuition;
- Providing significant assistance to any agency, organization, or person which discriminates on the basis of sex in providing any aid, benefit or service
- Otherwise limit any person in the enjoyment of any right, privilege, advantage, or opportunity.

EXCEPTIONS TO TITLE IX APPLICATIONS (SEPARATION IS PERMITTED HERE)



- Social Fraternity & Sorority Admission (Sec. 106.14)
- Separate but comparable housing, toilet, locker room, & shower facilities by sex. (Sec. 106.32-106.33)
- Contact sports & ability grouping in physical education classes (106.34)
- Separate Athletics teams where selection is based on competitive skill, or the activity is a contact sport (106.41)
- Human Sexuality Classes (106.34)
- Choruses (106.34)



ATHLETICS

- Non-Discrimination
- Scholarship Opportunities
- Equal Opportunity in Athletics:
 - Accommodate interests & abilities of both sexes;
 - Equipment & supplies;
 - Scheduling;
 - Travel & per diem;
 - Coaching & tutoring;
 - Compensation of coaches;
 - Locker rooms, practice, & competition facilities;
 - Medical & training facilities;
 - Housing & dining facilities;
 - Publicity

MARITAL OR PARENTAL STATUS

- Admissions: pre-admission inquiries
- Equal Treatment: concerning parental, family, or marital status may treat students differently by sex.
- Discrimination: because of pregnancy, childbirth, false pregnancy, termination of pregnancy or recovery therefrom
- Physician Certification
- Separate sections
- Leave
- Employment Actions
- Employee pregnancy





COMPLAINT PROCEDURES

- Adopt & publish a Notice of Non-Discrimination & grievance procedures for prompt & equitable resolution of student & employee complaints alleging any action prohibited by Title IX.



DESIGNATION OF RESPONSIBLE EMPLOYEE (TIXC)

- Designate at least one employee to coordinate its efforts to comply with & carry out its responsibilities under Title IX (TIXC)
- Includes investigation of any complaint alleging any actions which would be prohibited by Title IX.

TITLE IX COORDINATOR DUTIES:

- Disseminate & implement policies;
- Provide training;
- Receive & handle complaints;
- Oversee an investigation;
- Maintain records;
- Identify trends & areas for improvement;
- Advise on Title IX issues;
- Work with stakeholders across campus.





TITLE IX: HISTORICAL CONTEXT



TITLE IX TIMELINE: 1970'S- 1990'S

- **1972:** Title IX Adopted- focus on Athletics & expanding opportunity
- **1975:** Rules implement Title IX & schools have until 1978 to comply
- **1978:** Alexander v. Yale
- **1990's:** Sexual Harassment Liability
 - Franklin v. Gwinnett County Public Schools
 - Davis v. Monroe County Board of Education

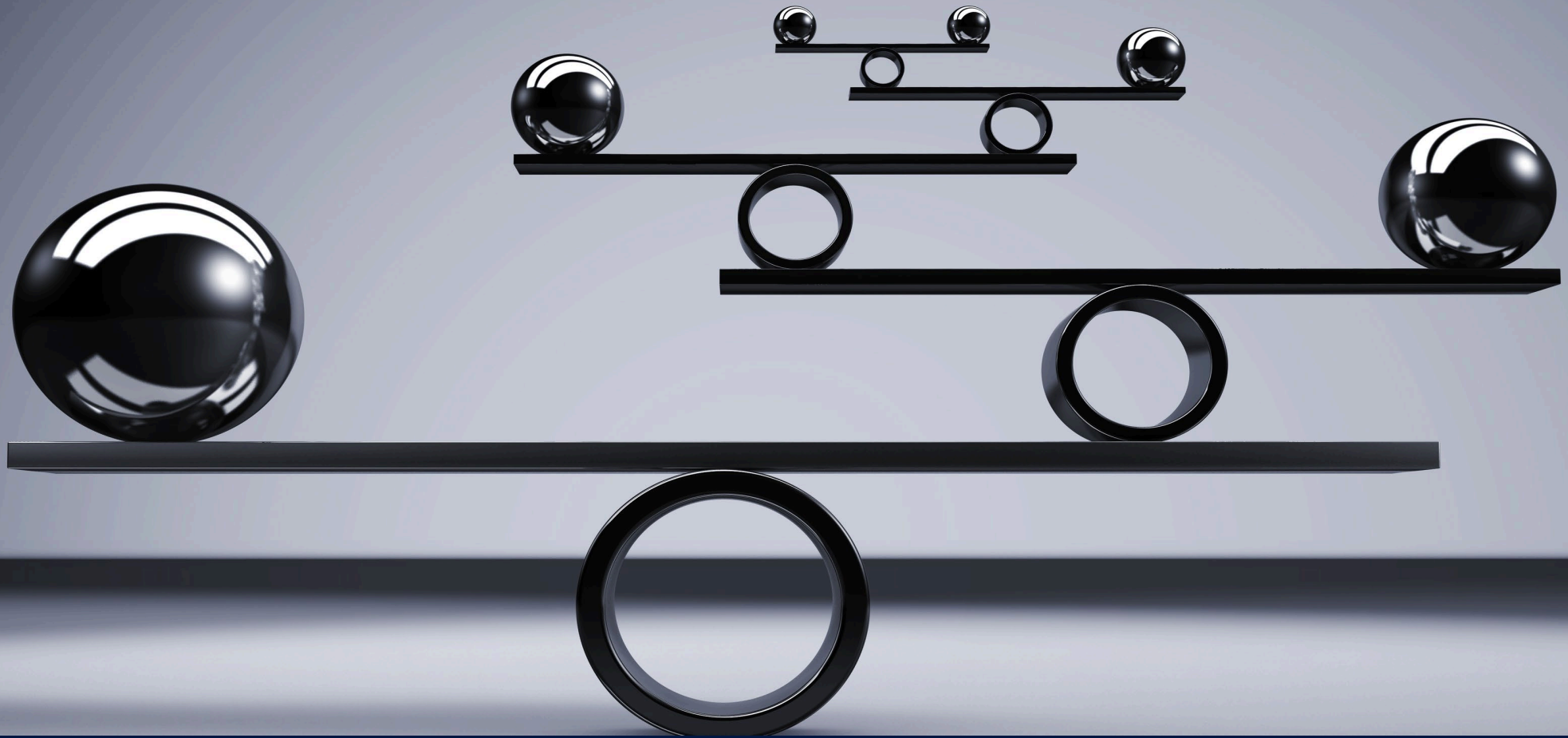


TITLE IX: HISTORICAL CONTEXT



TITLE IX TIMELINE: 2011-PRESENT

- **April 2011:** Obama's Dear Colleague Letter
- **May 2020:** Title IX Final Rule
- **2016-2026:** Shifting Policies Related to Transgender Students
- **August 2024:** Biden-era 2024 Final Rule Implemented
- **January 2025:** Biden-era 2024 Rule is Vacated-return to 2020



2020 FINAL RULE

Introduction to the Title IX Final Rule

SCOPE OF FINAL RULE

Sexual harassment in an
education program or
activity of the institution
against a person in the
United States.



SEXUAL HARASSMENT

Sex-based harassment prohibited by this part (Title IX) is a form of sex discrimination and means sexual harassment and other harassment on the basis of sex, including on the bases described in the scope, that is:

1	2	3
QUID PRO QUO HARASSMENT	HOSTILE ENVIRONMENT HARASSMENT	SPECIFIC OFFENSES



QUID PRO QUO HARASSMENT

“An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual’s participation in unwelcome sexual conduct”

QUID PRO QUO HARASSMENT

AN EMPLOYEE OF THE INSTITUTION

This categorization includes, but is not limited to:

- Faculty (full-time & adjunct),
- Administrators,
- Practitioners,
- Coaches,
- Members of institutional leadership (if considered to provide aid, benefit, or service)

ARE STUDENTS INCLUDED IN THIS CATEGORY OF QUID PRO QUO HARASSMENT?

- Generally, no. Students are intended as the beneficiaries of the aid, benefits, or services of the institution's education program or activity.

HOSTILE ENVIRONMENT HARASSMENT

SEVERE AND PERVASIVE

- A single serious incident may be severe but not pervasive, as required.
- Pervasive conduct may create a hostile environment, even if no single occurrence of conduct is severe.
 - Harassment in hallways
 - Graffiti in public areas
 - Harassment during extracurricular education programs or activities.

SUBJECTIVELY AND OBJECTIVELY OFFENSIVE

- Subjective offensiveness of sex-based harassment is necessary to determine hostile environment.
 - Must be supported by evidence
 - Cannot prove hostile environment on its own.
- Objective offensiveness is assessed through the perspective of a reasonable person in the complainant's position.

HOSTILE ENVIRONMENT HARASSMENT: TOTALITY OF THE CIRCUMSTANCES

When a standard is based on the “**totality of the circumstances,**” it means that a determination must be made in consideration of all the facts & all the available information.

Requires consideration of all relevant evidence & the five factors of the fact-specific inquiry.



*“EFFECTIVELY
DENIES”*

HOSTILE
ENVIRONMENT
HARASSMENT

Evidence required to support complainant’s claim that ability to participate in or benefit from education program or activity is “effectively denied” because of alleged conduct.

No specific type of harm required for a hostile environment to exist.

Whether alleged conduct effectively denies a person equal access to an institution’s education program or activity is fact-specific analysis & requires consideration of all relevant evidence.

FACT SPECIFIC INQUIRY: CONSIDERATION FACTORS

Whether a hostile environment has been created is a **fact-specific inquiry** that includes consideration of the following **five** factors:

FACTOR 1

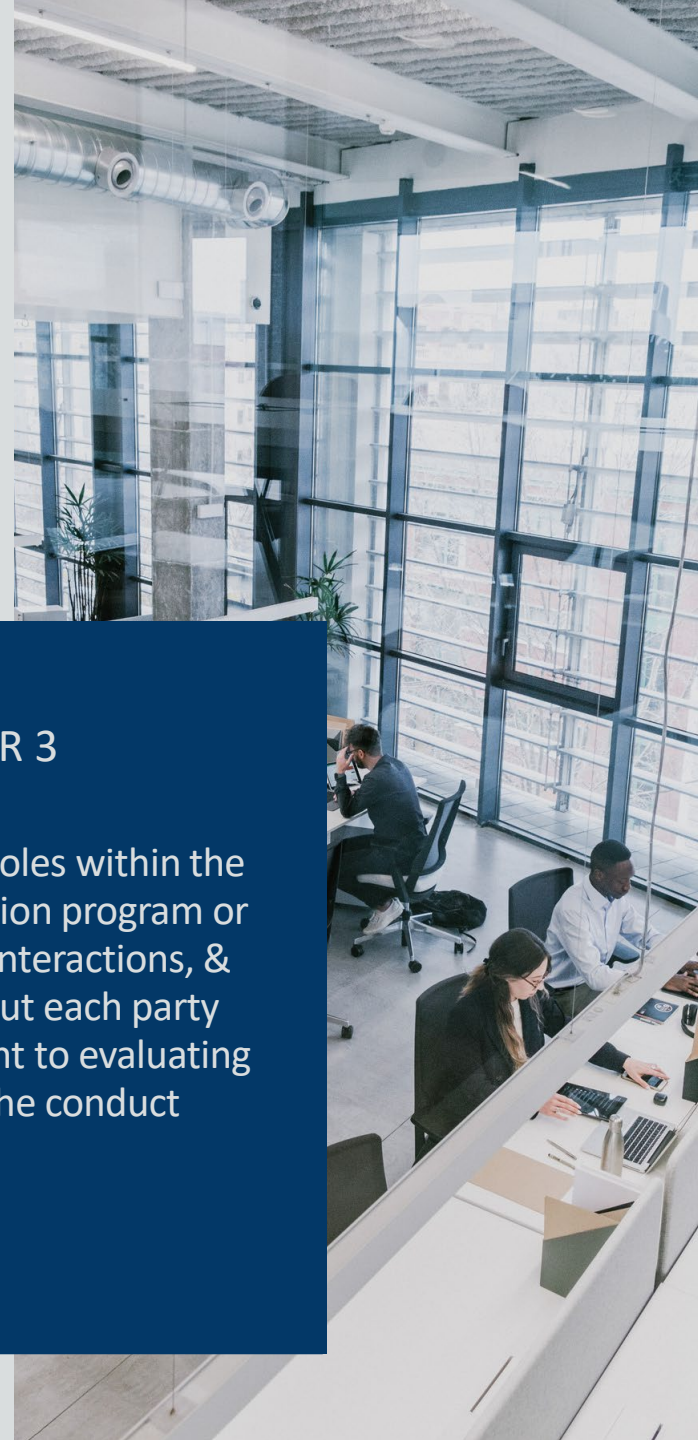
The degree to which the conduct affected the complainant's ability to access the institution's education program or activity

FACTOR 2

The type, frequency, & duration of the conduct

FACTOR 3

The parties' ages, roles within the institution's education program or activity, previous interactions, & other factors about each party that may be relevant to evaluating the effects of the conduct



FACT SPECIFIC INQUIRY: CONSIDERATION FACTORS

FACTOR 4

The location of the conduct & the context in which the conduct occurred

FACTOR 5

Other sexual harassment in the institution's education program or activity



- The Department crafted the definition of sex-based harassment & the definitions of the four included specific offenses to align with the Clery Act.
- Do not need to be severe or pervasive or subjectively & objectively offensive to constitute sex-based harassment.
- Do not have to satisfy the element of unwelcomeness.
- A hostile environment may need to be addressed even if a specific offense occurs outside of an education program or activity.
- Other sex offenses as defined by State law may meet the definition of hostile environment harassment if they satisfy all elements of the definition.

1. SEXUAL ASSAULT

2. DATING VIOLENCE

3. DOMESTIC VIOLENCE

4. STALKING

SPECIFIC OFFENSES

1. SEXUAL ASSAULT

“An offense classified as a forcible or nonforcible sex offense under the uniform crime reporting (UCR) system of the Federal Bureau of Investigation (FBI).”
20 U.S.C. 1092(f)(6)(A)(v)

Offenses included:

- Rape
- Sodomy
- Fondling
- Incest
- Statutory Rape

HOW DOES YOUR STATE DEFINE CONSENT?



2. DATING VIOLENCE

VIOLENCE COMMITTED BY A PERSON:

- a. Who is or has been in a social relationship of 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:
 - The length of the relationship;
 - The type of relationship; &
 - The frequency of interaction between the persons involved in the relationship.

3. DOMESTIC VIOLENCE

FELONY OR MISDEMEANOR CRIMES OF VIOLENCE COMMITTED BY

- a current or former spouse or intimate partner of the victim,
- by a person with whom the victim shares a child in common,
- by a person who is cohabitating with or has cohabitated with the victim as a spouse or intimate partner,
- by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction receiving grant monies, 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.



4. STALKING

Engaging in a course of conduct directed at a specific person that would cause a reasonable person:

- a. Fear for the person's safety or the safety of others; or
- b. Suffer substantial emotional distress.

CONSIDERATION FACTORS OF CONDUCT:

- Duration
- Frequency
- Intensity

TO:

- Watching
- Following
- Using a tracking device
- Monitoring online activity
- Unwanted contact
- Property invasion or damage
- Hacking accounts
- Threats
- Violence
- Sabotage
- Attacks

TACTICS USED MAY INCLUDE BUT ARE NOT LIMITED

A background map of a city street grid with the word JURISDICTION overlaid in large blue letters.

JURISDICTION



DEFINING EDUCATION PROGRAM AND/OR ACTIVITY

All operations of:

- A college, university or other postsecondary institution, or public system of higher education....

“SUBSTANTIAL CONTROL”



An institution is **not** responsible for the actions of parties over which it **lacks** substantial control and are only responsible for alleged discriminatory conduct over both the context and the respondent.

OUTSIDE THE COUNTRY



“NO PERSON *IN THE UNITED STATES* SHALL...”

- Title IX does **not** apply outside of the United States
- Plain language of the statute is clear that Congress did not intend for application outside of the U.S.
- Title IX does **not** apply to study abroad programs and institutions do not have an obligation to address sex discrimination outside of the U.S.

HOWEVER, the 2024 Final Rule further states:

- Institutions **do** have a responsibility to address a hostile environment in its education program or activity in the U.S., even when some conduct alleged to be contributing to the hostile environment occurred outside of the institution’s program or activity or outside of the U.S. (including study abroad).
- Also, institutions may respond under their codes of conduct or other applicable policies pertaining to study abroad.

BREAK!





DUE PROCESS

THE CONSTITUTION & DUE PROCESS

No state shall “deprive any person
of life, liberty, or property, without
due process of law.”

14th Amendment, Section 1, U.S. Constitution



THE CONSTITUTION: A FOUNDATION FOR DUE PROCESS

The U.S. Constitution sets the legal foundation for due process requirements. Statutes embodying Federal & State laws, rules, and regulations must build upon the due process foundation set by the Constitution.

THE U.S. CONSTITUTION

- Prohibits the deprivation of life, liberty, & property.
- Prohibits the denial to any person of the equal protection of law.

STATUTES

- Laws passed by Congress or a State Legislature.
- Must be followed by institutions receiving federal funding.

RULES & REGULATIONS

- Issued by government agencies to further interpret & explain the law.
- Do not have the force of law but provide insight for enforcement & best practices.

DUE PROCESS: *YOUR POLICIES ARE YOUR CONSTITUTION*



ALWAYS START WITH YOUR
TITLE IX POLICY & YOUR
STUDENT CODE OF
CONDUCT!

DUE PROCESS: WHEN & HOW MUCH?

LEAST DUE
PROCESS



MOST DUE
PROCESS



OTHER RELEVANT LAWS: CLERY

THE CLERY ACT

- Administrative law focused on ensuring that certain policies & procedures are in place that prevent and respond to instances of domestic violence, dating violence, sexual assault, or stalking (DVSAS).
- Federal consumer protection law that aims to provide transparency around campus crime policy & statistics by imposing certain recording and reporting requirements.
- Applies just to higher education institutions.
- Includes the reporting other crime offenses outside of DVSAS (hate crimes, arrests, referrals for disciplinary action).
- Jurisdiction based on geography.

TITLE IX

- Federal law that prohibits discrimination on the basis of sex in education programs and activities.
- Civil rights law designed to preserve one's civil rights & access to federally funded education free from discrimination on the basis of sex.
- Applies to K-12 & higher education institutions.
- Includes responding to complaints of sexual harassment (which may include DVSAS).
- Jurisdiction based on education program or activity and substantial control.

SIMILARITIES: *CLERY & TITLE IX*

TRAINING requirements

Address & share definitions for specific offenses

- Domestic violence, dating violence, sexual assault, stalking

Provide support for victims

- Clery = Accommodations; Title IX= Supportive Measures

Require fair and equitable disciplinary processes

VIOLENCE AGAINST WOMEN ACT (VAWA) AMENDMENTS TO CLERY (2013)

Adds the definitions of specific offenses and includes them as reportable crimes (DVSAS)

- Domestic Violence
- Dating Violence
- Sexual Assault
- Stalking

Policy statement of the jurisdiction covered by campus security

Data regarding DVSAS incidents along with policy statements outlining campus response to these incidents, including rights & options for survivors

Implement programs to prevent DVSAS incidents while promoting a healthy & respectful campus environment

Published reports must respect survivor's confidential information (PII, accommodations, etc).

Report data on hate crimes – VAWA added crimes based on gender identity & national origin to the list of hate crimes that must be reported.

EMPLOYEES: TITLE IX & TITLE VII

TITLE IX

- Prohibits discrimination “on the basis of” sex.
- Applies to students, employees, & others participating in or attempting to participate in the education programs or activities.
- Hostile Environment: subjectively & objectively offensive & severe and pervasive
- Actual Notice
- Voluntary

TITLE VII

- Prohibits discrimination “because of...sex.”
- Also covers race, color, religion, or national origin.
- Applies to employees
- Hostile Environment: severe or pervasive to alter working conditions & create hostile environment
- Knew or should have known
- Compulsory?



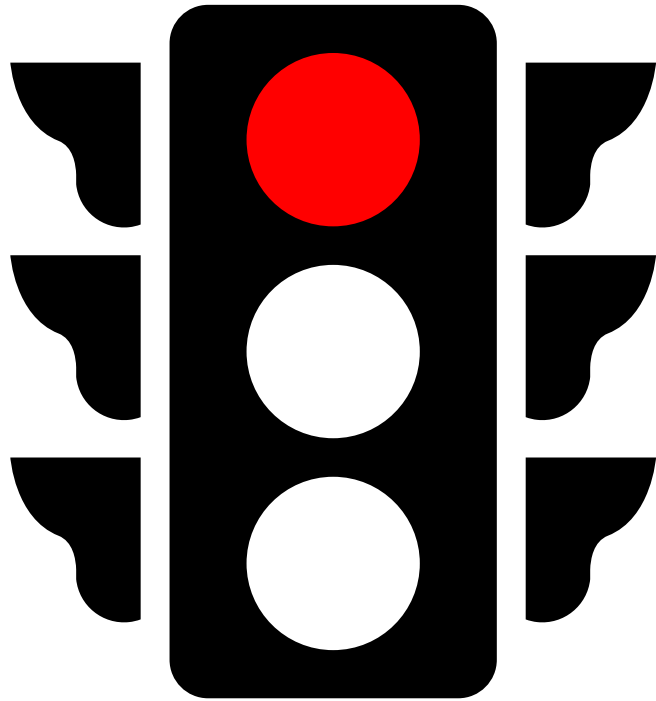
NEW YORK STATE LAW

129-B, SONDA, & GENDA

129-B OF THE NYS EDUCATION LAW

“ENOUGH IS ENOUGH”

- What conduct is covered?
- Who is covered?
- Mandated items?
 - Process
 - Training
 - Surveys & reporting
 - Misc policies: Amnesty, Bill of Rights, Affirmative Consent



- What conduct is covered?
 - Sexual assault, dating violence, domestic violence, & stalking
- Who is covered?
 - Only students
- Geography?
 - Broader than Title IX

129-B PROHIBITED CONDUCT

- Make report to local law enforcement
- Have disclosures taken seriously
- Make procedural decisions without institutional pressure
- Fair, impartial process with opportunity to be heard
- Treated with dignity & respect
- No victim blaming
- Describe incident to fewer people
- No retaliation
- Appeals
- Advisor of choice
- Civil rights

STUDENTS' BILL OF RIGHTS

AFFIRMATIVE CONSENT UNDER 129-B



- Supplements Title IX
- Mandated definition
- For all “sexual activity”
- **Affirmative Consent DEFINITION**
 - Expressed through words or deeds
 - Always required & may be withdrawn
 - Incapacitation & coercion
- Proving Affirmative Consent

MANDATORY RESPONSE TO REPORTS

- Advise of rights & resources
- Emergency access to TIXC or another trained official
- Options for confidential & private disclosure
- File reports with TIXC or HR
- Support for legal proceedings
- Right to withdraw complaints

Other measures

No-Contact Order



PROTECTIONS & ACCOMMODATIONS

Order of Protection & Arrest

Other security or
safety assistance

Interim suspension

Academic & other
accommodations

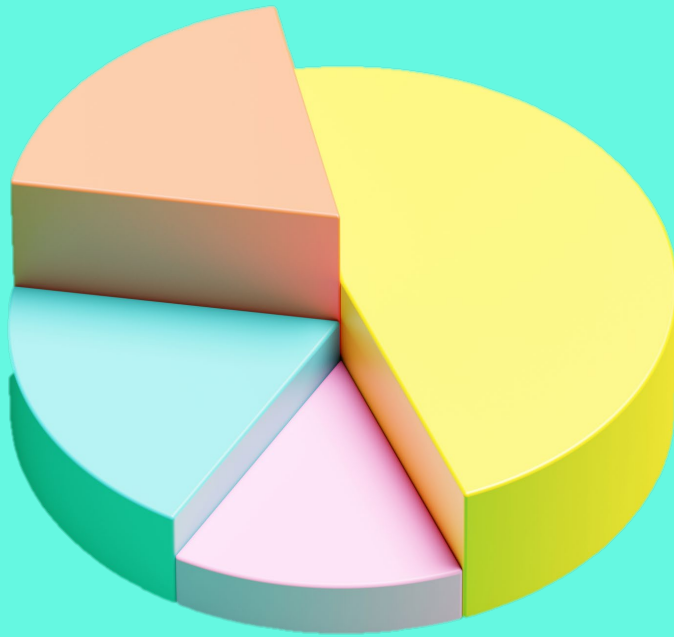
- Notice to Respondent
- Opportunity to offer & review evidence in impartial investigation
- Appeal
- Advisor of choice
- Prompt, impartial, timely, & thorough adjudication with opportunity to present evidence at hearing
- Concurrent with criminal investigation
- Exclude sexual & criminal history
- Privacy
- Transcript notations



ALCOHOL AND/OR DRUG USE AMNESTY

“The health and safety of every student at the [Institution] is of utmost importance ... A bystander acting in good faith or a reporting individual acting in good faith that discloses any incident of domestic violence, dating violence, stalking, or sexual assault to [Institution’s] officials or law enforcement will not be subject to [Institution’s] code of conduct action for violations of alcohol and/or drug use policies occurring at or near the time of the commission of the domestic violence, dating violence, stalking, or sexual assault.”

MISC 129-B: CLIMATE SURVEYS, REPORTING & TRAINING



- CAMPUS CLIMATE ASSESSMENTS
 - Every other year
 - Questions related to knowledge, experiences, & bystander attitudes
- REPORTING
 - 10 Years: File copies of rule
 - Annual 129-B certification
 - Annual Aggregate Data Report
 - Data about reports, cases, findings, & sanctions
- TRAINING
 - Specific topics: Definitions, role of TIXC, policies, risk reduction, bystander intervention
 - Targeted audiences: new students, student leaders, athletes



NYS HUMAN RIGHTS LAW

- **NYS EXECUTIVE LAW § 296** – New York State Human Rights Law is broader than federal laws
- In addition to race, color and national origin, NYSHRL includes discrimination based on age, citizenship or immigration status, sexual orientation, gender identity or expression, military status, sex, disability, predisposing genetic characteristics, familial status, marital status or status as a victim of domestic violence.
- Statute of limitations – 3 years

- Sexual orientation discrimination prohibited
 - Employment
 - Housing
 - Public accommodations
 - Education, &
 - The exercise of civil rights
- Gender expression/identity discrimination prohibited
 - Employment
 - Housing
 - Public accommodations
 - And non-religious schools, etc.
- Different standards & requirements than Title IX

SONDA & GENDA

Days 2 & 3 of Title IX Coordinator Training	7/29 7/31
Title IX Hearing Board (Decisionmaker) Trainings	8/4, 8/6, 8/8 9/9, 9/11, 9/16 12/2, 12/4, 12/9
Student Conduct Hearing Board (Decisionmaker) Trainings	8/12, 8/13, 8/14 9/18, 9/22, 9/25 11/5, 11/7, 11/12
Title IX Coordinator Training	8/28, 9/2, 9/4 12/11, 12/16, 12/18
Tech-Facilitated Sexual Violence	7/30
Title IX Investigator Training	8/21, 8/22
Advanced Title IX Workshop	8/26
Getting Your Clery Annual Report Ready to Publish	9/8
Identifying & Responding to Stalking	9/19
Investigating Stalking	10/16
Trauma-informed Interview Training	10/20, 10/21
The Neurobiology of Sexual Assault	10/7, 10/8
Coordinating Response to Stalking	11/14
The Cost of Caring – Understanding Your Vicarious Trauma	12/19

THANK YOU SO MUCH FOR JOINING US! *WE ARE SO GRATEFUL TO ALL OF OUR MEMBERS JOINING US FOR OUR TRAININGS.*

Our upcoming trainings are listed on this slide, but you can find all our Live@Distance offerings in our learning platform.



TITLE IX COORDINATOR TRAINING

Day Two | July 29, 2025

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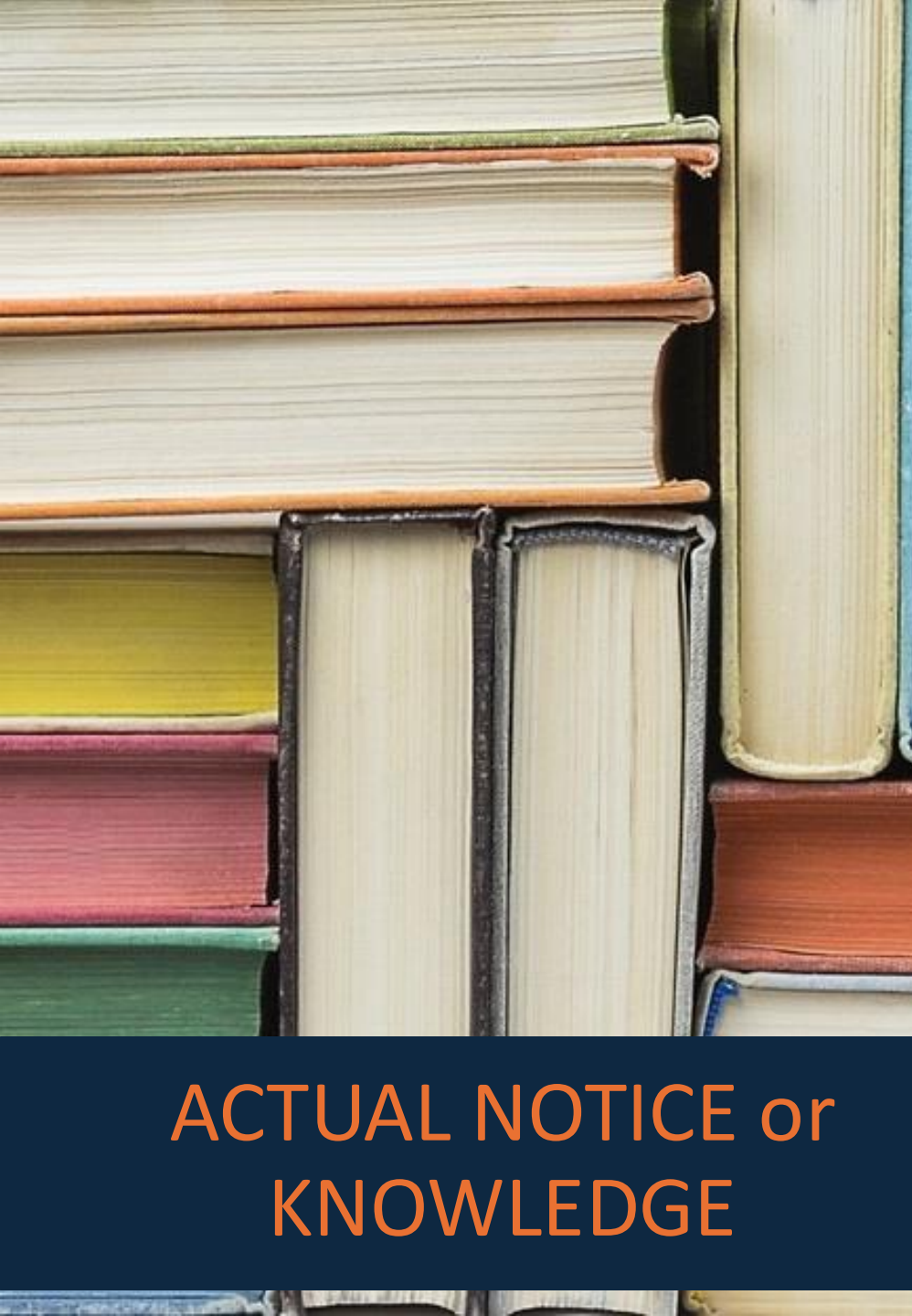
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“notice of sexual harassment or allegations of sexual harassment to a recipient’s Title IX Coordinator or any official of the recipient who has the authority to institute corrective measures on behalf of the recipient, or to any employee of an elementary and secondary school.”

- Does not impose universal mandatory reporting obligations upon all postsecondary institution employees
 - Institutions retain ability to designate which employees must report disclosures, & others who are confidential

**ACTUAL NOTICE or
KNOWLEDGE**

DELIBERATE INDIFFERENCE

- Requires institution with actual knowledge to respond “promptly in a manner that is not *deliberately indifferent*”
- Meaning “not clearly unreasonable in light of the known circumstances”

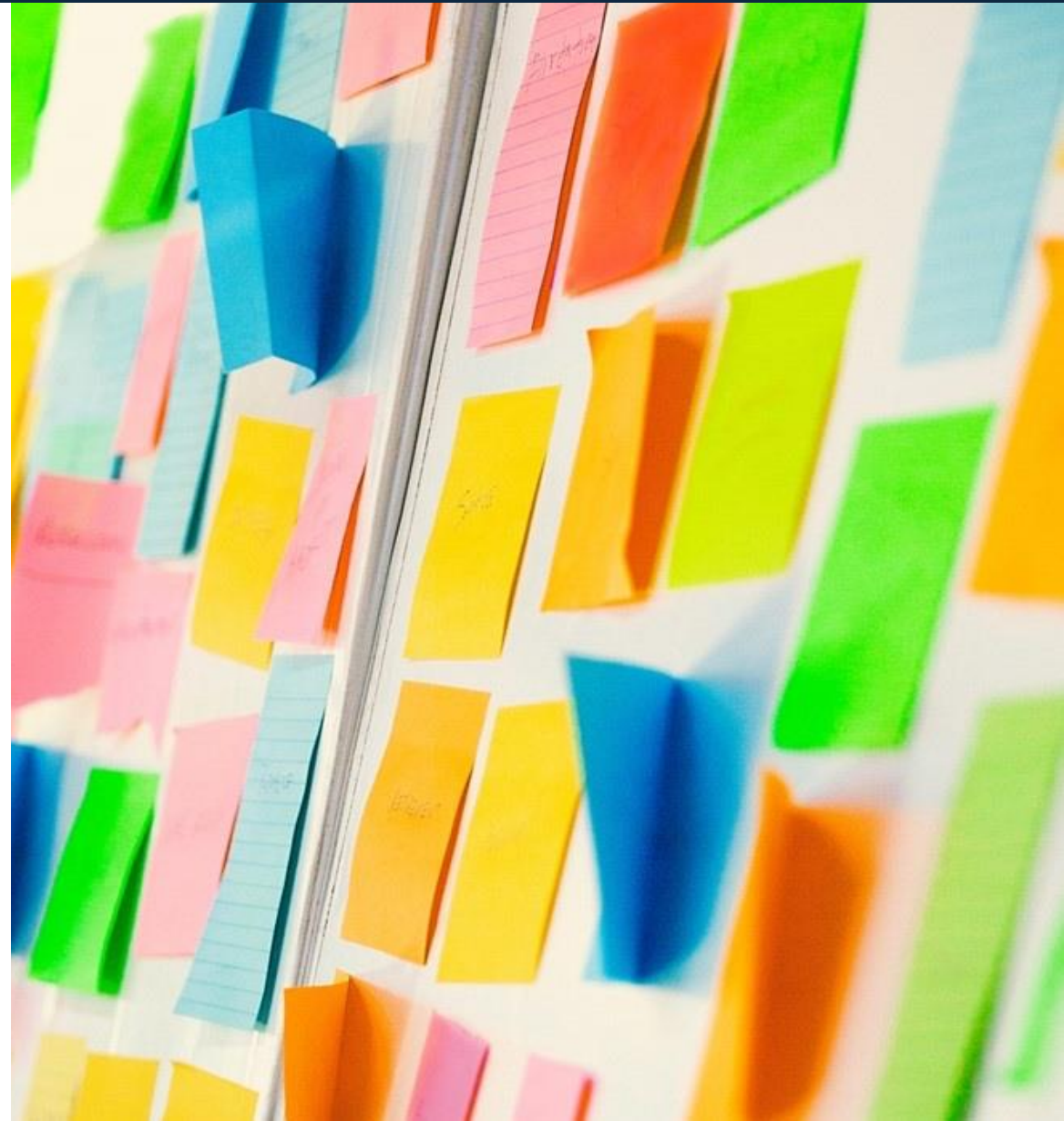
What makes a response deliberately indifferent?

- Inadequate
- Willfully indifferent, or clearly unreasonable
- Causes harm, or denies complainant educational benefits

Example: failure to conduct a proper investigation considering actual knowledge of misconduct, failed to provide appropriate support or remedies for the complainant

REQUIRED RESPONSE TO REPORTS

- Treat parties equally
- Promptly offer supportive measures
- Explain formal complaint filing
- Follow a compliant grievance process before sanctions
 - Objective evidence evaluation
 - TIX staff are trained & free of bias or conflict
 - Presumption of non-responsibility
 - Reasonably prompt resolution
 - Standard of evidence
 - Appeal
 - Legal privileges



REASONABLY PROMPT TIMEFRAMES



- Includes appeals & informal resolution
- Temporary delays with notice
 - 129-B: 10 day delay for law enforcement
- How long???
 - Not defined
 - Flexibility
 - 2001 Guidance
- Balance promptness with diligence
- Resource considerations



CONFIDENTIALITY & PRIVACY

- Privacy of reports is expected
- Responsible Employees
- Confidentiality of reports is rare
- 129-B limits sharing & re-disclosure

FERPA “RECORDS?”



FERPA protects “education records,” which are generally defined as records that are directly related to a student & maintained by an educational agency or institution or by a party acting for the agency or institution.

- For a record to directly relate to a student, the student must be the focus of the record, not simply in the background or incidental to a report.
- The Supreme Court has described education records as “institutional records kept by a single central custodian, such as a registrar ...”
 - In other words, for FERPA to apply, the record in question must be systematically maintained by the school.

CONFLICTS BETWEEN FERPA & TITLE IX

- Interpret statutes in a manner to avoid any conflicts, if possible
- Section 106.6 (Effect of Other Requirements and Preservation of Rights) of the Final Rule states as follows:
 - Effect of Section 444 of General Education Provisions Act (GEPA/FERPA). The obligation to comply with Title IX & the Final Rule is not obviated or alleviated by FERPA.
- When conflict exists, institutions are required to comply with Title IX regulations - this FERPA override is known as “GEPA override”
 - Title IX includes federally protected due process rights - constitutional override
- May not use FERPA as a shield to avoid complying with Title IX



DISCLOSURE OF EVIDENCE



- The Final Rule requires the institution to share relevant evidence with the parties.
- Department has previously recognized that under FERPA, an eligible student:

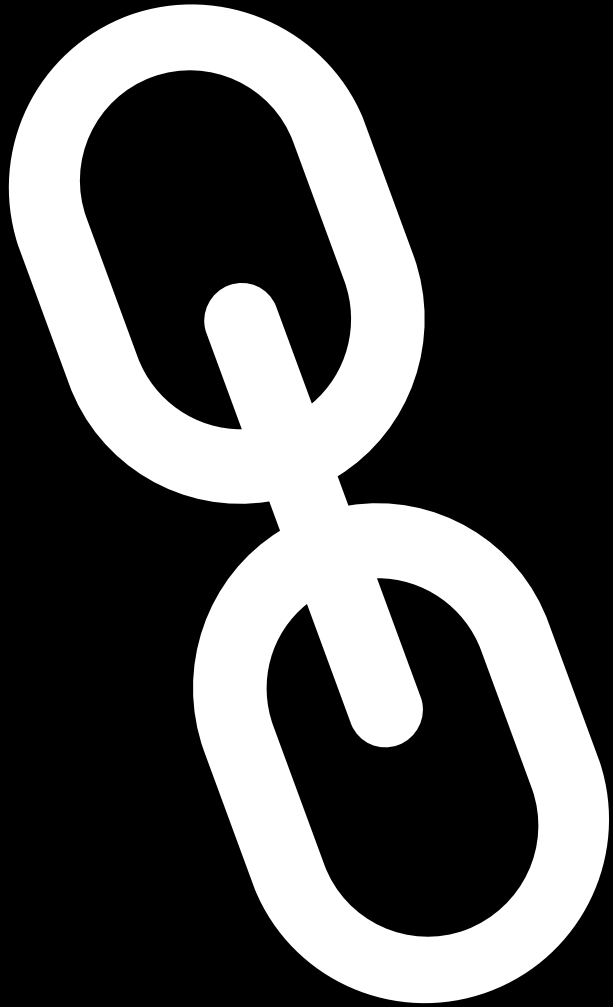
“has a right to inspect & review any **witness statement that is directly related to the student**, even if that statement contains information that is also directly related to another student, **if the information cannot be segregated & redacted without destroying its meaning.**”

SUPPORTIVE MEASURES

Under Section 106.44 of the Final Rule, there are certain non-disclosure protections related to supportive measures.

- FERPA does not prevent the institution from disclosing a supportive measure to school officials as necessary to provide the measure.
- Revised to protect the unnecessary disclosure of information related to these measures.
- Even if permitted by FERPA, institution may only inform one party of supportive measures provided to the other party if necessary to restore or preserve access to the party receiving measure.





- The Final Rule permits multiple reports with multiple parties to be consolidated into one, which raises potential privacy concerns.
- The Department stated that this section of the Final Rule must be interpreted consistent with FERPA.
- Regulations provide institutions with the *option* to consolidate but do not *require* it to do so.
- An institution may not choose to consolidate if that consolidation would give rise to FERPA violations.

CONSOLIDATION & FERPA

ADVISORS

The Department acknowledges that the presence of an advisor may violate FERPA.

- The right to an advisor is a due process right guaranteed by Title IX.
- Title IX will override the FERPA concerns here.
- GEPA override will allow the sharing of evidence with advisors.
- Institutions are not required to permit more than one advisor to accompany a party & the GEPA override will not apply there.



ADVISOR

STATS	
TNC	89
SPD	95
PWR	92
CRT	99

COMPLAINANT OUTREACH & INTAKE



DESIGNATING RESPONSIBLE & CONFIDENTIAL
EMPLOYEES

LIST OF RESPONSIBLE & CONFIDENTIAL
EMPLOYEES

DISCLOSURE OF STATUS TO STUDENTS

TRAINING & FERPA CONSIDERATIONS

INCLUSION IN CAMPUS POLICY

THE MECHANICS OF INTAKE



INCIDENT INFORMATION

TYPE OF ALLEGED HARASSMENT

CRITICAL INCIDENT RESPONSE

OFFICE VISIT FOLLOW-UP/DELAYED REPORT

SUPPORTIVE MEASURES

STUDENT RIGHTS INFORMATION REVIEW

SUPPORTIVE MEASURES

TYPE	CONSIDERATIONS
SAFETY	Reasonable accommodations
HEALTH	Medical, Mental
HOUSING	Room lock change, designated emergency space
RESTRICTIONS	One-way or Mutual No Contact Order (NCO)
ACADEMIC	Course accommodations, course changes, Professor notifications, leave of absence, withdrawal assistance
WORK	On/Off Campus employment
FACILITY BASED	Gym, library, dining, University events, etc. ...
RECREATIONAL	Student group, athletic team, internship program



Is This a Title IX Grievance Process Case?*

Report made to Title IX Coordinator

Is the complainant currently participating in or attempting to participate in your programs (i.e. an employee, student, applicant, etc.?)

Yes

No

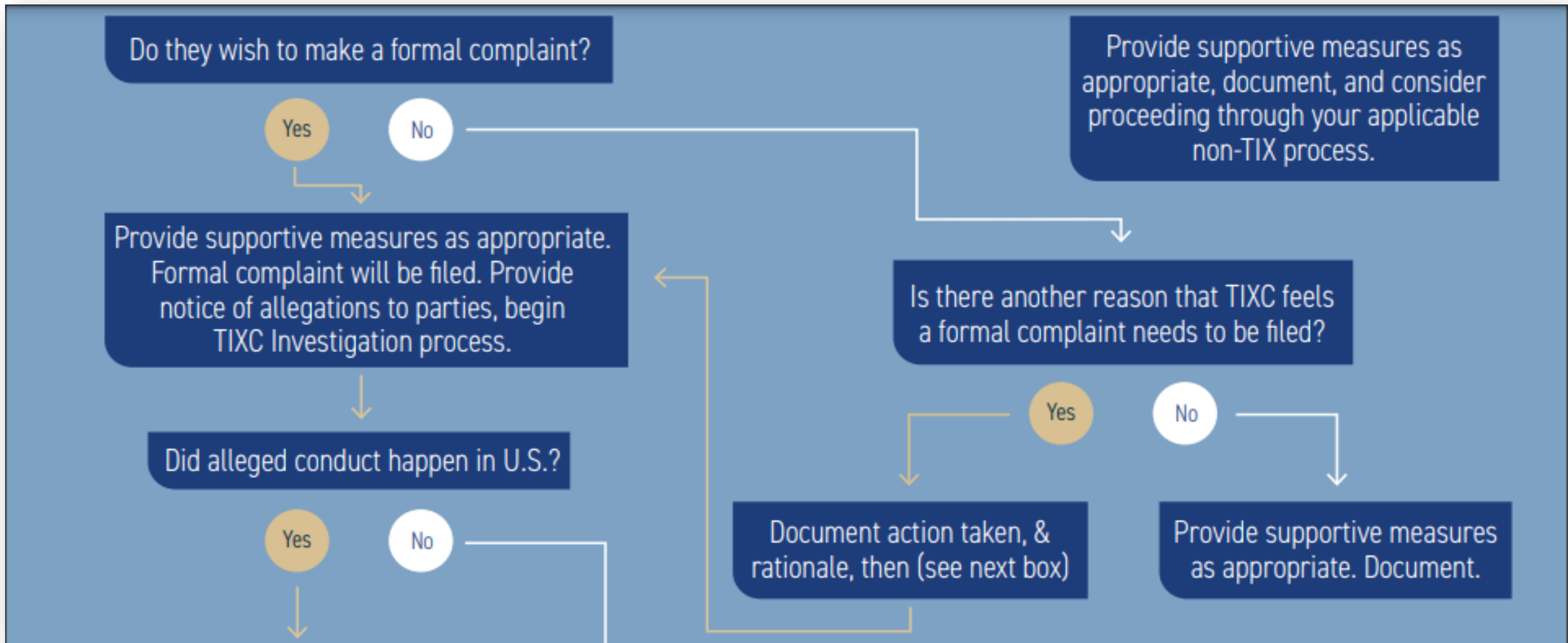
Do they wish to make a formal complaint?

Yes

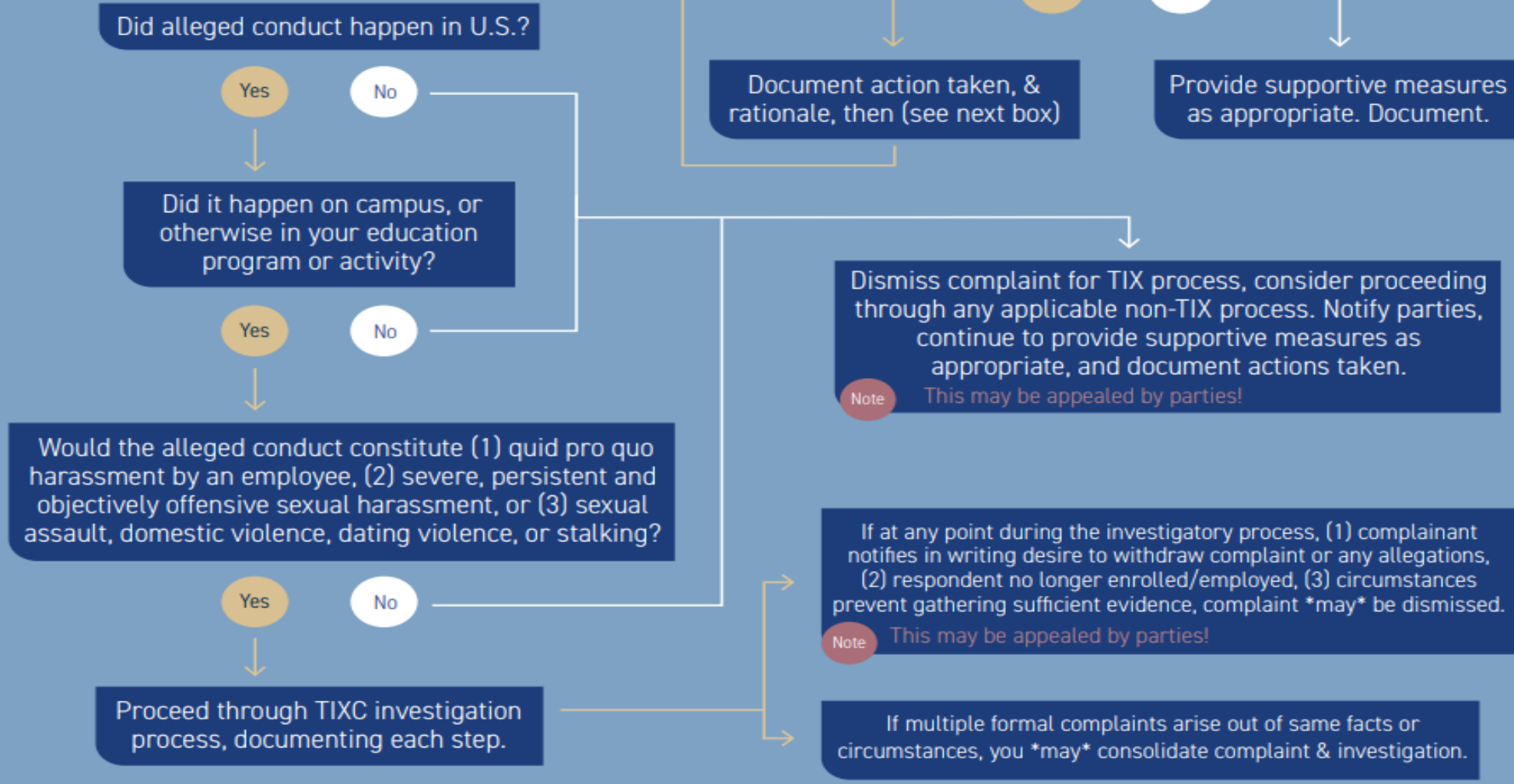
No

Provide supportive measures as appropriate, document, and consider proceeding through your applicable non-TIX process.

DECISION TREE, PT. 1



DECISION TREE, PT. 2



**This Decision Tree is intended to capture the most foreseeable routes that a matter may take, but it cannot cover every circumstance that may arise. Please consult with your campus counsel for specific circumstances and questions.*

DECISION TREE, PT. 3

TITLE IX SCOPE

Assess scope of report

Assess jurisdiction

Review complainant intentions

(What is complainant autonomy?)

Explore levels of participation

Determine if TIXC-initiated complaint needed

JURISDICTION ASSESSMENT

TITLE IX COORDINATOR INITIATED COMPLAINT

- Complainant's request not to proceed;
- Complainant's safety concerns about proceeding;
- Risk of additional discrimination;
- Severity of the allegations;
- Age, relationship, and status (i.e. employee) of the parties;
- Scope of the prohibited conduct
 - is there a pattern? Multiple complaints?
- Availability of evidence;
- Whether the school could end the discrimination & prevent its recurrence;
- Whether the conduct as alleged presents an imminent & serious threat to health or safety;
- Whether the conduct alleged prevents the institution from ensuring equal access.

REMEMBER: THE COMPLAINANT WILL STILL BE THE COMPLAINANT & IS ENTITLED TO THE SAME RIGHTS.

INCORPORATING DISABILITY LAW

- Obligation to provide reasonable accommodations
- Good cause delays & extensions
- Mental health considerations
- Overlap with Supportive Measures
- Evidence accessible
- Support persons
- Equitable treatment
- Accused person with disabilities
 - Severe, pervasive, & objectively offensive
 - Sanctioning considerations

Institutions **must** investigate all “formal complaints” filed with the Title IX Coordinator

WHO CAN FILE A FORMAL COMPLAINT?

- Person currently participating in the educational programs or activities of the institution
- Person **attempting** to participate in those programs or activities
- The Title IX Coordinator

Multiple complaints arising from same incidents can be consolidated

ACTION ITEMS

PREPARATION

- Challenges of virtual work
- Varied familiarity of the process
- Delayed report
- Non-responsive

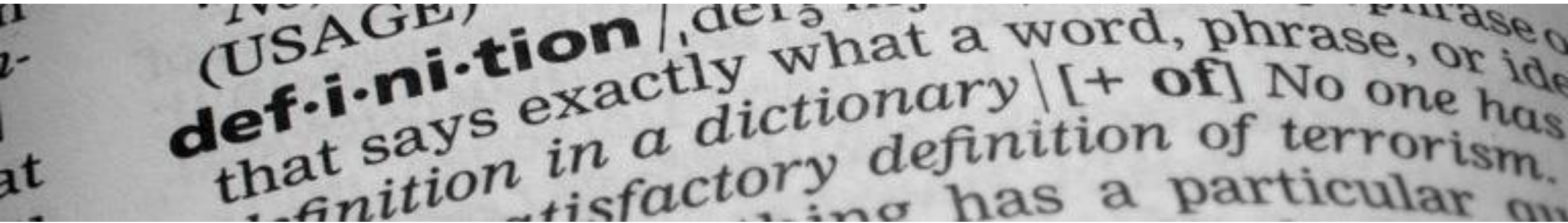
IF NON-RESPONSIVE

- Determination on next steps



THE FORMAL COMPLAINT

DEFINITION OF FORMAL COMPLAINT



A DOCUMENT:

- filed by a complainant or signed by the Title IX Coordinator
- alleging sexual harassment against a respondent &
- requesting that the recipient investigate the allegation of sexual harassment.

COMPLAINANT:

- alleged victim currently participating or attempting to participate in program or activity of institution

DOCUMENT:

- document or electronic submission containing complainant's signature

- Burden of proof on institution
- Confidential treatment records
- Present witnesses & evidence
- Freedom to discuss allegations
- Advisor of choice
- Notices
- Inspect & Review Evidence
- Review investigative report

INVESTIGATION REQUIREMENTS

If you may have a bias or a conflict, **ACKNOWLEDGE IT**

Remember this is a case made up of individuals

Challenge your own perceptions by examining evidence

Be open & transparent, leave no stone unturned

Ensure everyone has opportunity to be heard, take your time

Base decisions on evidence, facts, & established criteria

HOW TO SERVE IMPARTIALLY



CONFLICTS & BIAS

FOR OR AGAINST COMPLAINANTS OR RESPONDENTS,
GENERALLY

EXAMPLE: “All respondents tend to be responsible,” or “complainants are always credible”

FOR OR AGAINST SPECIFIC PARTIES IN THE CASE

EXAMPLE: Heard a case with the respondent in another unrelated case

OVERLAPPING INVESTIGATOR, DECISIONMAKER, OR
APPEALS ROLES

EXAMPLE: Administrator who found respondent responsible hears the appeal for the same case





“In the intimate setting of a college or university, prior contact between the participants is likely and does not per se indicate bias or partiality.”

Gorman v. Univ. of Rhode Island,
837 F.2d 7, 15 (1st Cir. 1988).

**NOT NECESSARILY
CONFLICTS & BIAS**

ACTUAL BIAS IS A HIGH **LEGAL** STANDARD, BUT **PERCEPTION** OF BIAS IS IN THE EYES OF THE PARTIES TO THE PROCESS & SHOULD BE AVOIDED.

ACTUAL vs PERCEPTION
OF BIAS

THINGS TO AVOID:

- Truly lop-sided investigations & adjudications, or
- Statements of investigator or panelist showing presumption of responsibility based on stereotypes, or
- Misapplying trauma-informed practice to explain away all inconsistencies in statements



COMPLAINTS MUST BE DISMISSED IF:

1. If allegations do not constitute sexual harassment as defined under the Final Rule § 106.30 (even if proven)
2. Did not occur in the recipient's education program or activity, or
3. Did not occur against a person in the U.S.

COMPLAINTS **MAY** BE DISMISSED IF:

1. Complainant withdraws formal complaint or allegations in writing
2. Respondent is no longer enrolled or employed by the recipient, or
3. Specific circumstances prevent recipient from gathering evidence sufficient to reach a determination



MANDATORY notifications of dismissals (required & permitted) & rationale for the dismissal to all parties simultaneously


CONSIDERATIONS FOR DISMISSALS

Decisions to dismiss complaints may be appealed by either party

EMERGENCY REMOVAL

- Individualized safety & risk analysis
 - Immediate threat to physical health or safety
- Notice & opportunity to challenge decision





Not defined
More flexible, but not indefinite
Lodging & compensation
Policies set by campuses
Collective bargaining implications
Student employees

ADMINISTRATIVE LEAVE



- Clery Act requires institutions supply timely warnings to students, faculty, & staff
- Anytime a crime occurs, or is occurring that poses a serious or ongoing threat to the rest of the campus, there must be a **TIMELY WARNING** sent that is likely to reach every member of the campus community
 - Email announcements, text messages, etc.
- Issued on a case-by-case basis considering all the facts surrounding a crime

TIMELY WARNING

WHO WRITES & SENDS THESE?
typically, safety personnel



BREAK!



NOA'S ANATOMY

BEFORE INVESTIGATIONS ON  **SUNY SCI**
STUDENT CONDUCT INSTITUTE



MUST INCLUDE:

NY129B REQ

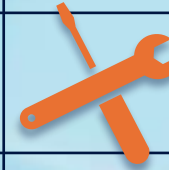
Date/Time of Formal Complaint & Who Filed the Complaint



References to Policies & Procedures



Conduct Alleged (Including Possible Sanctions if Found Responsible)



Date/Location of the Alleged Conduct



Upcoming Meeting Date/Time/Location



Notice of Advisor of Choice



Presumed NOT RESPONSIBLE Until Determination is Made



Copy Sent to Complainant





INFORMAL RESOLUTIONS

WHEN INFORMAL RESOLUTIONS ARE ALLOWED UNDER THE FINAL RULE:

- After a formal complaint
- When all parties & TIXC Coordinator's consent
- Any party can withdraw at any time

NOT ALLOWED IN CASES INVOLVING EMPLOYEE RESPONDENTS

TIXC CAN RUN THE PROCESS, BUT IT IS **NOT** RECOMMENDED

EXAMPLES:

- Administrative resolution
- Restorative justice
- Mediation

GRIEVANCE PROCESS - KEY PLAYERS

Report Receiver	Intake/Receipt of complaint
UPD/Campus Safety/Police	Safety measures
Title IX Coordinator	Oversight & assistance
Investigator	Investigation
Informal Resolution Facilitator	Facilitation of resolution
Student Conduct Staff	Oversight & assistance
Advisor	Party advisement (Complainant/Respondent)
Hearing/Appeal	Chair, Deliberations, Determinations
Resources Offices/Units	Supportive measures



TITLE IX COORDINATOR

STATS	
INT	94
SPD	85
PWR	92
CRT	100

RULES FOR INVESTIGATIONS

WHO CAN INVESTIGATE



Free from conflicts of interest & bias

Can be the TIXC, but another administrator is preferred, if possible

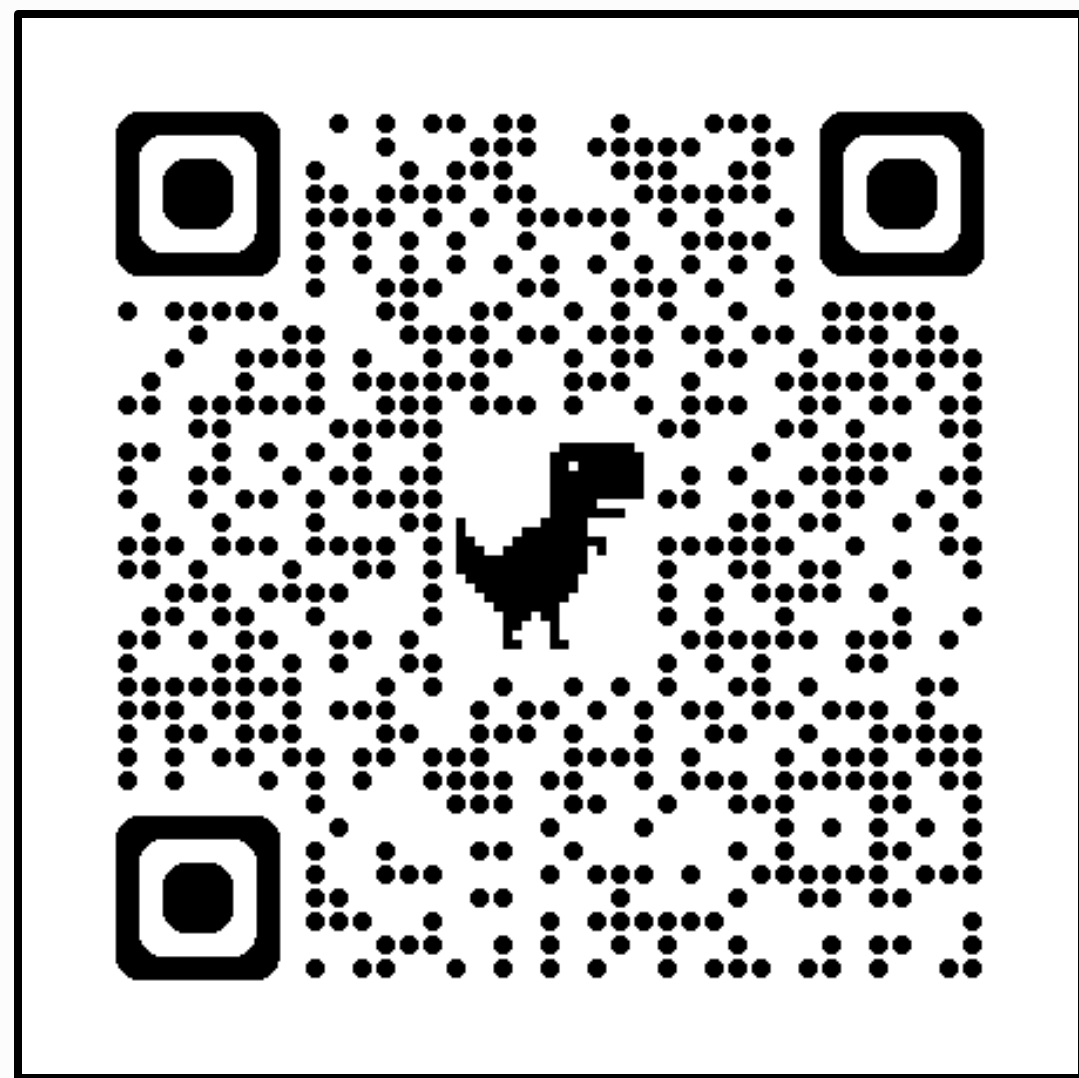
Can use trauma-informed interviewing practices

Should be aware of cultural differences & how it can impact person's testimony or experience

INVESTIGATION PLANNING

- Investigators are naturally curious, absent of conflicts of interest or bias, & diligent
 - Healthy skepticism is valuable & patience a virtue
 - Trained per the Final Rule
- Prepare natural lines of questioning for all parties & witnesses
- Prepare documents & forms (NDAs, Non-retaliation agreement, etc.)
- Identify areas of disputed facts from reviewing formal complaint & initial response from respondent
- All testimony & evidence should be relevant to facts at issue
- Recording strategies, tech, review of transcript





[8/21/2025, 8/22/2025](#)

[Title IX Investigator](#)

[Training](#)

2025-2026 Live@Distance

Ends June 30, 2026 at 11:59 PM

WHAT IS THE TITLE IX COORDINATOR'S ROLE DURING AN INVESTIGATION?

- Checking in, following up with investigators
- Help collect & organize evidence
- Review issues that arise (possible conflicts of interest or bias, scheduling, lines of questioning, etc.)
- Project management
- Track deadlines, facilitate involvement & participation, communicate with stakeholders
- Facilitate end of investigations & responses from parties

EVIDENCE



DIRECT

CORROBORATING



CIRCUMSTANTIAL

... EVIDENCE THAT MUST BE INCLUDED ...

EXCULPATORY & INCULPATORY

Exculpatory evidence increases the likelihood of finding of **non-responsibility or non-liability**

Inculpatory evidence increases the probability of a finding of **responsibility or liability.**

PLEASE NOTE: investigations & findings of **INNOCENCE** and **GUILT** are not applicable to Title IX or student conduct grievances. These processes are administrative processes & are not civil or criminal in nature.



RELEVANCE, DIRECTLY RELATED TO, & ADMISSIBLE EVIDENCE



- Relevant evidence makes a material fact **MORE OR LESS LIKELY TO BE TRUE**
- Relevant evidence will make a **DIRECT CONNECTION** to the charge(s)
- Irrelevant evidence can be **INCLUDED IN THE APPENDIX**
- Authenticity of evidence?

Testimony

Text Messages

Social Media Posts

Medical Records

Public Safety / Police Records

Videos / Surveillance Footage

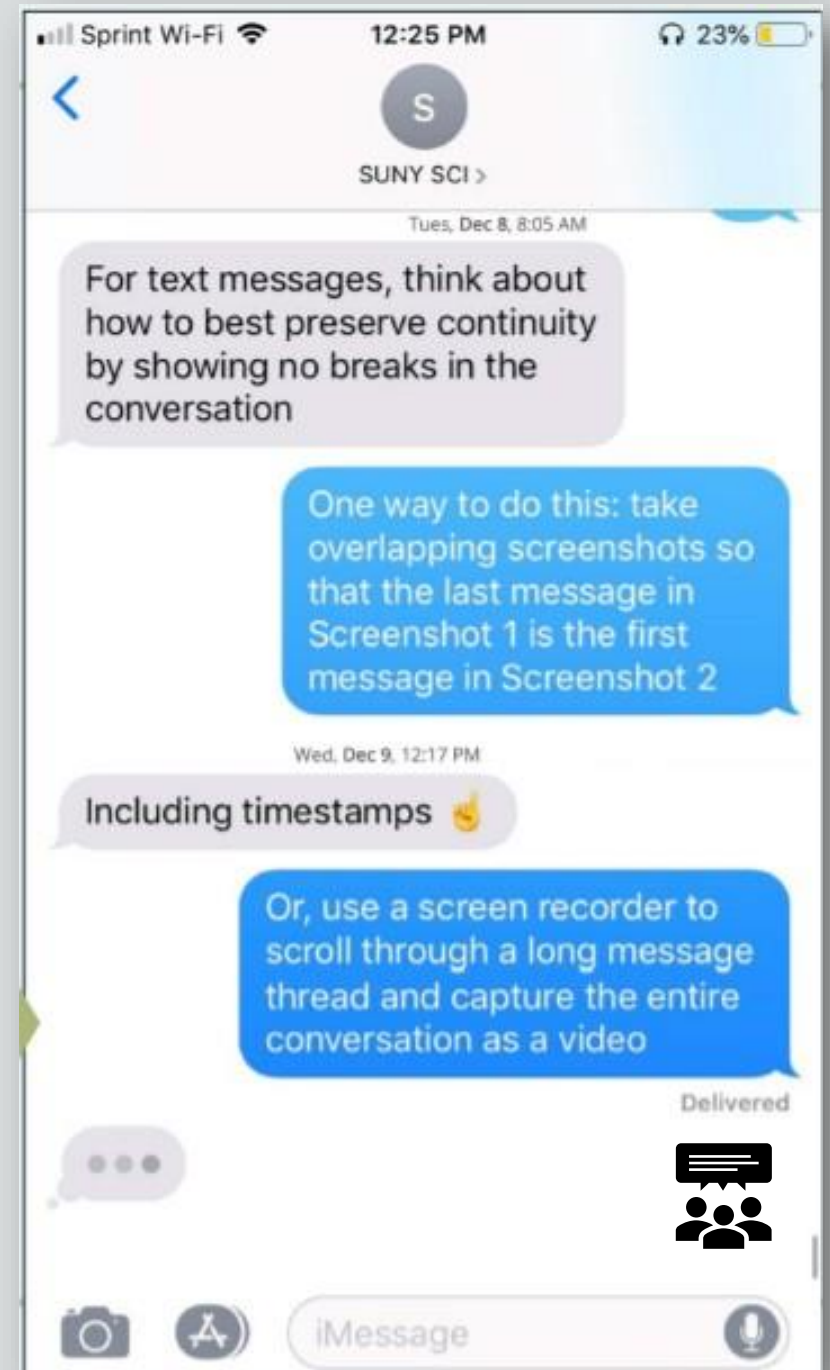
Pictures

ID Card Data / Network Usage Location Data

Email

Voice notes

POSSIBLE EVIDENCE



AUTHENTICITY

TESTIMONY
CUSTODY
ELECTRONIC
AUTHENTICATION
ANALYSIS



CREDIBILITY

SPECIFICITY
CONSISTENCY
CONTRADICTION
MOTIVE TO DECEIVE
DEMEANOR & EVASION

Credibility judgments may feel subjective - decisionmakers are asked to evaluate whether a person *they don't know* is being honest in an unfamiliar and stressful situation.

Many traditional approaches to assess credibility may **REINFORCE BIASES** rather than promote an effort to get at the truth.

The areas on the left can help decisionmakers determine credibility.





Detail your intake of the incident (who, where, when)

Include observable facts & behaviors



Cite any significant quotes from parties involved

Detail incident from reporting individual's perspective



Resolution – detail next steps taken

INCIDENT REPORT STRUCTURE

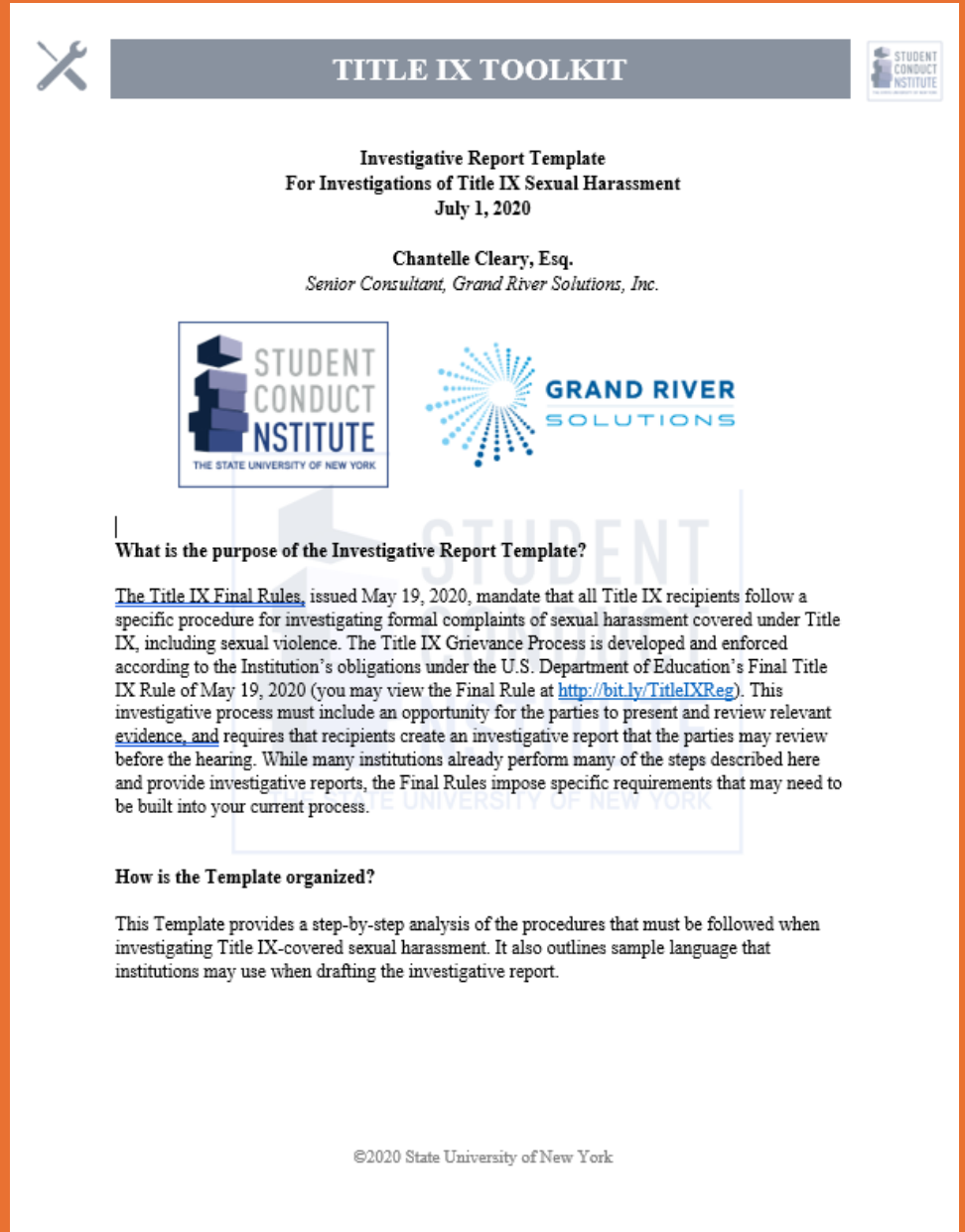
INVESTIGATIVE REPORT



- Creation & sharing of investigative report summarizing evidence collected (*fairly*)
 - Shared with both parties at least 10 days before hearing
- Include procedural steps taken
- Redact or remove evidence deemed “irrelevant” which includes such evidence that’s exempted
- Parties may correct errors, contest inclusion of certain evidence, or address issues of conflicts of interest or bias
- Use of appendix may be used for evidence institution may not wish to rely on for the case
- Should not include determinations of responsibility (*unless a single-investigator model*)

INVESTIGATIVE REPORT TEMPLATE

- **Overview** of the investigation
 - Includes parties, applicable policies, allegations of misconduct, brief description of alleged misconduct
- **Jurisdiction** of educational institution
- Identify **investigators**
- **Objective** of the investigation & report
- **Allegations**, verbatim
- Identification of **witnesses**
- Description of **evidence collected**
- **Summary** of the relevant evidence
- **Procedural** next steps



The image shows the cover page of a 'TITLE IX TOOLKIT' document. At the top left is a wrench and screwdriver icon. The title 'TITLE IX TOOLKIT' is in a grey bar at the top right, next to the Student Conduct Institute logo. The main title is 'Investigative Report Template For Investigations of Title IX Sexual Harassment July 1, 2020' by Chantelle Cleary, Esq., Senior Consultant at Grand River Solutions, Inc. Logos for Student Conduct Institute (The State University of New York) and Grand River Solutions are displayed. The page content includes a section 'What is the purpose of the Investigative Report Template?' with a paragraph explaining the Title IX Final Rules and the need for an investigative report. A second section 'How is the Template organized?' explains that the template provides a step-by-step analysis of procedures and sample language for drafting reports. The footer contains the copyright notice '©2020 State University of New York'.

TITLE IX TOOLKIT

STUDENT CONDUCT INSTITUTE

Investigative Report Template
For Investigations of Title IX Sexual Harassment
July 1, 2020

Chantelle Cleary, Esq.
Senior Consultant, Grand River Solutions, Inc.

STUDENT CONDUCT INSTITUTE
THE STATE UNIVERSITY OF NEW YORK

GRAND RIVER SOLUTIONS

What is the purpose of the Investigative Report Template?

The [Title IX Final Rules](#), issued May 19, 2020, mandate that all Title IX recipients follow a specific procedure for investigating formal complaints of sexual harassment covered under Title IX, including sexual violence. The Title IX Grievance Process is developed and enforced according to the Institution's obligations under the U.S. Department of Education's Final Title IX Rule of May 19, 2020 (you may view the Final Rule at <http://bit.ly/TitleIXReg>). This investigative process must include an opportunity for the parties to present and review relevant **evidence, and** requires that recipients create an investigative report that the parties may review before the hearing. While many institutions already perform many of the steps described here and provide investigative reports, the Final Rules impose specific requirements that may need to be built into your current process.

How is the Template organized?

This Template provides a step-by-step analysis of the procedures that must be followed when investigating Title IX-covered sexual harassment. It also outlines sample language that institutions may use when drafting the investigative report.

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Secure, retrievable &
accessible

Opportunities to
challenge evidence



EVIDENCE STORAGE

May impose rules for
sharing material like
NDAs



Case management
software allowed

Note legally-
recognized & un-
waived privilege



EVIDENCE INSPECTION

- Both parties have equal opportunity to review & respond to evidence gathered prior to investigative report
 - Ten days to review “any” relevant information & evidence
 - Parties submit written response, which investigator reviews
 - Includes chance to determine evidence as “irrelevant” or “not directly related” to allegation
- ED recommends a “privilege log”



Consider impact of trauma:

- Fragmented memory & non-linear event order
- Specific details about sensory events

Trauma-informed approach doesn't substitute for missing info, justification for not doing a full investigation, or cause a biased belief in a party's accuracy

Questioning & word usage

- “Help me understand ...” “What are you able to tell me about what you experienced?”
 - Describing another individual's experience
 - Framing your questions, avoiding why questions



TRAUMA-INFORMED INTERVIEWING



10/20/2025,
10/21/2025 Trauma
Informed Interview
Training

2025-2026 Live@Distance
Ends June 30, 2026 at 11:59
PM



10/7/2025,
10/8/2025 The
Neurobiology of
Sexual Assault

2025-2026 Live@Distance
Ends June 30, 2026 at 11:59
PM

TRAUMA-INFORMED INTERVIEWING

The background of the slide is a dense, overlapping pattern of numerous colorful woven baskets. Each basket features intricate geometric and radial patterns in a variety of colors including red, yellow, blue, green, purple, and white. The baskets are arranged in a way that creates a rich, textured visual field.

CULTURAL AWARENESS

STUDENT-CENTERED PROCESS

Individuals on hearing boards should be mindful that the participants may come from different backgrounds & cultures than their own

- Race
- Ethnicity
- Gender
- Religion
- Ability/disability
- Language (limited English proficiency)
- Immigration status
- Socioeconomic status
- Sexual orientation,
- Gender identity or expression
- Age



BIAS & KNOWLEDGE



- ENHANCE CULTURAL COMPETENCY
- ADAPT TO DIVERSE COMMUNICATION STYLES
- ADDRESS CULTURAL PERCEPTIONS OF AUTHORITY
- IMPLEMENT EQUITABLE PRACTICES

HOW CULTURE CAN IMPACT TITLE IX ADJUDICATION

ADJUST COMMUNICATION STYLES

- Encourage open dialogue
- Ensure students are comfortable sharing perspectives without constraints

AVOID OVERINTERPRETING BEHAVIOR

- Limited eye contact or formality could be indicative of many influences

Avoid letting cultural differences influence decision-making processes

Days 3 of Title IX Coordinator Training	7/31
Title IX Hearing Board (Decisionmaker) Trainings	8/4, 8/6, 8/8 9/9, 9/11, 9/16 12/2, 12/4, 12/9
Student Conduct Hearing Board (Decisionmaker) Trainings	8/12, 8/13, 8/14 9/18, 9/22, 9/25 11/5, 11/7, 11/12
Title IX Coordinator Training	8/28, 9/2, 9/4 12/11, 12/16, 12/18
Tech-Facilitated Sexual Violence	7/30
Title IX Investigator Training	8/21, 8/22
Advanced Title IX Workshop	8/26
Getting Your Clery Annual Report Ready to Publish	9/8
Identifying & Responding to Stalking	9/19
Investigating Stalking	10/16
Trauma-informed Interview Training	10/20, 10/21
The Neurobiology of Sexual Assault	10/7, 10/8
Coordinating Response to Stalking	11/14
The Cost of Caring – Understanding Your Vicarious Trauma	12/19

THANK YOU SO MUCH FOR JOINING US! *WE ARE SO GRATEFUL TO ALL OF OUR MEMBERS JOINING US FOR OUR TRAININGS.*

Our upcoming trainings are listed on this slide, but you can find all our Live@Distance offerings in our learning platform.



TITLE IX COORDINATOR TRAINING

Day Three | July 31, 2025

I N T R O S



ANDREW STAMMEL
Associate Counsel
Student Affairs Practice Group
SUNY Office of General Counsel



RYAN RIBEIRO
Assistant Director
SUNY Student Conduct Institute

DISCLAIMER

This presentation shall not constitute legal advice, nor create an attorney-client relationship. This presentation is for informational purposes only.

If you have any specific legal questions or require legal advice for specific situations, please contact or refer to your institutional, general, or outside counsel.





PRE-HEARING CONFERENCES

- Meet with all parties (& advisors) to discuss next steps, *particularly the resolution/grievance process*
 - Final review of investigative report
 - Re-review of resolution options (informal resolution or live hearing)
 - Confirm date & time of hearing
- Review rules of decorum for live hearing
- **CROSS-EXAMINATION**
- Walk through the hearing from start to finish
- Address any questions as needed

- Accessibility needs
- Reliable internet access
- Physical space for parties & advisors, hearing board members
- Access to appropriate equipment (*don't make assumptions*)
- Technology settings
 - All parties must be able to see & hear each other (cameras must be on)
 - **Hearing panelists must be comfortable with any tech used***
- Recording ability (*double check storage & voice pick-up*)
- Double check provided links & access to documents
- Back up plan & back up tech person
- Witness & investigator invites
- All party & advisor confirmations
 - *back up advisors?*
- Confidentiality & privacy of communications
 - *tip pan the room*

PRE-HEARING CONSIDERATIONS PHYSICAL SPACE & TECHNOLOGY

DECORUM

Colleges & universities “**are in a better position than the Department to craft rules of decorum best suited to their educational environment**” & build a hearing process that will reassure the parties that the institution “**is not throwing a party to the proverbial wolves.**”

- See, 85 Fed. Reg. 30026, 30319



ADVISORS WHO VIOLATE THE RULES OF DECORUM MAY BE REMOVED

QUESTIONS SHOULD BE ASKED IN A NEUTRAL TONE.

No accusatory questions

No “duty of zealous advocacy” inferred or enforced, even for attorney-advisors

No abusive behavior: yelling, screaming, badgering, leaning in, or approaching witnesses/parties without permission

No use of profanity or personal attacks

Repetitive questions are not allowed

 **DECORUM** 

- Introductions
- **Purpose of hearing, review of allegations**
- Privacy & decorum expectations
- **Due process rights**
- Notice of allegations & claims
- **Opening statements**
- Presentation of investigative information
- **Cross-examination & relevancy determinations**
- Witnesses & cross-examination
- **Closing statements**
- End of hearing, move to deliberation

GENERAL HEARING PROCESS



A script helps make sure the institution complies with:

- Due process requirements
- Notice obligations
- Equal treatment of both parties



It provides a clear record that all mandated steps were followed.

THE SCRIPT

PURPOSE OF A HEARING

- Determine responsibility of respondent for a violation of institution's Title IX policy
- Facilitate an equitable, fair process
 - *May not be perfect*
-
- Obligation of participants (including institution) of truthfulness & transparency
- **Not a criminal proceeding**

THE ROLE OF THE ADVISOR

Advisor of the **party's choice** (including attorneys)

Advisors serve **TWO essential** functions in the Title IX grievance space:

1. Support their advisee through the process, &
2. Ask questions through cross-examination



ADVISOR

STATS

INT	92
SPD	81
PWR	96
CRT	75

THE ROLE OF THE ADVISOR

INTRODUCTION: SERVING AS AN ADVISOR IN TITLE IX PROCEEDINGS

THE ROLE OF THE ADVISOR

PRE-HEARING PREPARATIONS

HEARING

CROSS EXAMINATION & RELEVANCE

AFTER THE HEARING

CHECKLIST

Advisor Resource Guide for Title IX Investigations and Hearings

SEPTEMBER 2021

shorturl.at/iBjcZ

Abbey Marr, Esq.
Jessica Morak, Esq.
Gemma Rinefierd, Ed.D.
Adam J. Wolkoff, J.D./Ph.D.



CROSS- EXAMINATION

- Questions by a party's advisor to the other party (& witnesses)
 - Respondent advisor to complainant, and *vice versa*
- Before answering, decision-maker determines question relevant or not
- Decorum rules must be followed when questions are asked
 - Failure to abide by decorum rules may warrant removal

- Decision-makers determine relevance of questions prior to answering
- Relevant questions ask **whether facts material to allegations under investigation are more or less likely to be true**
- Decisions about relevancy are made question-by-question
- Bias rules insist determinations cannot be made based on:
 - Who asked the question,
 - Their possible (or clearly stated) motives,
 - Who the question is directed to, or
 - The tone or style used to ask about the fact.



QUESTIONING

WHAT MAKES A QUESTION IRRELEVANT?



Three clear exceptions to relevance:

1. Questions about privileged information,
2. Questions about complainant's prior sexual behavior, or sexual predisposition, and
3. Questions previously asked & answered.

Questions that pertain to these matters must be excluded & dismissed.



DECISION-MAKER

STATS

INT	95
SPD	88
PWR	100
CRT	85

If decision-maker is a **single individual**, they are responsible for the decision.

If the decision-maker is a **panel**, the **panel chair** will be responsible for relevancy determinations.

The 2020 Final Rule “does not require a decision-maker to give a length or complicated explanation.”

HOW DO DECISION-MAKERS MAKE RELEVANCY DETERMINATIONS?

QUESTIONS ABOUT PRIVILEGED INFORMATION

- **IRRELEVANT** because they call for information shielded by a Medical or otherwise ***LEGALLY-RECOGNIZED PRIVILEGE***
 - Physician, dentist, podiatrist, chiropractor, nurse, psychologist, psychiatrist
 - Clergy, rape crisis counselors, social workers
 - Each state may have specific rules pertaining to privilege



QUESTIONS ABOUT PRIVILEGED INFORMATION

“This question is irrelevant because it calls for information shielded by a legally-recognized privilege - Questions about privileged information: **[identify the privilege here]**.”

“The question is relevant because, although it calls for information shielded by a legally recognized privilege - Questions about privileged information **[identify the privilege here]**, that privilege has been waived in writing, and the question tends to prove that a material fact at issue is more or. Less likely to be true.



COMPLAINANT'S PRIOR SEXUAL BEHAVIOR, OR SEXUAL PREDISPOSITION

Information about the complainant's sexual habits or predisposition, OR prior sexual behavior are **not relevant** unless they meet one of two exceptions:

1. Questions & evidence of this kind are offered to prove that **someone other than the respondent** committed the violation, or
2. If the information concerns **specific incidents** of the complainant's prior sexual behavior with respect to the respondent & is offered **to prove consent was obtained.**



COMPLAINANT'S PRIOR SEXUAL BEHAVIOR, OR SEXUAL PREDISPOSITION

“This question is irrelevant because it calls for information about the complainant’s prior sexual behavior **without meeting one of the two exceptions.**”

“This question is relevant because although it calls for information about the complainant’s prior sexual behavior, it meets one of the two exceptions to the **rape shield protections** defined in 34 C.F.R. § 106.45(b)(6)(i), and it tends to prove that a material fact at issue is more or less likely to be true:

EXCEPTION 1: the question is asked to prove that someone other than the respondent committed the conduct alleged by the complainant.

EXCEPTION 2: the question concerns specific incidents of complainant’s prior sexual behavior with respect to the respondent and is asked to prove consent.”



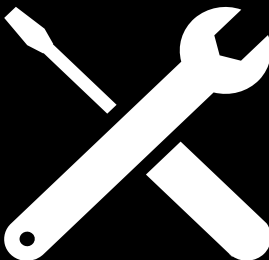
GENERAL FACT FINDING QUESTIONS

REPETITIVE QUESTIONS, or questions that do not address the allegations in any meaningful way, may be **DETERMINED IRRELEVANT**.

“This question is relevant because it asks whether a fact material to the allegation is more or less likely to be true.”

“This question is irrelevant because it asks about a detail that does not touch on whether a material fact concerning the allegations is more or less likely to be true.”

”This question has been asked and answered. **[CITE]**”



DETERMINING RESPONSIBILITY

- ❑ Identify the **allegations** potentially constituting sexual harassment
- ❑ Describe the **procedural steps** taken
- ❑ Identify **findings of fact** supporting the determination
- ❑ Identify which **section of the grievance policy** respondent has or has not violated
- ❑ For **each allegation**, provide a statement of and rationale for:
 - ❑ The result, including a determination regarding responsibility;
 - ❑ Any disciplinary sanctions imposed on the respondent; &
 - ❑ Whether remedies designed to restore or preserve equal access to recipient's education program or activity will be provided to the complainant; &
- ❑ Describe the recipient's **appeal procedures**

KINDS OF EVIDENCE



DIRECT

CORROBORATING



CIRCUMSTANTIAL



DIRECT

First-hand observations & evidence of incident or surrounding circumstances

CONSIDERABLE WEIGHT (e.g. witness testimony of first-hand account of incident).

CORROBORATING

Statements or tangible materials that confirm direct evidence regarding incident

SOME WEIGHT (e.g. video evidence, text message threads, security footage, swipe card records, business records, medical records).

CIRCUMSTANTIAL

Statements or tangible materials that rely on inference to connect to a conclusion of fact

LEAST WEIGHT (e.g. photo of location of alleged sexual assault showing several empty vodka bottles & solo cups).

ASSESSING WEIGHT

**GENERALLY SEEN AS
MORE OBJECTIVE**

CONSISTENCY &
SPECIFICITY OF
TESTIMONY

CORROBORATION
OF TESTIMONY

CONTRADICTORY TESTIMONY
OF EVIDENCE BY OTHERS

DEMEANOR & BODY
LANGUAGE

INHERENT PLAUSIBILITY
(IT JUST MAKES SENSE)

RECALL

EVASIVENESS

**MORE SUBJECTIVE,
SO USE CAUTION:**

WEIGHING TESTIMONY & EVIDENCE

CREDIBILITY DETERMINATIONS: OBJECTIVITY

- Cannot be based on the party's status
- Cannot apply **“predictive behaviors”**
- But decision-makers may consider:
 - The party/witness' stake in the outcome
 - The potential conflict of interest where an advisor is also a witness
 - Possible motive to fabricate testimony
 - The possibility of coaching



CREDIBILITY

SPECIFICITY
CONSISTENCY
CONTRADICTION
MOTIVE TO DECEIVE
DEMEANOR &
EVASION

Credibility judgments may feel subjective – decision-makers are asked to evaluate whether a person *they don't know* is being honest in an unfamiliar & stressful situation.

Many traditional approaches to assess credibility may **REINFORCE BIASES** rather than promote an effort to get at the truth. The areas on the left can help decision-makers determine credibility.

DELIBERATION



Establish roles, assess board member strengths



Review allegations, claims, evidence, hearing notes



Utilize tools for success, sanctioning guidelines, bias chart, etc.



Scheduling, flexibility



Seek consensus, or lack thereof

Charge &
Allegation

Describe
standard of
evidence used
to make
determination

Sanction(s)
~if responsible~



Review of
evidence relied
upon to decide

Finding
for each
specific
charge &
allegation

FINDINGS & RATIONALE

DETERMINATION & REMEDIES



Not Responsible/Not In Violation – revisiting restrictions



Responsible/In Violation – sanction guidelines, prior history, readmission



Considerations, resources, consistency, non-discrimination

SANCTIONS AND/OR REMEDIES

- **Appropriate Sanctions:** If the student is found responsible, outline the sanctions.
- **Appropriate Remedies:** If remedies are being provided to the complainant, outline them here
- **Rationale for Sanctions/Remedies:** Explain why the chosen sanctions/remedies are appropriate, considering factors such as the severity of the offense, past conduct history, & educational outcomes or institutional obligations to the complainant

BREAK!



DETERMINING SANCTIONS

CLOSING STATEMENTS
IMPACT OF SANCTIONS
PROPORTIONALITY
CONSISTENCY
PRIOR DISCIPLINARY
HISTORY
EDUCATIONAL MISSION



BOTH PARTIES CAN SUBMIT IMPACT STATEMENTS

- Provide context for their behavior
- Suggest possible options for the board to consider
- Describe the impact the process has had on them, the other party, or their community
- Suggest sanctioning or request leniency



IMPACT OF SANCTIONS

SANCTIONS SHOULD ADDRESS ANY AGGRAVATING AND/OR MITIGATING FACTORS OF A CASE

Aggravating factors INCREASE severity of a violation

- EX: Lack of remorse or understanding, presence of weapons, premeditation

Mitigating factors DECREASE severity of a violation

- EX: Non-violent offense, demonstrated capacity or willingness to change behavior

Restorative measures rather than purely punitive sanctions

Disproportionate effect on student unrelated to the circumstances

PROPORTIONALITY

SANCTIONS PROPORTIONAL TO OFFENSE

Is sanctioning consistent with the kind of violation considered before the hearing panel?

Mitigating/Aggravating Factors

Rationale needed when deviating

Open Container of Alcohol	Violent Offense Under the Influence of Alcohol
Warning	??

CONSISTENCY

DEVIATION FROM INTERNAL CONSISTENCY CAN BE SEEN AS **ARBITRARY & CAPRICIOUS**

Individual treatment of cases an imperative

Many cases may have similar circumstances & outcomes

- Colleges must have record keeping protocol

History & guidance can assist in sanction development

Disregarding consistent sanctioning response must be rationalized

Student 1	Student 2
Responsible for Stalking	Responsible for Stalking
Removal from Housing	Warning & Reprimand
Rationale	???

PRIOR DISCIPLINARY HISTORY

REMEMBER: PRIOR MISCONDUCT IS *NOT EVIDENCE OF RESPONSIBILITY FOR NEW MISCONDUCT*

Hearing panels can use prior findings of responsibility to assist in determining sanctions for new responsible findings

Prior similar violations with similar circumstances may indicate a need for more impactful sanctioning

- Frequency of violation, also

More punitive motivation than other considerations

SAMPLE STUDENT	
Responsible for Stalking	Responsible for Stalking
January 2025	December 2025
Probation, Counseling, Educational Sanctioning	???

INSTITUTIONAL MISSION

***WHAT DOES YOUR INSTITUTIONAL MISSION
HAVE TO SAY ABOUT **STUDENT MISCONDUCT?*****



Institutional philosophy may influence your office & practice

Scheduling systems for sanction, predetermined outcomes for responsible findings

Collaborative approaches with other offices, or with responsible students

Performance plans or behavioral agreements

COMMON SANCTIONS

WARNINGS OR REPRIMANDS	Both written and/or verbal
CREATIVE OR EDUCATIONAL	Reflection papers, presentations, letters to future-selves, pre-made programs designed for specific circumstances
PUNITIVE MEASURES	Probation, suspension, or permanent separation from the institution
RESTORATIVE MEASURES	Intentional dialogues with community members, service dedicated to repairing harm or restoring relationships
ENGAGEMENT WITH RESOURCES OR SERVICE	Counseling, or wellness-related services, partnerships with on-campus offices to engage students with community & campus

RATIONALE, IN PRACTICE

- **DESCRIPTION OF EVIDENCE REVIEWED** (i.e. written statements, report filed through TIX Investigator, screen shots of various message threads, & witness testimony)
- Description of relevant **CODE OF CONDUCT / TITLE IX GRIEVANCE PROCESS** section
- Description of **STANDARD OF EVIDENCE**
- **RE-STATEMENT OF FINDING** (not responsible/responsible)
- **RATIONALE** supporting finding, including evidence was relied on & what the substance of that evidence was, & if applicable, evidence that was not relied on
- Any **DISCIPLINARY SANCTIONS** imposed upon respondent
- Any **REMEDIES DESIGNED TO RESTORE OR PRESERVE EQUAL ACCESS** to the education program or activity will be provided to the complainant

STANDARD OF EVIDENCE DESCRIPTION

For each charge, state the standard of evidence being used

- Preponderance of the Evidence, *or*
- Clear & Convincing

*“By a **preponderance of the evidence** the hearing board has found the respondent is more likely than not...”*

DESCRIPTION OF EVIDENCE REVIEWED

Provide a **BRIEF SUMMARY** of the evidence used in making the decision

- **Witness testimony** – “Verbal testimony given by the complainant that observed ... “
- **Witness testimony** – “Verbal testimony given by witness #1 that stated ... corroborated ... ”
- **Text messages** – “Text messages sent between the respondent and complainant during the days of 09/23/25 and 10/10/25 ...”
- **Email Communications** – “Screenshots of emails sent to the complainant between the days of 09/23/25 and 10/10/25 ...”

DESCRIPTION OF EVIDENCE REVIEWED

Provide a **BRIEF SUMMARY** of the evidence **NOT USED** in making the decision

- **Witness testimony** – “Verbal testimony given by the complainant that was not relevant because ... “
- **Text messages** – “Text messages sent between the respondent and complainant during the days of 09/23/25 and 10/10/25 that did not provide additional context...”
- **Email Communications** – “Screenshots of emails sent to the complainant between the days of 09/23/25 and 10/10/25 that were not related to the charges...”

APPEALS PROCESS

3 MANDATED GROUNDS

1

PROCEDURAL IRREGULARITY that affected the outcome of the matter (i.e. a failure to follow the institution's own procedures);

2

NEW EVIDENCE that was not reasonably available at the time the determination regarding responsibility or dismissal was made, that could affect the outcome of the matter;

3

The Title IX Coordinator, investigator(s), or decision-maker(s) had a **CONFLICT OF INTEREST OR BIAS** for or against an individual party, or for or against complainants or respondents in general, that affected the outcome of the matter

“An opportunity for a student to bring forward specific concerns that may have impacted the result of the original hearing (as defined in your institution’s code of conduct)”

(Kalagher, S.S. & Curran, R. D., 2020)



**WHAT IS AN
APPEAL?**

A man with dark hair, wearing a grey blazer over a striped shirt, is holding a large white sign. The sign has the text 'WHEN CAN A PARTY APPEAL?' written on it. The word 'WHEN' is in black, underlined, and the words 'CAN A PARTY APPEAL?' are in orange.

**WHEN CAN
A PARTY
APPEAL?**

**APPEALS CAN TAKE PLACE ANY
TIME A DECISION IS MADE.**

This includes, but may not be limited to:

- Supportive measures (any kind)
- Emergency removals
- Relevance determinations
- Evidence or question exclusions
- Adjustments made throughout the process
- Decisions/determinations
- Dismissals of complaint

YOUR INSTITUTION **REQUIRES A
MECHANISM TO HEAR
CHALLENGES.**

Appeals are not mulligans or do-overs
No second-guessing or micro-management of hearings
Cannot deviate from procedures
All parties must be notified of appeals
All new panel to hear appeals
Conflicts of interest and/or bias prohibited
Additional grounds for appeal may be considered, but only if
publicly available & applicable to all

APPEAL CONSIDERATIONS

Appeal decisions must be in writing.

Parties notified simultaneously through official communication.

The decision must include, at minimum:

- The grounds for appeal, or grounds considered;
- The rationale for granting or denying the appeal; &
- If the appeal is granted, what are the next steps for remedy & why?

What is a remedy?

- Example: increase or decrease the severity of sanction for the respondent



APPEAL DECISION

- Finding of Responsibility
- Policy Jurisdiction
- Formal Complaint Summary
- Investigatory Procedures
- Inspection & Review of Evidence
- Review of Investigative Report
- Delays & Adjournments
- Live Hearing Procedures Summary
- Appeal Rights
- Findings & Rationale
- Sanctions & Remedies



DETERMINATION NOTICE



AREA	CONSIDERATIONS
PERSON CENTERED	Summary Letter
CAPACITY	Board Member Schedules, Timeframes, Deadlines
SKILLSETS	Board Members assigned to specific tasks
STYLE	Findings section may vary depending on the type of case; Create an outline with your analysis mapped-out before drafting
TECHNOLOGY & PRIVACY	What are some considerations here? How is information shared and kept private?
TRAINING	Senior board members may be better equipped to write rationales

DETERMINATION NOTICE

Supportive
measures or interim
restrictions remain
in place through
appeal

Either party can
appeal (same
timeline)

Preparation for any
reactions during this
time-period

**NOTIFICATION OF
DETERMINATION**

Reactions v. Responses

Reflective Responses:
Restate, Reflect, Validate

Choices

Consistent Communication &
Offerings for Parties

FERPA Considerations



REACTIONS & CONSISTENT COMMUNICATION

WHAT IS RETALIATION?

- Intimidation,
- Threats,
- Coercion,
- Discrimination, and/or
- Charges for a code of conduct violation

WITH THE PURPOSE OF INTERFERING WITH
ANY RIGHT OR PRIVILEGE SECURED BY TITLE

IX



ZERO TOLERANCE!



TITLE IX **PROHIBITS RETALIATION**
AGAINST PEOPLE WHO SEEK TO
ASSERT THEIR TITLE IX RIGHTS, for
example:

- Where the individual has made a report or complaint
- Where the individual testified, assisted, or participated in the Title IX Grievance Process
- Where the individual refused to participate in any manner in the Title IX Grievance Process

WHICH ROLES NEED TRAINING?

**TITLE IX
COORDINATORS**

**DECISION-
MAKERS**

INVESTIGATORS

**INFORMAL
RESOLUTION
FACILITATORS**

TITLE IX COORDINATOR TRAINING

- ❑ Definition of sexual harassment (106.30)
- ❑ Scope of institution's education programs or activities (i.e. its Title IX "jurisdiction")
- ❑ How to investigate
- ❑ How to conduct grievance processes (including hearings, appeals, informal resolutions if using)
- ❑ Technology used at live hearings
- ❑ Issues of relevance of questions & evidence
- ❑ Rape shield protection
- ❑ Issues of relevance in creating an investigative report
- ❑ How to serve impartially (avoiding prejudgment of facts at issue, conflicts of interest, & bias)
- ❑ Trainings may not rely on sex stereotypes & must promote informal investigations & adjudications of formal complaints of sexual harassment

DECISION-MAKERS

- ❑ Definition of sexual harassment (106.30)
- ❑ Scope of institution's education programs or activities (i.e. its Title IX "jurisdiction")
- ❑ How to conduct grievance processes (including hearings, appeals, informal resolutions)
- ❑ Technology used at live hearings
- ❑ Issues of relevance of questions & evidence
- ❑ Rape shield protection
- ❑ How to serve impartially (avoiding prejudgment of facts at issue, conflicts of interest, & bias)
- ❑ Trainings may not rely on sex stereotypes & must promote informal investigations & adjudications of formal complaints of sexual harassment

INVESTIGATORS

Definition of sexual harassment (106.30)

Scope of institution's education programs or activities (i.e. its Title IX "jurisdiction")

How to investigate

Issues of relevance of questions & evidence

Rape shield protection

Issues of relevance in creating an investigative report

How to serve impartially (avoiding prejudgment of facts at issue, conflicts of interest, & bias)

Trainings may not rely on sex stereotypes & must promote informal investigations & adjudications of formal complaints of sexual harassment

INFORMAL RESOLUTION FACILITATORS

Definition of sexual harassment (106.30)

Scope of institution's education programs or activities (i.e. its Title IX "jurisdiction")

Issues of relevance of questions & evidence

Rape shield protection

How to serve impartially (avoiding prejudgment of facts at issue, conflicts of interest, & bias)

Facilitation of informal resolution processes (including administrative review, mediation, and/or restorative justice)

Trainings may not rely on sex stereotypes & must promote informal investigations & adjudications of formal complaints of sexual harassment

NY-129 B REQUIREMENT

NYS requires the use of a specific definition of *consent*

--abroad misconduct—

Provide supportive measures whether or not a complainant declines to pursue grievance process

Complainant has the right to report to law enforcement, the institution, & protected by the institution from retaliation



CONSENT



NYS DEFINITION

“Affirmative consent is a knowing, voluntary, and mutual decision among all participants to engage in sexual activity. Consent can be given by words or actions, as long as those words or actions create clear permission regarding willingness to engage in the sexual activity.”



NY-129 B REQUIREMENT



F.R.I.E.S.



 Planned Parenthood

FREELY GIVEN
REVERSIBLE
INFORMED
ENTHUSIASTIC
SPECIFIC

NYS SCHOOLS MUST REFLECT CERTAIN PRINCIPLES IN GUIDANCE:

- Consent to any act or prior act between any party does not imply or constitute consent to another act
- Required regardless if person initiating is under the influence of drugs/alcohol
- Consent may be withdrawn as well as given
- Incapacitated individuals cannot give consent
- Consent cannot be coerced
- When consent is withdrawn or cannot be given, sexual activity must stop



RECORDKEEPING

INSTITUTIONS MUST KEEP, FOR AT LEAST SEVEN YEARS, RECORDS OF:

Each sexual harassment investigation, including

- Determination regarding responsibility,
- Any audio or audiovisual recording or transcript,
- Any disciplinary sanctions imposed on respondent,
- Any remedies provided to complainant designed to restore or preserve equal access to institution's educational programs or activities

Any appeal & results of said appeal

Any informal resolution & results of said resolution

Any actions, including any supportive measures, taken in response to a report or formal complaint of sexual harassment

- Basis for conclusion, & that institution was not deliberately indifferent
- If no actions taken, the rationale for why response was appropriate & not deliberately indifferent

All training materials for TIX Coordinators, investigators, decisionmakers, & any informal resolution facilitator

- Training materials must be publicly available on its website, or make them available upon request for inspection by members of the public

This document is designed to help Title IX Coordinators map the decision-making process for:

- all reports & formal complaints of Title IX sexual harassment, including reports that do not result in an investigation or adjudication.

This work may be completed by several different offices & individuals on campus, (e.g. Student Conduct, Human Resources, Office of Disability Services) but it is the Title IX Coordinator's responsibility to track these items.

We created this document to help our members track every aspect of response in every case, in real time, reducing the need to re-create responses & information long after the conclusion of a case.



What is the purpose of the Case Rationale Map?

Title IX Final Rule, section 106.45(b)(10), requires institutions to maintain, for seven years, records of: (A) any sexual harassment investigation, including any responsibility determination, and any required recording or transcript, as well as any sanctions imposed on the respondent, and any remedies provided to the complainant; (B) Any appeal and its result; (C) Any informal resolution and its results; and (D) All materials used to train investigators, adjudicators, and Title IX coordinators with regard to sexual harassment.

The institution must also create and maintain for a period of seven years a record of any actions, including supportive measures, taken in response to a report or formal complaint of sexual harassment, as well as document the bases for its conclusions and that it has taken measures designed to preserve access to the institution's educational program or activity.



CASE RATIONALE MAP



TITLE IX COORDINATOR TRAINING COMPLETE!

Title IX Hearing Board (Decisionmaker) Trainings	8/4, 8/6, 8/8 9/9, 9/11, 9/16 12/2, 12/4, 12/9
Student Conduct Hearing Board (Decisionmaker) Trainings	8/12, 8/13, 8/14 9/18, 9/22, 9/25 11/5, 11/7, 11/12
Title IX Coordinator Training	8/28, 9/2, 9/4 12/11, 12/16, 12/18
Tech-Facilitated Sexual Violence	7/30
Title IX Investigator Training	8/21, 8/22
Advanced Title IX Workshop	8/26
Getting Your Clery Annual Report Ready to Publish	9/8
Identifying & Responding to Stalking	9/19
Investigating Stalking	10/16
Trauma-informed Interview Training	10/20, 10/21
The Neurobiology of Sexual Assault	10/7, 10/8
Coordinating Response to Stalking	11/14
The Cost of Caring - Understanding Your Vicarious Trauma	12/19

THANK YOU SO MUCH FOR JOINING US! WE ARE SO GRATEFUL TO ALL OF OUR MEMBERS JOINING US FOR OUR TRAININGS.

Our upcoming trainings are listed on this slide, but you can find all our Live@Distance offerings in our learning platform.



Title IX Investigator Training

August 21-22, 2025

SUNY Student Conduct Institute

Meet your facilitator



Rebecca Leitman Veidlinger is an attorney specializing in Title IX and the institutional response to complaints of gender-based discrimination, sexual harassment, and sexual violence. Rebecca has conducted and supervised hundreds of Title IX investigations, and she regularly serves as a Title IX hearing officer for institutions across the country.

Rebecca teaches and trains on school-related sexual misconduct nationwide. As an adjunct professor at the University of Michigan Law School, she teaches a seminar on Title IX, and she frequently provides sexual misconduct prevention and response training to higher education administrators, Title IX implementers, and K-12 personnel. Rebecca was recently appointed as the external co-chair of the University of Michigan's Coordinated Community Response Team, a group that examines the University's prevention and response efforts, identifies areas for growth, and makes policy recommendations to the University's leadership.

Before entering private practice, Rebecca worked at the University of Michigan as a Title IX investigator. She also served as Michigan State University's interim deputy Title IX coordinator, overseeing MSU's creation of a free-standing civil rights investigation unit in 2015. Rebecca is the former sex crimes prosecutor in Monroe County, Indiana (home of Indiana University), where she prosecuted hundreds of cases of domestic and sexual violence involving children and adults.

Our agenda for today



What the regulations say about investigations



Understanding the goals of an investigation



Preparing to investigate



Conducting comprehensive interviews of parties and witnesses

Our agenda for Thursday



Collecting other evidence



How to do evidence review



Summarizing interviews



Writing investigation reports



Addressing bias

Poll: Title IX investigations

- A window will pop up on your screen
- Read the question and the answer options
- Pick the one answer that best fits you
- Sit back and enjoy seeing how your colleagues responded

Title IX of the 1972 Education Amendments

**Title IX Regulations,
Effective Aug. 2020**

“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.”

Before the investigation . . .

Title IX jurisdiction determined by Title IX Coordinator

Allegations fall within definition of Title IX sexual harassment

Title IX Coordinator offered supportive measures to both parties

Notice letters have been issued to both parties

Investigation process under the regulations

- Notice
- Collection of evidence
- Share evidence directly related to allegations with parties
 - Parties have 10 days to review and provide written feedback
- Consider the parties' written responses
- Create investigative report that summarizes relevant evidence
 - Parties have 10 days to review and provide written feedback prior to hearing

A bit more from the Regulations about investigations and the grievance process . . .

- Treat complainants and respondents equitably
- Require an objective evaluation of all relevant evidence
- No conflict of interest or bias in any Title IX implementer
- Include a presumption of nonresponsibility
- Include reasonably prompt time frames for conclusion of the grievance process

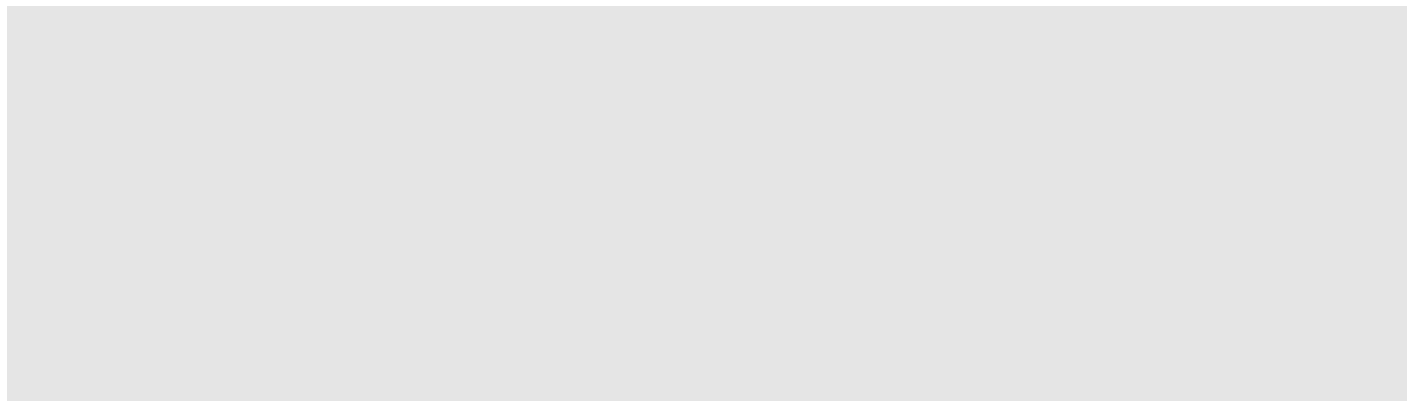
And still more. Investigators should:

- Provide equal opportunity for the parties to present witnesses and other evidence
- Provide the parties the same opportunities to have an advisor at all meetings/proceedings
- Provide written notice of date, time and location of all meetings, with sufficient time for party to prepare
- Be adequately trained

And investigators should NOT

- Restrict the ability of either party to discuss the allegations or to gather and present evidence
- Limit the choice or presence of an advisor
- Be biased in favor of one party or the other, or in favor/against complainants generally or respondents generally

Q & A: What the Regulations require



Overarching goals of an investigation



Collect as much reliable and relevant evidence as possible



Utilize a process where the parties are treated fairly and impartially



Write a report that illustrates you did all of the above



Collect all of your investigation materials into a format that is helpful to the decision-maker

Overarching goals of an investigation



Collect as much reliable and relevant evidence as possible



Utilize a process where the parties are treated fairly and impartially



Write a report that illustrates you did all of the above



Collect all of your investigation materials into a format that is helpful to the decision-maker

Preparing to start the investigation

- Review complaint
- Review notice letters
- Review all initial information
- Review relevant policy definitions and think about the kind of questions you'll need to ask
- What facts does the decision maker need to make a determination?

Example: Incapacitation

- When alcohol or other drugs are involved, it is important to understand the level of impairment that results from a person's level of consumption. A person's level of impairment is not always demonstrated by objective signs; however, some signs of intoxication may include clumsiness, difficulty walking, difficulty concentrating, slurred speech, vomiting, combativeness, or emotional volatility.
- Evaluating whether another individual is incapacitated requires an assessment of whether the consumption of alcohol or other drugs has rendered that individual physically helpless or substantially incapable of:
 - Making decisions about whether to engage in Sexual Contact or Sexual Intercourse; or
 - Communicating Consent to Sexual Contact or Sexual Intercourse.
- In evaluating Consent where the question of incapacitation is at issue, the University asks two questions: (1) did the person initiating sexual activity know that the other party was incapacitated, and if not, (2) should a sober, reasonable person, in the same situation, have known that the other party was incapacitated? If the answer to either question is yes, then there has not been consent.

Use chat to share with all of us:

What specific facts do you need to gather for the determination of **incapacitation**?

- Chat is located at the bottom of your screen
- Click on Chat, and a window will open up
- In the “to” field, make sure you have the word “everyone”
- Type in whatever you want to share, and press “return”
- Keep the Chat open to see what others share
- You can close the Chat at any time by clicking on the red box in the upper left of the Chat window

Example: Sexual Harassment

Sexual Harassment is any unwelcome conduct, based on sex, 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.

Questions you'll need to ask re: sexual harassment

- Specific nature of the conduct (e.g., exactly what was said or done)
- Did Complainant initiate or invite the conduct?
- Frequency of the conduct
- Whether conduct was widespread
- Whether a reasonable person would view the conduct as severe, persistent or pervasive
- And think about: how and who will we ask these questions?

Collection of evidence

Interviews of parties and witnesses

An initial fundamental thing to remember:

The goal of interviews

What techniques can we use to help us achieve that goal?



Principles for every interview

- Reflect neutrality and professionalism alongside appropriate kindness
- Be open to the person you are interviewing
- Be prepared, and show that you are prepared
- Use clear communication
- Be transparent about your role
- Talk like a human being

- Stay in touch with the parties throughout investigation

Interviewing the parties: Structure

- Let the party know what is happening, before you meet and when you meet
- Have a standard way that you explain:
 - Your neutrality
 - Investigative process
 - Prohibition on retaliation
 - Confidentiality, privacy, and disclosure issues related to their statement
- Make a note of every written/electronic item they mention
- Ask for (and discuss) list of witnesses

Interviewing the parties: Structure (cont'd)

- Last question before closing meeting should be open-ended invitation for them to add anything
- Review items of evidence discussed
- At end of meeting:
 - Remind them of next steps and resources
 - Close with a bit of comfortable conversation

Be alert! Don't: (per the Regulations):

Ask about:

- Complainant's sexual predisposition or prior sexual behavior, unless offered to prove that someone other than respondent committed the alleged conduct or concerns specific incidents of the complainant's prior sexual behavior with respect to the respondent and is offered to prove consent
- Information protected under a legally recognized privilege, unless the person holding such privilege has waived the privilege

Access, consider, disclose, or otherwise use:

- A party's medical or other treatment records without that party's voluntary, written consent

Conducting the interview: Roadmap

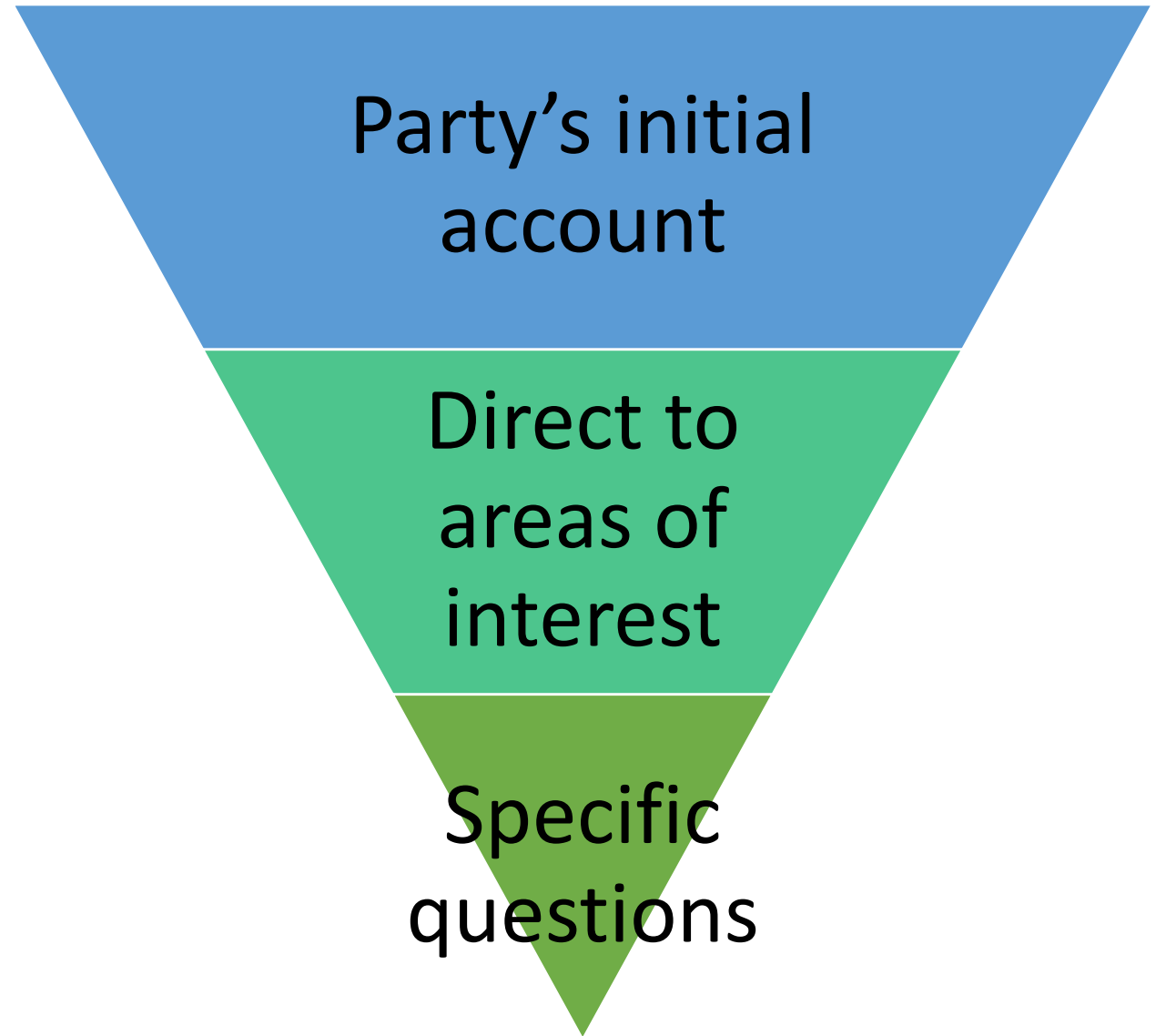
- Different approaches to interviewing
- Challenges
- Examples

Interviewing techniques

- Learning from different systems:
 - Child forensic interview
 - Trauma-informed interview
 - Forensic experiential trauma interview



Conducting
thorough
interviews




Use chat to share with all of us:

What are some challenges when it comes to conducting interviews of complainants?

- Chat is located at the bottom of your screen
- Click on Chat, and a window will open up
- In the “to” field, make sure you have the word “everyone”
- Type in whatever you want to share, and press “return”
- Keep the Chat open to see what others share
- You can close the Chat at any time by clicking on the red box in the upper left of the Chat window

What does
the typical
complainant
interview
sound like?
It could start
like this:

- Skylar, I understand you have raised concerns about an interaction you had with Cal on November 4, 2021.
- How do you know Cal?
- Starting where makes sense for you, please tell me about your experience with Cal. I'm sure I'll have some follow up questions for you, but I'd first like to hear about your experience in your own words.



Then it could
sound like
this:

- Thank you for sharing your experience. As I mentioned, I do have some follow up questions where I'd like to learn more.
- You mentioned attending a party at Kelly's house before going to Respondent's dorm room.
 - Can you tell me all about the party?
 - I'd like to hear all about that party, like what you did, who you may have interacted with, what prompted you to leave, etc.
 - Who did you go to the party with?
 - What is Kelly's last name?
- You mentioned sending a text message to Respondent an hour after you left their apartment. Do you still have that? Are you willing to share it with me?

Use chat to share with all of us:

What are some challenges when it comes to conducting interviews of respondents?

- Chat is located at the bottom of your screen
- Click on Chat, and a window will open up
- In the “to” field, make sure you have the word “everyone”
- Type in whatever you want to share, and press “return”
- Keep the Chat open to see what others share
- You can close the Chat at any time by clicking on the red box in the upper left of the Chat window

What does the typical respondent interview sound like?

After beginning like a complainant's interview, it could sound like this:

- Thank you for sharing your account of your interaction with Skylar.
- I want to make sure you've had a chance to hear some of the specifics of Skylar's allegations and that you have a chance to directly respond.
- Skylar said after the encounter, you called them and apologized for a "bad decision." What is your response to hearing that?

How might respondent interviews differ from complainant interviews?

- All the same principles (from prior slides) regarding structure and follow-up questioning apply equally here
- You may have some open-ended questions and some specifically prepared questions
- Be prepared for a demand to know the allegations– and tell them what the allegations are
- Give respondent opportunity to respond to every claim
- Explore all reasons why complainant might have raised the concerns: “Do you have any idea why the complainant would make these allegations?”



Tough
questions
and issues
that
sometimes
arise during
interviews

Alcohol consumption

Specific details of/surrounding the sexual act

Post-incident initiation of contact by complainant toward respondent

Complainant's 18-month delay in reporting incident

Reluctant party

Party wants lots of witnesses

Party doesn't want a particular witness

Very emotional party

Witnesses



Advise witnesses of neutrality, lack of confidentiality, and retaliation



Ask about relationship to parties (at beginning)/conversations about interview (at end)

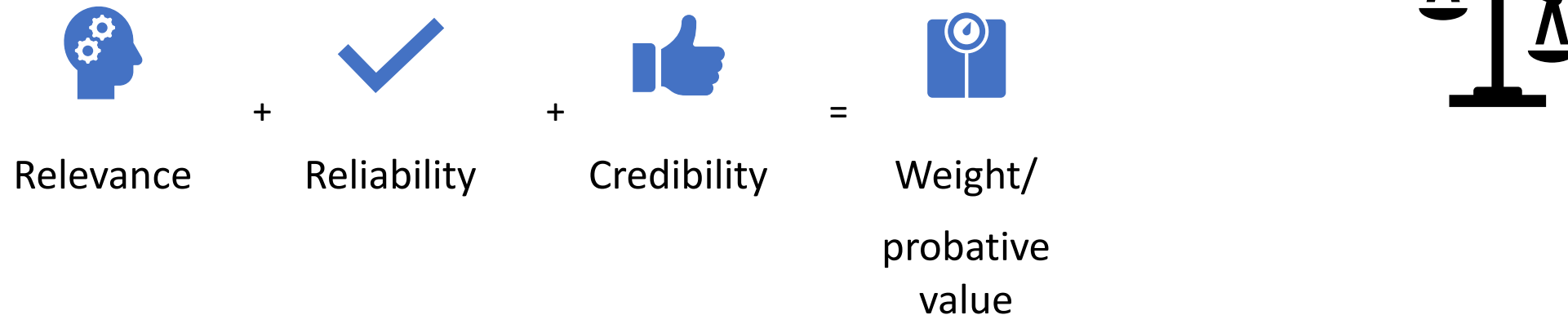


Give the witness very little specific information about the allegations



Last question before closing meeting should be open-ended invitation for them to add anything

Make sure you've collected enough information for decision-maker to make their determination



Relevant evidence



No definition from the Regulations



Should be interpreted using its plain and ordinary meaning.

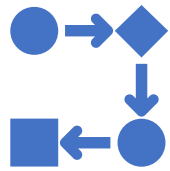


Has any tendency to make a fact more or less probable than it would be without the evidence; and the fact is of consequence in determining the action.

How does a decision-maker assess credibility?

- Motive or bias to give inaccurate account (such as relationship to the parties or has anything to gain or lose from the case)
- Inherent plausibility/logic of account
- Corroboration/Consistency with other evidence
- Inconsistency within their own account? Reasonable/minor or significant?
- Demeanor
- **To discuss:** difference between credibility and reliability

Following up after initial rounds of interviews



Why might we
need to follow
up?



Is it okay to follow up?



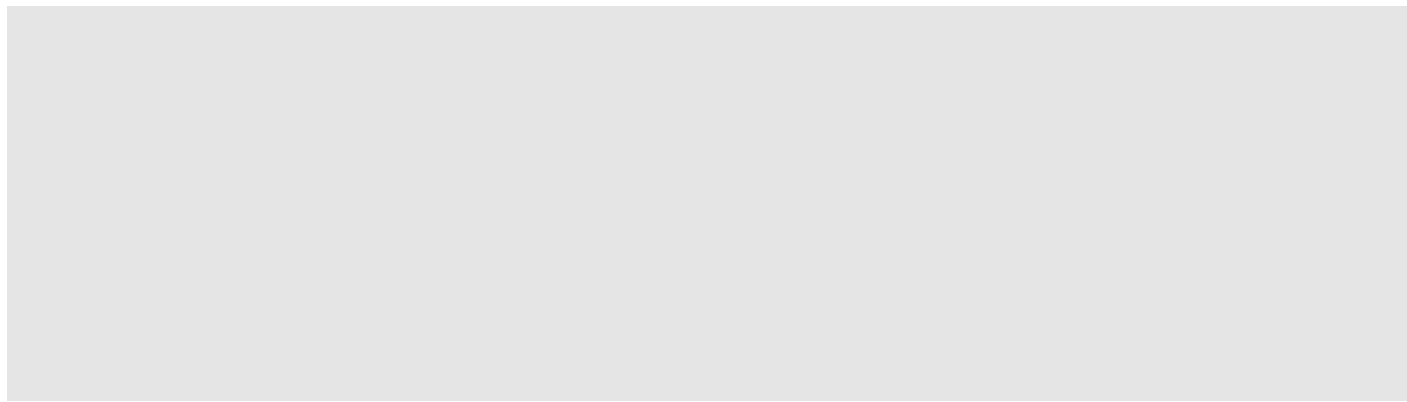
How do you
pose the follow-
up questions?

Other
(sometimes)
challenges:

Advisors
during the
investigative
process

- Emails—who should you communicate with?
- Problematic advisor behavior during interviews
- Advisors who are new to the Title IX process

Q & A: Investigative interviews





Title IX Investigator Training

August 22, 2025

SUNY Student Conduct Institute

Reminder! We already talked about



What the regulations say about investigations



Understanding the goals of an investigation



Preparing to investigate



Conducting comprehensive interviews of parties and witnesses

Our agenda for today



Collecting other evidence



How to do evidence review



Summarizing interviews



Writing investigation reports



Addressing bias

Collection of evidence

Evidence other than interviews

Other
evidence
common in
campus
investigations

- Texts/emails
- Social media posts
- Police reports
- Photos
- Medical records
- Phone records
- Surveillance videos
- Key card swipe records

Issues related to collecting evidence

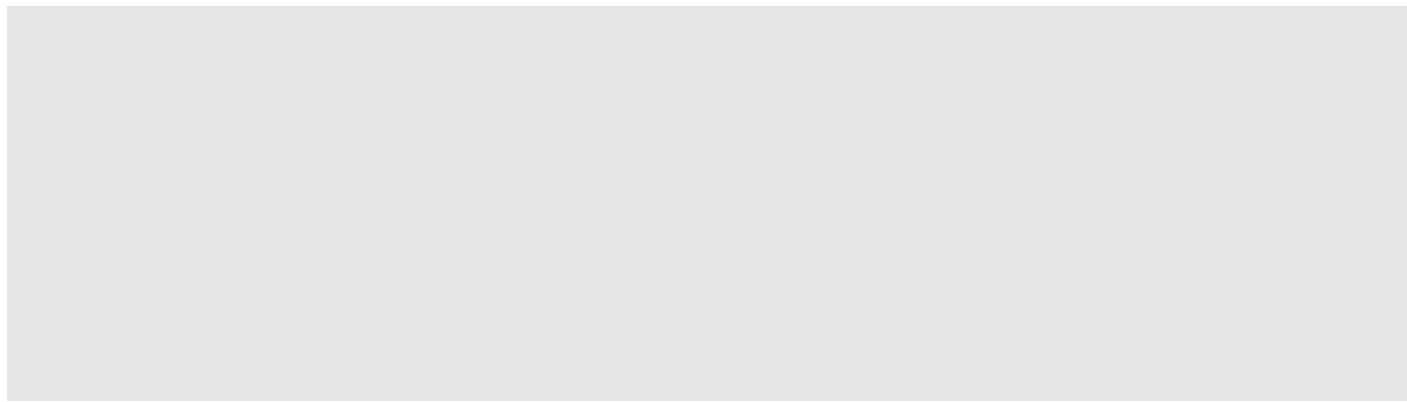
- Burden is on the institution
- Challenge re: authenticity of an item
- Learning about additional potential policy violations during the investigation



Multiple choice question

- A window will pop up on your screen
- Read the question and the answer options
- Pick the best answer
- Sit back and enjoy seeing how your colleagues responded

Q & A: Collecting other evidence and documenting investigative steps



Reminder:

Investigation
process under
the regulations

- Notice
- Collection of evidence
- Share evidence directly related to allegations with parties
 - Parties have 10 days to review and provide written feedback
- Consider the parties' written responses
- Create investigative report that summarizes relevant evidence
 - Parties have 10 days to review and provide written feedback prior to hearing

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Evidence review

Share with both parties the evidence obtained as part of the investigation that is directly related to the allegations raised in a formal complaint, including the evidence upon which the recipient does not intend to rely in reaching a determination regarding responsibility and inculpatory or exculpatory evidence whether obtained from a party or other source, so that each party can meaningfully respond to the evidence prior to conclusion of the investigation.

Understanding directly related

- Regulations don't define directly related
- A broad net– broader than “relevant” evidence
- Preamble says should be interpreted according to its plain and ordinary meaning

Poll: Interview policy

- A window will pop up on your screen
- Read the question and the answer options
- Pick the one answer that best fits you
- Sit back and enjoy seeing how your colleagues responded

p.s.—

a best practice regarding unrecorded interviews

Send draft of interview notes
(of unrecorded interview) to
person for review for accuracy

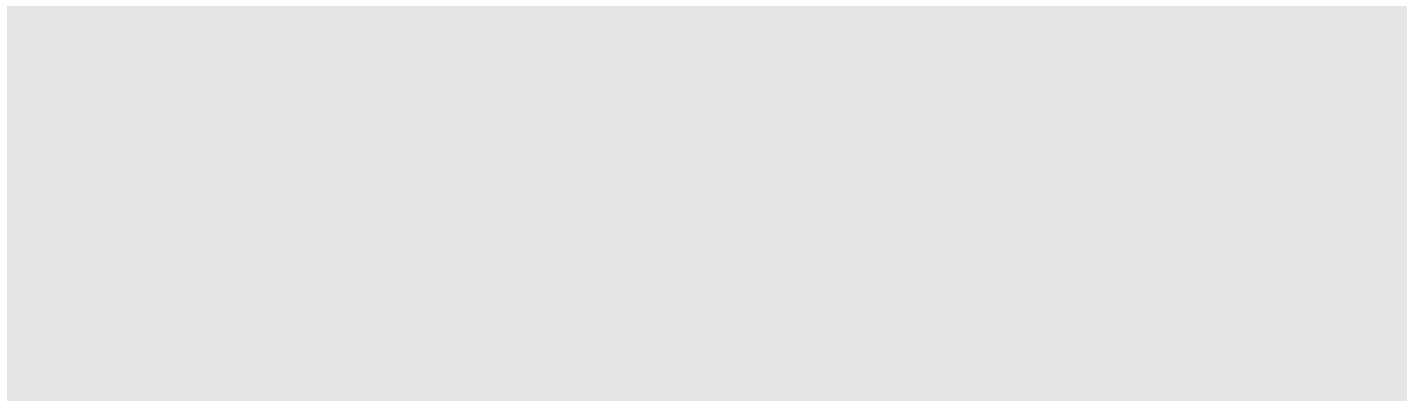


Logistics of evidence review:

What does this look like?

- Actual items of evidence
- Transcribed interviews v. unrecorded interview notes
- File-sharing platform
- Preliminary report??
 - Pros and cons

Q & A: Evidence review process



Party responses to evidence review

- May require additional investigation
- Thus, may also require another round of evidence review
- Should be addressed in the investigation report

Reminder:

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the regulations

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Investigation report



Regulations say the investigator must create an investigative report that fairly summarizes relevant evidence



No required structure in Regulations

Overarching goals of an investigation



Collect as much reliable and relevant evidence as possible



Utilize a process where the parties are treated fairly and impartially



Write a report that illustrates you did all of the above



Collect all of your investigation materials into a format that is helpful to the decision-maker

What does it mean to summarize

Transcripts of
recorded
interviews

Written
summaries of
unrecorded
interviews

Police reports

Text messages

Medical records

Surveillance videos

Key card swipe
records

Summarizing an interview

- Remember relevance
- Chronological narrative
- “Direct quotes”
- When appropriate, note demeanor
- When to note advisor actions/other things that happen during the interview
- “I don’t know” and “I don’t remember”
- Summarizing inconsistencies
- Topic sentences
- Show how the information came out

Addressing parties' responses to evidence review in investigation report

- What do you do when:
 - Party provides new screenshots of text messages
 - Party identifies five additional witnesses who were never mentioned previously
 - Party annotates the other party's interview summary, pointing out all the times they believe the person lied
 - Party points out the ways in which other party's account is contradicted by the surveillance video evidence
- Use footnotes throughout investigation report and include section in report called "Party Responses to Evidence Review." Summarize party's position/arguments in that section.
- Both responses will be an additional item of evidence to be included with investigation report.
- Document additional investigative steps and include any additional evidence collected.

Investigation report structure— necessary sections (per me)

- Background
 - Allegations from complaint
 - Relevant policy provisions
 - Procedural steps
 - Table of evidence collected
 - Includes parties' responses to the evidence review and any additional evidence submitted
 - Indicates who provided each item
 - **Summary of party interviews**
 - **Summary of witness interviews**
- OR
- **Chronological synthesis of all evidence collected**
 - Party responses to evidence review
 - Appendices/Exhibits
 - Including exhibit of irrelevant evidence

Investigation report structure— Background

On November 2, 2021, undergraduate student Skylar Smith (“Complainant”) filed a Formal Complaint against undergraduate student Taylor Jones (“Respondent”) alleging violations of the University’s Title IX and Sexual Misconduct Policy (“Policy”). Following the Title IX Coordinator’s initial assessment and outreach to both parties, on November 14, 2021, the University commenced a formal investigation into the Formal Complaint pursuant to the University’s Title IX and Sexual Misconduct Grievance Procedures (“Procedures”). This Investigation Report details the University’s investigation into those allegations and summarizes the relevant evidence collected.

Investigation report structure— Allegations from Formal Complaint

In their Formal Complaint, Complainant alleged as follows:

[Either include exact language from Formal Complaint, if appropriate].

or paraphrase, such as:

On or about October 7, 2021, when the parties were in Respondent's dorm room in Academia Hall, Respondent repeatedly touched and grabbed Complainant's buttocks even after Complainant told Respondent to stop touching their buttocks, while Complainant was highly intoxicated and unable to consent.

Investigation report structure— Relevant Policy provisions

The allegations in the Formal Complaint implicate the Policy's definitions of Sexual Assault: Fondling; Consent; and Incapacitation.

The Policy defines Sexual Assault: Fondling as

The Policy defines Consent as

The Policy defines Incapacitation as

Investigation report structure— Procedural Steps

DATE	ACTION
7/31/2021	Formal Complaint filed
8/9/2021	Notice letter issued to Complainant and Respondent via email
8/13/2021	Email outreach for interview to Complainant
8/19/2021-8/20/2021	Email outreach for interview to Respondent
8/23/2021	Second interview of Complainant
8/27/2021	Email outreach for interview to Witness 1; sent draft of interview summary to Complainant for review
8/31/2021	Email outreach for interview to Witness 2
9/1/2021	Interview of Witness 1
9/2/2021	Interview of Respondent; sent draft of interview summary to Witness 1 to review
9/3/2021	Second email outreach for interview to Witness 2
9/5/2021	Email from Respondent identifying Witness 5 as witness
9/7/2021	Interview of Witness 2
9/8/2021	Interview of Witness 3, Witness 4
10/4/2021	Draft Investigation Report and Directly-Related Evidence shared with the parties
10/14/2021	Complainant submitted response to Draft Investigation Report and Directly-Related Evidence
10/15/2021	Final Investigation Report and Relevant Evidence submitted to Title IX Coordinator

Investigation report structure— Table of evidence collected

Description	Date	Exhibit
Formal Complaint	September 22, 2021	A
Notice of Investigation to Complainant	November 15, 2021	B
Notice of Investigation to Respondent	November 15, 2021	C
Amended Notice of Investigation to Complainant	November 22, 2021	D
Amended Notice of Investigation to Respondent	November 22, 2021	E
Complainant's initial interview summary	December 10, 2021	F
Complainant's initial response to interview summary	February 8, 2022	G
Complainant's follow-up interview summary	February 21, 2022	H
Screenshots of Snapchat messages provided by Complainant	February 22, 2021	I
Respondent's initial interview summary	December 28, 2021	J
Respondent's initial response to interview summary	February 4, 2022	K
Witness 1's initial interview summary	January 28, 2021	L
Witness 1's response to initial interview summary and additional information	February 12, 2022	M
Irrelevant evidence	Various	N

Investigation report structure—Option 1

Summary of party interviews

The investigator interviewed both parties via Zoom. Complainant's advisor, Sal Price, was present for their interview. Respondent chose not to have an advisor present for their interview. Prior to the parties' interviews, the investigator advised each party of the following: investigator neutrality, that information shared with the investigator was not confidential and would be shared with the other party and included in the investigation report, and the of University's prohibition on retaliation.

The information summarized in the sections below is presented from the perspective of the party interviewed.

A. Complainant

Complainant is a first-year student studying chemistry. Complainant first met Respondent in chemistry lab.

Complainant described first meeting Respondent at a party at a house on 9th Street. Complainant attended the party with their friend, Lior.

B. Respondent

Respondent is a first-year student studying physics. Respondent was in chemistry lab with Complainant but did not interact with them there.

Respondent arrived at the 9th Street party around 11:00 p.m., after watching a baseball game at the stadium.

Investigation report structure—Option 1

Summary of witness interviews

The investigator interviewed all witnesses via Zoom. Prior to each witness interview, the investigator advised each witness of the following: investigator neutrality, that information shared with the investigator was not confidential and would be shared with the parties and included in the investigation report, and of the University's prohibition on retaliation.

The information summarized in the sections below is presented from the perspective of the witness interviewed.

A. Witness 1

Witness 1 is Complainant's roommate. Witness 1 does not know Respondent.

Witness 1 was present in Complainant's dorm room when Complainant returned from Respondent's apartment. Witness 1 could tell that Complainant looked disheveled and had been crying.

B. Witness 2

Witness 2 is Respondent's boyfriend. Witness 2 does not know Complainant.

Witness 2 attended the same party where Complainant and Respondent first interacted. Witness 2 saw the parties "grinding" on the dance floor.

Investigation report structure—Option 2

Synthesis of evidence gathered

A. Initial Meeting and Interactions Between Parties

The parties met at the 9th Street party, where they danced together and did four shots of tequila together. (C. Trans., p. 4; R. Trans., p. 2). While Complainant had also consumed alcohol prior to the party, Respondent was unaware they had done so. (C Trans., p. 9; R. Trans., p. 5). Witness 2 saw the parties “grinding,” but they were concerned because they felt Complainant was hunched over and unable to stand up due to intoxication. (W2 Trans., p. 2).

B. Parties Leave 9th Street Apartment

The parties left the 9th Street apartment in an Uber. (C. Trans., p. 11; R. Trans., p. 9). According to Complainant, Respondent insisted on getting in the Uber with them to make sure they got home okay. (C. Trans., p. 12). According to Respondent, Complainant was scared to take an Uber alone and begged Respondent to come with them. (R. Trans., p. 10).

Investigation report structure— Response to evidence review

On January 24, 2022, both parties provided responses to the evidence review. In their response (Exhibit H), Complainant identified two additional witnesses (Witness 4 and Witness 5) and provided argument regarding the summary of Respondent's interview.

In their response (Exhibit I), Respondent submitted additional text messages exchanged between the parties on the day following the incident (Exhibit J) and provided argument regarding the summary of Complainant's interview and Witness 2's interview.

Other sections I've seen in reports

Timeline of events

Credibility assessments

Disputed/undisputed facts

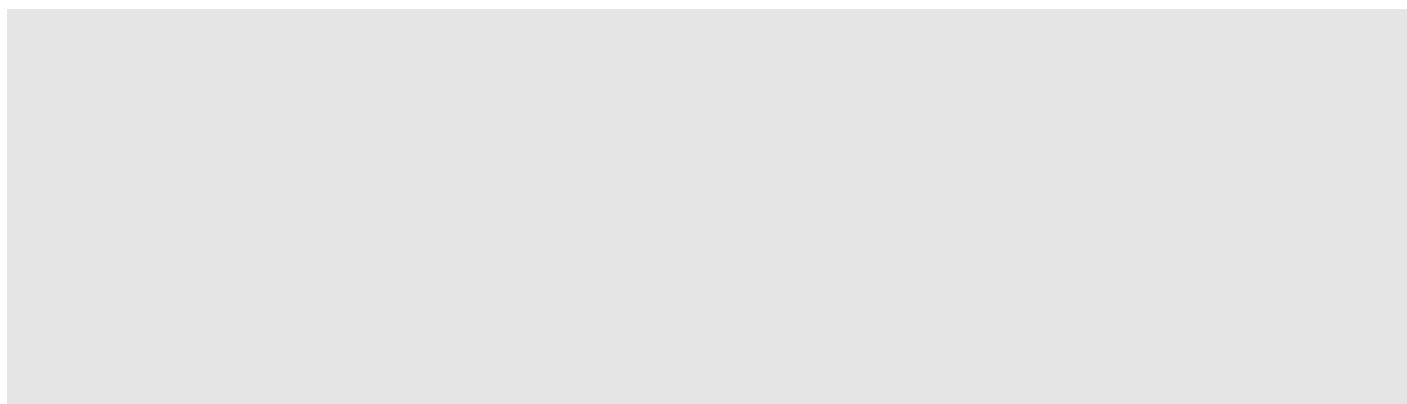
Statement of jurisdiction

Objective of the investigation

List of training the investigator has taken

Recommended findings

Q & A: Summarizing relevant evidence and writing the investigation report



Regulations require that
investigators be unbiased

Use chat to share with all of us:

How can bias
show up in an investigation?

- Chat is located at the bottom of your screen
- Click on Chat, and a window will open up
- In the “to” field, make sure you have the word “everyone”
- Type in whatever you want to share, and press “return”
- Keep the chat open to see what others share
- You can close the Chat at any time by clicking on the red box in the upper left of the Chat window

What does it mean to be unbiased?

- Don't have a bias for or against complainants or respondents generally
- Don't have a bias for or against an individual complainant or respondent
- Treat parties equally/equitably during interviews
- Seek to interview witnesses identified by both parties
- Don't prejudge the evidence

Deeper dive into bias

- Bias is not an action; it occurs in a person's head
- What is implicit bias?
- Different kinds of bias

Thank you!

I welcome your feedback.

rebecca@veidlinger.com



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ITEM 1

State University

Sexual Misconduct Reporting Form

Submitted September 13, 2023

Nature: Sexual Harassment
Incident date and time: November 4, 2022
Incident Location: University Residence Hall

Reported by:

Name: Casey Gold
Email: gold@university.edu

Involved Parties:

Student of Concern: Shawn Brown
Complainant: Casey Gold

Please identify the nature of the incident you are reporting (check all that apply):

Sexual Assault

Please provide any information you are able to surrounding the incident(s), specifically names, date/time, location of incident, etc. are helpful.

On the night of November 4, 2022, into the morning of November 5, 2022, I was raped by Shawn Brown. We had met earlier in the night at a party. I was very intoxicated at the time, and we were dancing then he asked for my Snapchat. While we were dancing he kept grabbing my boobs and my butt. My friend Julian Green saw us dancing together as well. I gave him my Snapchat and then went home. Later that night I Snapped him just because I was bored and he had mentioned during the party a funny movie on Netflix. He ended up coming over and we were on my bed watching "Get Out." We then started kissing I don't remember how we got from kissing to us not having clothes on. He then asked if we could do anal because I was on my period. I asked him if he had

ITEM 1

a condom and he responded, "Why, it's anal" and then he proceeded to have sex with me. I was uncomfortable and I said "I can't I can't" and I fell to the floor. He stopped and repeated back to me "You can't?" I responded, "No." He then said something to the effect of "wait just a little more." After that, the sex continued and I didn't say anything. I kept zoning out the longer it was happening. I don't remember how we got from there to the other side of my bed. Then I realized he was inside my vagina, which I did not give him consent to do. Eventually it ended and he left. I can't remember the exact details of when he left though. The next morning I blocked out what happened but told my roommate that he had come over and we hooked up.

I certify the above information is true and correct, and I am requesting a formal investigation.

Signed electronically by:

Casey Gold

ITEM 2

**STATE UNIVERSITY
OFFICE OF TITLE IX
NOTICE OF INVESTIGATION**

September 20, 2023

Dear Shawn Brown,

This correspondence constitutes notice that the University has initiated an investigation into alleged violations of the Sexual Misconduct Policy (attached) based upon the information in the attached complaint.

Based on the complaint, the following alleged violations will be investigated:

Title IX Sexual Assault: Rape

The carnal knowledge of a person, 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 or physical incapacity.

Title IX 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, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity.

Following this notice, I will be contacting you to arrange for an intake meeting. At this meeting, I will fully explain the process to you, including all potential outcomes. **You have the right to bring an advisor of your choosing, who may be an attorney, to this and all meetings throughout the process.**

I have assigned a member of the SUNY Student Conduct Institute to investigate this matter. They will be contacting you soon to schedule your initial interview. The investigation will proceed in accordance with State University's Sexual Misconduct Grievance Procedures (attached). Decisions are based on the preponderance of the evidence, and all respondents are presumed not responsible unless/until a finding of responsibility is made at the end of the grievance process.

This letter also serves as a reminder that the University prohibits retaliation, which is defined as:

- No person may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by Title IX of the Education Amendments of 1972 or its implementing regulations.

ITEM 2

- No person may intimidate, threaten, coerce, or discriminate against any individual because the individual has made a report or complaint, testified, assisted, or participated or refused to participate in any manner in an investigation, proceeding or hearing under the Sexual Misconduct Policy or the Sexual Misconduct Grievance Procedures.

Retaliation exists when an individual harasses, intimidates, or takes other adverse actions against a person because of that person's participation in an investigation of discrimination or sexual misconduct or their support of someone involved in an investigation of discrimination or sexual misconduct. If you believe you have experienced any retaliation, please report it to me as soon as possible.

Please do not hesitate to contact me with any questions or concerns.

Best regards,

Title IX Coordinator

ITEM 3

SUNY Student Conduct Institute
Advanced Investigations Workshop
August 2025
Transcript of Complainant's Interview

1 **Investigator:**

2 I understand your concerns relate to an incident that occurred on November 4-5, 2022 with
3 Shawn Brown. How long have you known Shawn and what was your relationship with them
4 prior to November 2022?

5 **Complainant:**

6 I had never met Shawn before that night.

7 **Investigator:**

8 Starting where makes sense for you, tell me what you can remember about your experience with
9 Shawn in November 2022.

10 **Complainant:**

11 I went to a party at the Golf House, across from Mountain Ridge apartments. I had had a
12 horrible day, bombed a test, and was drunk and not in my right mind. I first met Shawn on the
13 dance floor, my friend Julian Green saw us dancing together. Shawn asked for my Snapchat
14 while we were dancing. After we danced a bit together, I just went on with my night. After what
15 he did to me later on, it kind of seems like no big deal, but Shawn would not stop grabbing my
16 boobs and my butt when we were dancing.

17 About two or three hours later, around midnight and 3:00 a.m., Shawn Snapped me and asked if
18 he could come over. I remember telling him that he could come over, but nothing would happen
19 because I was on my period.

20 So Shawn came over. I was still kind of wasted. We went to my bedroom and watched the
21 movie "Get Out" on Netflix. We started kissing, and my clothes came off. I was bending over
22 my bed and Shawn asked me about anal sex. I told him I never had anal sex before and I asked
23 if he had a condom. He replied, "Why do we need a condom, it's anal." And he just went ahead
24 and had anal sex, and I didn't really stop him, so I don't know, maybe you'd see that somewhat
25 consensual. I remember I didn't even react when he started the anal sex.

26 Then it was really hurting, so I told him that it hurt, I can't do this, I can't do this. He was like,
27 "You can't?" and I said, "No." He continued with the anal sex a little longer and then he
28 stopped.

ITEM 3

29 I was like zoned out, first on the side of my bed and then at the front of the bed. Shawn was
30 standing behind me, saying really weird things . . . and he then just immediately stuck his dick in
31 my vagina. He had sex with me like that for a few minutes and I basically shut down.

32 The next morning when I had to go to the bathroom, my vagina was really hurting. I ended up
33 going to the emergency room to get an exam.

34 I remember later the next day I told my roommate that I had had someone over, because she slept
35 at her girlfriend's apartment that night. I only told her that we kissed, I said nothing happened
36 except kissing. We have since gotten in a huge fight and I don't want her involved.

37 After this happened, I basically went into denial mode. I didn't tell anybody about the assault
38 and tried to act as normally as I could. However, it was impossible. I stopped attending class
39 and stopped going out. I didn't know what to do about it, and I didn't want my parents to find
40 out anything had happened.

41 I have flashbacks of the night. It got so bad, I started seeing a therapist two months ago. She
42 helped me understand what happened and she helped me realize that Shawn sexually assaulted
43 me. Before I talked with her, I had basically tried to put it out of my mind.

44 I should also mention that my friend told me that she heard Shawn had gotten with this girl
45 named Kelly in our dorm when that girl was completely wasted and was basically passed out.
46 My friend told me that Shawn made the girl have sex with him and that the girl had no idea the
47 next day how any of that happened.

48 While I haven't seen Shawn since this happened, I live in fear of seeing him around campus
49 since this occurred. Luckily I think he's in the engineering school, and I'm in modern languages,
50 so we aren't usually on the same part of campus. But I fear running into him at the gym or if I
51 go to a basketball game or even just seeing him around at parties. This fear of seeing him gives
52 me panic attacks.

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SUNY Student Conduct Institute
Advanced Investigations Workshop
August 2025
Transcript of Respondent's Interview

1 **Investigator:**

2 Starting where makes sense for you, tell me what you can remember about your interaction with
3 Casey in November 2022. I am not going to interrupt you, as I'd like to hear about your
4 experience in your own words. I will probably have some follow-up questions after you share
5 about your experience.

6 **Respondent:**

7 I went with some friends to a kickback at the Golf House, around midnight. I saw Casey there
8 and asked her to dance. We danced for about five or ten minutes and then I got her Snapchat. I
9 can't remember how much later, but I left the kickback and met up with Casey at her dorm
10 afterwards. By the way, it was Casey who sent me a message inviting me to her dorm, and I
11 could tell she was into me because of the wording of her message and the emojis. I was psyched
12 because I was into her too.

13 I went to her dorm room and . . .

14 **Advisor:**

15 Make sure you tell the investigator about how she came down to the front door to let you into the
16 building and walked with you up the stairs to her third-floor room.

17 **Respondent:**

18 Right, when I got to her dorm I texted her to come down and let me in, which she did. She was
19 bouncing all around when she came to get me and took me up to her room. She opened the door
20 to her dorm suite and seemed perfectly fine and not wasted.

21 There was no tv in her bedroom, so we sat down on the bed and watched Netflix on a laptop. We
22 began kissing under the covers for about five minutes before Casey told me she was on her
23 period. I asked her to give me a blow job and she was fine with that. I pulled down my pants
24 and she sucked my dick for about 10-15 minutes.

25 I then asked her if she had ever had anal, and she said yes. I asked her if she wanted to have anal
26 with me, and she said yes. This was when her clothes came off. We had anal for approximately
27 15-20 minutes.

ITEM 5

28 I asked her if she was really on her period, and she acted like everything was fine. I then had
29 consent for vaginal sex at that point, and we proceeded to have sex for about 20 minutes in the
30 doggy style position.

2

31 We stopped having sex and then I put my clothes on and Casey mentioned she was tired.

32 I saw Casey the next night at another gathering. I was with my friend Juaquin Crimson, and
33 Casey was real affectionate, giving me hugs and all, we even did a shot together. I saw her a few
34 times after that, and she seemed cool with me. That's why I was completely blown away when I
35 got the notice that she Title IX'd me.

3

36 **Investigator:**

37 Thank you for sharing that information with me. As I mentioned, I do have some follow up
38 questions that I'd like to ask. Did you see Casey consume any alcohol? Did you notice if she
39 was under the influence at all?

40 **Respondent:**

41 I would assume so, pretty much everybody was drinking at the kickback, usually I do as well but
42 I remember that I was taking an antibiotic and my doctor told me specifically not to drink
43 alcohol because there could be some interaction, so I was sober, which was kind of unusual for
44 me, to be honest, usually I drink as much as anyone, I have a huge tolerance, but not this night.
45 There've been some crazy parties where I have gotten black out drunk but not this one.

4

46 I don't remember specifically seeing Casey drink anything but it is a college party so you know
47 what usually happens there. Casey seemed fine and not out of control. It seemed like she could
48 talk fine.

49 **Advisor (Aisha Blue):**

50 And as he said, she was obviously fine as they were texting about him coming over and she went
51 down to let him in and walked up the stairs perfectly fine. She literally led him up three flights
52 of stairs, he had no idea where her room was. You should get a floor plan of this dorm, it is
53 nuts—to get to her room, you have to go up three flights, make three different turns down three
54 different hallways, and then go into this little alcove where the double rooms are. It was her
55 leading him to her room, he had no idea where her room was. The idea that she was
56 incapacitated is ludicrous given all of that.

5

57 **Investigator:**

58 Ms. Blue, this is my opportunity to hear from Shawn in his own voice about his own experience.
59 I've set aside two hours for this interview, and I want to make sure Shawn feels he has had the
60 chance to talk to me from his own perspective. Please do not answer questions on his behalf or
61 provide information.

62 Shawn, can you talk about the position of your bodies during anal sex?

63 **Respondent:**

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64 She was kind of standing up and bending over, facing away from me. I was behind her, also
65 standing up. I had my hands on her hips.

66 **Investigator:**

67 How did you know that Casey consented to anal sex?

68 **Respondent:**

69 I specifically asked her if she wanted to have anal sex with me, and she said yes.

70 **Investigator:**

71 How did you know that Casey consented to vaginal penetration?

72 **Respondent:**

73 I asked her if she was really on her period, and she didn't say yes or anything, she just kind of
74 shook her head "no" and stayed right where she was. Then I kind of tapped her on her butt, and
75 we both kind of moved together from that standing position to the bed, where we got in a doggy
76 style position. I took her getting in the doggy style position in response to my question as a clear
77 sign that she wanted sex. She leaned over on all fours, and I had vaginal sex with her from
78 behind on the bed. She was moaning and making all sorts of sounds, and I could tell from her
79 facial expression that she was enjoying it.

80 **Investigator:**

81 What did you see in her facial expression that made you perceive that she was enjoying the sex?

82 **Respondent:**

83 She had her eyes closed and was smiling.

84 **Investigator:**

85 Can you talk more about Casey's clothes coming off?

86 **Respondent:**

87 I pulled off my own pants when she agreed to give me a blow job. We were then both pulling off
88 her shorts at the same time. Her clothes finally came off when she agreed to anal.

89 **Investigator:**

90 How did the vaginal sex end?

91 **Respondent:**

92 I pulled out of her because I knew it was getting late. I didn't finish; I just told her I was tired
93 and then she told me she was tired too. And she looked kind of tired and worn out and just said
94 she was going to sleep.

95 **Investigator:**

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96 What do you mean by her looking tired and worn out?

97 **Respondent:**

98 She was kind of limp and didn't say anything when I stopped the sex and just laid down in the
99 bed.

100 **Investigator:**

101 I want to share some of the details of Complainant's allegations to make sure you understand
102 them and have an opportunity to respond.

103 Complainant said she asked if you had a condom and you told her there was no need for a
104 condom because you were engaging in anal sex. Do you have any response to hearing that?

105 **Respondent:**

106 That is some bullshit. She never asked me anything about a condom, and I didn't use a condom.
107 Whenever I am having sex with someone, I figure if they want me to use a condom, I gladly will,
108 but it's up to them to ask. I have condoms in my wallet, so I can always use one if the person
109 wants. Casey did not mention anything about a condom.

110 She indicated that she wasn't really on her period when I specifically asked her. She got on her
111 hands and knees—I didn't force her to get in that position, she did it of her own free will. I then
112 had consent for vaginal sex at that point, and we proceeded to have sex for about 20 minutes in
113 the doggy style position.

114 **Investigator:**

115 Complainant said she told you during the anal sex that it hurt and she couldn't do this. She said
116 you continued with the anal sex after she said this. Do you have any response to hearing that?

117 **Respondent:**

118 Absolutely not. She never said anything about it hurting. If anything, she was into it and
119 enjoying it, like I said. If I had any sense that anything was hurting her, I would have stopped
120 immediately.

121 **Investigator:**

122 Complainant mentioned that she heard about an encounter between a person named Kelly and
123 you that felt similar to her situation and caused her to decide to report this matter. Do you know
124 a person named Kelly? Can you tell me about anything sexual that may have occurred with
125 Kelly and you.

126 **Advisor:**

127 This line of questioning is wildly inappropriate. We have no notice that anyone named Kelly has
128 ever filed a complainant against Shawn. This line of questioning has nothing to do with Casey's

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129 allegations against Shawn. By even asking about this, you have infected this investigation with
130 undue bias that shows your lack of impartiality.

131 **Investigator:**

132 I am asking these questions because Complainant raised some concerns about a possible pattern
133 of conduct between the situation with Kelly and the situation with her. I want to make sure
134 Shawn is informed of some of the key parts of what Complainant said and has an opportunity to
135 respond. There is no requirement that Shawn respond to these questions, but I am asking them
136 so that Shawn has a full and fair opportunity to respond.

137 **Respondent:**

138 Can I consult with my advisor for a little bit?

139 **Investigator:**

140 Sure.

141 [Advisor and Respondent go to break out room for 23 minutes.]

142 **Respondent:**

143 The only thing I want to say is any sexual activity that may have occurred between Kelly and me
144 was completely consensual. I'm not saying anything beyond that.

145 **Investigator:**

146 What else if anything do you want to share about the encounter with Casey?

147 **Respondent:**

148 Actually I remember that Casey changed her clothes before I got to her dorm room. At the party,
149 she was wearing some kind of dark pants or jeans, a pink shiny top, and a leather jacket—I
150 remember because I was thinking when we were dancing that she was probably hot in that
151 jacket. Then when I got to her dorm room, she had changed into these loose shorts—I could tell
152 she wasn't wearing in any underwear. She also had on this white tank top, and I could totally see
153 her breasts and nipples through the shirt and it was obvious she didn't have a bra on either.

154 And I'm sorry if she feels that anything that happened that night was not consensual. I have
155 been beside myself since I learned of this investigation because I would never do anything to
156 make a girl feel uncomfortable during sex. I don't want to negate her feelings or say she isn't
157 allowed to feel how she does, but everything we did was with her consent.

ITEM 7

SUNY Student Conduct Institute
Advanced Investigations Workshop
August 2025
Complainant's Response to Evidence Review

I have read Shawn's interview transcript.

I don't know where to begin with Shawn's interview summary. It is so full of lies, here are just a few that really stand out to me.

Line 10: He asked to come over, I didn't invite him. I recently remembered that I took a screenshot of the Snapchat message he sent asking to come over, and I sent the screenshot to Julian as a joke because Julian saw him groping all over me at the party and I thought Julian would think it was funny that he now wanted to come over. My phone was stolen when I was in Italy on study abroad last summer so I don't have the screenshots or message but Julian might still have them.

Line 23: I honestly forgot that I gave Shawn oral sex. This part of his interview is actually correct. Reading it made me remember, which further shows how drunk I was because I didn't remember it in the first place. I was fine with giving him a blow job but I didn't want to do anything else.

Line 50-56: I was told that advisors are not permitted to speak during interviews. The investigator let Shawn's advisor basically slander me. This is unfair and should be redacted from the transcript.

Lines 143-144: Everyone knows he raped Kelly as well. I found out her last name from my friend, it's White. You should interview Kelly White, she's a sophomore here in the school of kinesiology.

Lines 148-153: Please tell me what relevance my clothes have to do with anything. This is victim-blaming and it should be redacted.

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Worksheet: Handling party responses to evidence review

Consider the various ways you might handle a party's response to evidence review. For each issue raised by the Complainant, state how you would address it.

Line 10:

Line 23:

Line 50-56:

Lines 143-144:

Lines 148-153:

ITEM 4

**SUNY Student Conduct Institute
Advanced Investigations Workshop
August 2025**

Worksheet: Conducting Thorough Complainant Interviews

What topics/issues require follow up?

Draft three specific follow-up questions, each targeting a different topic/issue from your list above. In designing your questions, use language that is most likely to yield relevant, reliable, and candid information from the Complainant.

1.

2.

3.

ITEM 6

**SUNY Student Conduct Institute
Advanced Investigations Workshop**

August 2025

Worksheet:

Summarizing party interviews

For each numbered paragraph, decide if it is relevant/whether it should be included in your interview summary. If so, write how you would summarize that paragraph below.

1. _____

2. _____

3. _____

4. _____

5. _____

6. _____

7. _____

