



Title IX & CIVIL RIGHTS INVESTIGATIONS

CIXE INVESTIATIONS, LLC

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BA Public Administration with an emphasis on
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Civil Rights / Title IX since 2016

Investigator

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Consulting on Civil Rights / Title IX since 2019



DISCLAIMER



I'M NOT AN ATTORNEY.



THIS PRESENTATION DOESN'T
GIVE LEGAL ADVICE.



THE PURPOSE OF THIS TRAINING IS
TO SHARE MY INVESTIGATIVE
EXPERIENCE, REQUIREMENTS, AND
BEST PRACTICES.

TRAINING AGENDA

July 29, 2026)

9:00-9:10 am (Check-in)

9:10-9:30 am (Title IX overview & Regulations)

9:30-9:55 am (Definitions & Elements)

9:55-10:00 am (break)

10:00-10:55 am (Definitions & Elements)

10:55-11:00 pm (break)

11:00-11:55 (Interviews & Fact Finding)

11:55-12:55 (break)

12:55-2:45 (Scenarios and Discussion)

2:45-3:00 (Questions)





FLEXIBLE

TRIGGER WARNING



- Some content can be offensive, traumatic, or triggering.
- You may step out anytime.
- Slides, videos, and conversation is meant to create dialogue on serious topics.
- Respect each other.

Title IX of the Education Amendment of 1972 (federal law)

20 U.S.C. § 1681 & 34 C.F.R. Part 106 (1972)

“No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance.”

TITLE IX OVERVIEW & REGULATIONS

The federal law

The history

What conduct is covered

Definitions

Jurisdiction

Best practices (floor vs ceiling)

Evidentiary standard

Neutrality & Equity

The History

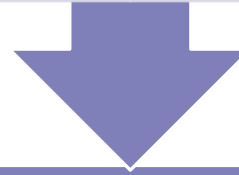
Office for Civil Rights | Department of Education

1972 - Sex Discrimination / Gender Equity (program & activities)

1997 - Sex Discrimination expanded to include forms of Sexual Harassment

2011 - “Dear Colleague” letters (Guidance) focus on Sexual Violence and support for Complainants

2020 - “Regulations” are a legal mandate which is more enforceable than “Guidance”



2020 Regulations

Focuses on due process rights

Standard procedures for all institutions to follow

Formally added Dating / Domestic Violence & Stalking

One process for students, faculty and staff (live hearing)

Right to Advisor

Right to cross-examination by Advisor only

Increased requirements for annual training

Title IX Investigations

Investigation process (neutral, unbiased, & fact finding)

- NOI already sent to both parties (complainant & respondent)
- Review policy definitions (elements)
- Game plan
- Schedule interviews
- Conduct interviews
- Write summaries of the interview
- Allow parties to review their summary for accuracy
- Follow up questions
- Draft Investigation Report (10-day review)
- Final Investigation Report (2nd 10-day review)



Rights of Parties

- **Due process (Title IX & EEO)**
- **Consistent standard of evidence (Title IX & EEO) - best practice preponderance**
- **Emergency removal for students (Title IX)**
- **Administrative paid leave for employees (Title IX & EEO)**
- **Detailed Notice of Investigation/Allegation (Title IX & EEO)**
- **Investigation and evidence review (Required by Title IX best practice for EEO)**
- **Live hearing with cross examination (Title IX)**
- **Advisor of their choice (Title IX & EEO)**
- **Equitable & unbiased process (Title IX & EEO)**
- **Presumption of not responsible (Title IX & EEO)**

Resolution procedures

Must follow your policy and procedures

Must have a complaint or the Title IX Coordinator may sign the complaint

Must have jurisdiction over Respondent

Notice of Investigation / Allegation must be sent to both parties and their Advisors

Must provide the parties to identify relevant witnesses and evidence

Investigator must conduct a neutral, fair, impartial and unbiased investigation

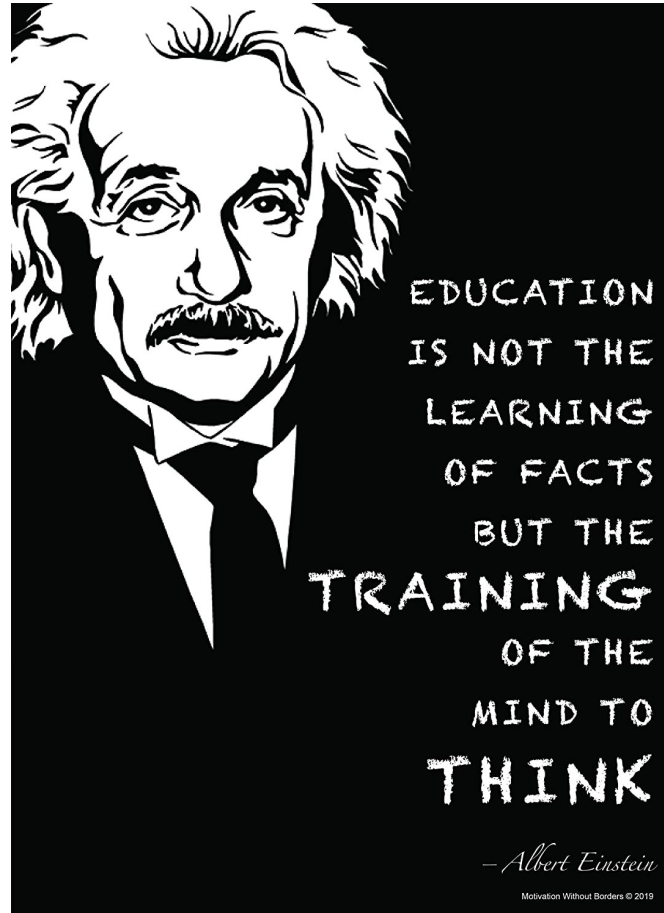
The parties are required to review the draft report (10 days) and the final report (10 days)

Investigator's report should be focused on painting the picture for the decision-maker

A live hearing is required and the decision-maker can not be someone already involved in the process

Parties are allowed to appeal the decision based on procedures, evidence, or bias.

BREAK



Conduct Covered under Title IX

Sex/Gender-
based
Discrimination

Sexual
Harassment

Sexual Assault

Dating/Domestic
Violence

Stalking

Terms & Definitions

Complainant – The person that alleged they experience misconduct.

Respondent – The person that is alleged to have engaged in the misconduct.

Prohibited conduct under Title IX

Sexual Harassment is conduct on the basis of sex meeting one of the following conditions: ☐

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;

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

“Sexual assault” as defined in 20 U.S.C. 1092(f)(6)(A)(v)

“Dating violence” as defined in 34 U.S.C. 12291(a)(10)

“Domestic violence” as defined in 34 U.S.C. 12291(a)(8)

“Stalking” as defined in 34 U.S.C. 12291(a)(30)

“Hostile Environment Sexual Harassment”

Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person access to the University’s education programs and activities.

Horrible Bosses - Hostile Environment



“Hostile Environment Sexual Harassment”

Pretend this was a medical school for this scenario.

What are the elements to this definition?

What questions to do you ask for this scene?

Who do you interview?

“Hostile Environment Sexual Harassment”

How did this make the Complainant feel?

What was their relationship before?

How did this affect the Complainant’s working environment?

Did the Complainant leave work, miss time, adjust their schedule, avoid contact with his boss?

Has this or any other sexual incidents happened before?

What do other employees know or experienced?

“Quid Pro Quo Sexual Harassment”

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

Legally Blonde Quid Pro Quo



“Quid Pro Quo Sexual Harassment”

This scenario occurred at a law school.

What are the elements?

What questions to do you ask for this scene?

Who do you interview?

“Quid Pro Quo Sexual Harassment”

What was their relationship before?

What did the Complainant believe the Respondent was doing (offering the position in exchange for sex)?

How did this make Complainant feel?

How did this impact her environment?

What other actions did she take in response?

Sexual Assault by touch

Touching of intimate areas (breasts, buttock, genitals, or immediate areas) of another person without their consent.

Sexual Assault by penetration

Penetration (ever so slight) of another person's buttock or vagina without their consent (including penis, finger, or objects) and/or oral sex performed with another person without their consent.

Consent

Consent is knowing, and voluntary, with clear permission by words or actions to engage in the sexual activity.

There is no
Consent if force
is used

Force is the use of physical violence and/or physical imposition to gain sexual access. Force includes threats, intimidation (implied threats), and coercion that is intended to overcome resistance or produce consent.

There is no
Consent if
coercion is used

Coercion is unreasonable pressure for sexual activity. Coercive behavior differs from seductive behavior based on the type of pressure someone uses to get consent from another. When someone makes clear to you that they do not want sex, that they want to stop, or that they do not want to go past a certain point of sexual interaction, continued pressure beyond that point can be coercive.

There is no
Consent if
partner is
incapacitated

Incapacitation is defined as a state where someone cannot make rational, reasonable decisions because they lack the capacity to give knowing and informed consent. A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep, or unconscious for any reason. This policy covers a person whose incapacity results from mental disability, involuntary physical restraint, and/or from the taking of incapacitating drugs.

Dancing Machine

Male in his 30's attends a university for the first time and therefore academically he is a freshman. Male decides to attend a freshman dance at the religious university. This was a silent disco hosted by Residence Life staff. While dancing, 4 different female students complain to campus security that the male Respondent grabbed them and "grinded" on them without their permission. The Complainants' described the Respondent pressing his lower torso (grinding) against their lower torso (some were face to face and some were from behind).

Dancing Machine

What are the possible violations?

What are the elements of those violations?

What questions do you ask the Complainants?

Who do you interview?

Dancing Machine

What questions do you ask
the Complainants?

Who do you interview?

What evidence do you
attempt to gather?

Dancing Machine

Complainant alleged
Respondent pressed his erect
penis against her buttock.

All Complainants stated the
Respondent approached
them and grabbed them and
started grinding on them
without their consent.

What questions do you ask
the Respondent?

Dancing Machine

Respondent was asked if he knew Complainants.

Respondent was asked to describe how he obtained consent.

Respondent was asked about his erect penis.

Dating/Domestic Violence

A current or former intimate partner that either threatened violence or engaged in violence with that current or former partner.

Dating/Domestic Violence

Residence Life received a report that yelling and a loud bang, possibly something hitting the inside dorm room wall. Staff responded and found a male and female inside with the female crying.

Dating/Domestic Violence

What is the possible violation and what are the elements?

What questions would you ask?

What evidence would you gather?

Who would you interview?

Dating/Domestic Violence

Parties were interviewed separately and they admitted to be involved in an intimate relationship. You spoke with the reporting party (res life) and they inform you that this was not the first incident and that they believed dating violence was occurring. Parties denied to you that anything physical occurred. Complainant declines to file a complaint. But a week later another incident occurs and the Complainant is found in the bathroom with a bloody nose and claims she fell. A week later Complainant emailed staff at res life to say that she fell in her room and had to go to the hospital with another bloody nose.

Dating/Domestic Violence

Options?

What do you want to know
and how can you get this
information?

Stalking

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

- Fear for their safety or the safety of others; or
- Suffer substantial emotional distress.

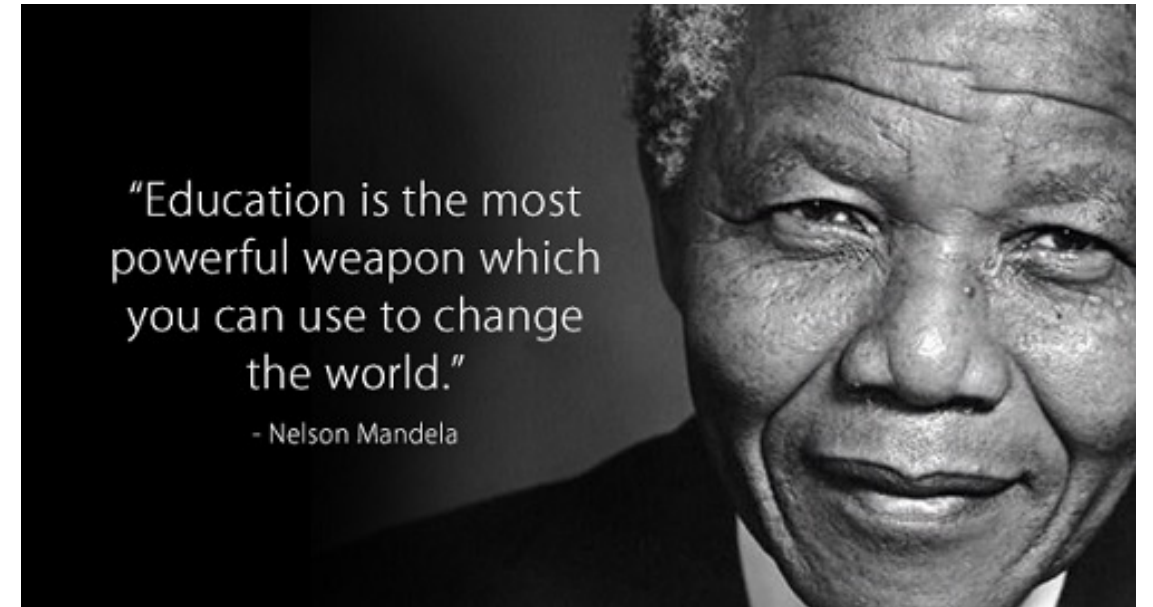
Stalking

One of your university employees indicates they ended a long relationship but the other partner did not take the break up well and they continue to contact the Complainant. The Complainant recently received a threatening message that the Respondent knew where they worked and she would regret ending their relationship.

Stalking

What concerns do you have
and what questions do you
ask?

Is this stalking why?



BREAK

Avoiding bias influence

Examples of Confirmation Bias



Not seeking out
objective facts



Interpreting information to
support your existing belief



Only remembering details
that uphold your belief



Ignoring information that
challenges your belief



Opinion?



Fact Finding

Statements

Text messages

Emails

Photos

Videos

Fact Finding

Social Media posts

Observations

Injuries

Medical reports

Witnesses

Fact Finding

Timelines

Weighing evidence

Preponderance

Consistency

Interviews

Check list

Review all materials

Identify witnesses

Review Prohibited Conduct definitions for the elements

Establish a game plan

Pre-Interview

Both parties should have received the NOIA

Identify specific questions

Review check list

Make sure all forms are signed (FERPA, waivers, etc.)

Scheduled plenty of time for the interview

No distractions

Interview

Review all options with Parties

Allow the Party to provide a summary

Follow up with specific questions (elements)

Consider recording / transcription

Review the investigation process

Post Interview

Review of summary

Identify any points of clarification to follow up (elements)

Ask follow up questions

Verify all witnesses and evidence

Allow the Complainant to review their statement

Establish a plan with questions to ask the Respondent or witnesses

Update your TIXC / SUPERVISOR

Interviews – Witnesses and follow up

Interview all relevant witnesses

Follow up interviews with Complainant and Respondent

Review and remember the elements

Identify all evidence and ask questions related to evidence

Review all statements with anyone interviewed

Incorporate into report

Investigative report

Summarize the relevant evidence

Ensure the burden of gathering evidence is on you (institution)

Provide adequate time to review and prepare for the hearing.

Redactions

Sexual Assault exam

Recordings

Transcripts

Draft report

Draft report summarizes everything but excludes your analysis.

All evidence considered

All statements obtained

Share draft report with parties and their advisors and allow at least 10 days for review

Amended draft

After the review of the draft

Additional interviews

Adjusting evidence

Adding comments

Final report

Includes everything from your draft edits plus your analysis

Analysis includes creditability assessment (optional -Title IX cases)

All attachments / appendices

Stand along document to pain the picture

Title IX cases – allow 10 day review for both parties prior to hearing

Final report

Be prepared for who will see your report

The parties

Hearing / Decision-Maker(s)

Appeal Panel

Social Media

Media

Law Enforcement

Judges

Essential Elements of a Quality Report

Summary of the investigation in a neutral and un-bias view

Overview of the policy and objective of the report

Consistent format

Intentionally organized to enhance comprehension

Factually accurate

Concise simple language (slangs or abbreviations explained)

Avoid editorial or opinion

Report should stand alone and easy for everyone to read

Interviews = Credibility Assessment

Your interview/report will assist the Decision-Maker in making a determination. You must ask the questions to help understand what happened. The things you look for when you ask questions:

Consistency

Corroboration

Motive to lie

Plausibility

Witnesses

Relevant Evidence

Patterns of conduct

Finding



Preponderance of the evidence
(50.1% / great than a feather)



Weighing factual evidence

Obtaining & Analyzing Evidence (3A's)

- **Ask** for evidence (texts, photos, videos, emails, call logs, GPS logs, witnesses)
 - Involved parties, witnesses, internal sources (faculty, other offices involved), external sources (police, medical reports, businesses), internet (always check their social media)
- **Assess** for relevance and give weight
 - Evidence can help prove or disprove
 - Text between parties with an admission of incident (a lot of weight)
 - Image of parties together looking happy (not much weight by itself)
- **Authenticate** inspect the evidence (apps can create fake things, alter images, etc.)
 - Case with texts and call logs (Visual inspection)
 - Does the other party dispute the authenticity?

Pants on Fire

SUMMARY OF COMPLAINT: SUMMARY OF COMPLAINT: Complainant alleged that she met the Respondent in the lobby of her residence hall, and they began to talk. However, at some point during their conversation, the Complainant alleged that the Respondent showed her a gun and told her to take him up to her dorm room. The Complainant said out of fear she agreed and escorted the Respondent to her dorm room. The Complainant alleged that she opened the door and she and the Respondent went over to her bed because the Respondent told her to perform oral sex on him. The Complainant alleged she performed oral sex out of fear of the Respondent using the gun to harm her or her roommate (her roommate was inside their room at the time).

PANTS on Fire CASE – WHAT DO WE PROVE OR DISPROVE?

Issue –
Sexual
Assault

Type of Sex
Act

Consent

Obtaining & Analyzing Evidence (3A's)

1

Ask – What are you asking for?

2

Assess – How are you weighing the evidence?

3

Authenticate – How are you validating the evidence?

Group Discussion

- Share your thoughts on what evidence asked to examine.
- Share your thoughts on how you assessed the evidence to determine relevance.
- Share your thoughts on what steps you took to authenticate the evidence.

Scenario 2 – Brock Turner 2.0

GROUP DISCUSSION PART 1 & 2

Respondent is athlete on the men's soccer team. The men's soccer team and the women's soccer teams often get together for parties. At the parties, the Respondent consistently gets drunk and walks around grabbing women on their buttock and engaging in non-consensual sexual activity. The following alleged conduct occurred by 4 different women during different times:

Complainant 1: Alleged the Respondent approached her at a party and rubbed her leg and grabbed her buttock without consent.

Complainant 2: Alleged the Respondent had consensual sexual intercourse with her but had non-consensual anal sexual intercourse with her during the same sexual incident.

Complainant 3: Alleged based on witnesses that the Respondent had non-consensual sexual intercourse due to incapacitation with this woman. Complainant 3 refused to participate.

Complainant 4: Alleged the Respondent had non-consensual sexual intercourse with her and then later on a different date had consensual sexual intercourse with her. This is the only allegation that did not involve the soccer team.

SCENARIO – Brock Turner 2.0

GROUP DISCUSSION

What questions are you asking?

Who are you interview?

ASK for what?

ASSESS for relevance!

AUTHENTICATE any evidence.

SCENARIO – Brock Turner 2.0

GROUP DISCUSSION

Interviews were conducted with all Complainants, Respondent, and teammates on Men's and Women's teams. What questions would you ask the teammates?

Respondent admitted to sex with all women but claimed it was consensual. Does the number of incidents damage the Respondent's credibility?

Respondent had no prior relationship with any of the Complainants. (We ask this to see if there is an ongoing consensual relationship and if there was a perception of consent even though you can be in an ongoing consensual relationship and still have non-consensual sex).

Complainants say when Respondent is sober he is a nice person but when he gets drunk he gets handsy.

SCENARIO – Brock Turner 2.0

GROUP DISCUSSION

When you interview Complainants what details are you asking?

Do you ask the Complainants what they were wearing?

Do you ask the Complainants why they decided to report?

Do you ask the Complainants why they delayed in reporting?

If you have a question you want to ask it is important to explain why?

SCENARIO – Brock Turner 2.0

GROUP DISCUSSION

Do you confront the Respondent with his answers if they don't seem credible or make sense?

Do you ask the Respondent provide specific details about the sexual activity?

Are you asking the Respondent to describe how he obtained consent or why he believed he had consent?

Are there any questions you have after these alleged incidents?

Do you want to know if the Respondent is still talking to the Complainants or talked to them after the sexual activity?

SCENARIO – Brock Turner 2.0

GROUP DISCUSSION

Credibility Assessment

- Consistency, witnesses, evidence, pattern of conduct
- Plausibility, demeanor, motive, corroboration, past

Who do you find credible and why?

Identify your facts to support your determination.

Additional Considerations

Brock Turner 2.0

Complaints involving the same Respondent

Separate investigations and reports while conducting one investigation?

Scheduling interviews to talk about multiple complaints

Combining complaints for credibility (pattern)

FERPA

Completing the investigations at the same time

Sexual Assault - Incapacitation

Consent? Yes or No

Force? Yes or No

Incapacitation? Yes or No

Definition?

Alcohol

How much alcohol?

What type of alcohol?

What time did they start drinking?

What time did they stop drinking?

Any food?

Incapacitation - observations

Knew or should have know:

Vomiting

Balance

Coordination

Slurred speech

Etc.

SCENARIO – Brock Tuner 2.0

GROUP DISCUSSION

Determination

What is your finding?

Why?

Group Discussion

Pants on Fire part 2 report

The female student previously identified as the Complainant is now the Respondent in this scenario. The male student previously identified as the Respondent is now the Complainant in this scenario. The male Complainant has filed a complaint against the female Respondent for filing a false allegation against him. The Complainant alleged that the prior incident never occurred, and the Respondent made up the entire incident.

SCENARIO – Pants on Fire Part 2

GROUP DISCUSSION

GROUP BREAK OUTS

- **Identify a spokesperson**
- **Review report**
- **Identify violations & elements**
- **Identify a game plan (who will you interview & what evidence do you want)**

SCENARIO – Pants on Fire part 2

GROUP DISCUSSION

EVIDENCE:

ASK for what?

ASSESS for relevance!

AUTHENTICATE any evidence.

SCENARIO – Pants on Fire part 2

GROUP DISCUSSION

Credibility Assessment

- Consistency, witnesses, evidence, pattern of conduct
- Plausibility, demeanor, motive, corroboration, past

Who do you find credible and why?

Identify your facts to support your determination.

Group Discussion – It's All Business

SUMMARY OF COMPLAINT: The Complainant is the CFO for the Business school and filed a complaint alleging that her supervisor, Dean of the College, engaged in sexual harassment. The Complainant alleged that the Respondent greeted her in her office after a trip in Italy by kissing her on both of her cheeks. The Complainant alleged that the Respondent then invited her to a private meeting on a separate floor away from everyone. The Complainant alleged that while they were in the meeting, the Respondent said this conversation had to stay between them and not include HR. The Complainant alleged that the Respondent confessed his love for her, asked her to move to Italy with him, and he mentioned he would buy her a house and get her whatever she wanted. The Complainant attempted to get the conversation away from “romantic” talk, so she mentioned applying for another job opportunity at the University. The Respondent acted upset and later mentioned that he would be going to lunch with the person at the University that mentioned the other job opportunity. The Respondent also asked the Complainant to give him an answer as to whether he had a chance with her.

Obtaining & Analyzing Evidence (3A's)

1

Ask – What are you asking for?

2

Assess – How are you weighing the evidence?

3

Authenticate – How are you validating the evidence?

QUESTIONING COMPLAINANTS

- ☐ Can you ask why?
- ☐ Can you ask what they were wearing?
- ☐ Can you ask what they did?
- ☐ Do you have to believe them?
- ☐ Can you ask about their sexual history?
- ☐ Questions that answer the elements are the most important!

QUESTIONING RESPONDENTS

- ☐ Can you challenge what they are saying?
- ☐ Can you ask them if they did it?
- ☐ Do you have to believe them?
- ☐ Can they bring up the Complainant's sexual history?
- ☐ Questions that answer the elements are the most important!

Title IX Hearings

Hearing Officer or Hearing Panel (Hearing Chair is identified for panels) is assigned.

Prior to the Hearing, a best practice is allowing a pre-hearing conference to discuss challenges or concerns by the parties. The Hearing Panel / Chair decides relevance and responds to concerns.

Hearing Officer / Hearing Chair runs the hearing.

Hearing must be live (in real time) but can be virtual and typically recorded.

Hearing Officer / Hearing Chair decides what witnesses to call.

Investigator is typically the first witness called.

Best Practice for Preparing for a Hearing

Read investigative report several times at least a day before.

Read the report again the day of the hearing.

Identify areas of significance (relevant evidence).

Review undisputed facts.

Familiarize yourself with where statements or evidence are in your report.

Have your report with you for the hearing to review but highlight or mark it.

Anticipate questions.

Do's and Don'ts

DO's:

Always try to have a basic casual conversation with the involved parties at the beginning of the interview to break the ice.

Explain the purpose of the interview and the reason you are asking questions.

Ask open-ended questions instead of leading questions.

Ask nonjudgmental questions (you may need to explain why you are asking).

If you were given two different versions you need to ask follow-up questions.

Do's and Don'ts

DONT's:

Try to avoid asking “why” questions with Complainants.

Don't bring up prior sexual history, unless it is with the Respondent and it can help understand consent with partner (example is how they communicated consent). Otherwise the past history is off limits.

Asking what the Complainant was wearing should not be asked because it can imply that what they were wearing was the reason for the sexual activity. But you can ask what they were wearing only if it would help explain what happened not why it happened. Example is the Complainant said she was wearing loose clothing like a skirt and the Respondent lifted up her skirt and forcibly removed her underpants and penetrated her. This sounds more plausible than if Complainant said she was wearing skinny jeans with a tight belt and the pants are difficult to remove. This does not mean it can't happen it only means that based on how the assault was described it should match up. I once had allegation that a male forcefully removed someone's tight jeans in an alley that the female said took her both hands to put on. The female was taller than the male, the male had been shot in his leg and was recovering on crutches at the time of this alleged incident. The female said the male used one hand to remove her jeans while he restrained her with the other hand. It appeared he was physically unable to stand without his crutches, while using one hand to remove the female's pants. The female later admitted she lied about the incident. The point is, in rare occasions you can ask about what was worn but only if it helps clearly explain the assault not because you felt the outfit worn was the reason for the assault. The outfit worn is never a reason.

Don't accuse the Respondent. Simply ask questions for their version and ask follow-up questions if something said does not make sense.



Love recognizes no barriers. It jumps
hurdles, leaps fences, penetrates
walls to arrive at its destination full
of hope.

— *Maya Angelou* —

AZ QUOTES

End of Day



Compliance, Title IX & Equity (CIXE) Consulting Services

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