



Investigative Techniques

**VIRTUAL CERTIFIED
TITLE IX
INVESTIGATOR
TRAINING**





TITLE IX INVESTIGATIVE TECHNIQUES

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THEMES / END GAME



Fair/Balanced approach



Uncover all relevant facts/information

- stone analogy



Common sense approach- beware of rabbit holes



BE CURIOUS

It is the number one skill for an investigator.



Timeliness

- Policy must designate reasonably prompt timeline
- Interview witnesses as soon as possible
- Unavoidable delays
- Notice of extensions
- Addressing delays in record keeping/report



Organize

- Plan order of interviews/when to interview respondent
- In person vs. virtual vs. phone
- Explaining process and your role
- Reassurance/retaliation

INTERVIEW SKILLS

- Develop rapport
- Observe
- Be professional
- Outline questions / flexibility



Types of Questions

- Who, what, when, where, why
- Open ended
- Repeat, repeat, repeat
- Circling techniques
- Clarity on timelines /who is involved etc.
- Openings
- Closing questions
- Opportunity to provide clarification after interview

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Relevancy

- Regulations do not define relevancy
- Regulations define some things that are not relevant:
 - Treatment unless parties agree
 - Privileged Information
 - Questions and evidence about the Complainant's sexual predisposition or prior sexual behavior unless they are offered to prove that someone other than Respondent committed the sexual harassment, or if the questions and evidence concern specific incidents of the Complainant's prior sexual behavior with the respondent and are offered to prove consent.

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Ir relevant

Note Taking

- Explain your role as note taker
- Note taker vs. dual investigator
- Use quotations if possible
- Ask for a pause or clarification if necessary

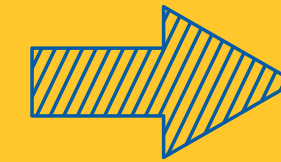
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Types of Information/Evidence

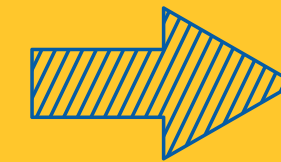


**Direct
Information/Evidence**



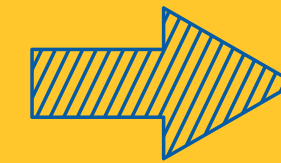
First person observation of an incident

**Circumstantial
Information/Evidence**



Reported observation of information that offers inferences about the facts of the event

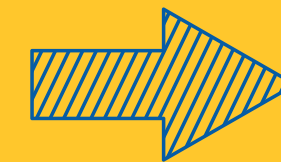
**Documentary
Information/Evidence**



Written description of an incident

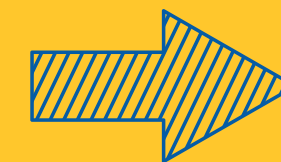
- Police Report
- Write up from staff member

**Hearsay
Information/Evidence**



Information that is reported through another party

**Expert
Information/Evidence**



Information that is shared from a person who has an acknowledged expertise in related subject matter



Complainants

- Trauma informed practices
- Managing expectations
- Reluctant complainants and retaliation
- Interim/support measures
- Next Steps
- Bias/Conflict of Interest



Respondents

- Trauma informed practices
- No presumption of responsibility
- Managing expectations
- Interim/support measures
- Simultaneous and ongoing criminal investigations
- Next Steps
- Bias/Conflicts of Interest



ADVISORS

- Of the party's choice
- Attorney? Can be, but doesn't have to be
- Does not have to be trained.
- Must follow rules of decorum if you have them
- Potentially slow down the process

WORKING WITH ADVISORS CONTINUED

- Set expectations for each meeting
- Communicate often
- Communicate clearly
- Create a "guide"
- Allow time for questions
- Be kind, understanding, and patient (this is new for them too)
- Follow up in writing



IDENTIFYING OTHER EVIDENCE

- Videos
- Social Media
- Text Messages
- Physical Evidence
- Applications
- SANE Exam
- Other?



Witnesses

- Eye Witness
- Character Witnesses???
- Hearsay issues
- Witnesses identified by the parties
- Experts

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THE ATMOSPHERE MATTERS

Consider the look and feel of the office/interview location

- not too formal but still professional
- not intimidating



Standard of Proof

- All standards related to sexual harassment must be the same
- Preponderance of the Evidence
 - 50% plus a feather
 - more likely than not
- Clear and Convincing
- School investigation vs. Criminal investigation



Creating and Maintaining Your File

- **Be Consistent!**
- **Allow an extra 15-30 minutes after each meeting to scan, save, and update**
- **Scan your notes immediately**
- **Keep an electronic copy**
- **Add information to your draft report as you investigate...especially timelines**



Your Investigative File Continued

- 7 years
- Contingency and Sustainability planning (what will happen to your file if you leave or change roles)
- Anyone should be able to pick up your file and understand what happened



Investigate as Though You Will be Investigated

- Have a clear/organized plan- but remain flexible
- Document Document Document (delays, objections EVERYTHING)
 - Duplication of documentation
 - To record or not to record?
 - Inclusivity vs. Exclusivity



INTRODUCTION:

You are wearing a different hat...

- Everyone must understand your role
- You will ask hard questions
- You will talk about difficult topics
- You will provide breaks if necessary
- You will keep the information as private as possible (privacy vs. confidentiality)
- Expectations for the truth and consequences for failure to tell the truth



INTRODUCTION PRACTICE



Questions?



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