



Title IX: Investigator Training

2026-2027
Summer 2026



Aspirational Agenda

- Title IX Requirements
- Investigation Process
- Interviews
- Weighing Evidence
- Writing the Investigation Report



Title IX

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

-Title IX of the Education Amendments of 1972

- Signed in 1972
- Part of United States Code (U.S.C.) and the Code of Federal Regulations (C.F.R.)
 - 20 U.S.C. §1681
 - 34 C.F.R. §160
- Wright State policy 1270
 - Sex/Gender-Based Discrimination, Harassment, and Sexual Misconduct

Federal Title IX Oversight

- **Historically:** Office of Civil Rights (OCR) within the Department of Education (ED)
- **Currently:** OCR of Department of Justice (DOJ)
 - As of June, 2026 due to partnership with ED

Impacting our Policy

Title IX of 1972

34 CFR §106

Title IX defines sexual harassment and outlines the grievance process for complaints

Clery Act of 1990

34 CFR §668

Clery defines sexual assault including rape, fondling, statutory rape, incest

VAWA of 1994

34 CFR §668.46

VAWA defines dating violence, domestic violence, and sex-based stalking

Changes Over Time



THE CLERY ACT & TITLE IX

1972

Title IX, a federal civil rights law prohibiting sex discrimination in educational programs, is signed into law.

1986

Jeanne Clery was raped and murdered in her college residence and the Clery family begins to advocate for transparency and accountability related to campus crimes.

1990

The Crime Awareness and Campus Security Act, later renamed the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, was signed into law, requiring colleges and universities to record campus crime statistics and safety policies.

1992

Amendments are made to the Clery Act to implement policies and procedures to protect the rights of sexual assault survivors.

2011

The Office of Civil rights issues a "Dear Colleague Letter" with guidance on what measures institutions should take to address sexual harassment.

2013

The Clery Act was expanded to include all incidents of sexual violence, sexual assault, domestic violence, dating violence and stalking.

2020

Updated Title IX regulations came into effect, resulting in significant changes to how institutions must define and respond to sexual harassment.

2022

Celebrating the 50th anniversary of Title IX!

Covered Within WSU Policy

- Sex/Gender-Based Harassment, Discrimination, and Sexual Misconduct policy (WSU 1270)
 - Program equity (ie sports)
 - Pregnant & parenting related conditions
 - Transgender inequality
 - Sexual harassment:
 - Conduct on the basis of sex that is unwelcome and 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. (1270.4(6))

Scope of Title IX at Wright State

What?

- Rape
- Sodomy
- Sexual Assault with an Object
- Fondling
- Incest
- Statutory Rape
- Dating Violence
- Domestic Violence
- Sex-based Stalking
- Quid Pro Quo Sexual Harassment
- Unwelcome Sexual Conduct

Who?

- Members of the university community
- Faculty
- Staff
- Registered students
- Student organizations
- Vendors
- Volunteers
- Visitors on and off campus
- *Covers behavior on and off campus

Title IX at Wright State

- Sex/~~Gender~~-Based Harassment, Discrimination, and Sexual Misconduct policy (WSU 1270)
- Prohibited Behaviors:
 - Sexual Assault: rape, statutory rape, incest, assault with an object, fondling, sodomy
 - Dating Violence
 - Domestic Violence: felony or misdemeanor crime of violence
 - Sex-Based Stalking
 - Quid Pro Quo Sexual Harassment
 - Unwelcome Conduct Sexual Harassment
 - Sexual Misconduct

Wright State's Non-Discrimination Policy

(1280)

Prohibits discrimination based on protected traits including:

- Race
- Color
- Religion
- Gender
- Gender identity or expression
- National origin
- Military status
- Disability
- Age (40 years or older)
- Status as a parent (pregnancy and after birth)
- Status as a parent of a young child
- Status as a nursing mother
- Status as a foster parent
- Genetic information
- Sexual orientation

Definitions: Sexual Assault

- **Rape-** carnal knowledge
- **Sodomy-** oral or anal sexual intercourse
- **Sexual Assault with an Object-** unlawful penetration
- **Fondling-** touching for the purpose of sexual gratification
- **Incest-** sexual intercourse between relation
- **Statutory Rape-** sexual intercourse with anyone under 16 years old

Definitions: Dating Violence

- Conduct on the basis of sex that consists of violence committed by a person who is or has been in a romantic or intimate relationship with the complainant.
 - Intimate/romantic relationship =
 - length of relationship
 - Type of relationship
 - Frequency of interactions between individuals

Definitions: Domestic Violence

- Conduct on the basis of sex that consists of a felony or misdemeanor crime of violence by
 - Current/former spouse or intimate partner
 - Person with whom the victim shares a common child
 - Person cohabitating (or former) of the victim as a spouse or intimate partner
 - Person similarly situated to spouse of victim y domestic/family violence laws of the jurisdiction
 - Any other person against an adult or youth victim who is protected from that person's acts under domestic/family violence laws

Definitions: Sex-Based Stalking

- Conduct on the basis of sex that consists of engaging in a course of conduct directed at a specific person to cause reasonable: (A) fear for safety; (B) suffer emotional distress
 - Two or more acts: direct or indirect action, method, device, or means to follow, monitor, observe, surveil, threaten, or communicate to or about, or interferes with a person's property

Sex-Based Stalking (Continued)

- Reasonable Person: reasonable under similar circumstances with identities similar to the victim
- Substantial Emotional Distress: significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling

Definitions: Quid Pro Quo Sexual Harassment

- Conduct on the basis of sex when a university employee, vendor, or volunteer conditions the provision, aid, benefit, or service of the University on an individual's participation in unwelcome sexual conduct. Includes but not limited to:
 - Unwelcome sexual advances
 - Requests for sexual favors
 - Other verbal/physical conduct of a sexual nature by a person with authority over others

Definitions: Retaliation

- No one, including the university, may intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with rights or privileges secured by Title IX or this policy because of a report or complaint
- Reports of retaliation will be addressed in accordance with policies regarding retaliation.

Jurisdiction (1 of 2)

- Operations of the University
- Locations, events, or circumstances over which the University substantial control over both the respondent and the prohibited behaviors
- Buildings that are owned or controlled by recognized student organizations

Jurisdiction (2 of 2)

Conduct must have occurred:

- Against a person in the United States
- Within WSU's education program or activity
- Complainant must be participating in, or attempting to participate in, education program or activity at the time the formal complaint is filed

WSU Grievance Process

Harmed Party- Complainant
Alleged Perpetrator- Respondent

Complainant has the opportunity to meet with the Title IX Coordinator, discusses

- **Supportive/Modifying Measures**- no further action requested or available from University
- **Informal Resolution**- does not require an investigation, may not be part of educational record
- **Formal Resolution**- requires an investigation, likely to be part of educational record

Wright State University Title IX and Sexual Misconduct Decision Tree



Being Impartial and Avoiding Bias, Conflict of Interest, and Prejudgment of Facts



Confidentiality

- 106.71 requires that our process and volunteers keep party and witness identities confidential except as permitted by law or FERPA, and as needed to conduct an investigation or hearing (30316)
- Prevents anyone in addition to the advisor to attend the hearing with the party, unless otherwise required by law (30339)

Impartiality

- Bias
- Avoiding prejudgment of fact
- Using information free from reliance on sex stereotypes
- Conflicts of interest
- Fair and Impartial
- Keep an open mind

Bias: Concerns Raised in preamble

- Are all paid staff members biased in favor of the institution that employs them?
- Was an institutional history of covering up issues enough for bias?
- Were past tweets or public comments that appear to support complainants or respondents sufficient to show bias?
- Is identifying as a feminist enough to show bias?
- Should bias extend to “perceived bias” or did it require actual bias?

Bias: Response of Department of Ed.

- Department declined to determine whether bias has to be actual or if perceived is sufficient to create an issue.
- Each specific bias issue requires fact finding analysis

(30252)

Bias: How WSU Minimizes Bias

No single-investigator model

- Decision-makers cannot be the same person who served as Title IX Coordinator or Investigator (330367)
- Prevents the decision-maker from improperly gleaning information from the investigation that isn't relevant that an investigator might be aware of from gathering evidence (30370)
- The institution may consider external or internal investigator or decision-maker (30370)

Bias: Objective Rules and Discretion

- WSU has objective rules for determining when an adjudicator (or Title IX Coordinator, Investigator, or Informal Resolution Facilitator) is biased, and the Department of Education allows university's to maintain discretion. (30250)
- WSU has the discretion to have a process to raise bias during the investigation.
- Bias is a basis for appeal of decision-maker's determination (34 C.F.R. 106.45(b)(8)(i)(C))

Being Impartial

A party should not be “unfairly judged due to inability to recount each specific detail of an incident *in sequence*, whether such inability is due to

- trauma,
- the effects of alcohol or drugs,
- or simple fallibility of human memory.” (30323)

Avoiding Prejudgment of Facts

- Examine evidence and your part in the Title IX process
- Take notes
- Focus on the policy and alleged violations
- Respondent is **presumed not responsible until such time as the respondent is found responsible** (WSU 1270.1)

Free of Sex Stereotypes

Avoid stereotypes based on sex:

- “such that even if a cross-examination question impermissibly relies on **bias or sex stereotypes** while attempting to challenge a party’s plausibility, credibility, reliability, or consistency,
- **It is the trained decision-maker**, not the party’s advisor asking a question **who determines whether the question is relevant**, then evaluates the question and any resulting testimony in order to reach a determination on responsibility” (30325)

Examples of Sex-Stereotypes

Decision-makers *must* not rely on sex stereotypes such as:

- Women have regret sex and lie about sexual assaults
- Men are sexually aggressive or likely to perpetrate sexual assault
- Consideration of marginalized groups: people with disabilities, people of color, people who identify in the “LGBTQ” community (30259-30260)

All volunteers should be aware to avoid sex stereotypes when serving in the Title IX process.

Avoid Rape Myths

“Beliefs about rape that serve to deny, downplay or justify sexually aggressive behavior that men commit against women” which “can be descriptive, reflecting how people believe instances of sexual assault should react” (30325)

- Myths about dress, consumption of alcohol, or previous relationships
- Belief that women make false accusations of rape
- Belief that “genuine assault” would be reported to authorities immediately
- Belief that a victim would “fight back”

Conflict of Interest: Concerns from Preamble

- Similar to Bias:
 - Does a decision-maker's financial ties to the institution create conflict?
 - Would the Title IX Coordinator directly supervise the decision-maker?
 - Does past advocacy for a survivor's or respondent's rights group create conflict?
 - Are perceived conflicts sufficient or do the conflicts have to be actual?

Preamble Discussion: Conflict of Interest

(1 of 2)

- No *per se* prohibited conflicts of interest from using employees and administrative staff, including supervisory hierarchies (30352)
 - However, we will not permit the Title IX Coordinator to directly supervise a decision-maker
- No *per se* conflict of interest or bias for professional experiences of affiliations of decision-makers and other roles in the grievance process (30353)

Preamble Discussion: Conflict of Interest

(2 of 2)

The preamble discussion:

- Provides as an example that it is not a *per se* bias or conflict of interest to hire professionals with histories of working in the field of sexual violence (30252)
- Cautions against using generalizations to identify bias and conflict of interest and instead recommends using a reasonable-person test to determine whether bias exists

Discussion Regarding Training's Role

“[T]he very training required by 106.45(b)(1)(iii) [**that you are sitting in right now**] is intended to

- Provide Title IX personnel with the tools needed to serve impartially and without bias
- Such that the prior professional experience of a person whom [WSU] would like to have in a Title IX role
- Need not disqualify the person from obtaining the requisite training to serve impartially (30252)

Examples in Discussion for Unreasonable Conclusion that Bias Exists: Review of Outcomes

- Department also cautioned parties and institutions from concluding bias or possible bias “based solely on the outcomes of grievance processes decided under the final regulations” (30252)
- Explained this means the “mere fact that a certain number of outcomes result in determinations of responsibility, or non-responsibility, does not necessarily indicate bias” (30252)

Outreach for Investigator



Title IX Requirements

- Request for investigator
 - You will receive the names of the parties
 - Determine if you have a bias or conflict of interest
 - Determine timeline (60 days) to investigate/write investigation report

Title IX Timeline



Total Time: 113 days

Notice of Investigation and Allegation

- Your name will be included in the NOIA
 - You will be CC'd on the NOIA
- Parties will have a chance to request a different investigator or state they may have a conflict with you.
- Within 2 business days of receiving the NOIA, reach out the parties and schedule interviews

Investigation Process

Review any evidence “directly related to the allegations”, including the evidence upon which Wright State does not intend to rely in reaching a determination regarding responsibility 34 C.F.R. § 106.45(b)(5)(vi)

Complainant → Respondent → Witnesses

Organizing for the Interview

- What should you have with you?
 - Intake report
 - Written notice with allegations
 - Investigation log
 - Investigation notes cover sheet
 - Pre-prepared questions (read the NOIA)
 - Evidence you may need to reference
 - Policy or handbook

Relevant Evidence

Anything related to the incident could be deemed relevant.

“ evidence pertinent to proving whether **facts material to the allegations** under investigation are **more or less likely to be true** (i.e., on what is relevant) ”

Note Taking Tips

- Use predictable symbols in the margin to easily skim during the interview:
 - ? ← Follow-up questions
 - * ← Potential evidence
 - W ← Potential witness
- Try to record exact quotes when possible
- Type up written notes that organize the interview, will be included in the final report

Simultaneous Criminal Matter

- Is it okay to proceed with the investigation?
- **If not, could be interfering with a police investigation.**
- Communicate with Title IX Coordinator.
- May require calling the local policy department and/or detective.



Setting up the Interview

- Identify yourself, your role, and general outline of the investigation (template)
- Try at least three times to schedule the interview (with each party/witness)
- Provide enough time to prepare and ask questions
 - date, time, location, modality (virtual/in-person)

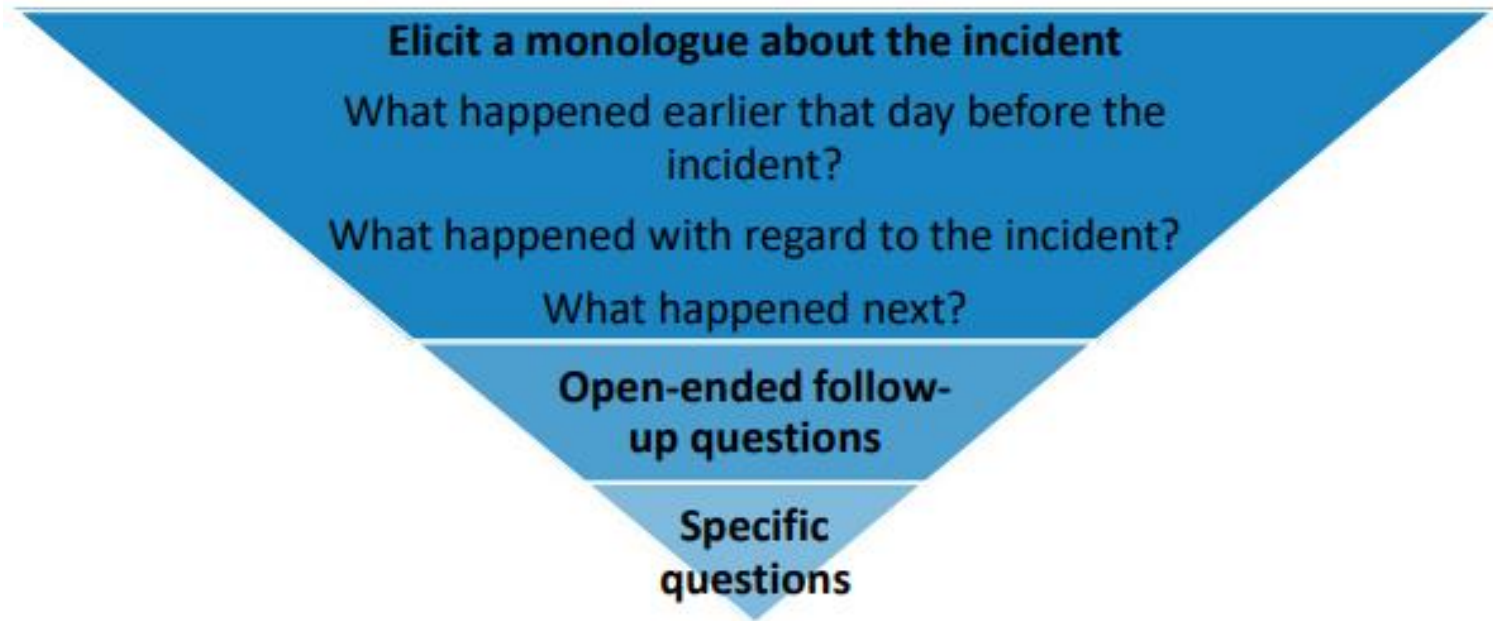
Set the Stage

- Make introductions
- Be hospitable
- Give overview of why they are being interviewed
- Explain non-retaliation policy
- Invite them to ask you questions

Focus on Policy

- The NOIA provides the allegations of the case. Your role is to uncover evidence related to the allegations from:
 - The complainant (person who was harmed)
 - The respondent (person who is alleged to have harmed)
 - Witnesses
 - Documented information (text messages, photos, videos, etc.)

Begin Broadly



If Party Does Not Participate

- Document!
 - Each attempt to schedule interview (via email and send email after a phone call)
 - Contact Title IX Coordinator to attempt to contact party
 - Send email to alert party that the process will continue without their participation
 - Move on...
 - Send the party and their advisor the preliminary/final report

When Consent is at Issue

- **Common concern: investigators not asking the questions to get the details needed for incapacitation analysis**
- Consider the wording and tone of questions
- Utilize “freeze frame” strategy
 - What did they see/hear/smell
- Ask questions about what happened to determine whether there was unspoken consent
- Ask questions to identify whether alcohol/drugs played a role

Asking Questions

The burden of gathering evidence is on the institution, not on the parties.

- How did the physical contact occur?
 - Who initiated?
- What is the timeline for the incident?
- Could you please describe the room in which the incident occurred?
 - If you can, please draw the room.
- You said “we did it”. Could you please describe what you mean by “it”?
 - Did that include penetration? Of which body parts?



Credibility

- Gather facts to assist the **decision-maker**
- Your job: ask questions to test memory
- Identify where the witness may corroborate or contradict their testimony, or other witness, and physical evidence
- Be sensitive to potential trauma experienced by witnesses

Questions about Credibility- Bias

- Bias: (a) lay witnesses and (b) experts.
- Relationships (friendship and romantic)
- Experts: getting paid for testimony
 - You charge fees based on an hourly rate?
 - You were paid to produce a written report?
 - Based on this report, you're testifying today?
 - You're charging money for each hour you're here?

Question of Credibility- Perception/Recall

- What is the witness's perception of the facts?
 - Has time impacted recall or ability to remember clearly?
 - How many times has the witness talked about to the other party about this case?
 - Was there anything that impacts the person's physical or mental ability to perceive or recall facts accurately?
- Is the expert limited by the information provided to inform the expert report?
- Does the witness form a conclusion without knowing certain information?

Questions of Credibility- Inconsistency of Statements

- Only happens if you interview the parties or witnesses multiple times
 - If a fact was very important, why is the hearing the first time it has come up?
 - What possible reasons might the witness have for changing their testimony?
 - Did a witness receive coaching from the party or others between making one statement and another?
 - Has the witness's perspective or motive changed between statements?
 - Does changing this fact help the other party's case?

Question of Credibility- Example

- **Intoxication level information from witness.**
 - Did you see the consumption, or keep track of how long the party was consuming alcohol?
 - Did you measure the alcohol poured by_____?
 - Are your statements based on your own information?
 - Was there anyone else who provide these details?
 - Were your experiences after you consumed alcohol/drugs?

Closing the Interview

- Closing questions
- Request copies of the evidence potentially available
- Discuss confidentiality
 - Do not prohibit a party from discussing the allegations
- Inform the witness of next steps of how to reach you
 - Via email

Relevance and Weight of Evidence

- Recipient must ensure that “all **relevant** questions and evidence are admitted and considered (through varying weight or credibility may of course be given to particular evidence by the decision maker).” (30331)



This Means:



Cannot exclude redundant evidence



Cannot exclude character evidence



Cannot exclude hearsay



Cannot exclude evidence where the probative value is substantially outweighed by the danger of unfair prejudice (30294)



Relevancy: Not Relevant

The Department has determined that recipients must consider relevant evidence with the following exceptions:

**Party's
medical/treatment
records**

*(unless voluntary
written consent)*



**Information
protected by a
legally
recognized
privilege**



**Complainant's
sexual
behavior**

*(except for two
exceptions)*



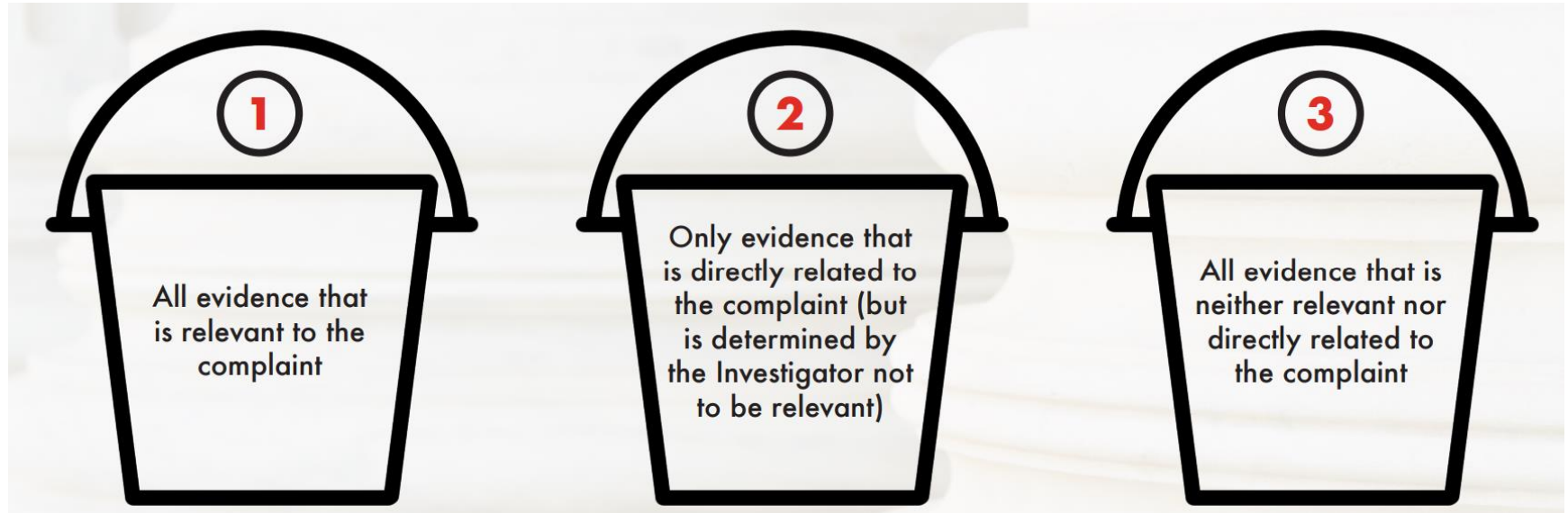
Relevancy: Rape Shield Provision & Complainant

- Evidence about **complainant's** prior sexual history (must exclude) unless such questions/evidence:
 - Are offered to prove that someone other than the respondent committed the conduct, or
 - If the questions/evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent.

Relevancy: Rape Shield Provision & Respondent

- Rape shield protections do not apply to Respondents
- “The Department reiterates that the rape shield language...does not pertain to the sexual predisposition or sexual behavior of respondents, so **evidence of a pattern** of inappropriate behavior by alleged harasser **must be judged for relevance as any other evidence must be.**”
- Guidance from September 2021 Q&A: no parties sexual history usually relevant

Buckets of Evidence



Writing Investigation Report



Organize All Relevant Evidence



The **GATHERER** of all relevant evidence.



The **ORGANIZER** of all relevant evidence.



Here are some tools for how to best organize all the relevant evidence.

Summarize Basic Information

Identify factual information:



Complainant



Respondent



Investigator



Witnesses

- Perhaps organize by fact v. expert witnesses or by party whom requested the witness

General Organization

- Natural and neutral organization strategies:
 - Chronological order
 - By topic or allegation
 - Perhaps by chronology within each topic or allegation
- Chronologically based on how information was shared with investigator
- By witness summary

Explain Organization

- Example
 - *“The information in this report is a summary of the facts as agreed upon by the parties and witnesses. Where there is a difference in the accounts, it is noted in the report. For the sake of clarity, the report is organized chronologically and by subject matter when appropriate.”*

Other Information to Include

- Basic description of charges (at time of incident)
- How did the complaint make its way to investigation?
- Witnesses interviewed
- Witnesses not interviewed
 - And why
- Procedure followed (step by step)
- Any procedural anomalies that need explained

State Regarding Relevant Evidence

- “All relevant information gathered during the course of the investigating has been included in this report” (template)
 - Identify if you thought something was not relevant and why-include in appendix for non-relevant information for decision-maker review
 - Provide table of contents for appendices of evidence

Evidence



Give an overview of
evidence collected

AND



Attach as appendices any
statements and important
evidence

Writing Examples

Disclaimer: the following hypotheticals are not based on any actual cases handled of which we are aware. Any similarities to actual cases are coincidental.

Example 1



Bad Example: Rook was very believable when they said they had been attacked by Charlie.



Neutral and clear correction: Rook stated they were attacked by Charlie outside of North Hall. Rook provided the names of witnesses and contact information for those witnesses.

Example 2



Bad Example: Charlie stated that they didn't think she had witnessed anything, but that I should check with her.



Neutral and clear correction: Charlie stated that Charlie did not believe that her roommate, Wendy, had witnessed anything. Charlie asked the investigator to follow up with Wendy to verify what, if anything, Wendy had witnessed.

Example 3



Bad Example: Rook seemed nervous at the interview and wasn't consistent with the information.



Neutral and Clear Correction: Rook provided the following information at the interview: that Rook had 3 whiskey sours, that Rook had at least 2 whiskey sours, and that Rook may not have had any whiskey sours.

Example 4



Bad Example: Charlie requested that I follow up with their roommate, but I didn't because it seemed redundant.



Neutral and Clear Correction: Charlie requested the investigator follow up with her roommate, Wendy. The investigator scheduled an interview with the roommate to follow up on any additional information the roommate may have. The roommate's account of events at the interview, provided in Exhibit C, is consistent with Charlie's statement regarding the time period between 8am and 9am on January 6, 2023. The roommate was not present outside of that timeframe and had no additional information.

Questions?

