

A close-up photograph of a person's hand holding a pen and writing in a notebook. The background is blurred, showing what appears to be a desk and other papers. The lighting is soft, highlighting the texture of the paper and the grip of the pen.

# Title IX Investigative Interviewing

Speaker: Lin-Chi Wang, Esq.

# Mindset and Expectations

One word feeling or intention you are bringing to this training?

and

What's one goal you have for this training?

# Community Norms

- What's Learned Here Leaves Here, What's Said Here Stays Here
- Listen to learn, speak to offer

Disclaimer: Information given during this training is not legal advice

# Title IX Investigation Interviewing Techniques

# Title IX Investigation Language & Policy Definitions

- Title IX Sexual Harassment
  - Quid Pro Quo Sexual Harassment
  - Hostile Environment Sexual Harassment
  - Sexual Assault: Rape, Sodomy, Sexual Assault with an Object, Fondling, Incest, and Statutory Rape
  - Domestic Violence
  - Dating Violence
  - Stalking
- Consent
- Complainant
- Respondent

*Review your school's Title IX Policy, and review it again, and again*

# Title IX Investigator “Hat” - Big Picture

- Title IX Investigator must be unbiased, impartial, and avoid conflicts of interest
- Title IX Investigator gathers relevant information related to a Title IX formal complaint and summarizes it into a report for the parties and decision-maker(s)
- Relevant information must include looking into “inculpatory and exculpatory evidence”
- NOTE: Investigators should not prejudge or assume what happened or didn’t happen; what someone did wrong or right; or, what someone’s response should have been

# Title IX Investigator "Hat" - Big Picture

- Inculpatory evidence: Evidence that establishes guilt or responsibility
- Exculpatory evidence: Evidence that favors the Respondent or establishes the Respondent's "innocence" or non-responsibility

# Role of Title IX Investigator - What does it look like?

- Emailing and/or calling parties and witnesses to schedule interviews.
- Conducting interviews with parties and witnesses.
- Taking notes and/or recording interviews and summarizing those interviews into a typed statement.
- Gathering any documentary evidence from parties and/or witnesses - screenshots, phone records, etc.
- Reviewing photo(s) or video recording(s)
- Visiting physical location of incident
- Summarizing and organizing all relevant evidence into a report



# Conflict of interest and Bias

- Familial or other personal relationship with any of the parties and/or witnesses
- Strong beliefs or feelings about victims or perpetrators, generally, can make you biased.
  - “Men are always perpetrators”
  - “Victims lie more often than they tell the truth”
  - “Girls are asking to be sexual assaulted when they dress a certain way”
- Internalized and unconscious bias

# Investigation Preparation

1. What is the potential policy violation?
2. Review all evidence that has been provided at the time you are assigned a matter.
3. Write down questions you have about the people involved and the incident(s) alleged. What evidence and context is missing?
  - a. Dates?
  - b. Times? On the date and duration?
  - c. Locations?
  - d. Witnesses?
  - e. What details are missing?
  - f. Not obvious: feelings, emotions, impact on school, social, personal life
4. Is there any other evidence you need to gather aside from interviews?

# Investigation Interview Set-up

At the beginning of the interview:

- Introduce yourself and your role
- Explain you are there to try to understand what happened and that you're going to ask questions about what they remember
- There are no right or wrong answers; you're not there to judge what they say/said, what they did, or what they remember
- They may not remember everything; that's okay. You don't want them to guess. If they don't know something, they should say they don't know or don't remember instead of guessing.
- You're going to ask some detailed questions. Nothing they say will offend or surprise you. You might ask some uncomfortable questions; it's not meant to make them uncomfortable but rather to help you understand better what happened.

# General Types of Questions

- Start with an open ended question:
  - Can you tell me what happened?
  - Get specifics on how it happened:
    - Where did it happen?
    - What time was it?
    - Were other people around/witness it?
    - About how long did it last? Minutes? Seconds?
    - If touching was involved - get specifics on what body part touched what body part where, for how long, what kind of touch (hit, tap, stroke, etc.), over/under clothing, skin-to-skin?, how many times?, what were they wearing?
    - Were any words exchanged at the time? (Get specific on who said what)
    - Did they tell/text/message anyone what happened? When? What did they tell them?

# Considerations for Younger Students

- Always involve a trusted parent/guardian/caregiver
- It's likely the student has talked to the parent/guardian/caregiver - interview that person separately to learn what they have been told
- Think carefully about the language you're using, try to use words that a student of that age would understand, i.e. instead of "harassing", use "hurt", "angry", "mad", "sad"
- Keep the interview short, depending on age, you may have to max it at 15/30/45 minutes, and do multiple interviews if needed
- Younger kids and parents are BUSY, talk to them when you can, environment may not be ideal

# Considerations for Students with Disabilities

- Involve a trusted parent/guardian and/or specialist who understands the student's disability and can help you communicate with the student and/or explain what a student may be trying to communicate if their disability affects how they process information and communicate

# Consequences of an incomplete investigation

- Incomplete or inaccurate facts can lead to the wrong finding
- Delay justice, restoration, learning, and/or healing for the impacted person and the perpetrator
- Increase liability for the school

# Key Takeaways

- Know the policy
- Be prepared
- Be flexible & adaptable
- Be detailed & thorough
- Check in with yourself
- Take time to think and process



Questions?

Break?

# Drafting questions exercise

“Complainant said that the Respondent touched her at lunch.”

- What more information do you think you need to know about this statement from the Complainant?
- Write down all question(s) you have that come to mind.

# Drafting questions exercise - sample questions

“Complainant said that the Respondent touched her at lunch.”

- What time was it?
- Where in the lunch room?
- Were you having lunch?
- Was R having lunch?
- Were there other people around who saw it?
- What kind of touching? Hug, kiss, private part? How did the touching happen? How long did the touching last?
- Did you tell anyone? When? Who?

# Drafting questions exercise

“A witness said that the Respondent was ‘creepy.’”

- What more information do you think you need to know about this statement from the Complainant?
- Write down all question(s) you have that come to mind.

# Drafting questions exercise - sample questions

“A witness said that the Respondent was ‘creepy.’”

- Can you describe creepy?
- What did the R say that made you think R was creepy?
- What did the R do that made you think R was creepy?
- Did you personally hear or see R say the things that were creepy? If not, how to did you learn about it?
- Did you personally hear or see R do the things that were creepy? If not, how to did you learn about it?

# Drafting questions exercise

“A teacher said she had to move the Complainant’s and the Respondent’s seats in class because they were arguing.”

- What more information do you think you need to know about this statement from the teacher?
- Write down all question(s) you have that come to mind.

# Drafting questions exercise - sample questions

“A teacher said she had to move the Complainant’s and the Respondent’s seats in class because they were arguing.”

- What class?
- When - date/time?
- Did you see or hear the argument? What did you see/hear?
- Did you talk to either of them afterwards? What did they tell you?
- Do you know if other students overheard/oversaw?
- Who was around them when they were arguing?
- Do you know who their friends are in class?
- Has this happened before with the parties?
- Do you know what their relationship was like before this argument?

# Practice Scenario



# Title IX Formal Complaint

Freshman student X made a formal complaint of sexual assault. X reported that sophomore student Z and X were walking in the stairwell of the high school during their lunch time. Right before lunch, they were in English class with Ms. K, and during class Z threw his wallet at X. X placed Z's wallet in the strap of her shirt. While X and Z were walking in the stairwell, Z attempted to retrieve his wallet from inside X's shirt, and touched X's breast while doing so. X reports that they reached a landing and X tried to run down the stairs. X reports that Z grabbed X's neck and pulled her back onto the landing. While holding X by the neck, Z exposed his penis and forced X to touch Z's penis. The bell rang and X ran to class.

Is this statement complete? If not, what other information do you need to gather at this point?

# Title IX Complaint - Respondent's statement

Student Z, the Respondent, states that he and student X were friendly and he thinks student X had a crush on him. Student Z said that on the day in question, they were playing a game and he threw his wallet at student X. Student Z said that student X took his wallet and put it in her bra. Student Z said when they were walking in the stairwell, he was asking for his wallet back and student X refused to give it back to him. Student Z said he knew where the wallet was so he retrieved it. Student Z said he may have touched student X's chest when he retrieved it.

Is this statement complete? What other information do you need to gather at this point?

Thank you!

Lin-Chi Wang

[linchi@wanglawllc.com](mailto:linchi@wanglawllc.com)

484-340-6269 (cell)

A close-up photograph of a person's hand holding a pen and writing on a white sheet of paper. The person is wearing a dark blue long-sleeved shirt. The background is blurred, showing what appears to be a desk and other papers. The lighting is soft and focused on the hand and pen.

# Title IX Investigation Report Writing

Speaker: Lin-Chi Wang, Esq.

# Mindset and Expectations

One word feeling or intention?

and

What's one goal or question you have for this training?

# Community Norms

- What's Learned Here Leaves Here, What's Said Here Stays Here
- Listen to learn, speak to offer

Disclaimer: Information given during this training is not legal advice

# Outline for Today's Training

- Brief review of last training
- Investigation writing basics
- Building blocks of an investigation report
- Practice writing an interviewee summary
- Q & A throughout

# Brief review



# Title IX Investigator “Hat” - Big Picture

- Title IX Investigator must be unbiased, impartial, and avoid conflicts of interest
- Title IX Investigator gathers relevant information related to a Title IX formal complaint and summarizes it into a report for the parties and decision-maker(s)
- Relevant information must include looking into “inculpatory and exculpatory evidence”
- NOTE: Investigators should not prejudge or assume what happened or didn’t happen; what someone did wrong or right; or, what someone’s response should have been

# Investigation Interview Set-up

At the beginning of the interview:

- Introduce yourself and your role
- Explain you are there to try to understand what happened and that you're going to ask questions about what they remember
- There are no right or wrong answers; you're not there to judge what they say/said, what they did, or what they remember
- They may not remember everything; that's okay. You don't want them to guess. If they don't know something, they should say they don't know or don't remember instead of guessing.
- You're going to ask some detailed questions. Nothing they say will offend or surprise you. You might ask some uncomfortable questions; it's not meant to make them uncomfortable but rather to help you understand better what happened.

NOTE: Be mindful of your tone of voice and the way you ask a question.

# Title IX Investigation Report Writing Basics

# Title IX Investigative Report Writing

- Thorough investigation = thorough report
- During interviews, note the question that was asked in addition to the answer. This will help later when you're writing the report.
- Summarize the interview into a written statement as soon as you can.
- Start writing the report as soon as you can.
- Request time to work on the report. It's mentally/intellectually intensive.

# Title IX Investigation Report Requirements

- “Prior to completion of the investigative report, the recipient must send to each party and the party's advisor, if any, the evidence subject to inspection and review in an electronic format or a hard copy, and the parties must have at least 10 days to submit a written response, which the investigator will consider prior to completion of the investigative report.” (Directly related evidence)
- “Create an investigative report that fairly summarizes relevant evidence and, at least 10 days prior to the determination of responsibility, send to the parties and their advisors, if any, the investigative report in an electronic format or a hard copy, for their review and written response.” (FINAL Investigation Report)

# Title IX Investigation Report Writing

Tips to keep in mind:

- Be organized
- Document EVERYTHING
- If you're not sure, ASK
- Be aware of your power, keep your ego in check
- Be discrete, keep confidences

# Title IX Report - "Fairly Summarizes Relevant Evidence"

## Building Blocks of a Report:

1. Background: formal complaint, allegations
2. Policy: jurisdiction, definitions
3. Procedural steps taken
4. Summary of interviews
5. Summary of other evidence gathered
6. If you refer to a evidentiary document, either cite the source or attach as an exhibit

NOTE: privileged evidence cannot be used without written consent

# Title IX Report - General use of language

Use language that is:

- Descriptive of what an interviewee told you
- Fact-based
- Neutral
- Relevant
- Informative

Avoid:

- Opinion language
- Making assumptions about facts
- Making judgments about facts
- Filling in information that is not there



# Title IX Report - Background

## Background Section, example:

“Twin Rivers Unified School District (“TRUSD”) Foothill High school student, Jane Doe (“Complainant”) alleged that on October 20, 2022, at approximately 1:30pm, she was in a stairwell at Foothill High with student John Smith (“Respondent”) and the Respondent sexually assaulted her while they were in the stairwell. The Complainant, with her parent, made a report in person to Foothill High Vice Principal, VP, on October 21, 2022. The same day, VP routed the report to TRUSD Title IX Coordinator, Will Pope.

On October 24, 2022, the Complainant filed a Title IX formal complaint with the TRUSD due to the incident.”

# Title IX Report - Background

## Background Section, continued:

"In the formal complaint, the Complainant alleged that the Respondent touched her breast and made her touch his penis while in the stairwell of the high school. The Complainant alleged this occurred on October 20, 2022 at approximately 1:30pm.

On October 27, 2022 the Title IX Coordinator issued a notice of investigation ("Notice") to the Respondent and assigned the investigation to me, Lin-Chi Wang ("Investigator"). In the Notice, the Respondent was notified that the investigation would move forward under the TRUSD Title IX Sexual Harassment Complaint Procedures."

# Title IX Report - Scope of report

## Jurisdiction Section:

### I. Jurisdiction

The alleged conduct occurred on school grounds at Foothill High and is therefore within the scope of TRUSD's Title IX Sexual Harassment Complaint Procedures in that the conduct is alleged to have occurred in the United States and in TRUSD's programs or activities.

# Title IX Report - Scope of report

## Policy Definition Section:

### II. Applicable Policies and Procedures

TRUSD's Title IX Sexual Harassment Complaint Procedures:

Title IX Sexual Harassment Prohibited

Sexual Harassment as defined in Title IX (Title IX Sexual Harassment) is prohibited in district education programs or activities. Title IX Sexual Harassment is conduct on the basis of sex in an education program or activity that satisfies one or more of the following: (34 CFR 106.30, 106.44)

# Title IX Report - Scope of report

## Policy Definition Section (continued):

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

For the purpose of this AR, Section 261.6 of the California Penal Code defines consent as “positive cooperation in act or attitude pursuant to an exercise of free will. The person must act freely and voluntarily and have knowledge of the nature of the act or transaction involved. A current or previous dating or marital relationship shall not be sufficient to constitute consent where consent is at issue in a prosecution under Section 261, 262, 286, 287, or 289, or former Section 288a.”

A voluntary expression of willingness, permission, or agreement to engage in sexual activity throughout a sexual encounter. Consent cannot be granted by an individual: who is less than the statutory age of consent under California law, has a mental or physical condition or incapacity that prevents the giving of consent; or from whom ostensible “consent” is extracted through threat, coercion, or forcible compulsion.

## Summary of Interviews Section - Party/Witness Statement

- Who did you interview, who was present during the interview, where did it take place, what time.
- Interviewee's role: Complainant/Respondent/Witness, student/staff/etc, any other important identifying information.
- Translate interview into a interviewee's story

# Title IX Report - Scope of report

## Summary of Interviews Section - Set up

Name	Role at TRUSD and Connection to Investigation	Date of Interviews(s)
Jane Doe	9th grade student at Foothill High; Complainant	October 25, 2022
John Smith	10th grade student at Foothill High; Respondent	October 30, 2022
Jocelyn J	9th grade student at Foothill High; Witness, requested by Complainant	October 31, 2022

# Title IX Report - Scope of report

## Interviewee's story

- Every piece of information that is descriptive of the situation provided by the interviewee should state that it was said by the interviewee. (It can sound awkward writing this way, it's okay).

## Example:

The Investigator asked the Complainant where the incident occurred. The Complainant said it occurred "in the stairwell."

## NOT:

The incident occurred in the stairwell.



# Title IX Report - Scope of report

## Interviewee's story

- Tell the story chronologically, if possible and if it makes sense.
- If answers are mostly "yes/no", it will be important to include what the question was.
- Quote what an interviewee says as much as possible, especially if the interviewee describes something in a particular way, says words that are culturally-specific, or uses specific colorful language.

Example: The Respondent said a friend told him he "was a creep" and the Respondent told his friend to "shut the fuck up."

# Title IX Report - Scope of report

## Interviewee's story

- Every sentence in an interviewee's statement will always begin with "[Interviewee] said/stated/reported/showed/drew" or "The Investigator asked... and the [interviewee] said... "
- Your opinion or impression of an interviewee will almost never be relevant, but in the rare occasion that it is, you can note your impression in a footnote, not in the interviewee's statement.

# Title IX Report - Scope of report

## Interviewee's story

### Specific to witnesses:

- If a witness personally witnessed something, write that down: "The witness said she saw the Complainant and the Respondent in the stairwell."
- If a witness heard about something from a party, write that down: "The witness said the Complainant told her in gym class that the Complainant and the Respondent were in the stairwell."
- If a witness did not see or hear something directly, write that down: "The witness said she learned about what happened in gym class when she overheard the Complainant telling her friend about it. The witness said the Complainant did not tell her directly."

# Title IX Report - Scope of report

## Summary of Documentary Evidence

### Example:

The investigator reviewed the following evidence presented by the parties and/or collected by the investigator:

1. Screenshots of text messages exchanged between the Complainant and Witness 2, dated October 18-20, 2022, provided by the Complainant, attached as Exhibit 1.
2. Screenshots of security footage dated October 20, 2022, provided by TRUSD, attached as Exhibit 2.

# Practice drafting interviewee summary

Thank you!

Lin-Chi Wang

[linchi@wanglawllc.com](mailto:linchi@wanglawllc.com)

484-340-6269 (cell)