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# Title IX Investigator Training

## Part I: Becoming an Investigator

January 25, 2022

Twin Rivers Unified School  
District

# Role of a Title IX Investigator

Elizabeth Abdnour  
Professional Title IX Investigator



## Investigation Planning & Design

Speaker: Elizabeth Abdnour, JD

### I. How must a school respond to allegations of sexual harassment?<sup>1,2</sup>

1. Schools must “respond promptly in a manner that is not deliberately indifferent.”
2. The Title IX Coordinator or designee must promptly contact the complainant to discuss the availability of supportive measures, regardless of whether a formal complaint is filed, and to explain the process for filing a formal complaint.
3. In addition, if a formal complaint is filed, either by the complainant or the Title IX Coordinator, a school must:
  - a. Offer supportive measures to the respondent, and
  - b. Follow the Title IX grievance process specified by the 2020 amendments.
4. In addition to setting out these requirements, the Title IX regulations provide that a school is deliberately indifferent “only if its response to sexual harassment is clearly unreasonable in light of the known circumstances.”

### II. Pre-investigation matters

1. Investigators must be impartial, unbiased, and free of conflict.
  - a. Conflict of Interest check: you will know the names of the Complainant and Respondent based on the Notice of Investigation.
2. Trauma-informed interviewing:
  - a. A school may use trauma-informed approaches to respond to a formal complaint of sexual harassment. The preamble clarifies that the 2020 amendments do not preclude a school “from applying trauma-informed techniques, practices, or approaches,” but notes that the use of such approaches must be consistent with the requirements of 34 C.F.R. § 106.45, particularly 34 C.F.R. § 106.45(b)(1)(iii).<sup>3</sup>
3. Presumption of non-responsibility:
  - a. The 2020 amendments require a school to include in its Title IX grievance process “a presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process.”<sup>4</sup>
  - b. “The presumption does not imply that the alleged harassment did not occur,” or that the respondent is truthful, or a complainant is untruthful.<sup>5</sup> Instead, the preamble says that the

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<sup>1</sup> 34 C.F.R. § 106.44(a).

<sup>2</sup> <https://www2.ed.gov/about/offices/list/ocr/docs/202107-qa-titleix.pdf>

<sup>3</sup> <https://www2.ed.gov/about/offices/list/ocr/docs/202107-qa-titleix.pdf>

<sup>4</sup> 34 C.F.R. § 106.45(b)(1)(iv).

<sup>5</sup> 85 Fed. Reg. at 30,259.

- presumption is designed to ensure that investigators and decision-makers serve impartially and do not prejudge that the respondent is responsible for the alleged harassment.
- c. Schools that have relied on this presumption to decline services to a complainant or to make assumptions about a complainant's credibility have done so in error.
4. Key Questions of the Title IX Grievance Process
    - a. What is the alleged conduct?
    - b. Does the evidence support a finding that it occurred (preponderance of the evidence or clear and convincing evidence – your policy will define standard)
    - c. If it occurred, was the conduct a policy violation?
    - d. You will ask the parties and identify information and evidence that answers these questions.
  5. Understand parties' rights and responsibilities in the process.
    - a. Neither party is required to participate in the investigation.
    - b. Parties have the right to an advisor during interviews.
    - c. Parties have the right to provide their account of the alleged misconduct and have that account be on the record.

### III. Investigation

1. Receive formal complaint (process should be outlined in school policy)
2. Assess for conflict & notify Title IX Coordinator immediately in case of conflict.
3. Jurisdiction determination
4. Prompt notice to both parties of allegations
  - a. Provide updated notice if additional allegations come out during investigation.
5. Assess for supportive measures.
  - a. The school must contact the complainant to discuss the availability of, and to offer, supportive measures, regardless of whether a formal complaint is filed. A school must also consider the complainant's wishes with respect to supportive measures.<sup>6</sup>
  - b. Supportive measures “are designed to restore or preserve equal access to the [school's] education program or activity,” “protect the safety of all parties or the [school's] educational environment, or deter sexual harassment,” do not “unreasonably burden [] the other party.”<sup>7</sup>
  - c. Can include removal from campus or administrative leave.<sup>8</sup>
6. Investigation plan: Create a template with timelines for your entire team to start from.

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<sup>6</sup> 34 C.F.R. § 106.44(a).

<sup>7</sup> 34 C.F.R. § 106.30(a).

<sup>8</sup> 34 C.F.R. §§ 106.44(c)-(d).

- a. Witness List & Order of Interviews for all Witnesses and Parties
  - b. Evidence List
  - c. Investigation Timeline
    - i. Per law/regulations, there is no set timeline – but timeline must be:<sup>9</sup>
      1. Defined in policy
      2. Reasonably prompt
    - ii. Best practices:
      1. Official TIX policy statement about overall timeline
      2. Internal policy or procedures outlining detailed timelines
      3. Emails to parties regularly with updates
      4. Notify parties immediately in case of delay beyond original timeline & include reason for delay
7. Teams of two or more investigators:
  - a. Communicate with your co-investigator & delegate tasks.
8. Brainstorm interview questions based on policy violations.
  - a. Do not be shy about asking personal and intimate questions. Details are important!
  - b. If you feel like the interviewee may perceive the question as harsh or biased, it may be helpful to explain WHY you are asking a specific question.
9. Interview parties and witnesses.
  - a. General order of interviews: Complainant → Respondent → Witnesses
  - b. Interview anyone named (or who you discover in your investigation) who may have relevant information.
  - c. Ask all questions requested by parties unless clearly not relevant. Relevance should be defined in your policy.
  - d. Know your policy – this will guide what facts you need to gather.
10. Prepare the report.

#### IV. Important tips:

1. Be Flexible!
  - a. You will likely have to modify/update your investigation plan and timeline as the investigation goes on – communicate with parties so their expectations are realistic.
2. Understand the time commitment.
3. You must be impartial, unbiased, and free of conflict, but there is no requirement of “neutrality.”
  - a. You can and should be empathetic to both parties and provide resources, support information, flexibility, etc.
  - b. You cannot favor one party over the other.

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<sup>9</sup> 34 C.F.R. § 106.45(b)(1)(v).

- c. If a party feels heard and respected by you, there is a higher chance of satisfaction with the process even if they disagree with the outcome.
4. Investigations are stressful and require you to listen carefully to, process, and rehash over and over very difficult and painful facts about rape, sexual abuse, harassment, stalking, and/or relationship violence.
  - a. Self-care is crucial!
  - b. Community care is also crucial.

# Investigation Planning & Design

Adrienne Mathis  
Executive Director, Title IX Solutions LLC





# Investigation Planning

## Planning Phases

- I. Form Investigative Team
- II. Document Review
- III. Drafting a Plan
- IV. Next Steps

# I. Form Investigative Team

When assigning investigators, the following factors may be considered:

- Experience with Title IX investigations, specific forms of sexual harassment, student or employee cases, etc.
- Availability (time commitment)
- Conflicts of interest and/or actual and perceived biases
- Native language(s) of the parties

# I. Form Investigative Team

## Ideally two investigators

- Lead Investigator:
  - Coordinates with the Title IX Coordinator & the Parties
  - Drafts the investigative report & prepares the Investigation File/Binder
- Co-investigator
  - Takes notes during the interview, note questions, & ask questions during the interview if prompted by the Lead Investigator
- Importance of Gender Balance
  - Try to have people of different genders present while interviewing complainants, respondents, and witnesses
  - Allows the individual to converse with the gender with which they feel most comfortable
- Importance of speaking the native language of the parties
  - Ideally, investigator is also a native speaker of the language or very fluent
  - If not possible, interviews may require a translator. The translator should be briefed on the Title IX process and relevant terms.

# I. Form Investigative Team

## Communicate with your co-investigator

- Delegate tasks & play off one another's skills
  - Lead investigator vs. note-taker
  - Lead Writer of Summary of Interviews
  - Lead Writer of Investigative Report
  - Communication with Parties & Title IX Coordinator

# II. Review Documents

## Twin Rivers Title IX Sexual Harassment Complaint Procedures

- Your Investigation Guide
  - Review policy at every stage of the investigation process
  - Ask Title IX Coordinator for clarification, if necessary
- Understand the Parties' Rights
  - Parties are not required to participate in the investigation
  - Right to an advisor & advisor restrictions during interviews
  - Right to provide their account and have it on the record

# II. Review Documents

## Formal Complaint

- Note: Report versus Formal Complaint
  - New to the 2020 Regulations
- Formal Complaint
  - Signed & submitted by the Complainant or Title IX Coordinator
  - Required for an investigation to begin

# II. Review Documents

## Sample Report:

January 12, 2022: Mr. Jones emailed Title IX Coordinator Katrina Callaway about an incident that may have occurred on a recent Outdoor Adventure Club excursion. Mr. Jones is Brittnay Jones' father, who is a freshman at Rio Linda High School. Mr. Jones was chaperoning the club's recent hiking excursion and witnessed senior Kelly Brown grab sophomore Jose Torres' buttocks numerous times while walking behind Jose on the trails. Mr. Jones says that Kelly also grabbed Jose's genital area over his pants while taking a water break and seemed to attempt to put her hand down his hiking pants while in the woods. Although Kelly appeared to be flirting or joking with Jose, Jose was not smiling or laughing like Kelly.

(How do we know this is a report? – submitted by someone other than the Complainant)

## II. Review Documents

### Sample Formal Complaint:

On January 10, 2022, I went on a hiking excursion with the Outdoor Adventure Club. When I was hiking, Kelly Brown grabbed my butt and privates while we were hiking. She even tried to put her hand down my pants while Mr. Diaz was teaching us about the birds. In our Club meeting this week, Kelly touched my hair, rubbed my back, and put her hand on my knee, and I didn't want her to do that. I don't know how to get her to stop touching me. My best friend Diego Robles recorded her touching my hair.

Signed: Jose Torres, January 19, 2022

(How do we know this is a formal complaint? - In writing & signed by Complainant)



## II. Review Documents

### Written Notice of Allegations

- Page 5 of Twin Rivers Title IX Sexual Harassment Complaint Procedures
- Contains significant detail, including a summary of the allegations, alleged policy violations, and sufficient details regarding the alleged violations
- Prepared by the Title IX Coordinator and sent to the Complainant and Respondent at the start of the Investigation

# II. Review Documents

## Sample NOI

Complainant sophomore Jose Torres alleges that senior Kelly Brown grabbed his buttocks and genital area while on an Outdoor Adventure Club excursion. Torres also alleges that Brown attempted to put her hand down his pants. This incident occurred on January 10, 2022. Torres also alleges that Brown inappropriately touched his hair, back, and knee during an Outdoor Adventure Club meeting on January 18, 2022.

- Policy violations: Sexual assault (forcible fondling); 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 district's education program or activity

## II. Review Documents

### Notice of Allegations (NOI) = Backbone of your Investigation

- Outlines details from the alleged incident (to be verified)
- Contains potential witnesses and/or sources of evidence (to be collected)
- Presents the timeline of the incident & reporting process
- Helps us focus on the key questions that are to be addressed during the Title IX Grievance Process (investigation + hearing)

# II. Review Documents

**At a minimum, the Investigation Plan contains:**

1. Names of Investigators & Parties
2. List of Allegations
3. Witness List + Order of Interviews for all Witnesses & Parties
4. Evidence List
5. Intended Investigation Timeline

\*Investigation plans may change and evolve throughout the investigation!

# III. Draft Investigation Plan

Start with what you know! Pull information from the Notice of Allegations, formal complaint, and report:

- Names of Investigators
- Names of Parties
- Definitions of Policy Violation(s)
- Witness List + Follow Up Tasks
- Evidence List + Follow Up Tasks
- Next Steps

# III. Draft Investigation Plan

## Names of Parties

- Include any known information, including:
  - Full Name
  - Contact Information
  - Parent and/or guardian
  - Parent and/or guardian contact information
  - Age, Year
  - Contact Information
  - Native Language
  - Name of Advisor (if known) & Relationship to Advisor (friend, mother, attorney, etc.)

# III. Draft Investigation Plan

## Witness List + Follow Up Tasks

- Include name and relationship to Complainant/Respondent
- Create a logical order of interviews
  - Generally, interview Complainant & Respondent before witnesses
  - Though this is not always the case for strategic or logistical reasons
  - Note the logic of the order of interviews (scheduling conflicts, delays, witness refusal to participate, etc.)
- List may expand as investigation unfolds!
- Follow up tasks: obtaining full names & contact information, scheduling interviews, etc.

# III. Draft Investigation Plan

## Evidence List + Follow Up Tasks

- Includes known and potential sources of evidence
  - Clarify what has already been obtained versus to be obtained
- May include:
  - Communication between Complainant, Respondent, and others
  - Digital evidence & social media
  - Think beyond the specific incident
- List may expand as investigation unfolds!
- Follow up tasks: coordinate with other teachers or club coordinators, ask parties for evidence

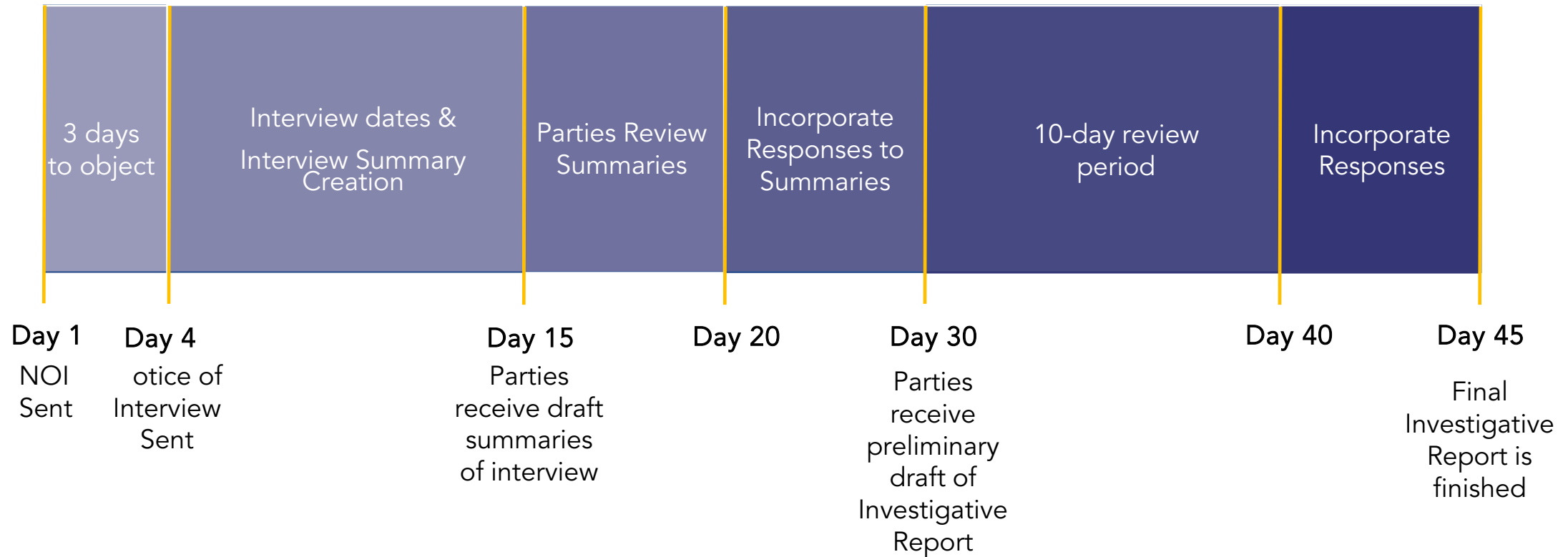


# III. Draft Investigation Plan

## Investigation Timeline – Building it out

- Confirm start date of timeline
- Set investigation milestones
  - Sometimes helpful to work backwards
- Many timeframes are outside of the investigator's control
  - Parties must receive notice several days before an interview
  - Parties and witnesses have 5 days to review interview summaries
  - Parties have 10 days to review preliminary investigative report
- Plus, you have additional responsibilities to juggle while investigating!
- Consider potential roadblocks (school breaks, party or advisor conflicts, personal conflicts, etc.)

# Sample Investigation Timeline



# III. Draft Investigation Plan

## Review and analyze potential policy violations – Sexual Assault & Unwelcome Conduct

Forcible Fondling: The touching of the private body parts of another person (buttocks, groin, breasts), for the purpose of sexual gratification, forcibly, and/or against that person's will (non-consensually), or not forcibly or against the person's will in instances in which the victim is incapable of giving consent because of age or because of temporary or permanent mental or physical incapacity.

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 district's education program or activity.

# III. Draft Investigation Plan

## Key Questions of Title IX Grievance Process

- What is the alleged incident & did it occur?
- Is the alleged incident a policy violation?
- As investigators, these questions help us:
  - Understand the scope of the investigation & what is “relevant” and “directly related”
  - Recognize key words from policy violations to address during the investigation
  - Focus the investigation planning, interview questions, interview summaries & investigative report

Understanding  
Trauma:  
Conducting a  
Trauma-  
Informed Title IX  
Investigation



# Introduction

## Jessica Groleau, Ph.D.

Davidson College, Licensed Psychologist, Coordinator of Clinical Services & Training

Dr. Groleau earned a Ph.D. in Clinical Health Psychology from the University of North Carolina at Charlotte, and joined the Center for Student Health and Well-Being at Davidson College in the fall of 2019. She has conducted research on the impact of trauma in college students, with an emphasis on positive psychology and post-traumatic growth. Her clinical interests include young adult development, working with survivors of sexual abuse and intimate partner violence, LGBTQ issues, relationship concerns, and anxiety.

# Session Overview

## Why is trauma-informed support important for Title IX Investigators to understand?

- Being part of a Title IX process is inherently traumatic for all parties
- Understanding trauma will facilitate a more accurate and fair investigative process, and help you avoid errors

### Topics

- Introduction to Trauma
- Recognizing Personal Bias
- Trauma-Informed Communication
- Promoting Empowerment
- Scenarios & Commonly Asked Questions

# Introduction to Trauma



# What is Trauma?

## Definition of Trauma

- Subjective
- Real or perceived threat
- Manifests differently in each person

## Consider each Party's Experiences

- One or both parties have likely already experienced trauma
  - Prior to the incident (childhood experiences, family history, collective memory, etc.);
  - During the incident;
  - As a result of being accused of the alleged incident; or
  - Through a combination of these experiences.
- One or both parties may be currently experiencing trauma during the Title IX grievance process

# Neurobiology of Trauma

## Brain Stem ("Reptilian Brain")

- Involuntary survival processes (heartbeat, breathing, etc.)

## Limbic System ("Emotional Brain")

- Regulates the body's stress response
- Also plays an important role in memory and learning

## Frontal Lobes ("Executive Brain")

- Responsible for cognitive skills including ability to rationalize, plan, self-monitor, and control one's responses
- Also important for voluntary movement

# Human Stress Response

## Limbic System Response

- Amygdala ("fear center") is activated
  - All resources are re-directed toward survival

## Disconnection of Frontal Lobes

- Executive functioning goes "offline"
  - Interferes with cognition, voluntary muscle movement, and ability to process the experience later on
- \*This is functional and protective!

# Human Stress Response

Fight

Flight

Freeze

Fawn ("Appease")

# What does this mean for a Title IX Investigation?

**Fragmented/incomplete memories are common**

**Emotional Dysregulation is expected**

- Can appear in a variety of ways: inappropriate affect (laughter), extreme anxiety, numbing/disconnection

**The Fawn or Freeze responses may appear to be consent!**

**Discussing the event is re-traumatizing**

- Try to limit the number of interviews, questions, etc.

# Adverse Childhood Experiences (ACEs)

<https://www.cdc.gov/violenceprevention/aces/index.html>

## 10 childhood traumatic experiences that increase risk for:

- Delinquency and dropout
- Teenage pregnancy
- Incarceration
- Mental health concerns
- Chronic illness
- Financial and housing instability
- Early death (including suicide)



# Recognizing Personal Bias

# Personal Bias

A tendency, inclination, or prejudice toward or against something or someone.

- Biases are universal
  - We are all products of our own personal histories, cultures, and many other factors that shape the ways in which we see the world
  - Biases are automatic and often outside of conscious control
- Biases are not always bad!
  - i.e. an inclination toward healthy lifestyle behaviors
- Biases can be based on stereotypes or inaccurate information
- It is crucial that you understand your biases in order to be most effective in your role



# Recognizing Personal Bias

## Bias vs. Conflict of Interest

### Bias

- Having a personal history with sexual misconduct
- Holding stereotyped gender beliefs about sexual violence (i.e. perpetrators are males)
- Internalization of rape culture (often leads to skepticism or blaming of the complainant/survivor)

### Conflict of Interest

- Having a personal relationship with one or more parties
- Holding multiple relationships with one or more parties
- There is any way in which you could benefit (or be harmed) from the outcome of the investigation

# Recognizing Personal Bias

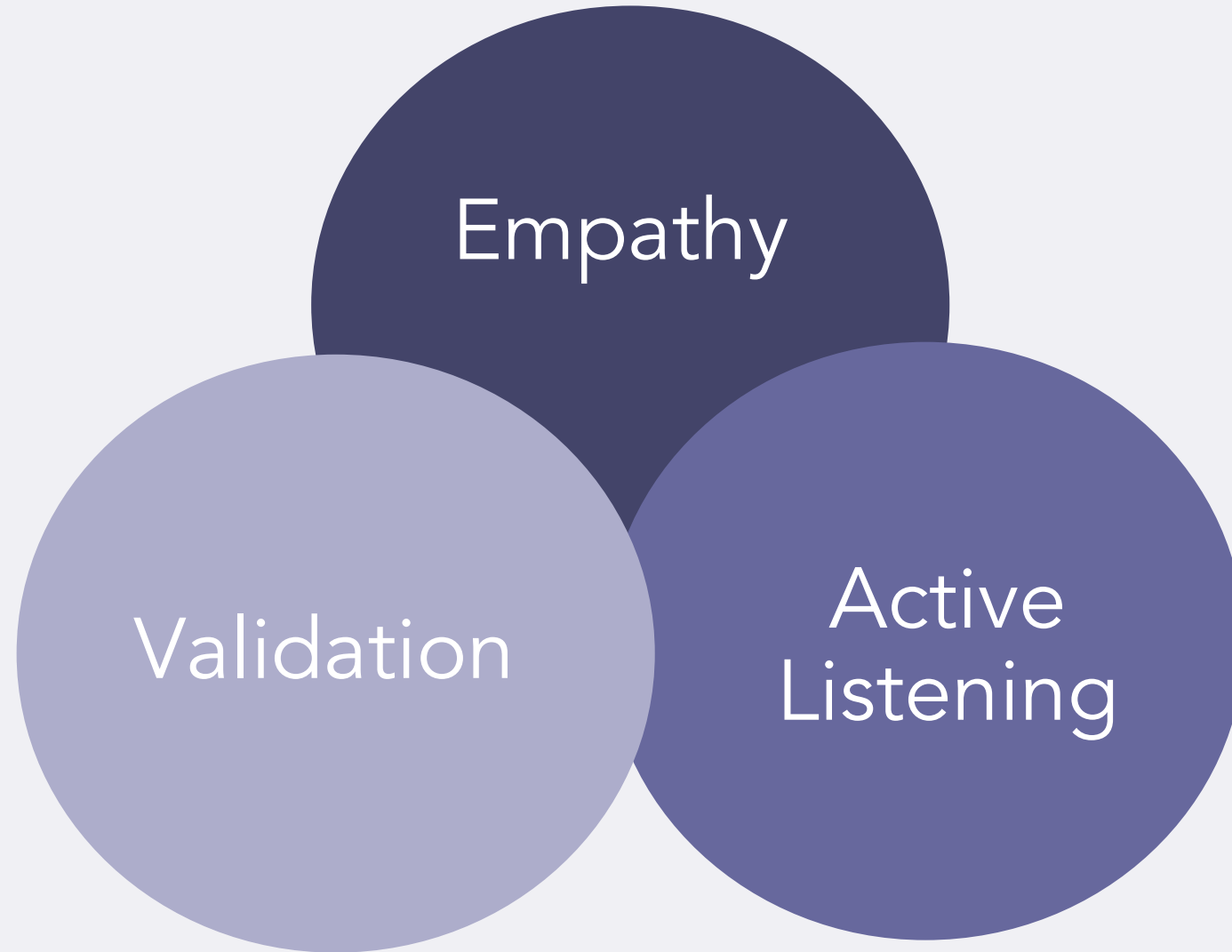
## Is personal bias affecting your ability to be objective?

- Introspection
  - Implicit Bias Tests  
<https://implicit.harvard.edu/implicit/selectatest.html>
- Having implicit bias does **not** make you a bad person (we all have it!)
  - Managing your implicit biases will make you a better investigator
- Questions to ask yourself:
  - What does the information at hand cause you to believe about those involved? Why?
  - When should you recuse yourself from a case because you are unable to overcome personal bias?

A network diagram consisting of several gold-colored pins connected by thin, light-colored lines. The pins are arranged in a roughly circular pattern, with lines connecting them to form a web-like structure. The background is a soft, out-of-focus blue. The text 'Trauma Informed Communication' is overlaid on the left side of the image in white, bold, sans-serif font.

# Trauma Informed Communication

# Foundations of a Trauma Informed Approach



# Empathy

- The ability to understand and share the feelings of another.
  - Doesn't mean that you fully "get it" – because you don't. But you can try to put yourself in your party's shoes
- Not the same as sympathy!
  - Sympathy is rarely helpful in these situations, most trauma survivors report that sympathy exacerbates feelings of shame/embarrassment

## Communicating Empathy

- "I can see how painful this is for you to talk about."
- "That sounds incredibly scary."
- "There are resources here on campus to support you through this."

# Validation

Recognition or affirmation that a person or their feelings, opinions, and experiences are real or worthwhile.

## Do's

- Share your own similar reactions, if you have them! "I would feel really angry too."
- "It makes sense that you would feel that way."

## Don't's

- Tell someone how they should feel: "You shouldn't let this bother you so much."
- Question their responses: "Are you sure that's what happened?"

# Active Listening

## **A communication technique that serves the following purposes:**

1. Ensures that you understand what the other person is saying accurately
2. Communicates to the other person that you are listening

## **Strategies for Active Listening**

- Avoid distractions! (Cell phones, emails, knocks on the door)
- Use frequent brief paraphrases of what you heard
- Use nonverbal cues: nodding, smiling or frowning, leaning forward
- Remain neutral and nonjudgmental
- Use phrases to communicate your desire to understand: “Did I understand that correctly?”; “I want to make sure I am hearing you”
- Ask open-ended questions: “Can you tell me more about...”

# Additional Strategies

## Consider the Environment

- Allow each party to choose the meeting place (empowerment!)
- Consider comfortable seating, tissues, water, privacy, etc.

## Focus on each Party & their Needs

- Refrain from sharing own stories & experiences
- Create an open space for them to talk (no judgement)
- Aim to understand each party's perspective

## Keep a Healthy Emotional Distance

- Self-care is crucial
- Boundaries are okay (and even healing!)
- Direct each party to campus resources that can provide support



# De-Escalation

## Confrontation is Possible

- Title IX processes may be intense, and emotions may run high
- Confrontation may occur between you and either party

## Strategies for De-escalation

- Keep personal emotions in check
- Create physical space
- Allow for silence & patience for decisions
- Practice validation, active listening & empathy

# Promoting Empowerment



# Empowerment

## Empowerment = Voice and Choice

- What could empowerment look like for each party?

## How can you, as a Title IX Investigator, identify resources to help empower each party?

- You need to be neutral/objective, but you can refer each party to other sources of support/advocacy

## What may each party consider to be possible obstacles to empowerment? How may you address them?

# Tools for Empowering a Party



## Ask the party:

- How are you feeling?
- Do you feel safe?
- How can I help you feel safer?
- What do you need right now?
- What do you need throughout the duration of the Title IX process?
- How do you feel about participating in the Title IX process?
- What steps of the Title IX process concern you?



## As the investigator, remember:

- Validation, Empathy, and Active Listening
- How can you best support each party & address their needs?



# Title IX Investigator Training

## Part II: Advanced Investigation Skills

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February 1, 2022

Twin Rivers Unified School  
District

# Investigative Interview Techniques

Thomas A. Denton, Jr.  
Title IX Solutions, LLC  
Director of Investigations





## Carefully structure the setting and environment for interviews

- Often overlooked!
- Comfort
  - Soft-colored or muted-toned walls, carpeting, and furniture
  - Couch or comfortable chair and multiple seating options
  - Recording device should be out of view or discrete
  - Investigator should be able to maneuver freely in response to the complainant/respondent
  - Close to a bathroom
  - Provide water, tissues, etc.

# Preparing for the Interview

## Privacy

- Off the “main path” in the building
- No windows
- Thick walls

## Spatial positioning

- Imaginary barriers
- Chair location
- Eye level
- Line of sight



# Preparing for the Interview



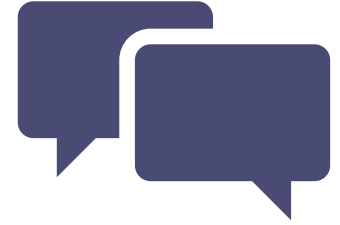
## Virtual investigations

- Much harder to control the setting
- Tell the party/witness exactly how to join the meeting,
- The appropriate setting for this interview (if possible)
- Private space, comfortable seating, etc.
- What should they bring?
- Tissues, water, etc.
- Control your own setting
- Successful eye-contact, appropriate lighting, privacy, etc.

# Participating in an Interview

- Generally, interview the complainant before the respondent or any witnesses
- Typically 1-2 interviews per person
- Allow at least 1 hour for each interview
- Be patient

# Participating in an Interview



## Ideally two investigators

- Lead Investigator:
  - Coordinates with the Title IX Coordinator & the Parties
  - Drafts the investigative report & prepares the Investigation File/Binder
- Other investigator
  - Takes notes during the interview, note questions, & ask questions during the interview if prompted by the Lead Investigator
- Note Taker
- Importance of gender balance
  - Try to have people of different genders present

# What is a Preamble?



- Read by investigator at the beginning of the interview
- State date, time, purpose of the interview, location, persons present & verbal consent of all persons participating
- Ask each person to state their name for later voice identification during transcription
- Time & date should be read onto the recording at the end of the recorded interview

# Why are Preambles Important in Title IX cases?

- Consistency throughout interviews
- Consent, policy violations in question, relevant sections of the policy in question are on the record
- Helpful should you be called as a witness during the hearing or litigation
- Helps put the party or witness at ease – they become used to your voice, your presence, etc.

# Starting the interview



- Before walking in the room, visualize yourself conducting a successful interview
- Consider how the interviewee perceives you
- Making the interviewee feel comfortable
  - DO NO HARM
- Explain the investigative process at the beginning of the interview
- Start with non-threatening questions help to put the interviewee at ease

# Empathy Based Techniques

This is an Interview not an interrogation!

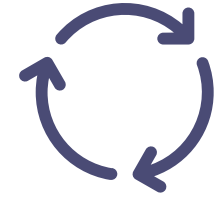
- Respondents are not presumed “guilty” or “responsible”
- Respondents should be treated with respect
- School must presume that Respondent is not responsible for the alleged conduct unless and until a determination of responsibility for a violation of the sexual misconduct policy is made at the conclusion of the grievance process
- Good cop/bad cop DOES NOT WORK

# Advisors

- As an investigator, it is your job to maintain authority in the room
- The role of the Advisor is for emotional support and private consultation
- Do not allow the advisor to speak on behalf of the party. This is the party's interview, and you need to hear their story from them!



# Circling Back After Interviews



- Do not be afraid to re-interview a party or witness if you require more information
- Make your contact information available to interviewees
- After completing your first round of interviews, you may become aware of new witnesses
  - Promptly contact and schedule interviews with those witnesses!

# Conclusion

- Search for truth, NOT a confession
- Maintain control over yourself
  - Keep calm, remain objective, professional, unbiased and non-judgmental
- You are a neutral, unbiased fact finder

# Investigative Report Writing

Susanna Murphy  
Title IX Investigator & Advisor



# Overview

Drafting the Investigative Report

Investigative Report vs. Investigative File

Sample Report- Not a master template

# Drafting the Investigative Report

Elements to include

How to summarize interviews

How to summarize evidence

Final review

# What should be included?

Allegations being investigated

Relevant Policies and Procedures

Standard of Proof

Procedural steps

Summary of relevant evidence, including interviews

Summary of Interviews

# Procedural Steps

- Use templates
- WHAT should be documented?

- Summary of Relevant Evidence

Interviews

Evidence

~~Conclusions/Inconsistencies?~~



# How to Summarize Interviews

Introduction

Logical sequence-  
chronology vs breakdown  
by allegation

Consider undisputed facts

# Items to include for each witness

- Breakdown of interview
- Intro to witness
- Summary of story
- Quotations
- Sub-sections?
- Reference evidence provided
- Question- your observations during interview? Consistency!

# Opinions vs Observations

- Statement vs fact
- Observations- discuss as an institution

# Evidence and Exhibits

- Can be a list
- May need to explain
- Share who provided or how obtained

# Essential review

- Review with the 5 W's
  - May need to go back
- Pronouns
- Proofread/print
- Formatting

# Investigation File

Directly Related

Vs.

Relevant

# Never Relevant

- Complainant's sexual predisposition
- Complainant's prior sexual behavior (with exceptions)
- Prohibited evidence

# Elements of Investigation file

- Table of contents
- Investigation Report
- All allegations, policies, procedures
- Procedural steps
- Standard of Proof
- Summary of evidence: interviews and evidence
- List of all interviewed/submitted evidence
- Communications Log
- Evidence log
- Witness interviews (recordings/transcripts if applicable)
- Appendix of evidence



# Sample Report

- Not a one size fits all institutions
- Be consistent