

Part Five

Basics of Investigations

Basics of Investigations

- The Title IX regulations require that those involved in addressing Title IX reports/complaints receive training on conducting investigations.
- This includes Title IX Coordinators, investigators, decision-makers and individuals assisting in informal resolutions.

Basics of Investigations, continued

- Remember that if you are asked to conduct a Title IX investigation, you will be asked by your Title IX Coordinator directly. OTHERWISE – follow your regular investigation policies and procedures.
- If your Title IX Coordinator asks you to conduct a Title IX investigation, refer to policy ACAA-R (students) or ACAB-R (employees/volunteers/third-parties).

Basics of Investigations, continued

- Assess the nature of the complaint and/or suspected misconduct:
 - What policy(ies) and/or law(s) may have been violated?
 - If it is a report of possible sexual misconduct – is it a potential Title IX sexual harassment violation or something else?
- Follow internal communication protocol (i.e., coordination with Superintendent's office).

Basics of Investigations, continued

- Take any necessary steps to ensure safety and provide any necessary notices:
 - Address any physical or other safety issues.
 - Contact law enforcement if appropriate.
 - Safeguard property.
 - Notify parents/guardians if there is student involvement.
 - Does DCYF need to be notified.
 - Ascertain any collective bargaining rights of employees involved.

Basics of Investigations, continued

- Preserve evidence:
 - Take custody of computers/electronic devices if appropriate.
 - Take screenshots or photographs of texts, social media posts, etc.
 - Photograph/document damage, injuries, location where the violation occurred, if applicable.
 - Save or copy recordings of video surveillance footage, if applicable.

Basics of Investigations, continued

Plan the investigation:

- Scope.
- Witnesses.
- Evidence.
- Type of Report.
- Timeline.

Basics of Investigations, continued

Prepare for interviews:

- Who will be interviewed.
- Sequence of interviews.
- Who will be present.
- How will interviews be documented.
- Questions.

Basics of Investigations, continued

Conduct interviews:

- Be respectful and sensitive.
- Listen!
- Plan questions, but go where answers lead.
- Ask the hard questions.
- Follow up on inconsistencies and gaps.
- Observe tone and body language.

Basics of Investigations, continued

- Finish investigation:
 - Know when it's time to stop.
 - Consider relevant evidence
 - Reach conclusions (in Title IX investigations, this must be done by a decision-maker, someone who is not the investigator).
 - Write a report.
- Determine appropriate sanctions (role of decision-maker in Title IX cases).
- Notify individuals of results:
 - Follow applicable laws, policies, and procedures.
 - Remember confidentiality requirements.

Basics of Investigations, continued

- In a Title IX investigation, the investigator must draft a report **WITHOUT** making any findings. Simply summarize the relevant evidence (per policy).
- Both complainant and respondent get an opportunity to review the evidence (twice!). First, a copy of all the evidence (favorable and unfavorable) must be provided to both sides. They get ten days to review and respond. **THEN** the investigator must draft an investigation report and send it to both parties for their review and comment. They get another ten days.

Basics of Investigations, continued

- Once the investigator has received feedback on the report from both parties, they should finalize the report, incorporating feedback if necessary, and send the report to the DECISION MAKER with the comments from both parties.
- The decision maker then reviews the report and gives both parties an opportunity to ask each other, or any other witness to the proceedings, RELEVANT questions (more on this later).

Basics of Investigations, continued

- Decision makers are the ones who make findings about what did/did not happen and what the consequences should be.
- Title IX Coordinators make decisions about ongoing supportive measures.
- Both parties must be notified simultaneously of the results of the investigation.
 - The notice is extremely particular under the law, so PLEASE refer to the appropriate policy! The contents of the investigation report and the results of the investigation are tightly prescribed.
 - Both parties must also be notified of their right to appeal to the Superintendent.