



VIRTUAL CERTIFIED TITLE IX INVESTIGATOR TRAINING

Session 2: Investigative Techniques

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"Compliance
at Your
Fingertips!"



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

A hand is shown in the bottom right corner of the slide, holding a piece of white chalk and drawing a question mark on a dark blue chalkboard. The chalkboard is covered with several other question marks of varying sizes, some already drawn and others in the process of being drawn. The background of the slide is a solid light blue.

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

Ir relevant

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.

Relevancy Continued

- Ordinary Meaning (Not a legal term)
- Does the evidence tend to make a fact more or less likely to be true



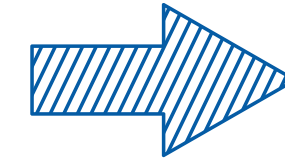
Note Taking

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



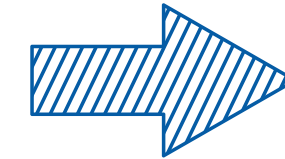
Types of Information/ Evidence

Direct Information/
Evidence



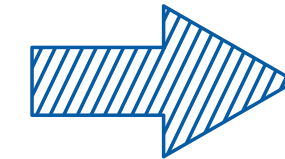
First person
observation of an
incident

Circumstantial
Information/Evidence



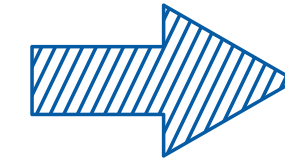
Reported observation of
information that offers
inferences about the facts
of the event

Documentary
Information/Evidence



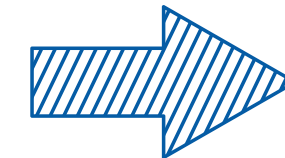
Written description of an
incident
*Police Report
*Write up from staff member

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 choice
- Can be an attorney, doesn't have to be
- Your policy defines how they can be involved in your process
- Challenges with advisors
- Benefits to advisors

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





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

Questions?



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COMPLIANCE SOLUTIONS

Reminder!



Connect With Us!



- Institutional Compliance Solutions
- Courtney Bullard
- Betsy Smith
- Celeste Bradley



Institutional Compliance Solutions
Groups:
Title IX Coordinators Closed Group
K-12 Title IX Coordinators



@TitleIXLawyer



@ICSLawyer

Spring Schedule:

Title IX Coordinator
February 16 or April 6

Title IX Care &
Support Admin.
Training
March 10

Title IX Investigator
Training Level 1
February 2 or March 9

Title IX Investigator
Training Level 2
March 22

Title Decision
Maker Training
March 3

Title Decision
Maker Appeals
Training
March 10