



# Equal Opportunity & Nondiscrimination

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## Investigator Training

Equal Opportunity and Compliance, Human Resources Division  
*November 5-6, 2025*

# Outline of Today's Presentation

- » Brief review
- » Investigation Techniques

# Basics Refresher

- » Board Policies and System Procedures
- » 1B.1 and 1B.3 Tables



# Decision Factors

- » Interviewing parties and witnesses
- » Include evidence and present credibility factors
- » Create context by presenting the totality of circumstances
- » Focus on gathering evidence, as a neutral fact finder not if there is evidence for finding



# Relevant Evidence

## For 1B.3/Title IX

- » Evidence is generally considered **relevant** when it helps determine:
  - Whether the Respondent violated policy, and/or
  - The credibility of any evidence, including a party or witness statement
- » The Investigator initially evaluated relevance, but the DM ultimately decides
- » All relevant evidence must be objectively evaluated and considered
  - **Inculpatory**: tending to suggest a finding of responsibility
  - **Exculpatory**: tending to suggest a finding of not responsible
- » In the decision-making phase, parties may dispute the Investigator's initial relevance determinations



# Relevant Evidence Exclusions

## For 1B.3/Title IX

- » Evidence of the **Complainant's sexual predisposition** is never relevant
- » Evidence of the **Complainant's prior sexual behavior** is not relevant except:
  - If offered to prove that someone other than the Respondent committed the alleged conduct; or
  - Specific incidents of the Complainant's prior sexual behavior with respect to the Respondent offered to prove consent
- » Exclusions apply even if admitted or introduced by the Complainant
- » Exclusions do **not** apply to the Respondent's prior sexual behavior or predisposition, which are admissible if relevant



# Investigation Skill-building

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# Part 1: Investigation Strategy



# INVESTIGATION SCOPE

## » Scope of Investigation

- What are the allegations?
  - 1B.1, 1B.3, RWP, Code of conduct, etc.
  - What are sub-elements
  - Partnership w/ other departments
- Who are the involved parties?
  - Multiple respondents; multiple complainants – may consider splitting
- Do the allegations arise out of same set of facts
  - If not, consider splitting or referring non 1B.1/1B.3 matters
  - Allegations for each specific Respondent
- Why is scope important?
  - Prevents Scope creep i.e., getting lost/sidetracked
  - Can help structure interviews



# CREATING INVESTIGATION PLAN

- » Outline the scope
  - Complainant(s); Respondent(s); policies, allegations
- » Allegations
  - What are the elements
  - Track information that goes to each element
- » Witnesses
  - Large witness pool
  - Name, role, who identified by, information they possess, interview date, evidence submitted
- » Investigative questions
  - Outline for each party
- » Evidence
  - Received; Needed



# COLLECTING EVIDENCE

- » Initial evidence to collect and review
  - Time sensitive evidence
    - Security footage
    - Keycard access
    - University owned devices
  - Initial records to review
    - Internal past 1B.1/1B.3 records
    - Personnel files
    - Conduct records
    - Reports: security, residential life, etc.
    - Org. Charts
  - Create a timeline
    - Continue to grow as more information is gathered
  - Tracking
    - Who provided what and/or where it was found



# TYPES OF EVIDENCE

- » Direct Evidence
  - Evidence based on personal knowledge or observation of a fact (can include documentary evidence)
- » Documentary Evidence
  - Written or recorded material used to prove its contents
- » Circumstantial Evidence
  - Direct evidence of a fact from which a person may reasonably infer the existence of another fact
  - Statements or behavior in other situations that support or refute alleged conduct
- » Character Evidence
- » Corroborating evidence
  - any admission or rationalizing of conduct; specific denial; witnesses with the opportunity to observe, recognize, or understand the situation
- » Hearsay Evidence



# TYPES OF EVIDENCE, CONT.

## » Hearsay Evidence

- Information received from someone other than the interviewee
- Offered to prove the truth of matter asserted

## » Exceptions to hearsay

- Excited utterance
- Present sense impressions
- Recorded recollection
- Records of regularly conducted business activity
- Public records and reports
- Records of vital statistics
- Then existing Mental, emotional, physical condition



# EXAMPLES OF EVIDENCE

- » Personnel files/conduct records
- » Meeting minutes
- » Emails, voicemails, text messages. Etc.
- » Security or Residential life report
- » Social media records
- » Supervisory notes
- » Grading data
- » D2L records



# PARTNERSHIPS TO OBTAIN EVIDENCE

- » Security
- » Student Conduct/Student Affairs
- » Human Resources
- » Residential Life
- » Athletics
- » Other campus processes
- » Ombudsperson
- » Campus advocate
- » Law enforcement



# WHO TO INTERVIEW

## » Complainant & Respondent

## » Witnesses

- Those present in incident(s)
- Outcry witnesses – administrators, friends, family complainant/respondent shared with about incident(s)
- Those involved in documenting incident or process/response - security, other administrators, etc.
- Focus on witnesses that have knowledge of the incident rather than the character of the individual

## » Document interview decisions

- Who is doing the interview and why
- Why was someone not interviewed





# SCHEDULING INTERVIEWS

- » Order of interviews
  - Strategy – different order for different situations
    - Witnesses – may be helpful to start w/ "neutral persons"
- » Timing
  - Set aside enough time: prep, interview, notes/reflection time
  - Consider past interactions with party
  - Consult interview outline
- » Flexibility – timing and location
  - Provide location options but be sensitive to different needs.
  - i.e., - Zoom requires technology, internet, etc.
- » Accommodations
  - Know who/what departments to partner



# TYPES OF MEETINGS AND INTERVIEWS

## » Complainant

- Intake
- Investigatory interview
- Follow-up interview

## » Respondent

- Initial meeting
- Investigatory interview
- Follow-up interview

## » Witness

- Investigatory interview
- Follow-up interview



# NOTICE OF MEETINGS

## » Complainant

- Outreach letter
- Notice of formal investigation – Notice of Informal Resolution
- Notice of investigation and decline to file letter
- Notice of reassignment

## » Respondent

- Notice of review
- Notice of investigation (formal or informal) and allegations
- Notice of reassignment

## » Witness

- Witness Pre-interview letter



# MEETING STRUCTURE

- » Interview structure consistent for all parties
  - "speeches" - overview of meeting, about role/office, policy, procedure, flowchart; advisory notice, waiver of union, privacy of interview' recording/note taking timing of interview
  - Review allegations – respondent meetings
  - Background – name, title/year, start date, major, involvement in extracurriculars/committees, explanation of role, where they live on campus
  - Interim actions and supportive measures
  - Resources
  - Next steps
  - Reminder about retaliation



# Building Rapport

- » Rapport is meant to create a level of transparency and trust
  - Reinforce neutrality and impartiality with authenticity
  - Set the tone for the interview
  - Establish expectations
- » Rapport building occurs throughout the interview, not just in the first five minutes
  - Ongoing effort to build and maintain rapport
- » Do not sacrifice professionalism or neutrality to build rapport

# Part 2: Strategies for managing investigation-based challenges

# BIAS

- » A disproportionate prominence in favor of or against an idea or thing, usually in a way that is closeminded, prejudicial, or unfair
  - Can be innate or learned
  - Bias can be for or against an individual, group, or belief
- » Title IX requires a college or university to conduct a “prompt, thorough and impartial inquiry.”



# TYPES OF BIAS

- » First Impression Bias
- » Affinity Bias
- » Confirmation Bias
- » Attribution Bias
- » Characteristic based bias
  - Race, ethnicity, gender, religion, sexual orientation, socioeconomic, educational, etc.
- » Anchoring bias
- » Beauty Bias





# Investigator-Specific Biases

- » Complainant/Respondent is likeable/sympathetic
- » Complainant/Respondent is not likeable/sympathetic
- » Repeat Complainant/Respondent
- » Fact pattern similar to a prior, unrelated investigation
- » Complainant/Respondent behavior patterns



# Bias Impact on Investigation

- » Priming – Your pre-investigation or mid-investigation thoughts about the case
  - “This is a really bad case.”
  - “This person has complained three times before.”
  - “This is low level.”
- » Phrasing – The way you ask a question can influence the answer – The misinformation effect
  - Do you get headaches frequently, and if so, how often? 2.2/week
  - Do you get headaches occasionally, and if so, how often? 0.7/week
  - How long was the movie? 130 minutes
  - How short was the movie? 100 minutes

*Headaches: Elizabeth Loftus (1975); Movie: Richard Harris (1973)*



# Rape Myth vs Common Behavior for Victims of Rape

## Common Behavior for Victims of Rape

- Delay in reporting
- Change in account of what happened
- Unexpected demeanor/disposition
- Unexpected behavior
  - Contact with person who caused the harm
  - Desire to resume “normal” routine
  - Subsequent sexual activity (sometimes with the person who caused the harm)



# Neurobiological Responses to Trauma

# PARALLEL PROCEEDINGS

- » Independent from any civil or criminal proceeding
- » Not required to delay, and in most cases should not delay due to other proceedings
- » May contact prosecutor/law enforcement to coordinator when feasible
- » Gather available information:
  - Police Report
  - Court records



# Best Practices

- » Rely on the policy and procedure
- » Adhere to the policy and procedure
- » Let the evidence lead you



# Part 3: Interviewing Approaches

# Trauma Informed and Human Centered

- » Empathy and validation
- » Reinforce agency and choice
- » Set clear boundaries
- » Consider the centrality of identity





# Trauma Informed Preparation

- » Developing questions in a way that does not assign responsibility, blame, or guilt
- » Creating safe and comfortable interview environment/setting
- » Check your bias especially when reflecting credibility
- » Consider questions that speak to the senses
- » Framing and phrasing meeting invitations, email communications
- » Understand and attend to your own reactions or triggers



# Trauma-Informed Approach

- » Pre-interview framing: “it’s okay if you don’t remember something today,” “sometimes it takes time to remember, which is okay”
  - Also clarify: “if you don’t remember yourself but your friends told you that’s what happened, please share that”
- » Let Complainant talk uninterrupted and ask clarifying questions afterwards
  - Consider explaining questions (e.g. “I’m trying to image that”)
  - Avoid asking “why” and victim-blaming; instead “tell me more” or “what do you remember next”
- » Consider asking questions about the other senses
  - Is there any smell about the room that you remember?
  - Do you recall what color the walls or bed was?
  - Were there any sounds or noises that you remember– music? Voices?
- » Do not insist in chronological order retelling; gather the information and organize it



# Significant Time Between Incident And Report

- » The norm when the person causing the harm was not a stranger
- » Many victim/survivors are able to report only after they receive the necessary support to do so
- » Why do they wait? For many of the same reasons they later recant
  - They fear repercussions
  - They are pressured by others not to report
  - They feel shame, embarrassment
  - They are afraid of the person who caused the harm
  - They are afraid of not being believed
  - Fear that nothing will be done about it



# Cultural Considerations

- » Communication styles
- » Attitudes toward conflict
- » Approaches toward completing tasks
- » Decision-making styles
- » Approaches to knowing
- » Attitudes toward disclosure
  - Appropriate to share emotions, reasons for conflict

--Sue Ann Van Dermyden, 2017



MINNESOTA STATE

# Common Practice Considerations

- » Be mindful of cultural differences
  - Continuum of honesty and face-saving
  - In-group vs. out-group
  - Linear vs. non-linear narrative
- » Check biases, especially when assessing credibility
- » Ask questions in a way that does not assign responsibility, blame, or guilt



# Investigation Clarification

- » Policy elements
  - Components defined
  - Evaluation considerations
- » Evidence and credibility
- » For 1B.3.1 (Title IX) Consent construct



# DETERMINE GOALS OF QUESTIONS

- » Who, what, where, when, why, how
- » Intake meeting vs. Investigatory interview
- » Refine scope
- » What information are you missing or have questions
  - Read through reports/complaints and note any questions
- » Policy elements
  - Policy element handout



# HOW TO STRUCTURE QUESTIONS

- » Start with broad/open ended questions
- » Allow to tell their story/experience however they choose
  - Where they start/end their story and what they emphasize can be very telling and important for you to have.
- » Clarifying questions
  - Funnel approach
  - Ask to clarify meaning of words/descriptors
- » Allow for Silence
- » Additional questions/things left unanswered
- » Closing questions
  - Is there anything else you think I should know?
  - Anything I didn't ask that you thought I would ask about?
  - Is there anyone that you think I should talk to? Why?





# INTERVIEW QUESTIONS for ALL

- » Interview questions for all parties
  - Allow them chance to share their story/experience
    - "Tell me about your experience" - "this is your opportunity to respond to allegations" - "do you know why I asked to meet with you"
    - Prepare what information willing/able to share
  - Ask the who/what/where/when/how questions
  - Summarizing Information back
  - Policy elements
  - Effect/impact



# INTERVIEW QUESTIONS CONTINUED...

## » Interviewee specific questions

- Respondent – make sure to review allegations before questions
  - Make sure the respondent has an opportunity to speak to each individual allegation
- Complainant – clarify protected class and identity
- What they observed/their perspective of incident(s)
- Inconsistencies with other parties/witnesses
- Evidence specific questions – what they have, might have seen/been part of, etc.
- Desired outcome/resolution



# Assessing Credibility



# INTERVIEW CONSIDERATIONS FOR CREDIBILITY

- » Look for consistency with out-cry witnesses or contemporaneous reports
- » Assess demeanor
- » Inherent Plausibility
  - Consider relevant past acts; are there alternative versions that are more plausible
- » Compare overlap/consistency with other statements
- » Interviewee who derails questions and/or focuses on irrelevant information
- » Providing inconsistent statements
- » Motives/Relationships
- » Positionality
- » Mind/memory altering substances



# Analyzing certain qualities and factors

- » Demeanor: noted reactions to allegations or information shared; behaviors or feelings shared with others
- » Logic and consistency: consistency with what others shared (including possible witnesses); plausible explanations
- » Corroborating evidence: any admission or rationalizing of conduct; specific denial; witnesses with the opportunity to observe, recognize, or understand the situation
- » Circumstantial evidence: statements or behavior in other situations that support or refute alleged conduct
- » Trauma-informed approach: note that trauma itself is not evidence to support or not support



# CONDUCTING INTERVIEWS



# EACH INTERVIEW MIGHT LOOK DIFFERENT

- » Emotion – crying, anger, indifference, being conflicted, shock, trauma, etc.
- » Timing – short answers, decisions to make, communication styles, etc.
- » How you ask questions
- » Credibility concerns
- » Effort needed to structure interview – redirect, diffuse conversation, etc.



# MAINTAINING CONTROL OF INTERVIEW

- » Provide roadmap of interview
- » Safety – Think about how you have arranged the room, security, etc.
- » Union reps/ support persons/parents/lawyers
  - Be clear about what their role is [ I.e., don't ask interview questions and don't answer questions) from the very beginning (include in letters; share in speech)
    - Communicate to party and support person (if appropriate)
  - Allow for time and space for them to meet away from investigator (separate room; breakout room, etc.)
  - Give reminders/warnings if necessary
- » Don't be afraid to end a meeting
- » Difference between control and parties not cooperating





# PROVIDING EMPATHY AND VALIDATION

- » Empathy for all interviewees
  - Focus on treating the individual as a whole person
  - Develops rapport and shows respect for your story/experience
  - Reduces resistance and allows them to share in supportive environment
- » Remain neutral
  - Don't confuse/misuse as a way to justify actions or suggest leniency in consequences
  - Don't relate to your own personal experiences (this is not about you)
- » Needs to be sincere and genuine
  - Develop your own style
  - Practice using sample language that validates a person's experience but remains impartial
- » Remember to allow space for decisions



# CHALLENGING INTERVIEWEE TROPES

- » The Clueless one
- » The Denier
- » The Distractor
- » The Confessor
- » The Explainer
- » The Apologetic one
- » The TV lawyer
- » The Avoidant one
- » The Questioning one



# RECORDING AND NOTE TAKING



# NOTE TAKING

- » Handwritten, typed
- » Some of this is a personal preference – be consistent
- » Have outline of meeting/interview
- » Consider a notetaker for support
- » Model notes after investigation report
- » Make notations where you still have questions for follow up or for other parties



# COMMON CHALLENGES & TIPS

## » Common challenges

- parties talk fast or talk in circles/share repetitive information
- interviews are long
- prioritizing typing notes after interview
- Self-care

## » Tips

- type notes/update as soon as possible after interview
- document thoughts for follow up
- have a notetaker
- encourage all to submit a written statement



# RECORDING INTERVIEWS

- » Allows the investigator to focus on content/information and being present during the interview
- » Recordings can ensure that all data and information is accurate.
  - Provides for use of direct quotes
  - Allows for investigator to review/reflect to determine what gaps still exist
  - Provides investigator an opportunity to refine investigation skills
- » Recordings can be taken in multiple ways
  - Teams, handheld, etc.
- » Record ALL the interview - including opening information, data privacy review (ask for verbal acceptance), all "housekeeping" information



# RECORDING INTERVIEWS, CONT.

- » There are additional nuances of recording that are different from standard interviewing.
  - Open recording stating date, time, and introduction of parties (including spelling of names). End recording with time.
  - Audio recordings do not pick up on non-verbal (head nods, etc.) – prepare parties at beginning of interview and clarify during interview if needed.
- » Develop a plan for your recording - send for transcription, etc.
  - This provides a typed/hard copy of the interview.
- » Transcription review
  - Determine if you want to add this as a part of your process
  - Who can attend to complete the review



# RECORDING CONSIDERATIONS

- » Contracts for transcription
  - REV.com, other transcription services.
- » Access to transcripts
  - Who, when, why
- » Storage of recordings and transcripts
- » Data retention policies





# Part 4: Components of Investigation Report

# GOALS OF INVESTIGATORY REPORT

- » Present findings in a well-written and well-organized format
- » Document the steps taken during the investigation
- » Document the evidence collected and reviewed
- » Provide a clear, objective picture of investigation to the DM
- » Should contain all information a DM needs to make their decision



# INVESTIGATORY REPORT COMPONENTS

1. Transmittal letter & Cover Sheet/Disclosure Notice
2. Investigation report cover page
3. Table of contents
4. Introduction
5. Scope & Methodology
6. Policies & Definitions
7. Statements & Evidence
8. Synthesis
9. Exhibit Index



# TECHNICAL VS OBJECTIVE WRITING

## Technical Writing

- Focuses on explaining complex concepts clearly
- Instructional, procedural, and often involves guidelines/manuals
- Primary goal is to make technical information easy to understand and use
- Written for a specific audience



# TECHNICAL VS OBJECTIVE WRITING, CONT.

## Objective Writing

- Impersonal and factual
- Focuses on being neutral and informative, ensuring the reader can make their own judgments
- Focuses on credibility but avoids overt persuasions
- Presenting facts without bias
- Written for a general audience



# TECHNICAL VS OBJECTIVE WRITING

Comparing technical and objective writing:

- Both require clarity, structure and accuracy
- Both are focused on fact-based and credible information
- Share a purpose to explain or instruct without bias

Best practices:

- Be concise and avoid unnecessary complexity.
- Stick to facts and connect to relevant exhibits attached to investigatory report
- Avoid language that can be misinterpreted



# Thank you.



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