INTRODUCTION

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March 7, 2019
CASE STUDY

INTRODUCTION TO CASE STUDY

- Student-on-student
- Sexual assault complaint
- More details available throughout conference
ACTIVITY

Review Complaint

• Thoroughly read the case study in your Workbook.

• Refer to your Workbook and, individually (as the assigned investigator), write down the first 5 things you would do immediately after being assigned to this case.

• Share with your tables. Select one item to share with the larger group.

UP NEXT: Title IX & The Role of the Investigator
TITLE IX AND THE ROLE OF THE INVESTIGATOR

LEARNING OUTCOME

After participating...

... you will understand:

• Title IX basics
• The important role an investigator plays with regards to Title IX
• Expectations of a Title IX Investigator
AGENDA

I. Title IX: A Quick Review
II. An Investigator’s Role
III. Expectations & Requirements

I. TITLE IX: A QUICK REVIEW

The Federal Law:

"No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance..."
I. TITLE IX: A QUICK REVIEW

The Code of Federal Regulations (CFRs):

• Department of Education (ED), Office of Civil Rights (OCR) has authority.
• CFRs tell institutions what OCR expects; it's what they first look for to determine if an institution is in "technical compliance."
• 3 main requirements:
  – Nondiscrimination statement
  – Designated coordinator(s)
  – Grievance process
• Let's focus on the "grievance process."

§ 106.8 DESIGNATION OF RESPONSIBLE EMPLOYEE AND ADOPTION OF GRIEVANCE PROCEDURES

“(a) Designation of responsible employee. Each recipient shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under this part, including any investigation of any complaint communicated to such recipient alleging its noncompliance with this part or alleging any actions which would be prohibited by this part...”
GRIEVANCE PROCESS

• Tells the institution’s community about what the complaint process is (sex/gender-based discrimination), and how they will resolve issues
• Process must be fair and equitable
• Resolution must be prompt (around 60 days; from the date the institution receives “notice” to final outcome— including any appeals)
• Investigators are “fact-finders”
• Investigator’s reports and the way in which they conduct their investigations are extremely important!

POLL

True or False?
A Title IX investigator’s job is to gather facts, such as where a determination can be made as to whether, “more likely than not” (based on a preponderance of the evidence), an individual has violated Title IX.
II. THE INVESTIGATOR’S ROLE

- To gather relevant information relating to the alleged sexual misconduct
- Do an “analysis”
- Write an investigative report
- May make a determination (depending on the investigator’s role per the institution’s process)
- May become a witness
- “Whether, more likely than not,” an individual violated an institution’s policies (investigation focus)

III. EXPECTATIONS & REQUIREMENTS

- Empathetic, not gullible
- Comfortable asking extremely personal questions in a non-judgmental (yet appropriate) way (e.g., “Can you tell me if the respondent ejaculated while he was still inside of you?”)
- Understands and has been trained on “victimization” (both parties)
- Does not dictate the outcome of an investigation through coercive questioning and “selective” fact-finding
- Gets facts as the witnesses present them; does not insert personal opinions and assumptions
III. EXPECTATIONS & REQUIREMENTS

- Well-trained
- Detail-oriented
- Organized
- Fair and equitable; unbiased
- Good writer
- Able to analyze information according to the institution’s policies and/or procedures
- Meets deadlines
- Decisive (if investigator is also the decision maker in some situations)

UP NEXT: Fundamentals of a Civil Rights Investigation
FUNDAMENTALS OF A CIVIL RIGHTS INVESTIGATION

LEARNING OUTCOME

After participating...

- You will know the difference between a civil rights investigation and a criminal investigation.
- You will be given basic tools necessary to conduct a civil rights investigation.
- You will understand how to do a basic analysis.
- You will know which standard of proof applies to Title IX Investigations.
AGENDA

I. Civil Rights vs. Criminal Investigations
II. Investigative Knowledge & Skills
   1. Basic “Necessary” Skills
   2. Institutional Policies & Procedures
   3. Basic Interviewing Techniques
   4. Basic Types of Witnesses
   5. Bias & Stereotypes
   6. Credibility
   7. The Analysis
   8. Standard of Proof

I. CIVIL RIGHTS VS. CRIMINAL INVESTIGATION

**Civil Rights Investigation**
- Investigator open to all information
  - Should remain unbiased
- Distinction between a preliminary and a full blown investigation
- Determines if college policy was violated
- “Preponderance of the evidence” (low standard) - 51%

**Criminal Investigation**
- Investigator looking more specifically for evidence of guilt
- May appear somewhat biased (more building prosecutor’s case)
- Determines if law was violated
- “Beyond a reasonable doubt” (high standard)
II. INVESTIGATIVE KNOWLEDGE & SKILLS

1. Basic "Necessary" Skills
2. Institutional Policies & Procedures
3. Basic Questioning Techniques
4. Basic Types of Witnesses
5. Bias & Stereotypes
6. Credibility
7. The Analysis
8. Standard of Proof

1. BASIC “NECESSARY” SKILLS

- Highly organized
- Capability to recognize and deal with personal bias and stereotypes
- Capability to write well
- Cultural competencies
- Ability to build a rapport with interviewees quickly
- Ability to make a reasonable determination based on information gathered
- Ability to listen
1. BASIC “NECESSARY” SKILLS (CONT’D)

- Collaborative
- Ability to apply facts as they relate to the policy
- Ability to remain objective and neutral
- Ability to complete investigations within a designated timeframe
- Ability to remain “flexible” during an active investigation
- Ability to make a determination based on “credibility” (when/if necessary)

2. INSTITUTIONAL POLICIES AND PROCEDURES

- Tells you what the rules are and what the expectations are from the institution
- How does your institution define "sexual misconduct?" (e.g., sexual assault, sexual harassment, etc.)
- What is YOUR role as the investigator? (ex: fact-finding? determination of responsibility?)
- What is the process?
- How long do you have to investigate?
- Do you understand what is being required of you?
- Preliminary investigation vs. full-blown investigation
PRELIMINARY INVESTIGATION VS. FULL-BLOWN INVESTIGATION

**Preliminary**
- Used in cases where there is little to no information listed in the complaint
- "Surface" check ("Sniff" Test)
- Complaint resolution summary
- May result in an informal resolution
- Respondent may or may not be notified of the complaint on the front end (process driven)

**Full-Blown**
- Used in complex cases with a lot of information supplied
- "Layered" check
- Investigation report
- Respondent MUST be notified (due process)
- Most times a formal resolution may result

3. BASIC INTERVIEWING TECHNIQUES

- Atmosphere is important.
- Be very conversational, NEVER accusatory!
- Build rapport — ASAP!
- Schedule enough time for the interview.
- Be aware of “why” an interview is important before you interview a witness. (What information do you need from this witness?)
3. BASIC INTERVIEWING TECHNIQUES (CONT’D)

- Get “comfortable” discussing “uncomfortable” topics.
- Ask extremely detailed questions.
- Make sure the questions have a “reasonable” nexus to the policy violation and/or an issue of credibility.
- Make sure you record as many “direct quotes” from the witnesses as possible—you’ll need these for your report.
- Rephrase statements for clarification. (e.g., “I’m hearing you state that...is that a correct understanding?”)

3. BASIC INTERVIEWING TECHNIQUES (CONT’D)

- Consider using an introductory “script” when meeting with a witness.
- Take breaks if the witness seems to need one (i.e., to regain composure).
- Don’t miss the obvious! If the witness mentions something that occurred via email or social media, ask for a copy!
- Investigators should control the interview.
OPEN VS. LEADING QUESTIONS

- “Open-ended” — asking questions in a manner that allows the witness to provide a narrative (e.g., “What did you do last week?”)
- “Leading” — you only want a “yes,” “no,” or a very specific answer (e.g., “You went to the party at 615 Harriet Avenue on Friday the 13th, correct?”)
- Start with open-ended and then narrow down the questions as the witness begins to give you more detail.

4. BASIC TYPES OF WITNESSES

3 Basic Categories of Witnesses/Information:
- Primary (direct evidence)
- Secondary (indirect evidence)
- Ancillary (circumstantial evidence)

THINK:
- Categorize necessary witnesses/information
- What pieces of information do you need?
- Who do you need in order to get those pieces of information? — How important is the information or the witness?
4. BASIC TYPES OF WITNESSES (CONT’D)

- The "Talker"
- The "Reluctant" Witness
- The "Hostile" Witness
- The "I-Don't-Know-What-You're-Talking-About" Witness

THE "TALKER"

- Witness talks…a lot.
- Let them talk, unless they have a habit of talking about things that aren’t related to your investigation.
- Get into the habit of "re-directing" the witness to providing information that you need.
- Understand that some of the extra information may also be important for some other reason (e.g., credibility, establishing timeframes, etc.).
THE "RELUCTANT" WITNESS/VICTIM

- May present as if there is a reason WHY they don't want to share information.
- Safety concerns? If so, does the Title IX coordinator know?
- Neurobiology of trauma? (Investigators should be familiar with this!)

INTERVIEWING METHOD: TRAUMA-INFORMED

- Developed by Dr. Rebecca Campbell
- Suggests use of open-ended questions
- Slow down; allow interviewee time to think.
  - Take breaks.
- Do not give non-verbal cues that you do not believe the victim; take the info as it is.
  - Find other ways to verify the information, when necessary.
- Don’t interrupt.
- Don’t appear to judge; use empathy.
- Information gathered may “add to” information but cannot be the sole basis to determine if misconduct occurred.
ANALOGY FOR UNDERSTANDING TRAUMA-DR. REBECCA CAMPBELL

https://www.youtube.com/watch?v=AnRpoG5Ok2s

“TRAUMA-INFORMED” QUESTIONING

- Use open-ended questions.
- Slow down; allow interviewee time to think.
  - Take breaks.
- Do not give non-verbal cues that you do not believe them; take the info as it is.
  - Find other ways to verify the information, when necessary.
- Don’t interrupt.
- Don’t appear to judge.
  - Use empathy.
THE "HOSTILE" WITNESS

• Displays anger or frustration about situation

• Witness may try to confuse the investigator (focus on the facts related to the complaint, not the hostility).

• Try to ask why the witness is hostile; there may be a reasonable explanation.

• Be direct, but remain neutral.

THE "I-DON'T-KNOW-WHAT-YOU'RE-TALKING-ABOUT" WITNESS

• Witness will appear “uncooperative.”

• Try to gently remind them about why you wanted to meet with them (e.g., "I was given your name by a witness who saw you there at that time. Were they mistaken?")

• Don't try to "force" information out of this witness.
  – If they don't want to share information, find another witness.
5. BIAS & STEREOTYPES

- “Bias” is defined as “a tendency to believe that some people, ideas, etc. are better than others that usually results in treating some people unfairly.”¹

- “Stereotype” is defined as “to believe unfairly that all people or things with a particular characteristic are the same.”²

¹Definition comes from Merriam-Webster online dictionary: [http://www.merriam-webster.com/dictionary/bias](http://www.merriam-webster.com/dictionary/bias)

²Definition comes from Merriam-Webster online dictionary: [http://www.merriam-webster.com/dictionary/stereotype](http://www.merriam-webster.com/dictionary/stereotype)

5. BIAS & STEREOTYPE (CONT’D)

- Not everyone will fit your expectations or preconceived notions; stay away from stereotyping.

- Be extremely aware of your own personal biases and stereotypical thoughts.

- Everyone has them.

- Let the facts determine the outcome.
5. BIAS & STEREOTYPE (CONT’D)

- Ask yourself: Why do I think this way?

- Focus on the information provided.

- Don’t look for something that’s not there (unless there is a reasonable basis to believe it exists and is relevant to your investigation).

- Own your own personal biases and stereotypical thoughts; don’t allow them to influence you during an investigation.

BIAS "OWNERSHIP" (EXAMPLE):

“I just have to tell you. I have a close friend who was sexually assaulted in college many years ago, so I have difficulty being unbiased in cases where an ‘alleged’ sexual assault occurred.”
• Bias and stereotyping are based on personal experiences and opinions.
• You must base your decisions on “facts” that support the credibility assessment.
• Bias or stereotyping may affect your credibility in your assessment of a witness.
• Always ask: What do the FACTS show?
• Do you have a preconceived bias against the “accused” person?

LUNCH (45 minutes)
6. CREDIBILITY

“Credibility” means “the quality of being believed or accepted as true, real, or honest.”

1Definition is taken from the Merriam-Webster dictionary online at: http://www.merriam-webster.com/dictionary/credibility

6. CREDIBILITY (CONT’D)

- Pieces of information may be different in value.
- Credibility — no formal rules
- Investigators will need to rely on their own set of experiences when assessing credibility (consider bias and stereotyping).
- Ask: Is the reason WHY you believe something or someone (more) “explainable?” Reasonable?
Who is more believable?
Discuss with your colleagues at your table who you would find more believable, and why.

- A priest or a nun?
- A drug dealer or a car thief?
- A lawyer or a police officer?
- A salesperson or a business person?
- An alleged victim or an alleged respondent?

Be prepared to share with the larger group.

IMPORTANT THINGS TO REMEMBER WHEN ASSESSING CREDIBILITY:

- Some hallmarks of credibility are: believability, trust, accuracy, fairness, and objectivity.

- Assessing credibility will (for the most part) be subjective.

- There will be times when your investigative conclusions will be based solely on a credibility assessment.

- Assess the credibility of the speaker and the information that is conveyed.
IMPORTANT THINGS TO REMEMBER WHEN ASSESSING CREDIBILITY:

- Two key dimensions of credibility: trustworthiness and expertise or first-hand knowledge.
- Do not base a credibility assessment on demeanor alone.
- How good is the witness’s memory of the event?
- Is the witness a direct witness?
- Is there any self-interest or a motivation to lie?
- A major difficulty in assessing credibility: keeping track of WHO said WHAT and WHEN.

WHY IS THE “CREDIBILITY ASSESSMENT” SO IMPORTANT TO AN INVESTIGATION?

Sometimes you’ll need to draw a conclusion based only on a credibility assessment. Ask yourself: Who is more believable and why?

Being able to explain the “WHY” is the most difficult and necessary part.
7. THE ANALYSIS

- Investigative reports should link the institutional policies/procedures to the facts.
- Shows "elements" of the alleged sexual misconduct
- Assists the investigator in focusing on the right questions to ask
- Generally keeps the investigation on task
- Helps to demonstrate the "reasonableness" of the institution's investigation and the conclusion it draws

AN "ANALYSIS" EXAMPLE

"Fruit Basket Rule"

A fruit basket must contain the following: (2) Apples, (1) Banana, (3) Cherries, (8) Kiwi, and (3) Oranges.

Your fruit basket contains (2) Apples, (2) Banana, (3) Cherries, (5) Kiwi, and (4) Oranges.

Has the rule been violated? Why or why not?
Analyzing the Misconduct

Using the sample Student Code (the instructors will tell you what page) OR your own institution's Sexual Misconduct policy or process, try to identify the potential “type(s)” of sexual misconduct the mock complaint/report (as written) describes.

In your Workbook, write the “types” above the Analysis Chart.

ANATOMY OF AN "ANALYSIS"

- Which policy or process should you be reviewing?

- Based on the information contained in the complaint, what potential type(s) of sexual misconduct might you have? What makes you think that? (e.g., "If it looks like a duck, waddles like a duck, and quacks like a duck, it MIGHT be a duck.")

- How does the policy define the specific behavior?

- Break down the definition, and list each “element.”
ACTIVITY

Analyzing the Misconduct (cont'd)

Using the "Analysis Chart" in your Workbook to fill in the "elements" necessary to show "whether, more likely than not," the conduct occurred.

Be prepared to share with the larger group.

8. THREE STANDARDS OF PROOF

- Beyond a reasonable doubt
- Clear and convincing
- Preponderance of the evidence
"PREPONDERANCE OF THE EVIDENCE"

- Standard of evidence used in civil courts
- Less rigorous than the other 2 standards of proof
- "More likely than not"
- Also described as "50% plus a feather"
- Standard required by Title IX in sexual misconduct cases to determine whether behavior is considered "prohibited" by an institution

QUESTIONS

UP NEXT: Planning, Pre-Investigating, & Strategizing
CONDUCTING THE INVESTIGATION: PLANNING, PRE-INVESTIGATING, AND STRATEGIZING

LEARNING OUTCOME

After participating...

...you will be able to:
- Gather pertinent information when preparing for an investigation
- Appropriately plan an investigation
- Strategize before the launch of a formal investigation
I. PLANNING: REVIEWING INFORMATION

A. Assemble your investigator’s file: go ahead, kill a tree. (Portable, slow or no internet connection, personal notes, copies of actual information right in a physical file!)

B. Gather copies of current institutional information:
   1. Non-discrimination Policy Statement
   2. Student Code of Conduct
   3. Internal process or protocols

C. Determine what potential type of sexual misconduct is described in the complaint.

D. List the "elements." (Remember the fruit basket?)

E. Check with Title IX coordinator for special instructions/information.

F. Investigator’s log
II. PRE-INVESTIGATING

A. Who are your identified witnesses?

B. What do you need to ask them? What are your preliminary questions? How did you make that determination?

C. Scheduling of witness interviews? (Strategize!)

D. Is there basic information about the witness that should be in the file? What are some types of basic information you think might be important?

E. Information available on the internet (e.g., Facebook, Twitter, Snapchat, etc.) is fair game. (Test credibility?)

ACTIVITY

Investigation Prep:

Identify potential witnesses you may need to interview based on the mock complaint.

Identify some issues you believe you may encounter while investigating this case, based on the information supplied in the complaint; what are some things you can do, if any, to work through the identified issues?

Be prepared to share with the larger group.
SOME THOUGHTS

• This is just one example on how to prepare for an investigation.

• Bottom line: you must prepare for the investigation.
  – Never wing it!

• Different investigators will prepare differently.

• What works for one investigator may not work for another.

• What are some pre-investigation ideas you believe might be helpful to other investigators?

III. STRATEGIZING

• Do you have information that could prove useful to you BEFORE you speak with the witnesses?

• Is there a preferred witness interview order that would be very useful?

• What are some examples that you can think of that may affect the order in which you interview witnesses?
UP NEXT: Conducting the Investigation

CONDUCTING THE INVESTIGATION: THE INVESTIGATION
LEARNING OUTCOME

After participating...

... you will be able to:
• Feel more confident conducting interviews
• Gather additional relevant documentation necessary to the investigation
• Conduct follow-up interviews

AGENDA

I. Pre-Interview Considerations
II. Interviewing the Witnesses
III. Documentation
IV. Dealing with Follow-up Information or Interviews
I. PRE-INTERVIEW CONSIDERATIONS: MIND THE DETAILS

- Where the interview takes place is important.
- Seating arrangements (e.g., safety, adequate seating, placement, etc.)
- Necessary supplies (e.g., water, tissues, etc.)
- Private, confidential
- Reasonable accommodations for witness? (e.g., reader, interpreter, etc.)
- Electronic recording (batteries)? Written documentation (e.g., paper, pens, etc.)?
- One or two investigators present? Roles?
- Can you think of anything else that should be considered before the interview occurs?

II. INTERVIEWING THE WITNESSES

- Do you know what questions you will be asking the witness?

- In 5-10 minutes, can you identify the "type" of witness you have in front of you and adjust your line of questions to maximize "information sharing?" ("5-10 minute rule")
Investigation Questions

As the investigator assigned to the case, write down 5-10 questions in your Workbook for each witness that you believe would be the most relevant given the facts.

Choose the 5 most important questions you’ve written.

Be prepared to discuss HOW you chose those questions and WHY you believe those questions would be important given the limited facts.

ACTIVITY DEBRIEF

- HOW did you determine what questions you needed to ask the witness?
- WHY do you think the questions you came up with were important, given the facts?
- How difficult was it to come up with 10 investigation questions?
- Do you believe you needed more information before you could determine what to ask the witness?
- If so, what type of information do you believe would have been helpful for you?
- Do you believe it might have been easier for you to come up with questions if you had more preparation time? If so, how much time do you think you needed?
III. DOCUMENTATION

- Internal/Institutional documentation
- Electronic documentation
- Investigator notes

INTERVIEWS: TO RECORD OR NOT TO RECORD?

- Some institutions do, some don’t.
- Should be somewhere - Code or Policy
- If it is written in a policy or process somewhere, the witness should be told in advance.
- If it is not written in a policy or process, the investigator should get the permission of the witness before recording.
- Be aware of State laws regarding the recording of conversations.
INTERVIEWS: TO RECORD OR NOT TO RECORD? (CONT’D)

- Recording (if a student) is subject to FERPA.

- Note-taking requires high level of accuracy (do "direct quotes").

- Non-party written statement: would be best if taking notes (investigator summarizes, writes, then provides statement to witness to see if they “got it right,” and then witness can sign off)

ACTIVITY

Audio Recording - “Frank”
ACTIVITY DEBRIEF

• Did you find this activity easy or difficult? Why?
• Using your notes, write down the first 3 things you believe Michael stated, from his viewpoint.
• Be prepared to share your examples with a partner.
• What do you think you could have done on the front end to try and prepare the witness' statement (assuming they declined a request to record)?
• Be prepared to share examples with the group.

IV. DEALING WITH FOLLOW-UP INFORMATION OR ADDITIONAL INTERVIEWS

• Re-interviewing witnesses after your initial interview
• Reluctant witnesses
• Depending on time, memory lapses; accounts may change.
• May want to allow witnesses to answer via email or phone call
UP NEXT: Putting the Facts Together & Working Time

PUTTING THE FACTS TOGETHER AND WORKING TIME
LEARNING OUTCOME

After participating...

... you will be able to:
• Assemble the facts of your investigation in a reasonable manner
• Identify basic sections in an investigative report
• Understand how an investigative report is written

AGENDA

I. Before Your Begin To Write…
II. Basic Investigative Report Considerations
III. Troublesome Sections
Where do you want the Frank Johnson audio file???
-Mickey Fitch
, 6/3/2018
I. BEFORE YOU BEGIN TO WRITE...

- Carefully review information you've already gathered. Are you missing anything?
- Is there anything that you need to have clarified—either from a witness or the Title IX Coordinator?
- Do you have a good understanding of the facts as they have been presented to you?
- Do you know which prohibited conduct may be applicable given the situation?
- If you had to write a 3rd party statement for a witness, did you get the witness to verify that the information as you “heard” it was factual? (sign off)

II. BASIC INVESTIGATIVE REPORT CONSIDERATIONS

- Fact-based report: No opinions; is it information as it was given to you?
- One voice: Who writes the report in a team? One person? Two people?
- Written in first person?
- What is the template format (consistency)?
- Party identification? (Full names? First names only? Witness 1? C? AS?)
- Case identification? (UHWO2015-S-01; UHWO2015-E-002)
- Is there a logical flow to the information as it is presented?
II. BASIC INVESTIGATIVE REPORT CONSIDERATIONS (CONT’D)

• Assume a newspaper reporter will get copies of your report.
  – Does it reflect professionalism and confidence?
  – Does it contain personal opinion that appears to be biased?
• Numbering (UHW2015-S-01; Page 1 of 14)
• Cite policies and procedures as the basis for the investigation.
• Use as many direct quotes from the verbal or written statements of witnesses as possible.
  – Make it "their" statement not yours!

II. BASIC INVESTIGATIVE REPORT CONSIDERATIONS (CONT’D)

• Understand what each section of the report is designed to show or explain to a reader

• Save "marking exhibits" for last

• Consider making exhibits distinguishable (bold; italicized) within the report

• Eclectic appeal (Does it look nice?)
WHAT SHOULD BE IN AN INVESTIGATIVE REPORT? (IN NO PARTICULAR ORDER)

- Case identifiers, if any
- Date report was completed
- Name of investigator(s) who wrote the report
  - Signatures at the end of the report
- History
- Involved parties
- Date of the alleged incident
- Interim measures, if any

WHAT SHOULD BE IN AN INVESTIGATIVE REPORT? (IN NO PARTICULAR ORDER) — CONT’D

- Alleged violations
- Jurisdiction
- Standard of proof
- Witness summaries
- List of exhibits
- Credibility assessment
- Findings of fact and analysis
- Conclusion
III. TROUBLESOME SECTIONS — "JURISDICTION"

- What authority does the institution have to review this case?

- Cite Code or process language as written.

- Apply summary of facts to language establishing jurisdiction as defined in your process.

III. TROUBLESOME SECTIONS — "INTERVIEW SUMMARY"

- Use as many direct quotes as possible.

- Personal comments of the writer should remain minimal, if any at all.

- Never include personal opinions.

- Should only include information provided by the interviewee.
III. TROUBLESOME SECTIONS — "CREDIBILITY ASSESSMENT"

- Almost like fact-checking
- Go back to each of the detailed notes for each interview or piece of information.
- Easy in cases where multiple disconnected witnesses say the same thing (e.g., "information is substantiated...")
- Difficult in cases where there are no witnesses except for the two main parties (determine if there are ancillary facts/issues you can use to make a reasonable assessment)
- Which party is more believable? Why?

III. TROUBLESOME SECTIONS — "FINDINGS OF FACT AND ANALYSIS"

- Wrap-up; tie all the information up together.
- Break down the elements of the alleged prohibited conduct, and match up the information provided. (Did the information support the definition of the violation? Think: "fruit basket?")
- Conclusion could be:
  - Sufficient information to find that, more likely than not, the accused student engaged in the prohibited behavior
  - Sufficient information, such that a Hearing Board could make a reasonable determination as to whether, more likely than not, the accused student engaged in prohibited behavior
  - What was the report supposed to determine?
III. TROUBLESOME SECTIONS — "CONCLUSION"

- Will there be a difference in every institution?
- Is it based on the policies or procedures?
- This is not a lengthy statement where you "rehash" the information you already provided in the credibility assessment or analysis sections; it's supposed to be short and sweet.
- You can template this language.

ACTIVITY

Improving the Witness Summary

On the mock investigative report, review either the complainant's witness summary (Michael Anderson) or the Respondent's witness summary (Frank Johnson) written by the investigator.

Using the actual written statements of the witnesses, use your Workbook to rewrite the witness summary for either the complainant or the respondent.

How could you improve the witness summaries?
Thank you!

Please remember to complete the event evaluation. Your comments will help us continually improve the quality of our programs.