

REFINING YOUR FACTUAL ANALYSIS & WRITING SKILLS

#aiTitleIX



Tampa, FL | March 8, 2019

ai ACADEMIC
IMPRESSIONS

1

#aiTitleIX

REFINING YOUR FACTUAL ANALYSIS & WRITING SKILLS

Bev Baligad, J.D.

Director of Compliance & Title IX Coordinator
University of Hawai'i - West Oah'u

March 8, 2019
10:30 a.m. - 12:00 p.m.

ai ACADEMIC
IMPRESSIONS 2

2



LEARNING OUTCOME

After participating...

... you will be able to use a more refined approach to writing a factual analysis in Title IX cases.

3

■ “BASIC INVESTIGATIONS” BEGIN WITH THE FOLLOWING:

1. Thoroughly review the complaint; understand what the complaint is about.
2. Find and print all policies, procedures, and agreements relevant to the issue.
3. Review complaint again and compare policy and process information. Possible issue? Several issues?
4. Gather all available institutional and public information on relevant parties.
5. Identify witnesses and case strategy. Begin assembling investigative file.

4

■ 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?

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."

7

FACTUAL ANALYSIS: IT'S ALL IN THE GRIDDING



- When the facts are insufficient to show a policy violation, there is no policy violation.
- When the quality/quantity of the facts appear equal (one party witness vs. one party witness), a credibility assessment becomes extremely important.

8

FACTUAL ANALYSIS: IT'S ALL IN THE "GRIDDING"

- Facts are narratives from the witnesses (or witness information).
- Demonstrates policy violation for a finding of "responsibility"
- Relevant facts (no matter the source) should support the elements of the policy ("gridding").
- Quantity vs. Quality



ACTIVITY

"Factual Analysis" Exercise

Using the written statement of the Respondent (in addition to the information previously provided in the "Gridding" exercise by the reporter), do a factual analysis.

What did you find? Be prepared to discuss your analysis with your partner and then with the larger group.



QUESTIONS

11



EVALUATION

Thank you!

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



12