

# Virtual Title IX Interview Guidelines & Checklist\*

## THE ROLE OF A TITLE IX INVESTIGATOR: GATHER INFORMATION

Title IX Investigators are responsible for interviewing and recording facts from involved parties such as the complainant, respondent, and witnesses in an alleged Title IX violation.

While conducting interviews (either virtual or in-person), investigators should:

- Remain impartial, fair, and able to objectively evaluate the credibility of the complainant, respondent, and witnesses
- Keep an open mind and try to convey empathy for the interviewed party
- Record the facts of the alleged incident, follow-up on leads presented during interviews, and attempt to verify with physical or digital evidence

It is always preferable to record an interview with a complainant, respondent, or witness so the investigator is able to freely converse with the other party. Recording the interview may also permit the investigator to focus more on the body language and expressions of the interviewed party, which should also be documented and included in the final report. Prior to recording, the investigator should obtain consent from the interviewed party (some states require consent of all parties). After the interview, the investigator should transcribe the interview and reference it in the Report of Interview.

If at any point during an investigation the investigator becomes unable to remain impartial, he or she must notify the Title IX Coordinator immediately. At this point, a new investigator should be assigned to the case.

A Title IX Investigator is not responsible for definitively confirming or denying that an alleged incident occurred or draw a conclusion. He or she is to perform a prompt, impartial, and thorough investigation as well as provide documentation of every step of the investigation. The investigator is to present the evidence, interview statements, and facts to the respondent, complainant, and disciplinary board for review, in accordance with each institution's policy and protocols.

## 5 GUIDELINES FOR CONDUCTING TITLE IX INTERVIEWS

While conducting interviews with a complainant, respondent, or witness, Title IX Investigators are encouraged to take into account the following guidelines:

### **1. *Bring a Co-Investigator or Note-Taker to the Interview***

Investigators are encouraged to bring a co-investigator or note-taker to the interview as it allows the lead investigator to better focus on questioning the interviewed party and read body language. Furthermore, an additional investigator or note-taker in the room may act as a witness and prevent accusatory situations. The lead investigator typically focuses on asking questions and reading body language during the interview while the co-investigator takes notes and documents observations. The lead investigator will be required to delegate tasks within the investigative team and report to the Title IX Coordinator.

Ideally, the investigative team will consist of one man and one woman. A gender-balanced team of investigators (or investigator and note-taker) may permit the interviewed party to converse with the gender with which they feel most comfortable.

For more complex cases in which trained, campus-based sexual misconduct investigators may have questions or may not feel adequately prepared to conduct the investigation, outside investigators may be called upon to either consult with or provide guidance to campus investigators or conduct the investigation. Outside investigators should also be called when campus investigators have a conflict of interest.

### **2. *Develop Rapport with the Interviewed Party***

The first 10 to 30 seconds of an interview with an interviewed party are crucial. In this short period of time, interviewed parties develop perceptions of the investigator, which will ultimately impact how they tell their story. Therefore, it is critical that the investigator develop rapport with the interviewed party as soon as possible to make them feel comfortable. In doing this, investigators may also avoid causing further harm to a traumatized victim.

In building rapport, it is important to realize that reading body language goes both ways. Investigators will assess the interview subject's hand gestures, facial expressions, eye contact (or lack thereof), shifts in position, etc. Similarly, an interviewee will be paying attention to the investigator's body language. Therefore, investigators should be mindful of their own appearance, eye contact, and facial expressions; remain calm and comfortable; and pay attention to the interview subject. Both physical behavior (intentional as well as unintentional) and phrasing of questions should indicate openness and a nonjudgmental approach to the party without suggesting bias.

Investigators may choose to develop rapport with any interviewed party by first asking general questions to establish a personal connection. Questions about courses or extracurricular activities may be helpful.

Investigators can also develop rapport by asking the interview subject questions such as, *“Can I get you anything?” “How can I help you” “Are you up for this interview?” “Has everything you need been provided?”*

These non-threatening questions help to put the interviewee at ease and can help the investigator assess how to proceed with the interview so as to not traumatize the interview subject, particularly a victim, further.

If interviewing a complainant, an investigator may acknowledge that trauma has occurred. An example statement may include: *“I’m so sorry that this has happened.”*

Investigators should also approach complainants, respondents, and witnesses with empathy. Empathy will impact the types of questions investigators ask the complainant or respondent and may aid the investigator in further developing a level of trust. The more trust a complainant or respondent has in the investigator, the more likely they are to share a greater level of detail of the alleged incident during the interview.

### ***3. Explain the Investigative Process***

A complainant or respondent often knows little about the Title IX investigative process and may find the interview intimidating, confusing, or even frightening. Explain the investigative process to create transparency and trust with the interviewed party. This also helps to re-establish a sense of control for the complainant or respondent.

In doing so, investigators may choose to explain their role in the investigative process. Investigators may choose to state that their role is to remain unbiased and gather as much information about the alleged incident as possible.

A sample statement to an interviewed party includes, *“There are no right or wrong answers. This is your account of what happened.”*

Note that the school provides supportive measures for both complainants and respondents and that the interviewed party may contact the Title IX coordinator at any time to learn more about those resources.

#### **4. Ask Open-ended Questions**

During interviews with respondents, complainants, and witnesses, investigators should ask open-ended questions to maximize the flow of information. As the interview progresses, ask follow-up questions and for clarification when needed. Allow plenty of time for answers and pauses between questions.

Proceed slowly and calmly through the interview and refrain from threatening, accusatory, and judgmental tones or questions. Investigators should also refrain from assuming anything during the interview or judging the complainant or respondent based on dress, actions, inactions, omissions, etc. Again, the role of an investigator is to keep an open mind and remain objective.

#### **5. Control the Setting**

The investigator should carefully structure the setting and environment for interviews. Comfort is key. It is often suggested to conduct the interview in a room with soft-colored or muted-toned walls, carpeting, and furniture. Ideally this room will have a couch or comfortable chair and multiple seating options. If used, the recording device should be discretely placed. The investigator should be able to maneuver freely in response to the complainant.

In conducting virtual interviews, investigators have significantly less control over the setting and environment. When notifying the interviewed party of an upcoming interview, investigators may recommend that the complainant, respondent, or witness make an effort to establish a controlled setting for the virtual interview.

Such recommendations include:

- Access to a safe, private, and comfortable room for the interview
- Limit distractions and clutter in the room
- Availability of additional comfort items during the interview such as water, tissues, comfortable seating, nearby restroom, etc.
- Access to video conferencing technology and software such as a desktop computer, laptop, tablet, or smartphone. If this is not possible, the interviewed party should notify the investigator and prepare for a phone interview.

## Virtual Title IX Interview Checklist\*

### In preparation for the interview, I have:

Reviewed my college or university's sexual misconduct policies and protocols and understand critical information about the involved parties' rights, requirements for notifications to the parties, and the timeline for preparation of the investigation report.

Reviewed the complaint and all information gathered to date regarding the alleged incident

Notified the involved party of the upcoming virtual interview

In such notification, I have provided the involved party with information regarding:

- Date, time, and location of the interview (clarify if it will be virtual)
- Identified which form of technology and software will be used and how to join the interview (i.e. Microsoft Teams, Google Meet, Skype, etc.)
- Their right to an advisor of their choice to be present during the interview
- Names of additional participants in the interview, if any
- The purpose of the interview
- Any additional information as required in the school's Title IX policy

I have also requested that the involved party have the following resources available for the interview:

- A safe, private, distraction-free, and comfortable room for the interview, if possible.
- Access to additional comfort items such as water, tissues, comfortable seating, restroom, etc. during the interview
- Ideally the involved party will participate in the interview via video call on a desktop computer, laptop, or tablet. If not possible, a video call via cell phone is an option.
- His or her cell phone number in case video conferencing is not possible due to poor network connectivity

In preparation for the interview as the lead investigator, I have:

Conferred with my institution's IT department to ensure that the software to be used during the interview is secure and reliable

- Become familiar with the video conferencing technology and can help the involved party troubleshoot any simple issues (i.e. mute, camera on, etc.)
- Have a back-up plan for the interview should technology fail (i.e. cell phone numbers of involved party and ability to call from an institutional number rather than a personal cell phone)
- Access to a private, safe, distraction-free, and comfortable setting during the interview
- An understanding of how to record the interview (video or audio)
- Identified my co-investigator & designated which investigator will lead questioning and which investigator will take notes

## While Conducting the Title IX Interview

### At the start of the interview, I have:

- Explained the investigative process in conjunction with the institution's policies and protocols
- Asked for permission to record the conversation (either video or audio only)
- Upon starting the recording, read the preamble which states the date, time, location, and purpose of the interview as well as identified and obtained consent to record from all participants on record

### During the interview, I have:

- Noted potential sources of physical evidence based on interview party's statements
- Documented the names of additional potentially involved parties

### Prior to concluding the interview, I have:

- Asked the interviewed party if they have additional information or points of clarification
- Asked my co-interviewer if they have additional questions or remarks
- Closed off the recording with another preamble which states the date and time as well as identification of participants
- Exchanged contact information with the interviewed party
- Documented any requested action items from the interviewed party

\*This material offers some information and recommended actions to be taken by a Title IX Investigator related to conduct in an interview with an involved party. This checklist reflects minimum recommendations for investigators and does not in any way indicate that adhering to such actions will ensure proper compliance with requirements which may be imposed by federal, state, or local laws or regulations or school policies. Investigators are responsible for being familiar with and in compliance with all such requirements in conducting interviews related to any Title IX or similar investigation and should consult with their school's Title IX Coordinator and/or legal counsel to ensure such compliance.