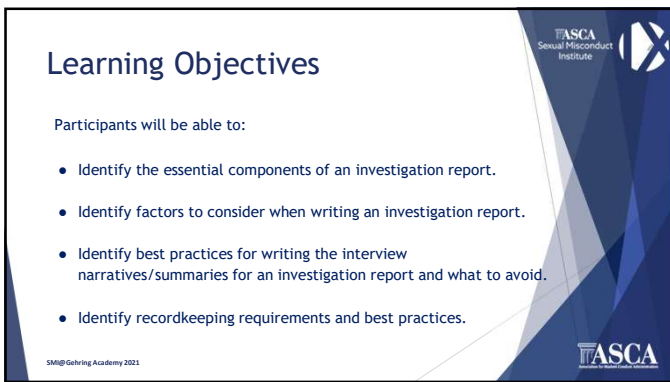
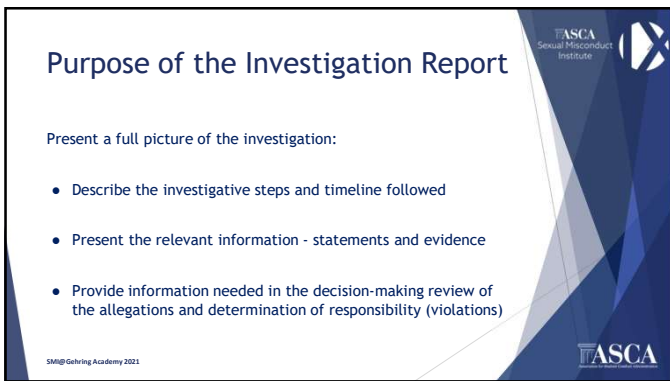


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3

Before you begin writing:

- Review your Investigation Plan
 - Did you complete all of the items in your plan?
- Review interview summaries and documentation to make sure you do not have to conduct any follow-up.
 - Are there any documents you were waiting for from the parties that you have not received?
 - Did you review all documents you received?
- Gather your materials.
 - Is all the information that you need readily accessible to you?

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4

Written Documents

- Complaint
- Charge Letter or Notice of Allegations (*Title IX*)
- Other Relevant Correspondence
- Investigation log or timeline
- Completed checklist(s)
- List of documentation (evidence)
- List of parties
- Policies, procedures, etc.

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5

Contents of the Report

Determine what you will include in the report

- What are the required components per the applicable policies, procedures, state/federal laws or statutes?
- What is the relevant information that will be included based on the allegations?

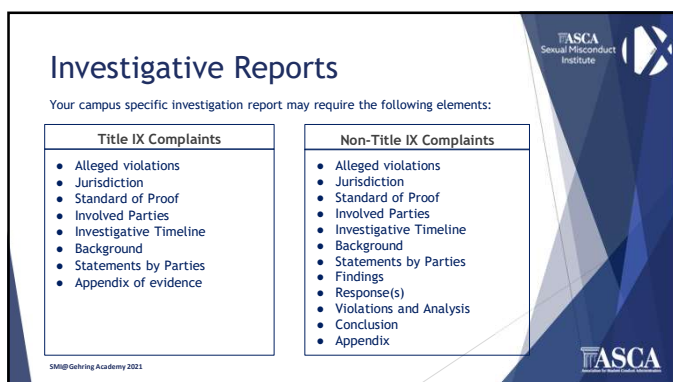
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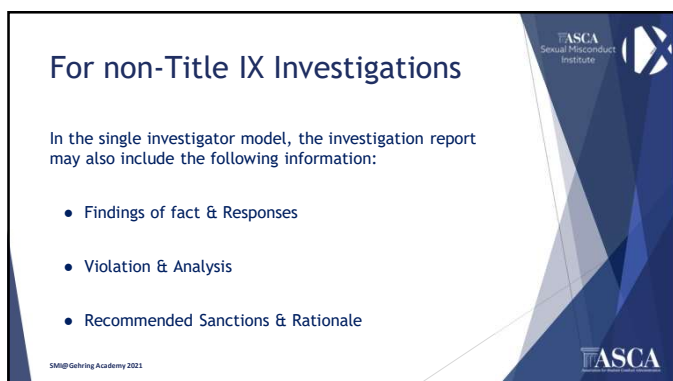
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9

Alleged Violations & Analysis

- Outline each code violation and analyze it with the information gathered in the investigation
 - 17.09(1) Dangerous Conduct
 - The Student Code defines dangerous conduct as conduct that endangers or threatens the health or safety of oneself or another person
 - 17.09(2) Sexual Assault
 - The Student Code defines sexual assault as...
- Clearly articulate how the alleged behavior fits or does not fit the policy violation
 - If only conducting fact-finding, present the facts with the next reviewer in mind.
 - Address all elements and key questions

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10

Jurisdiction & Standard of Proof

- Explain the jurisdiction for addressing the complaint
 - Include nexus to the campus for non-Title IX complaints
- Cite the institution's policy and procedure explaining jurisdiction
- Explain the standard of proof used to determine finding of responsibility/violation of policy
 - Preponderance of the evidence
 - Clear and convincing

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11

Involved Parties

- List the parties (Complainant, Respondent, Witnesses)
- Describe the status of the party:
 - Respondent is a graduate student.
 - Complainant is an undergraduate student.
- State how many witnesses were interviewed and how they will be referred to within the report:
 - Six witnesses were interviewed in the process and are referred to as W1-W6 in the investigative report. Note: Investigators have discretion to list witness names or use other designations such as W1, W2, W3.
- Describe the relationship of the parties to each other:
 - Complainant is roommates with W1.
 - Respondent is a member of the same student organization as Complainant and W2.

Include witnesses that may have observed behavior and/or had duty to report but no relationship to the parties. Also include information for those who declined to participate in the interview, including attempts to contact.

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12

Investigative Timeline & Background

- Timeline of specific events occurring during the investigation
 - Dates of notice, interview, review of file, etc.
 - Can be presented as narrative
- Background information
 - Circumstances under which the Complainant reported he alleged conduct
 - When/how the notice of investigation/charge letter was sent to respondent
 - When/how the respondent and complainant interviewed with office
 - Other documentation reviewed (text messages, screenshots, photos, police reports, emails, etc.)

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13

Statements and Interview Summaries

- Factual, neutral summary of interviews
 - Complainant's interview
 - Respondent's interview
 - Witnesses' interview(s)
- Include the relevant exculpatory and inculpatory evidence
- Use quotation marks for actual quotes

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14

Findings & Responses

- Summarize separately the information that is undisputed and disputed
 - For undisputed elements
 - "It is undisputed that the complainant and respondent engaged in mutual kissing."
 - For disputed elements
 - "It is disputed that the respondent moved the complainant's underwear aside while on top of her and penetrated her vagina with his penis."
- If applicable to your process, separately provide summaries of the responses to findings from the complainant(s) and respondent(s)

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15

Parties' Review

- Commented incorporated as footnotes
- Signed sheet to acknowledge review

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16

Conclusion (If applicable)

- Depending on the adjudication model, investigation report may include a conclusion by the investigator.
- In simplest form, states investigation is complete.
- The conclusion may state whether the investigator finds that by the standard of evidence, the allegations were substantiated or unsubstantiated. For example:

Based on the preponderance of the evidence, including statements from the complainant, the respondent, and witnesses, it is determined that it is more likely than not that the respondent is responsible for violating the codes of student conduct as outlined previously in this report.
- Include next steps in the process. For example, with the Investigator / Decision-maker model, report will be provided to decision maker(s) for determination.

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17

Appendix/Exhibits

- Full meeting notes (if applicable)
- Incident Reports
 - Law enforcement reports
 - University incident reports (security department, residence life, etc)
- Phone logs
- Screenshots or photos of text messages, social media posts
- Emails
- Photos
- Medical records
- Parties' review of draft investigative report without findings (if applicable)
- Privacy notices (if applicable)
- Full copies of applicable codes, policies and procedures


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18

Result, Per Clery Handbook

- Result: "any initial, interim and final decision by any official or entity authorized to resolve disciplinary matters within the institution"
- Be prepared to articulate, in writing, how information was weighed and credibility was assessed
 - Practice crediting and discrediting individual pieces of information in relation to the full record.
- It is not sufficient to write:
 - "The evidence presented met the institution's standard of evidence"

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19

Cultural Considerations



20

Cultural Considerations

- Trust in writing vs. trust in verbal communication
 - US culture trusts deeply in written communication.
 - Other cultures may have a distrust in written communication, seeing it as inflexible, unauthentic, and/or incomplete.
- Linear narrative vs. non-linear narrative
 - Student conduct culture prefers linear narrative.
 - Some other cultures do not organize stories in this way. They will focus on what is most salient or other touchstone points in a narrative.
- The challenge: We still need written linear narratives in our report writing.

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21

Cultural Considerations

- Orient the parties, and possibly their families, to why our reports are structured the way they are.
- Note the purpose of the report: An "official record of the investigation." Not "the complete story of what happened."
- Note the multiple audiences for the report: parties, institution, need for legal compliance, etc.
- Note parts of the report that are not strictly linear
- Talk through summarized report verbally with parties, also encourage them to read it fully.

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22

Record Keeping & Releasing Records




23

Record Keeping

Database contents should include (in separate case for respondent and complainant):

- Charge letter
- Finding letter
- Investigative report
- Information supporting investigative report
- Hearing materials
 - Request(s) for hearing
 - Hearing packet
 - Hearing recording
 - Hearing decision
 - Hearing appeal
 - Appeal decision
 - Emails
 - Confirmation of meetings, what was discussed
 - Documentation regarding Interim measures

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24

Records Retention Policy

- What is your institution’s policy?
- Read it carefully, and follow it.
- Ask: Does it match up with housing/residence life policies?
- Talk with your Registrar’s office
- Remember Clery Act record retention: 7 years
- Record release to students involved
 - Consider creating a form that students fill out to request to view their student record.

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25

Open Records

- Work with legal counsel or open records steward
- If you charge for open records requests, be ready to share your hourly rate of pay
- Be ready to justify your training
- Advocate, if necessary, for both parties
 - Ex: student newspaper requesting names of students found responsible for a sexual assault violation in the past 10 years (FERPA)

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26

Subpoenas

- Work with campus legal counsel
- Be ready to release documents
- Notify students that you are releasing their information
- Watch for “no disclosure”
 - The FERPA notice provisions don’t apply with the subpoena directing us to not disclose its existence. So, we can’t notify any student who may appear in those records and we can’t share the existence of the subpoena.

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27

References

U.S. Department of Education. Office for Civil Rights. (2017). *Q&A on Campus Sexual Misconduct*. Accessed May 9, 2018.
<https://www2.ed.gov/about/offices/list/ocr/docs/qa-title-ix-201709.pdf>

U.S. Department of Education. Office for Civil Rights. (2001). *Revised Sexual Harassment Guidance: Harassment of Students by School Employees, Other Students or Third Parties*. Accessed May 9, 2018.
<https://www2.ed.gov/about/offices/list/ocr/docs/shguide.pdf>

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28

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29