



TRUTH SEEKERS

THE ESSENTIAL ROLE OF INVESTIGATORS AND INVESTIGATIONS

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TRUTH SEEKERS

AGENDA:

- I. START THE CLOCK
- II. INVESTIGATORS
- III. INVESTIGATIVE PLAN
- IV. EVIDENCE
- V. THE INTERVIEW
- VI. FINAL INVESTIGATIVE REPORT

“Whatever your hand finds to do, do it with all your might...”
- Ecclesiastes 9:10

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START THE CLOCK

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STEPS TO TITLE IX INVESTIGATION

Session Two	1. Receipt of Title IX Report and Alleged Misconduct 2. Review and Assess Jurisdiction
Session Three	3. Prepare Notice of Allegations 4. Develop Investigation Plan 5. Conduct Interviews and Gather All Evidence 6. Prepare Investigative Report 7. Distribute Investigative Report and Evidence to Parties 8. Deliver Investigative Report and Evidence to Decision Maker

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NOTICE OF ALLEGATIONS

- **Written and sent to both parties**
- **Describes the alleged policy violation and sufficient facts to allow for a meaningful response/defense**
- **Names of the parties (if known) – no anonymous complaints**
- **Date and location (if known) of the alleged incident**
- **Describes the grievance procedures (attach a copy of the entire policy)**
- **States the Respondent is presumed not responsible**

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NOTICE OF ALLEGATIONS

- **Determination of responsibility is only made at the end**
- **Right to an advisor of their choice (may be an attorney)**
- **Right to inspect and review evidence**
- **Prohibition against false statements and false information**
- **Informal resolution options, if available**
- **Best Practice: Amend as needed in the future**
- **Other helpful inclusions:**
 - **Name and contact information of the investigators**
 - **Retaliation provision**

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INVESTIGATORS

- **Neutral and impartial fact finder**
- **Free from bias or conflicts of interest**
- **Independent and Professional**
- **Diligent, exercising due care**
- **Appropriately trained and experienced**
- **Can be the TIXC or internal or external**
- **Best Practice: Work in pairs if possible**
- **Consider an Independence Statement**

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INVESTIGATIVE PLAN

- **Develop investigative strategy**
- **Investigators and TIXC collaborate**
- **Opportunity to think and plan**
- **Allegations from the Complaint**
- **Applicable policy or statutory violations**
- **Elements of proof needed/met for each violation**
- **Evidence to be collected and when**
- **Best Practice: Preservation of evidence (recording loops)**
- **Key issues/challenges anticipated (witnesses, evidence)**
- **Best Practice: Estimate a timeline for investigation - stick to it!**

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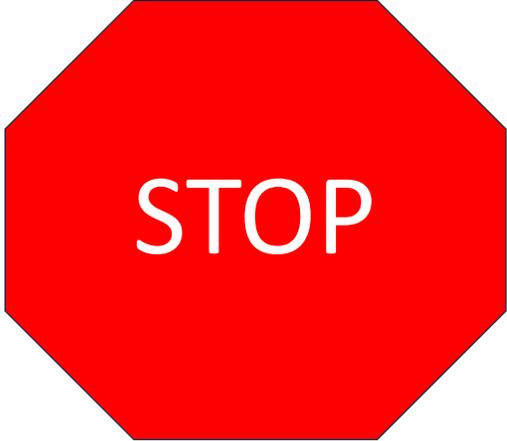
EVIDENCE COLLECTION

Interviews	Internal Records	Physical	External Records
Parties Eye-Witnesses Process Experts	Schedules Videos Fob Logs Work Emails Police Reports	Texts Personal Emails Pictures Screenshots Letters	FOIA Requests News Social Media Court Records

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CHILD PORNOGRAPHY

1. DO NOT OPEN!
2. Contact Local Authorities
3. Contact General Counsel/Legal
4. Contact ITS Department for Safe Storage and Preservation

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EVIDENCE STANDARD

- Duty to collect evidence is on Title IX Office, not the parties
- All relevant evidence – any tendency to make a fact in question more or less likely. This can include credibility determinations.
- Inculpatory (tends to establish) and Exculpatory (tends to clear)
- Medical and mental health records – must have voluntary, written consent (HIPAA)
- Privileged communications – attorneys, pastors, counselors
- Rape Shield – Prior sexual history of the Complainant is not relevant evidence, Except:
 - To prove that someone else is the perpetrator
 - To prove consent between the Respondent and Complainant
 - Does not apply to Respondent

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PRE-INTERVIEW CONSIDERATIONS

- The party may choose any Advisor (parent, RA, friend, pastor, attorney, etc.)
- Create an Advisor Expectation document
 - Rules for interviews
 - Not legal representation
- Advisors do not answer investigator's questions
- The party may confer with Advisors
- Advisors are allowed at any meeting or proceeding
- For Live Hearing, who can ask questions (DM or Advisor/DM)
 - Must determine relevancy

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INTERVIEWS

- Provide adequate notice – written, date, time, location, participants, and purpose
- Consider using interview advisements
- Allow Advisors to be present
- Best practice: Have two investigators present
- Use of recording or transcribing software
- Prepare an interview outline beforehand
- Take notes – do not add opinions or extraneous observations

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INTERVIEW PURPOSE

- Generate admissible evidence that may establish or support charges for actionable violations
- Confirm, explain, or supplement allegations or complaints
- Determine what a witness heard or observed, or otherwise has knowledge of regarding the conduct at issue
- Assist in identifying or explaining documentary or physical evidence
- Provide a forum for subjects to admit to misconduct
- Identify or generate leads for other evidence, witnesses, or subjects, or new subjects for investigation

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INTERVIEW OUTLINES

- Reviewed by both investigators and TIXC
- The roadmap for the interview
- Determine what topics to discuss and in what order – begin with general, open-ended and move to specific
- Determine what documents, if any, to use
- Create a timeline if multiple actions, time, or dates are involved
- Semi-structured interviews: Don't be constrained by the outline, ask follow-up or clarifying questions
 - “Could you share more about how you were feeling?”
 - “You mentioned Rachel looked intoxicated, could you provide more details on her demeanor or behavior?”

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INTERVIEW SETTING

- In-Person v Virtual
- Recorded or not recorded – remember to tell participants
- Location of the interview
- Length of interview: allow sufficient time, avoid rushing
- Room atmospherics: lighting, noise devices, furniture, windows, distractions
- Best Practice: Think – Conversation; Not – Interrogation
- Food, drinks, or snacks can be helpful - offer to both parties
- Build trust: no surprises or “gotcha” questions
- The setting should put the interviewee at ease and facilitate talking

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INTERVIEW QUESTIONS

- Consider the best technique for each circumstance
- The Funnel Technique is best for early stages of an investigation
 - First: Open-ended; Second: Probing; Third: Closed
- Establish credibility, trust, and rapport
- Be professional, respectful, calm, and conversational
- Be Christlike throughout the process
- Acknowledge the discomfort or unease involved and give a brief overview of the subject matter
- The quality of the questions directly affects the quality of the information obtained

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INTERVIEW BEST PRACTICES

Ask open-ended questions

No double-barreled questions

Don't interrupt or argue

Be flexible

Ask follow-up questions

Keep pace

Close out each subject

Clarify ambiguous answers/slang

Who, what, where, when, why, and how

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INTERVIEW REPORTS - TEMPLATE

- **Develop a template for all interviews**
 - **Case Number**
 - **Interviewer Names**
 - **Parties Present - names and roles**
 - **Location**
 - **Date**
 - **Time**
 - **Advisements**
- **Narrative Summary**
- **If recorded, note consent**
- **Include interviewee's opinions**
- **Reference exhibits by name**
- **Verbatim statements, quotes, phrases**
 - **Use "quotation" marks**
 - **Accurate and complete**
 - **Use sparingly**

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INTERVIEW REPORTS - WRITING STYLE

- **Narrative Format – straightforward and concise**
- **Third person: No "I" or "You", use pronouns "he", "she"**
- **Objective and unbiased**
- **Chronological, thematic, or topical - depends on context**
- **Active, not passive voice: The student (subject) is considering (action) filing a police report. VS The filing of a police report (action) is being considered by the student (subject).**
- **Generally, not necessary to write, "____ stated..."**
- **Generally, the questions do not need to be reported**
- **Reporting/Investigating is not creative writing**

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EVIDENCE REVIEW

- **Prior to completing the investigative report:**
 - **Equal opportunity to inspect and review**
 - **Directly related/relevant evidence (including evidence the institution does not intend to rely on)**
 - **Inculpatory and exculpatory evidence**
 - **Electronic or hard copy to party and advisors**
 - **At least 5/10 days to submit a written response - 2020 v. 2024**
 - **Investigators must consider any response**

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FINAL INVESTIATIVE REPORT

Allegations	Policy Sections	Summarize Facts
Event and Procedural Timeline	Evidence File	Analysis
Jurisdiction Statement	Recommended Findings	Credibility Assessment

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Keep Records!

All evidence and acquisition reports
 Interview reports
 Final investigative reports
 Communication with parties, witnesses, and
 advisors

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5 Steps to a Biblically Integrated Investigation

Step One: Develop a Fair and Impartial Investigation Plan - Approach the investigation with neutrality and integrity, seeking a truthful understanding of the situation in question.

Step Two: Document Thoroughly - Main detailed documentation at every step. After each interview, create an accurate report. Record all evidence requests to ensure a transparent process.

Step Three: Be Disciplined - Adhere to your Plan and timeline with diligence. Prioritize the investigation process, focusing on thoroughness and timeliness over other Title IX tasks. Discipline fosters credibility and respect for the process

Step Four: Maintain Communication with the Parties - Recognize that investigations can be challenging for all involved. Regularly check in with the parties and offer supportive measures as needed.

Step Five: Conclude with Excellence - Finish the investigation only when it is complete. Ensure all relevant evidence has been gathered and reviewed before concluding the investigation.

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QUESTIONS?

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