



COLORADO LEAGUE *of*
CHARTER SCHOOLS



Title IX Investigator Training
Session 2
October 14, 2021

Investigator Training Outline

~~Session 1: Standards for Title IX Investigations,
Investigators, and the 5 Phases of an
Investigation~~

Session 2: Information Gathering

Session 3: Information Review

Session 4: Writing a Report with Analysis and
Determination of Facts and Policy

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Session Handouts

Handout 1 – Investigation Work Plan Template

Handout 2 – Evidence Tracking Form

Handout 3 – Communication Log

Handout 4 – Statement Template

Planning the Investigation



Goals for Phase Two: Information Gathering

- The investigator gathers all available and relevant information related to the allegations through:
 - Conducting **interviews**
 - Collecting **other evidence** including documents, electronic materials (e.g., texts, social media posts, emails, phone logs), video and audio recordings.
- The Complainant and Respondent are each provided an opportunity to:
 - interview with the investigator
 - provide information to the investigator to review
 - identify other witnesses for the investigator to interview

Goals for Phase Two: Information Gathering

See [Handout 1 – Investigation Work Plan Template](#)

- Identify and outline specific allegations made by Complainant (and Respondent if applicable)
 - Notices of Investigation should list the allegations – work with the Title IX Coordinator to ensure accuracy
 - Ensure that you understand the allegations
 - Review policy and procedures

Identifying What Is Being Alleged

- Misconduct towards another because of:
 - **protected class** (discrimination or harassment)
 - **someone reporting wrongdoing** (retaliation)
- Does the misconduct violate:
 - Title IX law or regulations?
 - Harassment or discrimination prohibitions
 - A school policy?
- How big is the problem?
 - How many people have been accused?
 - How many people have been affected?
 - Was this a single incident or pattern of behavior?

Goals for Phase Two: Information Gathering

- Interview Complainant and Respondent
- Identify and interview witnesses
- Identify and collect documents or other relevant information
- Explore whether there may be information available that the parties may not know about (e.g. security footage, police reports, etc.)
- Once you have collected the evidence, provide Respondent and Complainant with opportunity to respond to allegations and identify witnesses and provide additional information

Information
Gathering Phase:
Collecting
Evidence

Forms of Evidence

- **Documentary** (police reports, medical reports, etc.)
- **Physical evidence** (letters, site visits, property damage, etc.)
- **Demonstrative** (photographs, diagrams, security footage, etc.)
- **Electronic evidence** (text messages, emails, time records, etc.)

Categories of Evidence

- **Direct**: The most powerful type of evidence, direct evidence requires no inference. The evidence alone is the proof.
- **Demonstrative**: An object or document that directly demonstrates a fact. Examples of this kind of evidence are photographs, video and audio recordings, charts, etc.
- **Circumstantial**: used to infer something based on a series of facts separate from the fact is trying to be proven. It requires a deduction of facts from other facts that can be proven.
- **Corroborating**: evidence used to confirm an assertion of a witness

Collecting Evidence

- Consider reviewing any school-sponsored email systems for communications between the party.
- Become social media savvy (if you aren't already), particularly social media platforms that your school community uses.
- Make sure you have some way to track evidence you collect (see [Handout 2 – Evidence Tracking Form](#)).

Witness Interviews

Hierarchy of Witnesses

1. Complainant & Respondent
2. Eye-witnesses (individuals who observed the event or events)
3. Outcry witnesses
4. Informational witnesses
5. Similarly situated witnesses

“Character” witnesses have limited value – be cautious!

Contacting Witnesses

- Contacting witnesses
 - In writing or verbally?
 - Ensuring a consistent message
 - Utilizing the Investigation Log (and why it matters)
 - Steps for every witness: Initial contact, schedule interview, conduct interview, draft summary, send summary, edit summary, obtained signed summary
- Maintain a Communications Log (see **Handout 3**) for each investigation.

Witness Interviews

- Order of interviews depends on the circumstances
- Typical approach:
 - Interview Complainant first
 - Two theories concerning Respondents
 - Interview them after Complainant
 - Gather information from witnesses first and then interview the Respondent
 - Repeat interviews are encouraged

Documenting Witness Interviews

- See [Handout 4 – Witness Statement Form](#)
- Witness summaries:
 - Provide an overview for the witness to include:
 - The Purpose of the Investigation
 - Request they maintain confidentiality
 - Explain the retaliation protections
 - Ask them to be truthful and complete in their answers
 - Explain that you will create a summary that they will review (if they are able to) and they will be expected to sign after review

Interviewing Strategies

Plan the Interview

- Order of questioning can be important – organize your questions ahead of time
- Start with broad open-ended questions and keep narrowing
- Plan how you will approach sensitive subjects very carefully
- Try not to make assumptions
- Remember to capture the basics:
 - Who
 - What
 - Where
 - When
 - How

Create a distraction-free environment

- Create conditions that feel safe and comfortable.
- Choose a convenient time to meet. Avoid scheduling a Title IX meeting between existing meetings so you do not feel rushed.
- Find a suitable meeting location and make any adjustments to the room.
 - A quiet place to reduce distraction.
 - Cover or minimize obvious distractions like televisions, windows, computers, etc.

Create a distraction-free environment

- Consider where you sit. Sitting directly across the table, interrogation-style, can be perceived as threatening and creates a barrier. If possible, sit next to the person you are speaking with.
- Look at any materials together.
- Consider the impact your body language has on the meeting environment and tone.
- Crossing your arms, frowning, looking down over your glasses, checking e-mail or text messages, and other body language sends the message that you are not interested.

Keep it Simple

- Avoid long and complicated sentences.
- Avoid frequent or rapid switches of topic.
- Keep the meeting short.
- Repeat important points several times.

Use Active Listening

- Ask clarifying questions
- Use empathic statements at appropriate times.
- Repeat what has been said to signal that you understand.
- Make brief, affirming comments throughout a story to let them know that you're hearing them, e.g., *'That sounds really frustrating'* or *'Wow, that must have been really hard'*
 - BUT avoid language that suggests you have made a conclusion, e.g., *'Sure sounds like you were sexually harassed'*

Opened- ended questions

- Use open-ended questions to optimize the ready exchange of information.
- Be mindful of your phrasing, making modifications as needed.
- Be aware when you are receiving limited, brief, yes-or-no responses, and ask questions that require greater responses.
- Use informal prompts (e.g., 'tell me more') to encourage more information, including key facts.

Quantify Broad Statements

- When someone says, "He does that all the time."

Ask, "How often?"

- When someone says, "I've never seen him do that."

Ask, "How long have you known him?"

- When someone says, "He was angry"

Ask, "What does angry look like?"

*Look for **behaviors, not conclusions***

Breakdown Conclusory Statements

When someone says, "She was totally drunk."

Ask:

"What made you think she was drunk?"

"What behaviors did you observe that made you think that?"

"How much did you see her drink?"

When someone says, "I think this happened because he's a boy."

Ask:

"What made you think it was related to his gender?"

"Did anyone ever make comments about his gender?"

Look for objective facts – observations, statements, actions

Interviewing Tips

- Try never to interrupt or suggest an answer.
- Document if a witness shows emotions, like anger or tears, or uses grunts or gestures to respond to a question.
- Remain neutral in your questions and demeanor.
- Use silence to draw out information

Closing Questions: Complainants & Respondents

- Allow them to provide all the information he/she wanted to provide
- Give them an opportunity to provide any documents he/she wanted investigator to consider
- Provide the opportunity to identify witnesses
- Opportunity to ask any questions about the investigation and adjudication process
- Identify specific allegations and obtain confirmation that there are no other issues related to the investigation

Closing Questions for Witnesses

- Is there anything else that you think we should know that we have not discussed?
- We do not want to miss something simply because we did not ask the right question
- Is there anyone else that you think we should interview that we have not discussed?
- Are there any documents, text messages, pictures or any other things that you think might be relevant to what we discussed today?

When Is Enough Enough?

- How many witnesses should you interview?
- What about other witnesses identified by Complainant, Respondent and other witnesses:
 - Probe: what will this person tell me?
 - Decision regarding usefulness of the information is up to you

Remember: Hierarchy of Witnesses

1. Complainant & Respondent
2. Eye-witnesses (individuals who observed the event or events)
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Interviewing Young Children



Considerations for Interviewing Children

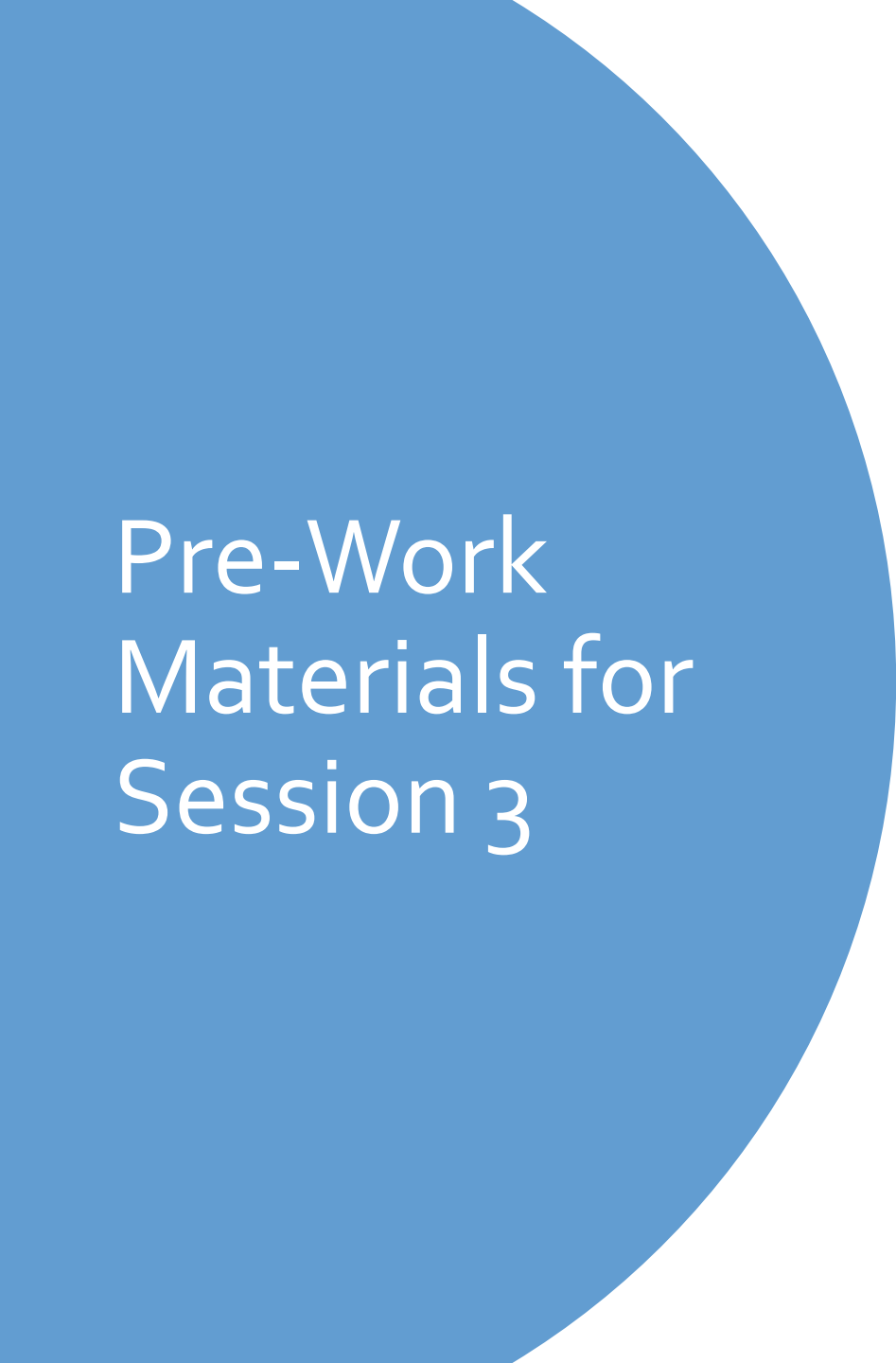
- Use language the child understands
- Be attentive to the child's language, phrasing, terms, and names of important people, places, or things. Use the terms and names they use.
- Use casual conversation at the beginning of an interaction to draw a sample of the child's language so you can mirror it.
- Get the child to discuss a neutral topic to put the child at ease with the situation.
- Err on the side of using language below or at a child's grade level and become more elaborate if you feel the child understands.

Considerations for Interviewing Children

- Have objects available that a child can hold or manipulate during the conversation.
- Avoid assuming children cannot comprehend relevant information. Children usually understand more than adults give them credit for understanding.
- Children, especially those with trauma histories, are adept at reading adults and can see when someone is not being truthful or may be withholding information.
- Young children tend to focus on one aspect at a time in conversation. Simple sentence structure with a subject, a verb, and an object will be most successful. This pattern is recommended until at least age ten.

When Parents or Guardians are Involved

- Always seek parental permission when the child is a complainant or a respondent regardless of their age.
- Witnesses who are over the age of 13 may not need parental permission but it's a good idea to follow up with an email to the parent to let them know the child was interviewed.
- When parents are present, make sure that they understand you need information from the child not the information filtered through the parent.
- If a parent does not want their child to be interviewed, consider getting the information in a written statement.

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Pre-Work Materials for Session 3

Bree Benson Statement

Daniel Dale Statement

Jonah Jones Statement

Marcus Miller Statement

Taylor Tomkins Statement

Email from School Resource Officer (SRO)

Helpful Links

The Title IX Law:

<https://www.justice.gov/crt/title-ix-education-amendments-1972>

US Department of Education Site:

<https://sites.ed.gov/titleix/>

Colorado Department of Education Resources:

https://www.cde.state.co.us/cde_english/titleix

Next
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October 21

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