

INVESTIGATION PROTOCOL CHECKLIST

(This checklist was compiled using information from NACUA, ATIXA, and United Educators)

- ☐ Establish a preliminary timeline for the investigation, using reasonable timeframes. Timelines should include your timetable for: interviewing the complainant, alleged perpetrator, witnesses, compiling statements and other documentation (video, keycard details, etc.), research, drafting a report. *Update the timeline as necessary—remember the 60-day window extends from the receipt of the complaint to the findings and sanctions. Appeals fall outside of the 60-day window.
 - ☐ Any delay in the timeline should be noted in the file and explained, in writing, to the complainant and the accused student.
- ☐ Identify the applicable policies and procedures that apply to the investigation—give notice of these policies to the parties at issue.
- ☐ Identify the scope of your investigation—what is your preliminary timeline of events, according to the original complaint or allegation; What testimony and other evidence is necessary to confirm or rebut the complainant’s story; what is your initial witness list; what is the order in which the interviews will take place.

CONDUCTING INTERVIEWS

- ☐ Begin each interview by explaining the importance of and limitations with maintaining confidentiality and the prohibition on retaliation. Explain and identify who they can talk to about the investigation (you, a counselor, clergy, etc.).
- ☐ Provide a brief explanation of the investigatory process, including time frames.
- ☐ Ask the interviewee to sign an acknowledgement of what he or she was told at the outset, or otherwise document the information provided to the interviewee regarding the investigative process.
- ☐ Ask if there is a reason the interviewee feels the investigator cannot be fair and objective. Document if they say “yes”—and why they said yes. Document if they say “no.”
- ☐ Explain what, if any, information might be shared with others (for example, an instructor might need to know that a complaint has been filed, but not details about the testimony or evidence provided by witnesses).
- ☐ Ask open-ended questions and allow sufficient time for responses.
- ☐ Avoid leading or conclusive questions—don’t guide the oral interview. Allow the complainant to narrate without interruption.
- ☐ Do not victim-blame.
- ☐ Tape the interview if and only if the complainant/witness/accused is comfortable with the taping. Otherwise, take good notes.
- ☐ Permit the complainant and respondent to bring an advisor or support person to the interview—but remember YOU still run the investigation meeting.
- ☐ Choose a neutral, comfortable place for the interview.
- ☐ Review your notes with interviewee to ensure accuracy.
- ☐ Ask “what else” multiple times during the interview in order to collect additional information he or she remembers.

- ☐ Ask if the interviewee has posted anything about this complaint on social media, Facebook, blogs, etc. If so, get copies of everything.
- ☐ Ask if the interviewee has provided a written statement of the events to anyone. If so, get a copy of the statement and to whom it was given.
- ☐ Ask the interviewee if they know anyone who may have a similar complaint or concern (usually asked of the complainant and witnesses).

WRITING THE REPORT

- ☐ Summarize the interviews and other information gathered.
- ☐ Specifically assess the credibility of the accuser, the accused, and any witnesses, including the bases for the investigator's judgments.
- ☐ Your report should contain factual conclusions reached by the investigator, rather than assumptions or speculation.
- ☐ Avoid using legal definitions in your report, unless the policy incorporates legal definitions.
- ☐ Your report should avoid referencing the content of any consultations with legal counsel.
- ☐ Your report should avoid suggesting appropriate discipline or remedy, as this is not the investigator's job.
- ☐ Include witness statements and incorporate those statements into your report and findings.
- ☐ List the evidence and what it shows, including an assessment of credibility.
- ☐ Make a determination as to whether the evidence (facts, opinions, circumstances) establishes a violation of policy is more likely than not to have occurred.
- ☐ Draw a conclusion in your written report:

Conclusions:

 1. The alleged conduct more likely than not happened as it was reported.
 2. The alleged conduct more likely than not did not happen as reported.
 3. Some of the alleged conduct more likely than not occurred and some of the alleged conduct more likely than not did not occur as reported.
 4. The allegations are a fabrication. (Review policy—is there a need to refer the complainant for a code of conduct violation)
- ☐ Cite concretely the reason for this conclusion in a written report.

Information to be reported:

 1. That the investigation is complete.
 2. That there has been a determination—outline the determination.
 3. List the next steps (include a copy of the policy to which you refer in your letter).
- ☐ Refer the complainant and your findings to the Title IX Coordinator for implementation, sanctioning, if warranted.