

Title IX Team

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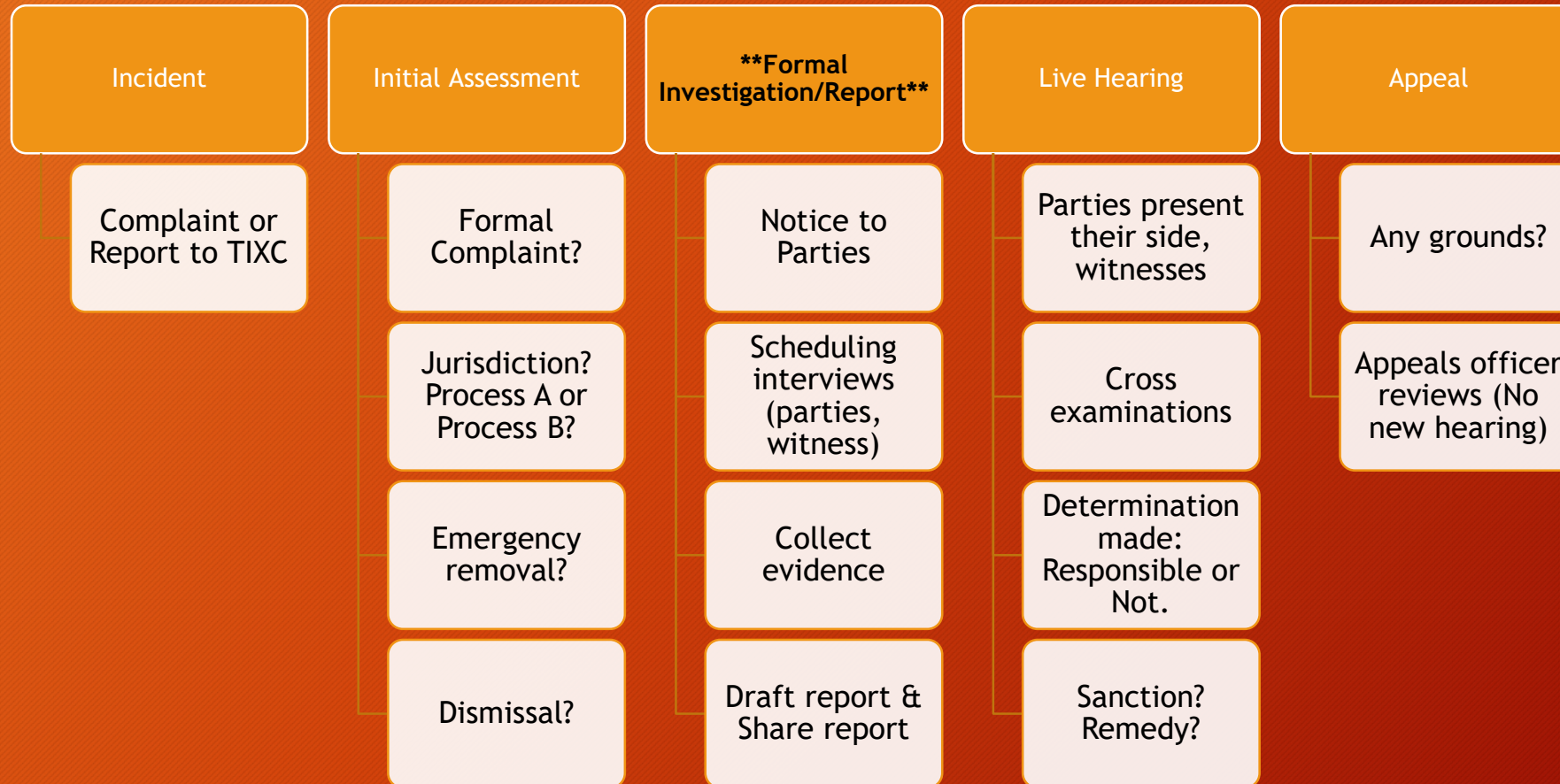
Agenda - Investigation

- Icebreaker: Favorite Holiday Side?
- Title IX Team Updates
- Investigation Basics
- 10 Steps to Investigation
- The Role of Law Enforcement
- Interviewing Witnesses
- Initial Interview Spiel
- Interview Questions
- Practice!

Title IX Team Updates

- Welcome Brad! Deputy of Title IX in Student Life. A primary investigator.
- Last meeting of semester. Restart in Feb through April.
 - Be ready for a case if needed.
- New reporting webpage to launch in Spring.
- New Regulations expected in Spring:
 - More cases because of more flexible definitions
 - Higher expectations for training of a team and institution wide.

The Case Process



10 Steps to an Investigation

1. Receive Complaint
2. Initial Assessment & Jurisdiction Determination (TIXC)
3. Establish basis for Investigation - Incident, pattern, and/or culture/climate (TIXC).
4. Notice of Investigation & Allegations - NOIA (TIXC)
5. Establish investigation strategy (TIXC & Investigators)
6. Formal comprehensive investigation (Investigators)
 1. Witness interviews
 2. Evidence gathering
7. Draft Report
8. Meet with TIXC (and/or legal counsel) to review draft report & evidence.
9. Provide report and all evidence directly related to the allegations to parties and their Advisors for inspection and review with 10 days for response.
10. Complete final report
 1. Synthesize and analyze relevant evidence
 2. Send final report to parties for review and written response at least 10 days prior to hearing.

Role of Law Enforcement

- Legal standard for criminal investigations are different
 - Beyond a Reasonable Doubt
 - Preponderance of Evidence
- One investigation does NOT negate the other. Law enforcement would take precedence before MC.
 - A student could be guilty of one and not the other
- MOU in place with MCPD to share information.
 - How do we stay out of each other's way and not repeat information.
- Collaboration is key.

Remember:

We are not “building a case”, we are just finding facts.

As an investigator, you have no “side” other than the integrity of the process!

The Investigation: Prompt, Thorough, Impartial

- The burden of proof and the burden of gathering evidence is the institution's responsibility, not the parties.
- Title IX regulations require a stated presumption of the Respondent being “not responsible”
- 60-90 days to resolution is a good guide for more complex cases.
 - Timeline starts from notice*, not from incident.
- Approach an Informal Resolution when possible
 - Endorsed & encouraged by OCR
 - Voluntary by both parties
 - Allowed at any point prior to final determination

Investigation Strategy

Common questions to consider: What do we already know and what do we need to find out.

- Who to interview?
- When/In what order?
 - Look for possible collusion/loyalty.
- What information should be covered?
- Evidence to collect? Who to collect it?
- How and when do we notify witnesses?
- Who all needs to be aware of the investigation?

*Always look to solidify the timeline

Witness Interviews

- Each party has a right to present witnesses, evidence.
 - Up to investigator if relevant or not.
- Each party has right to be accompanied by an Advisor of their choice (may be an attorney, parent, or appointed by MC).
- Different types of Witnesses: Direct, Outcry, Indirect, After-the-fact, Character, and Expert.
- Identify and Recognize relationships and loyalties/history.
 - Can impact willingness to share, possible collusion.
 - Important when thinking of order of witnesses and timeline.

Initial Interview Spiel

- *Script provided*
- Important to start interview off informed.
- Cover your role, their role, the next steps in the process.
- Be transparent about what is going to happen next.
- Cover the retaliation policy, rights of those involved.
- Try to build rapport and put them at ease.
- Open lines for questions and for communication.

Cover all necessary information up front to allow for due process and that the party is notified & informed.

Interview Questions/Tips

Look to ID relationships/histories between parties, establish a timeline, and gather more details of the alleged misconduct.

- In emotional situations: Try to be sympathetic but while remaining unbiased and neutral.
 - “I know this is difficult”, “This can be really hard to talk about”, “take your time”
 - NOT: “I’m sorry this happened”, “I believe you”, “We’re going to help you”
- Use open ended questions:
 - “Tell us about..” Who, what, when, where”
- Use closed-end questions to drill down a specific:
 - Did you ask put your arm here? Did you go to this location on this time? Did you text them this?
- Welcome the Silence!

Case Study: Darcy & Jake

- Please read the case study
 - Role play demonstration: Natasha & Ty - investigators, Nicole - Darcy.
1. What information do we want to find out?
 - Establish a timeline
 - Witnesses to interview
 - More details, clear discrepancies.
 2. Read the script upon start of interview.
 3. Ask questions (2-3 minutes)
 4. Group Discussion.

Case Study: Darcy & Jake

Now it's your turn! In groups of 3, 2 will be an investigator, 1 will be the Respondent (Jake).

- Investigators - discuss who will say the spiel, what questions you want to ask.
- Respondents - Read the notes given and think about how you want to play that role. If there are any lulls, please share from Jake's script.
- I will tell you when to start: Give the spiel, begin to ask questions (2-3 minutes)
- Group Discussion

Give Text Message Evidence:

- Group Discussion

Final Take-aways

- Role-Play Exercise:
 - Talking/Discussing vs. Experience
 - Start to have you thinking in an investigative mindset.
- Investigations can be going one direction and take an 180.
- Constantly be aware of trying to be unbiased and equitable throughout the process.

See you next semester! ..Hopefully 😊

Reference

Dunn, Timothy, J.D.; Hambleton, Mandy, M.S.; Morris, Leslee, J.D.; Pacelli, Kim, J.D.; Sokolow, Brett A., J.D.; Vincent, Joseph, M.L.S.; ATIXA Civil Rights Investigator Level One: Foundations; 2023 Association of Title IX Administrators.