



Association of  
Title IX Administrators

# K-12 Investigation Report Overview

Idaho State Department of Education

February 14, 2023



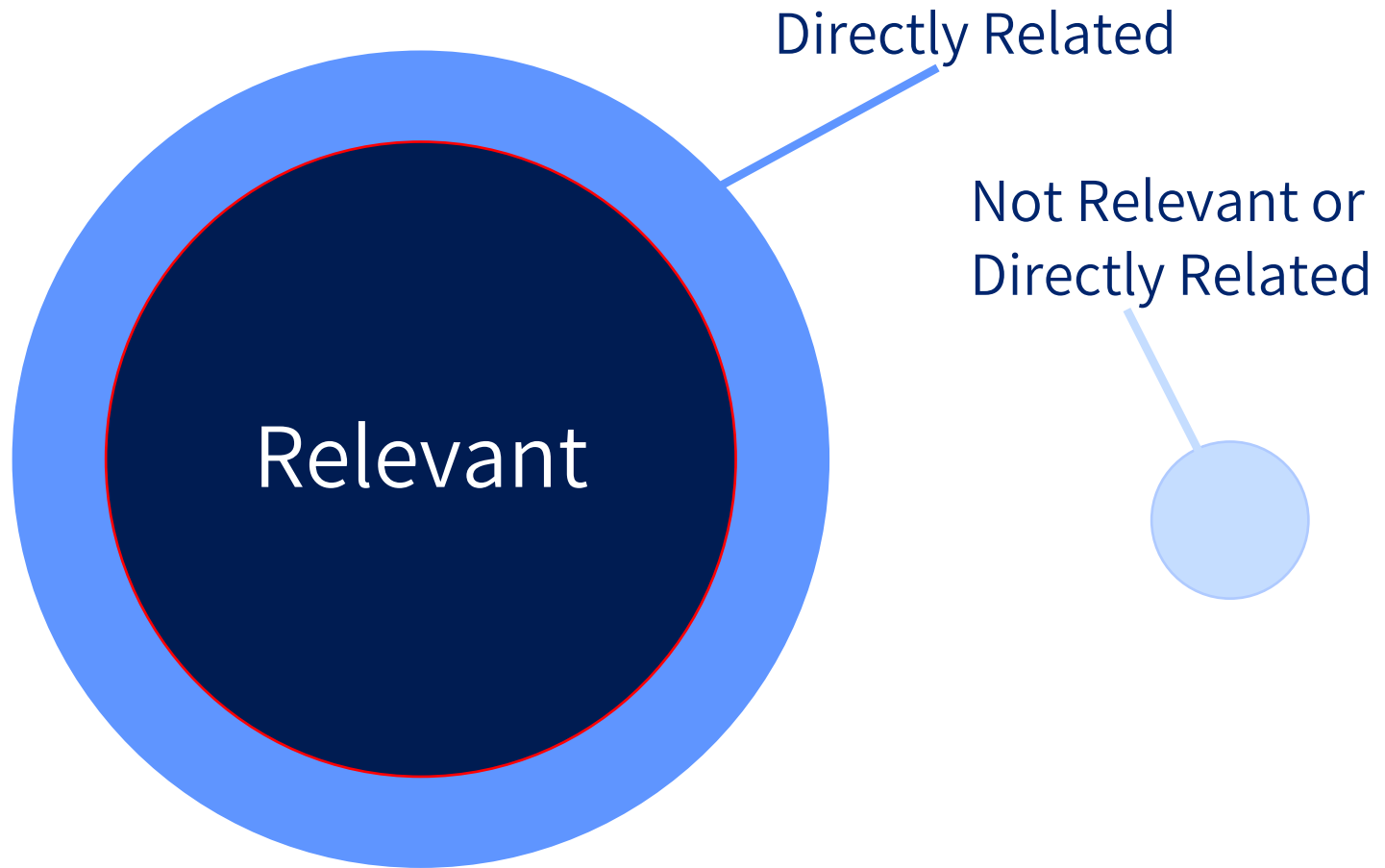
# PURPOSE OF THE INVESTIGATION REPORT

- Title IX Regulations Requirements
- Relevant and Directly Related Evidence
- Separating Evidence

# TITLE IX REGULATION REQUIREMENTS

- Federal regulations require an investigation report that fairly summarizes relevant evidence (34 C.F.R. § 106.45(b)(5)(vii))
  - While the regulations use the term “summary,” the preamble specifies the report will summarize **all** relevant evidence, meaning the report is comprehensive, not skeletal
- Any individual designated as an Investigator may not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent (34 C.F.R. § 106.45(b)(1)(iii))
- A recipient also must ensure that Investigators receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence (34 C.F.R. § 106.45(b)(1)(iii))

# UNDERSTANDING EVIDENCE



# RELEVANT AND DIRECTLY RELATED EVIDENCE

- Evidence is generally considered relevant if it has value in proving or disproving a fact at issue
- While directly related evidence (DRE) is not defined by the regulations, it may be helpful to think of DRE as evidence connected to the complaint, but which is not inculpatory or exculpatory, and/or which is explicitly excluded by the regulations

# SEPARATING EVIDENCE

- Investigation Report = only relevant evidence
- Evidence File = all relevant evidence and DRE
- The report is the narrower document, and the evidence file is a broader file



# INVESTIGATION REPORT SECTIONS

- Complaint Information
- Introduction
- Relevant Background
- Jurisdiction & Scope of the Investigation
- Applicable Policies & Relevant Definitions
- Investigation Timeline
- Reported Incident(s) Timeline(s)
- Summary of Relevant Statements & Evidence

# COMPLAINT INFORMATION

- Complaint date
- Complainant's name and recipient ID
- Initial notice date
- Initial notice received from
- Respondent name and recipient ID
- Date assigned to Investigator(s)
- Assigned Investigator(s)
- NOIA date
- Final investigation report date



# COMPLAINT INFORMATION EXAMPLE

## **[RECIPIENT] INVESTIGATION REPORT**

**CONFIDENTIAL**

**Complaint Date:** [Date]

**Complainant:** [Complainant's Full Name] ([RecipientID])

**Initial Notice Date:** [Date]  
(if different)

**Initial Notice Received From:** [Third Party's Full Name] ([RecipientID])  
(if different)

**Respondent:** [Respondent's Full Name] ([RecipientID])

**Date Assigned:** [Date]

**Investigator(s):** [Investigator(s)' Full Name(s) and Titles]

**Investigation Report Date:** [Date]

# INTRODUCTION

- Summarize when and how the report/formal complaint was made and received
- Summarize the allegations, including applicable policy violation(s)
- Request for a formal investigation or TIX Coordinator's decision to sign a formal complaint
- Who investigated the complaint and in accordance with which law(s) and/or policies was the investigation conducted

# INTRODUCTION EXAMPLE

## INTRODUCTION

On Tuesday, October 6, 2020 the Deputy Title IX Coordinator met with the Complainant and her father. The Complainant reported that on Friday, October 2, 2020 the Respondent forced the Complainant to perform oral sex on him in the boys' locker room. The Complainant requested to file a Formal Complaint and completed the complaint form during the meeting.

As a result of this allegation and additional evidence presented at the time of intake, the Deputy Title IX Coordinator asked the Title IX Investigator to conduct a thorough and impartial investigation using the provisions outlined in the District's Nondiscrimination and Sexual Misconduct Policy and in accordance with Title IX, following guidelines from the U.S. Department of Education's Office for Civil Rights.

# RELEVANT BACKGROUND

- Include additional background information as necessary to understand relationship history, context, etc.
- Any concurrent external investigation(s), if applicable (e.g., law enforcement, child protective services, etc.)

# JURISDICTION

- Provide a statement of jurisdiction including:
  - Incident date, time, and location
  - Individuals involved
  - Relevant policies and procedures related to jurisdiction
    - Information and analysis for subject matter jurisdiction
    - School/District control of the context of the alleged misconduct
    - Indicate whether Title IX requires the school/district to investigate, or whether jurisdiction is discretionary and Title IX does not apply

# JURISDICTION EXAMPLE

According to available information, the Respondent is currently a full-time teacher at Brookside High School, and the Complainant is currently a sophomore student at the same school. Both parties maintained the same school affiliations at the time of the reported incident.

The reported incident occurred in the photography lab at Brookside High School in Mukiteo, Washington, United States. If true, the reported incident would constitute sexual assault under District policy and Title IX.

The District controls the location of the reported incident. The Respondent is an employee, and the Complainant is participating in the District's educational program as a student; therefore, the District has jurisdiction over this complaint pursuant to District Policy 2.2.

# SCOPE OF THE INVESTIGATION

- **Scope:** the purpose of and parameters around the investigation
  - Allegations it will explore
  - Timeframe being considered
  - Who will be involved
  - Outcome
- The Title IX Coordinator or designee will determine the scope of the investigation
- Most investigations will originate from a formal complaint, but the content of the complaint is not the sole determiner of the scope of the investigation

# SCOPE OF THE INVESTIGATION (CONT.)

- List the parties and relevant witnesses, while providing basic context for who the witness is in relation to the school/district and the parties.
- Include when each individual was interviewed and by whom
  - If there were witnesses or parties who were contacted and were either nonresponsive or declined to participate, include that information as well



# SCOPE OF THE INVESTIGATION EXAMPLE

The Office of Institutional Equity, which oversees Title IX compliance, commenced an investigation to determine:

1. If the Respondent engaged in behavior which constitutes sexual assault under District policy in a school facility on October 2, 2020
2. If the Respondent engaged in behavior which constitutes sexual exploitation under District policy in a school facility on October 2, 2020

Investigator(s) Felicia Morris conducted an investigation in accordance with guidelines and requirements set forth by the U.S. Department of Education Office for Civil Rights for Title IX investigations and District policy. Her efforts were overseen by Melanie Wallace, Title IX Coordinator. Witnesses interviewed include current students.

# SCOPE OF THE INVESTIGATION EXAMPLE (CONT.)

This investigation was designed to collect all available information to allow a decision-maker to determine whether District policy was violated.

The following individuals were interviewed for this investigation:

- Complainant, current student
- Respondent, current student
- Witness 1, current student, Complainant's best friend
- Witness 2, current student, teammate of Respondent

**CONSIDER:**  
**Does including demographic information potentially bias the  
Decision-maker(s)?**

# APPLICABLE POLICIES AND RELEVANT DEFINITIONS

- Include the full text of ALL applicable policy sections
  - Alleged violation(s)
  - Relevant definitions (e.g., consent)
  - Standard of Evidence
- This section should be consistent with the Notice of Investigation and Allegations (NOIA), including any amendments thereto

# INVESTIGATION TIMELINE

- The Decision-maker or TIXC will need to include “a description of the procedural steps taken from the receipt of the formal complaint through the determination” in the written outcome letter provided to the parties following a determination; this information is usually drawn from this section of the investigation report
  - Notifications to the parties
  - Interviews with parties and witnesses
  - Site visits
  - Methods used to gather other evidence
  - Meetings held
- Note any process delays, including rationale

# INVESTIGATION TIMELINE EXCERPT EXAMPLE

Date	Action
10/26/19	<ul style="list-style-type: none"><li>Complainant notified [NAME] of allegations.</li></ul>
10/27/19	<ul style="list-style-type: none"><li>No contact order put in place between parties.</li></ul>
11/01/19	<ul style="list-style-type: none"><li>Meeting between Complainant and Title IX Coordinator</li><li>Formal complaint submitted by Complainant</li><li>Assigned to Investigators</li></ul>
11/03/19	<ul style="list-style-type: none"><li>Law enforcement requests delay to allow for criminal evidence gathering</li></ul>
11/15/19	<ul style="list-style-type: none"><li>Parties sent Notice of Investigation and Allegation</li><li>Emailed interview requests to parties and witnesses</li></ul>
11/21/19	<ul style="list-style-type: none"><li>Investigators interview Complainant</li></ul>
12/2/19	<ul style="list-style-type: none"><li>Investigators interview Respondent</li></ul>
12/3/19	<ul style="list-style-type: none"><li>Investigators interview W1, W2, and W3</li></ul>

# REPORTED INCIDENT(S) TIMELINE(S)

- Timelines are a visual representation or list that shows events in chronological order
- Investigators should develop one timeline for the reported incident(s) based on all information collected during interviews and submitted as evidence
- Reference evidence which substantiates with the timeline (e.g., timestamped text messages, receipts, call logs)
- Timelines are especially helpful in cases where incapacitation may be involved

# REPORTED INCIDENT(S) TIMELINE EXAMPLE

<b>Date/Time</b>	<b>Event</b>
<b>9/18/19 ~ 9:50 pm</b>	Complainant goes to [name] house (Address) before [event].
<b>9/18/19 ~ 10:45 pm</b>	Complainant and [names] walk to [location].
<b>9/18/19 ~ 11:00 pm</b>	Complainant and [names] others arrive at [location, plus brief description of activity].
<b>9/18/19 ~ 11:30 pm</b>	Complainant vomited [where].
<b>9/18/19 ~ 12:15 am</b>	Complainant starts [specific activity] with Respondent. They [engage in activity] for approximately [time frame]. [Add brief details re: drug/alcohol consumption, potential witnesses, etc.]
<b>9/18/19 ~ 1:30 am</b>	Parties agree to leave and go back to [location].

# SUMMARY OF RELEVANT STATEMENTS & EVIDENCE

- The content of the investigation may dictate the most logical organization structure for this section
  - Chronological by interview
  - Chronological by incident timeline
  - Parties first, then witnesses
- Should not be a full cut and paste of entire interview transcripts/notes
- For evidence, note the relevant information that was obtained from each piece of evidence gathered



# CREDIBILITY ASSESSMENT

- Specific and detailed analysis of credibility of:
  - Each party
  - Each witness
  - Any other relevant evidence
- Point to specific details that you have considered that have aided in your assessments
- May or may not include conclusions about credibility, depending on school/district policy
  - ATIXA does not recommend making conclusions

# CREDIBILITY ASSESSMENT EXAMPLE 1

## RESPONDENT

Respondent stated that Complainant initiated contact with Respondent and continued to pursue conversation of a non-academic nature after Respondent asked Complainant to only communicate with Respondent regarding academic topics. Respondent provided excerpts from the text message and social media conversations but declined to provide complete copies for the investigation.

Respondent denies engaging in any physical contact with the Complainant in the photography lab. The Complainant reported that the Respondent fondled her breasts by standing behind her and reaching around her and placing Respondent's hands on her breasts. No additional evidence was available to corroborate or refute this allegation.

# CREDIBILITY ASSESSMENT EXAMPLE 2

- Mark's testimony about X contrasts with Mariana's testimony about X, and the accounts of Witness 1 and Witness 7 aligned with Mariana's testimony, not Mark's, during the investigation.
- The decision-maker may benefit from looking carefully at Mark's assertions about having received consent and explore this more deeply with the parties and witnesses during the hearing.

# CREDIBILITY ASSESSMENT EXAMPLE 3

Complainant stated that the Respondent began communicating with the Complainant via text message and social media in September 2020. After a few weeks, Complainant informed Witness 1 about the communication, including sharing screenshots of conversations between the Complainant and Respondent with Witness 1. Witness 1's statements are consistent with Complainant's, and screenshots provided by Complainant are consistent with both individuals' statements.

# DISCUSSION & SYNTHESIS

- Discuss and synthesize the relevant information
  - Consider the elements of each policy at issue
  - Refer back to relevant evidence cited
  - Refer to the credibility assessment(s)
- Summarize all areas of contested and uncontested facts/evidence
- School/District procedure may allow the Investigator(s) to conduct analysis and make recommended findings or may limit the Investigator(s) to synthesis
- ATIXA does not recommend making recommendations for findings or final determination

# DISCUSSION AND SYNTHESIS EXAMPLE

The parties agree on the order of events on the date of the reported incident including sitting next to each other on the bus, the Respondent asking the Complainant for a blanket, the Respondent placing the blanket over the top of both parties, and the Respondent touching the Complainant's breasts under her shirt without consent.

The parties disagree about the following:

- Whether the Respondent digitally penetrated the Complainant
- Whether the Respondent forced the Complainant to touch his genitals

# DISCUSSION AND SYNTHESIS EXAMPLE (CONT.)

During her interview, the Complainant reported that she was wearing a skirt at the time of the alleged incidents and the Respondent moved her underwear to the side in order to digitally penetrate her vagina despite the Complainant pushing his hand away and attempting to cross her legs while sitting in the bus seat. The Respondent denies these allegations. Witness 2 recalls observing the Complainant attempting to turn away from the Respondent in the bus seat and do what appeared to be pulling her legs up closer to her chest.

# DISCUSSION AND SYNTHESIS EXAMPLE (CONT.)

The Complainant also reported that the Respondent grabbed her hand and placed it on his genitals without her consent. She stated that she pulled her hand away and said, “stop,” after the first time it happened, and the Respondent then grabbed her hand more firmly and placed her hand on his genitals again. The Respondent denies these allegations. No evidence was provided or available to corroborate or refute this allegation.



# RECOMMENDED FINDINGS

- This section is only applicable if permitted by school/district policy
- Did the conduct occur as alleged?
  - List recommended findings by the standard of evidence for each alleged policy violation
- Include a statement that the recommended findings are not binding on the Decision-maker(s)

# RECOMMENDED FINAL DETERMINATION

- This section is only applicable if permitted by school/district policy
- Did the conduct violate policy?
  - List recommended final determination by the standard of evidence for each alleged policy violation
- Include a statement that the recommended determination is not binding on the Decision-maker(s)

# CONCLUSION

- Guide for the Decision-maker(s) determination
- Akin to jury instructions

# CONCLUSION EXAMPLE PART 1

Complainant's allegations describe misconduct that implicates the District's prohibition of sexual harassment as well as several provisions of prohibited conduct outlined in the District's Student Conduct Code. Some provisions of the policies, like the prohibition of sexual harassment, require a threshold determination regarding the severity and pervasiveness of the alleged behavior in order to support a determination of a policy violation. Other provisions, such as the prohibition against providing alcohol to minors, may be determined by the decision-maker to be satisfied by a single occurrence.

# CONCLUSION EXAMPLE PART 2

Analysis of the allegations for the purpose of determining whether a preponderance of the evidence supports a determination that one or more of the District's policies were violated should proceed by first determining whether each allegation is supported by a preponderance of the evidence.

Allegations are presented separately and relevant evidence supporting and refuting each allegation is outlined within each respective section of the report. Because most, if not all, of the allegations are supported and refuted solely by the testimony of the parties and witnesses, the decision-maker should carefully evaluate the credibility of the information offered as well as the credibility of the individual providing the information.

# CONCLUSION EXAMPLE PART 3

This report is intended to provide an exhaustive summary of the relevant evidence related to the allegations made by the Complainant. It is not intended to draw any conclusions regarding the accuracy of the allegations or the credibility of the parties and witnesses. The investigators submit this report for consideration by a decision-maker appointed by the District and remain available to answer any questions regarding the investigation or information contained in this report.

# EVIDENCE FILE/APPENDICES

- Include all applicable evidence and documentation
  - Formal complaint
  - Verified full transcript or complete notes from each interview
  - Any written statements, photos, screenshots, etc.
  - Always include a copy of the full policies in place at the time of the incident(s) and investigation

# EVIDENCE FILE/APPENDICES EXAMPLE

- A. Formal Complaint Submitted [Date]
- B. Verified Transcript of Complainant's Interview on [Date]
- C. Verified Transcript of Respondent's Interview on [Date]
- D. Questions Submitted by Complainant
- E. Questions Submitted by Respondent
- F. Complainant's Response to Draft Investigation Report
- G. Respondent's Response to Draft Investigation Report
- H. Applicable School/District Policy (provided by link)

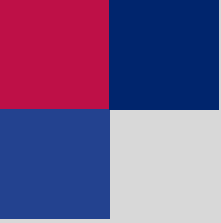


# SECTION/APPENDIX COVER PAGE EXAMPLE

## APPENDIX A

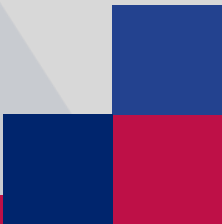
**Description:** Formal Complaint Submitted by Complainant  
**Date Received:** 11/1/2019  
**Submitted By:** [Complainant's Full Name]  
**Received By:** TIXC's Full Name, Title  
**[Authenticated By]:** [Full Name, Title, and Means]

[Additional context or explanatory information]



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# Questions?





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