

Tips For Title IX Investigators

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As institutions are already immersed in responding to complaints of student-on-student sexual violence this fall, the following are five (5) tips for Title IX investigators:

1. Develop an investigation plan. Determine the scope and subject matter of the investigations and create an initial timeline. Identify and determine witnesses and order of interviews to be conducted. Identify evidence that may be available and go after it.
2. Avoid misconceptions about how a victim should behave. Consider reasons for delayed reporting. Understand and avoid biases about today's "hook up" culture.
3. Establish a rapport with witnesses. Allow complainant, accused, and witnesses to give a narrative about the events, then go back and ask clarifying questions. Raise tough questions later in the interview so witnesses do not shut down.
4. Assess the impact of alcohol and drugs on the accuser, asking detailed questions to determine impact of consumption on ability to consent. For other witnesses, determine whether the use of alcohol and drugs impacted their ability to observe events.
5. Write thorough yet concise reports with strong analysis. Summarize interviews and evidence considered, and note similarities and differences between accounts given by the accuser and the accused.

CLIENT TIP: *The U.S. Department of Education's Office for Civil Rights ("OCR")—tasked with enforcement of Title IX—has stated that all individuals involved in implementing a school's grievance procedures (e.g., Title IX coordinators, others who receive complaints, investigators, and adjudicators) must have training or experience in conducting investigations, including working with and interviewing persons subjected to sexual violence; consent and the role drugs or alcohol can play in the ability to consent; and how to determine credibility. Providing tips and ongoing training to investigators will help schools comply with their training obligations under Title IX.*

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