



North Greenville University
**Title IX Investigator
Training**

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Title IX

- “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving Federal financial assistance.”
- 20 U.S.C 1681



Defining Sexual Misconduct

- Sexual Harassment
- Sexual Assault

Sexual Harassment

- Unwelcome conduct of a sexual nature or based on sex
- Quid pro quo
 - Individual in position of authority
 - Conditions a benefit
 - Sexual advance, favors, or other conduct of a sexual nature
- Hostile Environment
 - [Student] Sufficiently serious that it denies or limits a student's ability to participate in or benefit from an educational program or activity.
 - [Employee] Severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.

Sexual Assault

Includes:

- Rape
- Fondling
- Domestic Violence
- Dating Violence
- Stalking

The Investigation Process at NGU

- Complaint is received.
- Complaint is vetted to determine if it rises to a Title IX issue.
- Interim measures instituted, if needed.
- Investigator is assigned.
- Respondent is served a Statement of Allegations.
- Investigator interviews complainant and respondent (after 10 days).
- Investigator interviews witnesses and collects evidence.
- Investigator re-interviews complainant and respondent to give both parties a chance to respond to the statements of the other.
- Investigator writes a narrative, Preliminary Findings, for the Adjudication Panel
- Preliminary Findings are presented to both parties, prior to the Adjudication Panel, and parties have 5 days to respond, if desired.
- Responses to the Preliminary Findings are incorporated into the final report, which is sent to both parties and Adjudication Panel.

Before the Investigation Begins

The “in-take” process will handle the following:

- Protect the complainant.
- Notify complainant of his/her rights, including available interim measures and services.
- Notify complainant of right to report to law enforcement.
- Follow up with written notification of rights.
- Notify campus security, if necessary.
- Notify respondent of complaint.

Things to be aware of:

- Our investigation takes place either concurrently (but separate from) or in lieu of a criminal investigation.
- If you’re not told, then ask if the subject of the complaint is harassment or assault.
- Confirm that the respondent has been notified before you set up an appointment.
- We can NEVER discourage the complainant from filing a police report.
- Ask about interim measures that are in place.

Characteristics of a Good Investigation

- Prompt
 - There are no fixed time frames, but delays must be justified
- Impartial
 - Conflicts and appearances of conflicts are disclosed and managed
 - Inform parties and witnesses that retaliation is prohibited
- Thorough, Adequate, Reliable, Fair
 - Interview both parties
 - Equal opportunity for parties to identify/present witnesses, evidence
 - Right to an advisor, both parties
 - Written notice of outcome of complaint.



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An equitable investigation ... requires a trained investigator to analyze and document the available evidence to support reliable decisions

- objectively evaluate the credibility of parties //
- and witnesses
- synthesize all available evidence ...
- and to take into account the unique and complex circumstances of each case.

Role of the Investigator

- The role of the Investigator is to discover and present the facts of the complaint.
- The Investigator must remain completely impartial.
- The Investigator is on a fact-finding mission, not judge or jury.
- The Investigator must give an account of the incident(s) that is clear, cohesive, and sufficiently detailed that the Adjudication Panel can understand what happened and make the necessary judgment call.

Working with the Complainant

- Slow down
- Make him/her feel comfortable
- Consider timing and locations
- Allow sufficient time for thorough exploration of the issues
- Explain the process
- Remind of the ability to ask questions and present information during the entire process
- Recognize the impact of trauma on memory
- Allow him/her to give a narrative (written if that is more comfortable)
- Use “account” or “experience” rather than “story”
- Allow advisor/support person to be present
- Be transparent about how information will be used

Working with the Complainant

- Set boundaries
- Make your fact-finding objective clear up front
- Not counseling; point to resources on campus
- You cannot say, “I’m sorry this happened to you.”
- Have a prepared response when he/she asks what actions are going/likely to be taken against the respondent.
 - Consider the following: “ My role is to gather information. At this point, I’m still gathering facts and not making any decisions. That will be taken up by the Adjudication Panel.”

Working with the Respondent

- Recognize the stress involved with being accused of sexual misconduct
 - He/she may be defensive
 - He/she may be nervous or uncomfortable
- Explain fair and equitable process
- Use impartial language
- Afford the same opportunity to provide narrative of experience, to provide physical or other evidence
- Remind of ability to ask questions and present information during the entire process
- Ensure the respondent is fully aware of the process and prohibition against retaliation
- Be transparent about how information will be used
- Allow advisor/support person to be present

Stages of Investigation

- Review complaint and outline investigation
- Interview witnesses and gather other evidence
- Review/revise/re-interview
- Write up Statement of Findings/Preliminary Report
- Consider responses of parties to Statement of Findings
- Write up Final Statement of Findings

Outline the Investigation

I. Interview the complainant, using “Story Board” if possible

- a) Ask for list of witnesses
- b) Ask for evidence, if applicable

II. Interview the respondent, using “Story Board” if possible

- a) Ask for list of witnesses
- b) Ask for evidence, if applicable

III. Interview all witnesses

- a) Provided by Complainant
- b) Provided by Respondent
- c) Persons of Interest

IV. Re-Interview as needed to fill gaps

V. Final Interview with both parties to tell them what the other said and get their responses

Using a Story Board

- Think of the interviewing process as gathering information to write a story.
- Every story should have a beginning, middle and end.
- The initial interview should primarily be to get both party's statement about the incident(s).
- Subsequent interviews should provide backstory and context.

The “chapters” of your story should include:

- History/Background
- Leading up to the Incident(s)
- Immediately prior to the incident(s)
- Accounts of the incident(s)
- Immediately after the incident(s)
- Subsequent events and/or notes

History/Background

- When did the parties meet?
- How and where did they meet?
- Did they have a relationship? What type?
- Who knew about their meeting/relationship?

Leading Up to the Incident(s)

- What did he/she do that day?
- Did he/she talk to the other party? When? Where? About?
- Where did he/she/they go? With whom? For how long?
- How did you get there? What time did you leave?
- Was there alcohol involved?

Notes on Alcohol

- NGU has an amnesty policy for complainants and witnesses in furtherance of the truth. This may not apply to the respondent.
- When alcohol was involved, use the following scale, even if law enforcement can provide blood-alcohol levels:
 - On a scale of 1 to 10 with 1 being completely sober and 10 being passed out drunk, rate yourself (and/or the other party) at this particular point.
- You should administer the scale at every point and at every time alcohol was consumed. Examples:
 - At the party/bar/house
 - At the time you left the party/bar/house
 - At the time you arrived at your dorm/house/location
- If both parties were consuming alcohol, ask both to rate themselves and each other at every point as above.

Immediately Prior to the Incident(s)

- Where were you?
- What time was it?
- How did you get there?
- Who else was there?
- Were you impaired in any way?
- Was any clothing removed? When? By whom?
- What was said? By whom?

The Incident

- Inform the party that you are going to ask hard questions that might be awkward and embarrassing.
- Ask for a description of the incident, in detail.
- Where were you? What time was it?
- Where were you touched or how did you touch?
- Was there kissing? Fondling? Violence?
- Who said what?
- What did you do?
- Make sure that you ask “the important question” (next slides).
- Avoid leading the interviewee; ask “and then what” or “what happened next”
- If this is the “final” interview, tell each person what the other party said about the incident and record his/her responses.
- If this is the “final” interview, ask about any discrepancies that may have been uncovered in the course of the investigation.

The Important Question to Ask: Sexual Assault

Ask the Complainant:

- By what words or actions did you convey or communicate to the respondent a lack of consent for [said actions]?

Ask the Respondent:

- By what words or actions did the complainant convey or communicate consent for [said actions]?

The Important Question to Ask: Sexual Harassment

Ask the Complainant:

- In what way have the actions of the respondent made it difficult for you to focus on/participate in your studies/work?

• Ask the Respondent:

- Can you explain why you think your words or actions would *not* have made it difficult for the complainant to focus on/participate in his/her studies/work?

Immediately After the Incident(s)

- What did you do? How did you react?
- Who did you talk to?
- Where did you go? How did you get there? What time was it?
- Did you preserve any evidence? This includes texts, emails, social media posts.
- Have you spoken to him/her since?

Subsequent Events

- Note any actions and communications that have taken place since the incident.
- Remind both parties and any witnesses that talking about the incident with other people may be interpreted as retaliation by one of the two parties.
- Note any unresolved issues or areas of concern.

Conducting the Investigation

- Stay organized.
- Keep details of who you interviewed and when. Consider recording interviews.
- Type up your notes at your earliest convenience.
- Keep a file of all documents and notes.
- Think about how you will summarize the facts in your report to help assess whether you've gathered all the information/evidence you need.
- Draft as you go. Set up your chapters and fill in the information.

Writing the Report

- Remember that you're telling the story, as dispassionately as possible, to a panel of people who have not interviewed all persons of interest.
- Keep it chronological, as much as possible.
- Acknowledge that much of the report will be "he said-she said," but remain objective.

Keeping a File

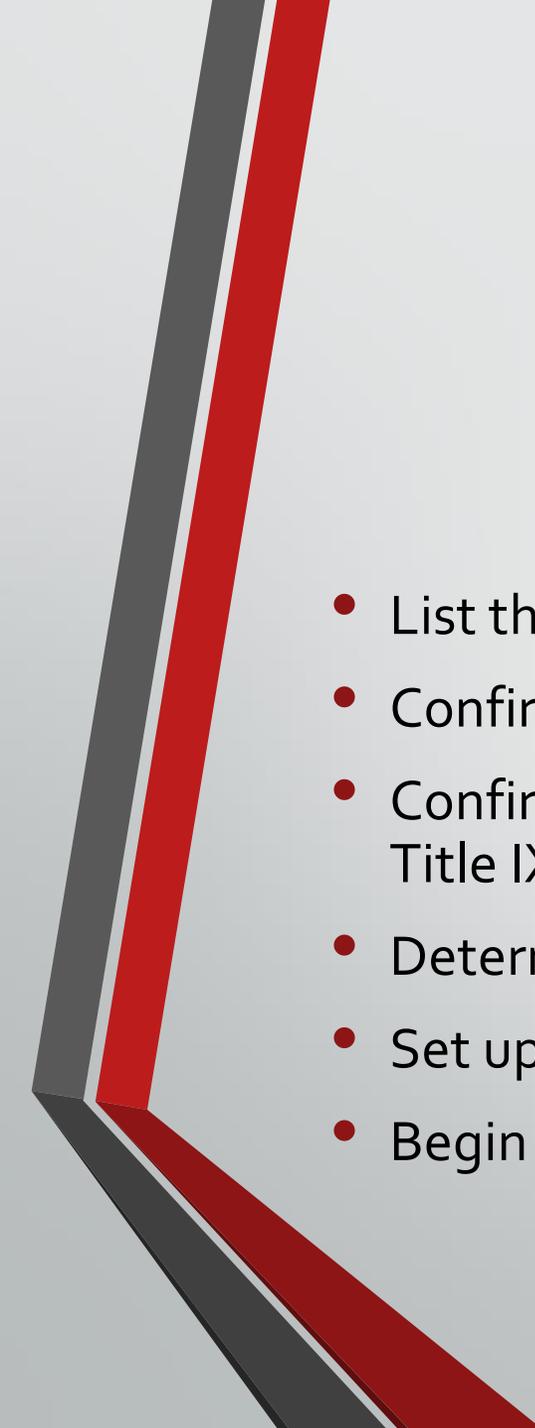
- Keep a list with names, dates and locations of everyone interviewed, including phone calls.
- Include all evidence, even if it is not used.
- If one party supplies names of witnesses that were not interviewed, provide a note about why they were not included.
- Include copies of the initial complaint and statement of allegations.
- Hand-written notes are okay occasionally, but should not constitute the bulk of your interview notes.
- Always note the time, date and place of the interview on the interview notes.

Keeping a Timeline

- You MUST keep a detailed log of your activity during the course of the investigation.
- You must note when any correspondence with either parties occurs.
- You must note when any interviews occur.
- You must keep parties apprised of the status of the investigation and this should also be logged.
- If there is a delay, the reason and duration for the delay must be documented and communicated to both parties.

The Investigative Plan

- An investigative plan is critical to ensure that you:
 - Have a clear course of action
 - Stay organized throughout the investigation
 - Insure that you capture all relevant aspects of the case
 - Demonstrate fairness and equality to both parties



The Investigative Plan: Phase 1 – The Preliminaries

- List the allegations that will be investigated.
- Confirm that respondent has received notice of allegations.
- Confirm that both complainant and respondent have received copies of the NGU Title IX policy and have been notified of available resources.
- Determine if there are any interim measures in play or if legal charges are pending.
- Set up interview with Complainant.
- Begin timeline.

The Investigative Plan: Phase 2 – The Complainant

- Set up initial interview with complainant.
- Gather and review available evidence.
- Begin to create chronology of events.
- Identify sources of evidence.
 - Physical evidence (e.g., text messages, emails, surveillance video, evidentiary examination, student/personnel files, etc.).
- Ask about denial of consent.
- Ask about alcohol.
- Determine which witnesses should be interviewed and in what order.
- Discuss non-retaliation and confidentiality.
- Request to contact if further information.
- Prepare a summary immediately following interview.
- Note all meetings and interviews on timeline.
- Update both parties weekly regarding status of investigation.

The Investigative Plan: Phase 3 – The Respondent

- Determine if the respondent has been the subject of other complaints.
- Verify that 10 days have passed since respondent received Notice of Allegations.
- Set up initial interview with respondent.
- Gather and review available evidence.
 - Physical evidence (e.g., text messages, emails, surveillance video, evidentiary examination, student/personnel files, etc.).
- Continue to work on chronology of events.
- Identify sources of evidence.
- Ask about consent.
- Ask about alcohol.
- Determine which witnesses should be interviewed and in what order.
- Discuss non-retaliation and confidentiality.
- Request to contact if further information.
- Prepare a summary immediately following interview.
- Note all meetings and interviews on timeline.
- Update both parties weekly regarding status of investigation.

The Investigative Plan: Phase 4 – The Witnesses

- Determine what information you need to substantiate the accounts by both parties.
- Identify and strategize order for witnesses.
- Identify topics for interviews.
- Familiarize yourself with the setting(s) of the events.
- Familiarize yourself with the witnesses as best you can.
- Notify parties of meetings/interviews with the other party and all witnesses.
- Attempt to establish chronology of events.
- Ask witnesses to forward evidence/information immediately.
- “Is there anything else?”
- Discuss non-retaliation and confidentiality.
- Request to contact if further information.
- Prepare a summary immediately following interview.
- Note all meetings and interviews on timeline.
- Update both parties weekly regarding status of investigation.

The Investigative Plan: Phase 5 – Review, Revise, Re-interview

- Note all factual discrepancies.
- Assess additional investigation needs.
- Determine whether additional witnesses should be interviewed.
- Determine whether follow-ups with any previous witnesses are necessary.
- Re-interview complainant regarding respondent comments and interview findings.
 - Solicit feedback to potentially include in preliminary report.
- Re-interview respondent regarding complainant comments and interview findings.
 - Solicit feedback to potentially include in preliminary report.
- Update both parties weekly regarding status of investigation.

The Investigative Plan: Phase 6 – The Preliminary Report

- Prepare a narrative of the chronology of the events leading up to the incident, the incident and the aftermath. Include all relevant witness statements, including those that corroborate or fail to support statements by either party.
- Summarize evidence and facts gathered.
- Make a determination of credibility.
- Note any discrepancies.
- Include any additional thoughts or impressions relevant to the outcome of the investigation.
- Evaluate the report on the basis of its thoroughness: will someone who knows nothing about this case be able to understand, assess and make a determination of “more than likely” based on your written report.
- Submit report to chief investigator or Title IX coordinator for review.
- Update both parties weekly regarding status of investigation.

A Couple of Other Points

- Any advisor that is present for an interview may only participate in the interview for points of clarity. He/she may not answer for the interviewee.
- Any student or employee at NGU who is a named witness is compelled to speak with Title IX investigators. If you run into problems with this, report it.
- Our investigations are completely separate from those by Campus Security or law enforcement, however we can (and they should) share information.



Case Study