



PART II
**THE NUTS & BOLTS OF
CONDUCTING AN
INVESTIGATION**

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THE IMPORTANCE OF INVESTIGATIONS

- ▶ An effective investigation may stop improper conduct and prevent future harm to the school system, its employees, and students.
- ▶ An effective investigation will aid the school system in avoiding liability.
- ▶ An effective investigation will aid the school system in minimizing the cost of litigation.
- ▶ An effective investigation will aid in the resolution of threatened or actual litigation.

WHEN SHOULD EMPLOYERS CONDUCT WORKPLACE INVESTIGATIONS?

Investigations are conducted in order to comply with the law and/or enforce Board policy.

A. Investigations required by law

Certain laws and regulations require (or in some cases “strongly suggest”) that employers conduct investigations.

For example:

- Title IX
- Teacher Tenure Laws
- Due Process
- Title VII and State counterparts
- Age Discrimination Employment Act
- Americans With Disabilities Act
- Equal Pay Act
- Fraud and Misuse of Funds
- Whistleblower Statutes

B. Investigations not required by law but school systems should investigate employee misconduct as a matter of policy in order to protect school children and personnel and if necessary to substantiate claims for disciplinary action including suspension and dismissal.

C. *Dismissal of a formal complaint—(i)* The recipient must investigate the allegations in a formal complaint. If the conduct alleged in the formal complaint would not constitute sexual harassment as defined in §106.30 even if proved, did not occur in the recipient's education program or activity, or did not occur against a person in the United States, then the recipient must dismiss the formal complaint with regard to that conduct for purposes of sexual harassment under title IX or this part; such a dismissal does not preclude action under another provision of the recipient's code of conduct. (106.45(3)(i))

TITLE IX DETERMINATION

106-45 7(i)(ii)

(7) *Determination regarding responsibility.*

(i) The decision-maker(s), who cannot be the same person(s) as the Title IX Coordinator or the investigator(s), must issue a written determination regarding responsibility. To reach this determination, the recipient must apply the standard of evidence described in 9paragraph (b)(1)(vii) of this section.

(ii) The written determination must include—

(A) Identification of the allegations potentially constituting sexual harassment as defined in §106.30;

(B) A description of the procedural steps taken from the receipt of the formal complaint through the determination, including any notifications to the parties, interviews with parties and witnesses, site visits, methods used to gather other evidence, and hearings held;

(C) Findings of fact supporting the determination;

(D) Conclusions regarding the application of the recipient's code of conduct to the facts;

(E) A statement of, and rationale for, the result as to each allegation, including a determination regarding responsibility, any disciplinary sanctions the recipient imposes on the respondent, and whether remedies designed to restore or preserve equal access to the recipient's education program or activity will be provided by the recipient to the complainant; and

(F) The recipient's procedures and permissible bases for the complainant and respondent to appeal.

LET'S BACK UP

- ▶ Evidence File [106.45(5)(vi)]
 - ▶ 10-day period
 - ▶ Right to inspect and review
- ▶ Investigative Report [106.45(5)(vii)]
 - ▶ Fairly summarize relevant evidence
 - ▶ 10-day period
 - ▶ For review and written response
- ▶ Determination/Decision-Maker [106.45(6)(ii)]
 - ▶ Afford opportunity to submit written, relevant questions
 - ▶ Decide

SAMPLE – NOT A TITLE IX INVESTIGATION

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SAMPLE – NOT A TITLE IX INVESTIGATION

II. THE REMEDIATION AGREEMENT

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SAMPLE – NOT A TITLE IX INVESTIGATION

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SAMPLE – NOT A TITLE IX INVESTIGATION

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SAMPLE – NOT A TITLE IX INVESTIGATION

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B. EFFORTS TO PROCEED IN ACCORDANCE WITH BOARD POLICY AND STATUTORY LAW

C. THE DENIAL OF THE OPPORTUNITY TO INTERVIEW "JANE DOE U" AND "JANE DOE V"

D. THE LEVEL OF DISCIPLINE ADMINISTERED WAS COMMENSURATE WITH THE ACTIONABLE EVIDENCE AND THE REMEDIAL ACTIONS TAKEN WERE PROPER AND EFFECTIVE

V. CONCLUSION

STANDARDS OF PROOF

PROPONDERENCE OF THE EVIDENCE

“WHEN SPECIFIC AND ARTICULABLE FACTS, COMBINED WITH RATIONAL INFERENCES FROM THOSE FACTS, LEAD A REASONABLE PERSON TO BELIEVE THAT AN EVENT HAS MORE LIKELY THAN NOT OCCURRED.”

CLEAR AND CONVINCING

Highly probable and substantially more likely to be true

See Federal Court Judges Jury Instructions
Exhibit A

INVESTIGATION MISTAKES

HOW DID WE GET IN THIS MESS!

1. Failing to investigate
2. Delay in investigation
3. Failure to be thorough
4. Retaliation
5. Bias of investigator
6. Promise to limit the disclosure of information obtained from witnesses during an investigation
7. Disclose information beyond those who have a “need to know”
8. Failure to take prompt action
9. Failure to take appropriate action
10. Failure to provide the process “due” or promised by law, policy or contract
11. Arbitrary or capricious conclusions regarding witness credibility and/or the facts
12. Inconsistent treatment during the investigation or in its result
13. Overstepping legal bounds – Legal Landmines

LEGAL LANDMINES

- ▶ Retaliation
- ▶ Assault and Battery Tort
- ▶ False Imprisonment Tort
- ▶ Defamation Tort
- ▶ Failure to Provide Grievance Procedure
- ▶ Failure to Cooperate with the Government
- ▶ Stray Comments

TRIGGERING EVENTS

E. ACTUAL KNOWLEDGE

Actual knowledge means notice of sexual harassment or allegations of sexual harassment to a recipient's Title IX Coordinator or any official of the recipient who has authority to institute corrective measures on behalf of the recipient, or to any employee of an elementary and secondary school. Imputation of knowledge based solely on vicarious liability or constructive notice is insufficient to constitute actual knowledge.

F. RESPOND PROMPTLY

General response to sexual harassment. A recipient with actual knowledge of sexual harassment in an education program or activity of the recipient against a person in the United States, must respond promptly in a manner that is not deliberately indifferent. A recipient is deliberately indifferent only if its response to sexual harassment is clearly unreasonable in light of the known circumstances.

OVERVIEW OF THE INVESTIGATIVE PROCESS

- 1. DETERMINE IF AN “INVESTIGATION” IS NECESSARY**
- 2. DECIDE IF PRELIMINARY ACTION IS NECESSARY**
- 3. SELECT AN INVESTIGATOR**
- 4. PLAN THE INVESTIGATION**
- 5. CREATE AN INVESTIGATION BINDER**
- 6. REVIEW KEY DOCUMENTS**
- 7. CONDUCT INTERVIEWS/AND OBTAIN OTHER EVIDENCE**
- 8. COMPARE COMPETING VERSIONS OF THE FACTS**
- 9. MAKE “FINDING OF FACTS”**
- 10. DETERMINE WHETHER THE “FACTS” VIOLATE YOUR RULES OR UNDERSTANDINGS**
- 11. DETERMINE WHAT, IF ANY DISCIPLINARY (OR OTHER CORRECTION ACTION) IS TO BE TAKEN AGAINST THE ALLEGED PERPETRATOR**
- 12. DETERMINE WHAT, IF ANY REMEDIAL ACTION IS TO BE AFFORDED THE VICTIM**
- 13. DOCUMENT THE INVESTIGATION**
- 14. COMMUNICATE THE RESULTS OF THE INVESTIGATION**
- 15. MANAGE THE AFTERMATH OF THE INVESTIGATION**

PRELIMINARY DETERMINATIONS GOING FORWARD (OR NOT)?

- ▶ **IS IT SEXUAL HARASSMENT?**

- ▶ **WHAT IF THE ALLEGED VICTIM ASKS THAT YOU KEEP THE MATTER CONFIDENTIAL AND NOT INVESTIGATE?**

- ▶ **SHOULD YOU INVESTIGATE IF A CHARGE IS PENDING WITH AN ADMINISTRATIVE AGENCY OR THE POLICE?**

- ▶ **See 106.30 “Unwelcome Conduct”**

Sexual harassment means conduct on the basis of sex that satisfies one or more of the following:

(1) An employee of the recipient conditioning the provision of an aid, benefit, or service of the recipient on an individual's participation in unwelcome sexual conduct;

(2) Unwelcome conduct determined by a reasonable person to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the recipient's education program or activity; or

- ▶ **Presumption** - Include a presumption that the respondent is not responsible for the alleged conduct until a determination regarding responsibility is made at the conclusion of the grievance process;

PRELIMINARY ACTION PRIOR TO (AND AFTER) A COMPLAINT

► SUPPORTIVE MEASURES

Supportive measures means non-disciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to restore or preserve equal access to the recipient's education program or activity without unreasonably burdening the other party, including measures designed to protect the safety of all parties or the recipient's educational environment, or deter sexual harassment. Supportive measures may include counseling, extensions of deadlines or other course-related adjustments, modifications of work or class schedules, campus escort services, mutual restrictions on contact between the parties, changes in work or housing locations, leaves of absence, increased security and monitoring of certain areas of the campus, and other similar measures. The recipient must maintain as confidential any supportive measures provided to the complainant or respondent, to the extent that maintaining such confidentiality would not impair the ability of the recipient to provide the supportive measures. The Title IX Coordinator is responsible for coordinating the effective implementation of supportive measures.

► EMERGENCY REMOVAL

Emergency removal. Nothing in this part precludes a recipient from removing a respondent from the recipient's education program or activity on an emergency basis, provided that the recipient undertakes an individualized safety and risk analysis, determines that an immediate threat to the physical health or safety of any student or other individual arising from the allegations of sexual harassment justifies removal, and provides the respondent with notice and an opportunity to challenge the decision immediately following the removal. This provision may not be construed to modify any rights under the Individuals with Disabilities Education Act, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act.

WHAT QUALIFICATIONS DOES THE “LAW” EXPECT OF A COORDINATOR/INVESTIGATOR/DECISION-MAKER?

“Require that any individual designated by a recipient as a Title IX Coordinator, investigator, decision-maker, or any person designated by a recipient to facilitate an informal resolution process, not have a conflict of interest or bias for or against complainants or respondents generally or an individual complainant or respondent. A recipient must ensure that Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, receive training on the definition of sexual harassment in §106.30, the scope of the recipient's education program or activity, how to conduct an investigation and grievance process including hearings, appeals, and informal resolution processes, as applicable, and how to serve impartially, including by avoiding prejudgment of the facts at issue, conflicts of interest, and bias. A recipient must ensure that decision-makers receive training on any technology to be used at a live hearing and on issues of relevance of questions and evidence, including when questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, as set forth in paragraph (b)(6) of this section. A recipient also must ensure that investigators receive training on issues of relevance to create an investigative report that fairly summarizes relevant evidence, as set forth in paragraph (b)(5)(vii) of this section. Any materials used to train Title IX Coordinators, investigators, decision-makers, and any person who facilitates an informal resolution process, must not rely on sex stereotypes and must promote impartial investigations and adjudications of formal complaints of sexual harassment;”

SELECTING THE COORDINATOR/INVESTIGATOR/DECISION-MAKER

- **WELL TRAINED**
- **NOT BE INVOLVED IN THE ALLEGATIONS**
- **HAVE NO SPECIAL RELATIONSHIP WITH EITHER THE ALLEGED PERPETRATOR OR PERSON MAKING THE ACCUSATION**
- **BE AN INDIVIDUAL WHO IS PERCEIVED AS COMPETENT AND FAIR**
- **HAVE THE ADEQUATE TIME AND RESOURCES TO DEVOTE TO THE INVESTIGATION**
- **“STAR WITNESS”**
- **INSIDE OR OUTSIDE**

THE INVESTIGATION

- ▶ Prompt and equitable resolution

“Adoption of grievance procedures. A recipient must adopt and publish grievance procedures that provide for the prompt and equitable resolution of student and employee complaints alleging any action that would be prohibited by this part and a grievance process that complies with §106.45 for formal complaints as defined in §106.30. A recipient must provide to persons entitled to a notification under paragraph (a) of this section notice of the recipient's grievance procedures and grievance process, including how to report or file a complaint of sex discrimination, how to report or file a formal complaint of sexual harassment, and how the recipient will respond.”

- ▶ Plan the investigation

- ▶ Create an investigation binder

- ▶ Review the Complaint

- ▶ Review key documents

THE INVESTIGATION (cont.)

“(B) Notice of the allegations of sexual harassment potentially constituting sexual harassment as defined in §106.30, including sufficient details known at the time and with sufficient time to prepare a response before any initial interview. Sufficient details include the identities of the parties involved in the incident, if known, the conduct allegedly constituting sexual harassment under §106.30, and the date and location of the alleged incident, if known. The written notice must include a statement that the respondent is presumed not responsible for the alleged conduct and that a determination regarding responsibility is made at the conclusion of the grievance process. The written notice must inform the parties that they may have an advisor of their choice, who may be, but is not required to be, an attorney, under paragraph (b)(5)(iv) of this section, and may inspect and review evidence under paragraph (b)(5)(vi) of this section. The written notice must inform the parties of any provision in the recipient’s code of conduct that prohibits knowingly making false statements or knowingly submitting false information during the grievance process.”

SO:

- ▶ Identify the parties
- ▶ Conduct allegedly constituting sexual harassment
- ▶ Date of incident(s)
- ▶ Location of incident(s)

CONDUCTING INTERVIEWS

- ▶ What order
- ▶ How
- ▶ Listen
- ▶ Notes, recordings, video, court reporter
- ▶ No stray comments

COMPARE COMPETING VERSIONS OF THE FACT

FACTORS CONSIDERED IN CREDIBILITY DETERMINATIONS

See 106.45(b)(1)(ii) – Objective Evaluation –

“(ii) Require an objective evaluation of all relevant evidence—including both inculpatory and exculpatory evidence—and provide that credibility determinations may not be based on a person's status as a complainant, respondent, or witness;”

- ▶ Prior Misconduct/Employment Record
- ▶ Demeanor Of Complainant And Accused
 - .. Evasive Vs. Forthright
 - .. Inappropriate Conduct (e.g., Belligerence, Refusal To Make Eye Contact, Lack Of Seriousness, Etc.)
 - .. Extreme Defensiveness
- ▶ Corroboration (Or Lack Thereof) In Accounts
- ▶ Conflicting Testimony
- ▶ Plausibility Of Accounts
- ▶ Whose Version (The Complainant's Or The Harasser's Or Their Witnesses') Accounts Are More Detailed And Internally Consistent (Or Are There Contradictions)
- ▶ Veracity (Was Complainant Or Accused Untruthful About Any Aspect Of Investigation?)

FACTORS CONSIDERED IN CREDIBILITY DETERMINATIONS

- ▶ **TAMPERING (IS THERE ANY EVIDENCE THAT THE COMPLAINANT OR THE ACCUSED SOUGHT TO TAMPER WITH THE ACCOUNT TO BE GIVEN BY THE OTHER OR BY A WITNESS?)**
- ▶ **MOTIVE TO LIE (OR EXAGGERATE, OR DENY)**
- ▶ **BIAS OF WITNESSES OR THE COMPLAINANT**
- ▶ **WHETHER COMPLAINANT TIMELY REPORTED THE INCIDENT AND/OR MADE A CONTEMPORANEOUS PROTEST(S) TO THE HARASSER**
- ▶ **WHETHER ANY WITNESSES SAW COMPLAINANT IMMEDIATELY AFTER THE INCIDENT AND WHAT THEY OBSERVED**
- ▶ **IS THE INFORMATION FIRST HAND KNOWLEDGE OR HEARSAY**

“FINDING OF FACTS”

**The EEOC suggests the following:
Credibility Determinations Factors
To Be Used:**

- ▶ Inherent Plausibility
- ▶ Demeanor
- ▶ Motive to falsify
- ▶ Corroboration
- ▶ Past Record

MAKE “FINDING OF FACTS”

REMEMBER – One of your goals is to determine if it is more likely than not that the Respondent has engaged in the misconduct. You need to keep gathering information until you have done all that you can reasonably do to corroborate or refute each allegation that would tend to prove or disprove that the misconduct occurred.

FEDERAL COURT JUDGES JURY INSTRUCTIONS

Burden Of Proof, Preponderance Of The Evidence

The Complainant has the burden of proving his claims against the Respondent, and any resulting damages by a preponderance of the evidence. To establish something by a preponderance of the evidence means to prove that something is more likely so than not so. In other words, a preponderance of the evidence means such evidence as, when considered and compared to that opposed to it, has more convincing force and produces in your minds a belief that what is sought to be proved is more likely true than not true.

Where the evidence is equally balanced and you are unable to determine in your minds which way the scale should tip, then the party bearing the burden has failed to carry the burden of proof and you must bring in a verdict on that issue against that party.

FEDERAL COURT JUDGES JURY INSTRUCTIONS

Credibility of Witnesses

You should consider all the evidence presented in this case by both parties, and give it a full, fair and impartial consideration. Part of your responsibility is to determine what the facts are, based on what you heard from the witnesses. If there are conflicts in the testimony of different witnesses, it is your duty to reconcile them, if you can, for the law presumes that every witness has told the truth. But when you cannot reconcile the statements of different witnesses, then you must decide which witness or witnesses you believe and how important his or her testimony was. You do not have to accept or reject everything a witness said. You are free to believe all, none or part of any person's testimony. But you should act reasonably and carefully in making these decisions.

In forming your opinion as to which witness you believe, let me suggest some things for you to consider in evaluating each witness's testimony.

- A) Ask yourself if the witness was able to clearly see or hear the events. Sometimes even an honest witness may not have been able to see or hear what was happening, and may make a mistake.
- B) Ask yourself how good the witness's memory seemed to be. Did the witness seem able to accurately remember what happened?
- C) Ask yourself if there was anything else that may have interfered with the witness's ability to perceive or remember the events.
- D) Ask yourself how the witness acted while testifying. Did the witness appear honest? Or did the witness appear to evade questions?
- E) Ask yourself if the witness had any relationship to the parties, or anything to gain or lose from the case, that might influence the witness's testimony. Ask yourself if the witness had any bias, or prejudice, or reason for testifying that might cause the witness to lie or to slant the testimony in favor of one side or the other.
- F) Ask yourself if the witness testified inconsistently while on the witness stand, or if the witness said or did something (or failed to say or do something) at any other time that is inconsistent with what the witness said while testifying. If you believe that the witness was inconsistent, ask yourself if this makes the witness's testimony less believable. Sometimes it may; other times it may not. Consider whether the inconsistency was about something important, or about some unimportant detail. Ask yourself if it seemed like an innocent mistake, or if it seemed deliberate.
- G) And ask yourself how believable the witness's testimony was in light of all the other evidence. Was the witness's testimony supported or contradicted by other evidence that you found believable? If you believe that a witness's testimony was contradicted by other evidence, remember that people sometimes forget things, and that even two honest people who witness the same event may not describe it exactly the same way.

These are only some of the things that you may consider in deciding how believable each witness was. You may also consider other things that you think shed some light on the witness's believability. Use your common sense and your everyday experience in dealing with other people. And then decide what testimony you believe, and how much weight you think it deserves.

Also, the number of witnesses testifying concerning any particular dispute is not controlling. You may decide that the testimony of a smaller number of witnesses concerning any fact in dispute is more believable than the testimony of a larger number of witnesses to the contrary.

CREDIBILITY

Before proceeding further with analysis and recommendations, it is appropriate for the investigators to address the matter of the credibility findings they reached, especially given the fact that Mr. ██████ denied making the statements as attributed to him, and also given that Mrs. ██████, who witnessed the initial exchange, asserted that Mr. ██████ did not say the words Ms. ██████ attributed to him. Based on the following findings which are included in the “Finding of Facts” set forth above, the investigators have concluded that the preponderance of the evidence establishes that Mr. ██████ did make the statements Ms. ██████ has attributed to him or statements which, if not “word-for-word” the same as those Ms. ██████ has alleged, were substantially the same:

INFORMAL RESOLUTION (MEDIATION)

Step 1 - Introducing the Mediation Process – In this stage, the mediators introduce the participants to the mediation process and the parties make a voluntary, informed decision to sign the Agreement to Mediate.

Step 2 - Presenting Viewpoints - The disputants provide their opening statements and their viewpoints in narrative form, sharing their perspective on the dispute.

Step 3 - Drafting the Task Statement – Here, the mediators create a “Task Statement” that incorporates the issues and interests of both parties and focuses the discussion on the future.

Step 4 - Generating Options – This stage involves the parties brainstorming as many solutions as possible to the conflict.

Step 5 - Evaluating Options - The parties then evaluate the possible solutions thoroughly with the guidance of the mediators.

Step 6 - Concluding the Mediation – If common ground has been reached, the mediators draft an agreement that incorporates what each party will do to resolve the dispute. The parties review and approve the text of the agreement before signing the document. If no agreement can be reached, the mediation is terminated.

DISCUSSION/REMEDIES

106.45(b)(1)(vi) –

“Describe the range of possible disciplinary sanctions and remedies or list the possible disciplinary sanctions and remedies that the recipient may implement following any determination of responsibility;”

REMEDIES

Determine what, if any, disciplinary sanctions or other actions (that are not supportive measures) should be taken against Respondent –

“(i) Treat complainants and respondents equitably by providing remedies to a complainant where a determination of responsibility for sexual harassment has been made against the respondent, and by following a grievance process that complies with this section before the imposition of any disciplinary sanctions or other actions that are not supportive measures as defined in §106.30, against a respondent. Remedies must be designed to restore or preserve equal access to the recipient's education program or activity. Such remedies may include the same individualized services described in §106.30 as “supportive measures”; however, remedies need not be non-disciplinary or non-punitive and need not avoid burdening the respondent;”

REMEDIES & SANCTIONS

- ▶ What remedies should you provide to the Complainant?
- ▶ What sanctions should be taken against Respondent?
- ▶ Any supportive measures?
- ▶ Consider comparable situations

RESULTS OF INVESTIGATION

1. MISCONDUCT

- **APPROPRIATE ACTION**
- **LAST CHANCE AGREEMENT**
- **TERMINATION**

2. NO MISCONDUCT

- **COMMUNICATION**
- **FALSE COMPLAINTS**
- **RETALIATION**

3. INCONCLUSIVE RESULTS

- **TRAINING**
- **COMMUNICATON**
- **FOLLOW-UP**

DOCUMENT THE INVESTIGATION THAT “FAIRLY SUMMARIZES RELEVANT EVIDENCE” (INVESTIGATIVE REPORT CHECKLIST)

- ▶ Date of the alleged incident
- ▶ The date of the “complaint” and name of the employee who complained
- ▶ Why the investigation was initiated (for example, an employee complained, a threat was made)
- ▶ Who conducted the investigation
- ▶ When the investigation began
- ▶ What documents or other evidence were gathered
- ▶ Where documents or evidence were located (for example, in an employee’s personnel file)
- ▶ When documents or evidence were gathered
- ▶ Any company policies that are relevant to the incident under investigation
- ▶ Who was interviewed
- ▶ The date of each interview
- ▶ A summary of each witness’s statement
- ▶ A summary of any other important facts (for example, things you may have noticed when visiting the scene of the incident)
- ▶ A statement of your “finding of facts”
- ▶ Any action taken (for example, discipline, workplace training, last chance agreement)

REPORT SENT PRIOR TO FINAL DETERMINATION

106.45(6)(ii) –

“(ii) For recipients that are elementary and secondary schools, and other recipients that are not postsecondary institutions, the recipient's grievance process may, but need not, provide for a hearing. With or without a hearing, after the recipient has sent the investigative report to the parties pursuant to paragraph (b)(5)(vii) of this section and before reaching a determination regarding responsibility, the decision-maker(s) must afford each party the opportunity to submit written, relevant questions that a party wants asked of any party or witness, provide each party with the answers, and allow for additional, limited follow-up questions from each party. With or without a hearing, questions and evidence about the complainant's sexual predisposition or prior sexual behavior are not relevant, unless such questions and evidence about the complainant's prior sexual behavior are offered to prove that someone other than the respondent committed the conduct alleged by the complainant, or if the questions and evidence concern specific incidents of the complainant's prior sexual behavior with respect to the respondent and are offered to prove consent. The decision-maker(s) must explain to the party proposing the questions any decision to exclude a question as not relevant.”



INVSTIGATIVE REPORT REGARDING

AT

SUBMITTED BY:

**JACKSON, SHIELDS, YEISER, HOLT, OWEN & BRYANT
262 GERMAN OAK DRIVE
MEMPHIS, TENNESSEE 38018**

**PRIMARY ATTORNEY PREPARING REPORT:
STEPHEN L. SHIELDS
DATE SUBMITTED: _____**

I. INTRODUCTION

This Report was prepared by the Law Firm of Jackson, Shields, Yeiser, Holt, Owen & Bryant at the request of _____. It is attorney-client privileged and attorney work product, and for review only by those individuals expressly authorized by the _____ of _____.

II. LIST OF _____ PERSONNEL INTERVIEWED

1. _____, Principal, _____ (Affidavit taken Monday, February 17, 2020).
2. _____, Vice Principal, _____ (Affidavit taken Friday, February 14, 2020).
3. _____, Assistant Principal, _____ (Affidavit taken Friday, February 14, 2020).
4. _____, Assistant Principal, _____ (Affidavit taken Monday, February 17, 2020).

III. INTERVIEWS WITH OTHERS

1. _____ - Parent of _____ student who observed the situation in the front circle drive prior to the school administrators' arrival on the scene (Telephone interview on Friday, February 14, 2020).
2. _____ - _____ substitute teacher and mother of _____ student (Interviewed in person on February 14, 2020).

IV. DOCUMENTS REVIEWED

The following documents were reviewed in preparation of this Report:

1. Incident Reports prepared by _____.
2. Written statements prepared by _____ personnel.
3. Written statements prepared _____.
4. Tape and transcript of interview conducted by _____.
5. Newspaper reports of incident appearing in the February 14 and February 15 issues of the Commercial Appeal.

V. DESCRIPTION OF EVENTS

VI. CONCLUSION

VII. RECOMMENDATION



COMMUNICATE THE RESULTS



MANAGE THE AFTERMATH

Title IX Coordinator is responsible for effective implementation.

WHEN AND HOW TO REPORT ALLEGATIONS OF MISCONDUCT

- ▶ State Board Rule regarding denial and revocation of teacher license
- ▶ State law regarding the reporting of fraud

***Debra D. Owen
Stephen L. Shields***

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Thanks for listening!

- *This presentation does not constitute legal advice.*
- *Receipt of this training and/or these training materials does not create an attorney-client relationship.*