



Title IX Investigation (Step-by Step Guide)

The Investigation Procedure

Title IX investigations are carried out similarly to any other. There is an informal process, where involved parties resolve their issues informally through mediation. This informal process is only appropriate in certain cases, but it's alluring because it avoids the investigation, saving time and resources.

The formal investigation process is broken down into several phases:

- Notify the involved parties
- Gather the facts
- Review and analyze the information
- Determine whether a violation has occurred
- Write the report
- Notify the involved parties of the outcome

Each phase requires time and effort, but the Title IX investigator must be prompt in initiating the investigation. Unfortunately, the law does not specifically define the term "prompt". The first step in initiating the investigation is notifying the involved parties.

1. Notify Involved Parties

The Title IX Office, consisting of the coordinator and other personnel, must notify the involved parties that a complaint exists and an investigation will begin.

The notice should include information about the investigation process, the allegations at hand, the complainant's and respondent's rights, the policy that alleged behavior violates and contact information for the investigator.

This notice is also a good time to schedule the intake meeting, either in person or via phone, to discuss basic information about the allegations and determine the next steps of the investigation.

2. Gather Facts

The next step of the Title IX investigation process, if everyone has decided to proceed with it, is to gather information related to the allegations. Gather documents, files, audio recordings and video recordings, social media posts, cell phone records and more.

Interview the complainant and respondent. Ask them to explain their side of the story and their relationship with the other party. Ask for the names of potential witnesses or any other details that may be pertinent to the investigation.

3. Review and Analyze Information

Once you've collected as much information as possible, provide both the complainant and the respondent at least 10 days to review the information collected. A review may help trigger their memory, or they may want to address a discrepancy.

Then, the investigator should review the information and see if there is enough evidence to determine whether a violation occurred. Review, weigh, analyze and compare the information.

4. Determine a Violation

Finally, a separate decision-maker must determine if a violation has occurred. Schools may select to apply one of two standards of proof for this step, as long as they apply it consistently across all cases.

Option one, the preponderance of evidence standard of proof, means that the information gathered concludes that the allegations are "more likely than not" to be true, or more than 50 per cent likely. The standard requires more convincing proof than "probable cause" and less than "beyond a reasonable doubt".

The clear and convincing evidence standard of proof, on the other hand, means that the evidence points to the allegations being "substantially more probable to be true" than not, or well over 50 per cent likely.

5. Write a Report and Notify Parties of Outcome

After making a determination, put together the final investigation report. The report must contain the initial allegations, the policy violated, the parties involved, the evidence gathered, a summary of the interviews and any other relevant information.

Schools must send a copy of the final report to each party at least 10 days before it is finalized, to give them the opportunity to respond.

After the outcome is finalized, send a shorter determination of the outcome to both parties. This notice should include information about the outcome, reasons supporting the determination and, depending on the conclusion, the next steps in the Title IX process.

After the Investigation

After notifying the complainant and respondent of the outcome, either or both parties may appeal the decision and request an administrative review.

In this situation, a higher level of management will review the investigation process, the information gathered and the conclusion. This person will then issue a written decision that explains the outcome of the review.

If there is no appeal, and the allegations are true, the decision-maker will determine a sanction for the perpetrator. Under the Clery Act, the Title IX office must advise victims of counseling resources, support services and the option to pass the incident on to local law enforcement