

Checklist for Conducting Formal Investigations

This below are questions that can be used to evaluate the processes used to conduct formal investigations. These questions are organized into the following sections: Training of Investigators, Initiation of a formal investigation, Reporting Requirements, and Retaining documentation.

Training of Investigators

Does the school or district:

1. Train investigators in the formal definition of sexual harassment? Yes___ No___
2. Train investigators not to rely on sex stereotypes and promote impartial investigations? Yes___ No___
3. Train investigators in how to conduct an investigation, including how to convene hearings and appeals? Yes___ No___
4. Train investigators in the informal resolution process? Yes___ No___
5. Train investigators in impartiality, bias, conflict of interest and no prejudgment? Yes___ No___
6. Train investigators in understanding issues of relevance? Yes___ No___
7. Train investigators in how to report findings that summarizes relevant evidence? Yes___ No___
8. Train investigators in proper cross examination procedures? Yes___ No___
9. Publish or post materials used to train investigators? Yes___ No___
- 10.

Initiation of a Formal Investigation

Does the school or district:

11. Presume that the respondent is not responsible for an allegation until a determination is made? Yes___ No___
12. Understand that the burden of proof is on them and not on the parties involved? Yes___ No___
13. Communicate that the parties involved may have an advisor? Yes___ No___
14. Allow the advisor to participate in all meetings, interviews and hearings? Yes___ No___
15. Investigate the allegations in any formal complaint? Yes___ No___
16. Send written notice to both parties (complainants and respondents) of the allegations upon receipt of a formal complaint and before any formal interviewing? Yes___ No___
17. Provide equal opportunity for the parties to present facts and expert witnesses and other evidence? Yes___ No___
18. *Not* restrict the ability of the parties to discuss the allegations or gather evidence (e.g., no “gag orders”)? Yes___ No___
19. Allow parties to have the same opportunity to select an advisor of the party’s choice? Yes___ No___
20. Send written notice of any investigative interviews, meetings, or hearings? Yes___ No___

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| 21. | Send the parties, and their advisors, evidence directly related to the allegations, in electronic format or hard copy, with at least 10 days for the parties to inspect, review, and respond to the evidence? (first 10 review) | Yes___ | No___ |
| 22. | Send the parties, and their advisors, an investigative report that fairly summarizes relevant evidence, in electronic format or hard copy, with at least 10 days for the parties to respond? (second 10 day review) | Yes___ | No___ |
| 23. | Dismiss allegations of conduct that do not meet the Final Rule's definition of sexual harassment or did not occur in a school's education program or activity against a person in the U.S. <i>under Title IX</i> ? | Yes___ | No___ |
| 24. | Give the parties written notice of a dismissal (mandatory or discretionary) and the reasons for the dismissal? | Yes___ | No___ |
| 25. | Protect the privacy of a party's medical, psychological, and similar treatment records by stating that schools cannot access or use such records unless the school obtains the party's voluntary, written consent to do so? | Yes___ | No___ |

Reporting Requirements

Does the school or district require that investigators:

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| 26. | Retain all documentation for 7 years? | Yes___ | No___ |
| 27. | Documentation of all sexual harassment investigations? | Yes___ | No___ |
| 28. | Summarize relevant evidence? | Yes___ | No___ |
| 29. | Provide all evidence directly related to allegations to parties and advisors (in electronic or hard copy form)? | Yes___ | No___ |
| 30. | Share written responses to preliminary reports with all parties involved? | Yes___ | No___ |
| 31. | Share all final reporting with the Title IX Coordinator and Decision Maker? | Yes___ | No___ |

Retaining Documentation

Does the school or district retain:

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| 32. | Retain all documentation for 7 years? | Yes___ | No___ |
| 33. | Documentation of all sexual harassment investigations? | Yes___ | No___ |
| 34. | Hearings, recordings or transcripts? | Yes___ | No___ |
| 35. | Descriptions of disciplinary sanctions? | Yes___ | No___ |
| 36. | Descriptions of remedies provided to the complainant? | Yes___ | No___ |
| 37. | Descriptions of appeals and results? | Yes___ | No___ |
| 38. | Descriptions of informal resolutions and results? | Yes___ | No___ |
| 39. | Descriptions of supportive measures provided? | Yes___ | No___ |
| 40. | Explanation of measure taken to restore/preserve equal access to educational programs or activities? | Yes___ | No___ |