

REPORTS, OUTCOME LETTERS AND
DUE PROCESS



DOCUMENTATION
IS KEY

- Documentation is vitally important in Title IX situations. It will be important for:
 - Disciplinary appeals
 - OCR investigations
 - Lawsuits

INVESTIGATION REPORT

- One Template
 - Use one template for all Title IX investigation reports
 - Ensures correct investigation techniques throughout district
 - Reduces possibility of errors/omissions
 - Increases transparency



INVESTIGATION REPORT - FORMAT

- Format
 - Preliminary information
 - Procedural history
 - Allegations
 - Policies
 - Scope of investigation
 - Summary of facts
 - Analysis and Conclusion
 - Recommendations (MAYBE)
 - Appendix



INVESTIGATION REPORT

- Preliminary information
 - Parties
 - Biographical data of the main parties and witnesses (name, age, school/grade, sex)
 - *Throughout rest of report, refer to anonymously (e.g., reporting party, claimant, respondent, witness 1,2,3, etc.)*
 - Dates
 - Incident(s)
 - Reported
 - To whom reported



INVESTIGATION
REPORT –
PROCEDURAL
HISTORY

- Procedural History
 - When and how was proper person notified of allegation (e.g., the counselor called the AP and asked him to come to her office)
 - What immediate steps were taken (e.g., discussion with claimant, law enforcement/DHS report, interim measures, etc.)



INVESTIGATION
REPORT -
ALLEGATIONS

- Allegations
 - Summarize the allegations

INVESTIGATION REPORT - ALLEGATIONS

- Example of allegation
 - On January 13, 2019, the claimant informed Ms. Davis, high school counselor (“the counselor”), that the respondent made inappropriate comments to her and touched her in an inappropriate manner. Specifically, she stated that the respondent commented on her breasts (“add specific comments”) on several occasions in Mr. Jackson’s 3rd hour Geometry class, while informing her of what sexual acts he would like to perform on her (“add specific comments”). The claimant could not remember specific dates but said this occurred “probably 15 or 20 times” throughout the months of December and January. (The respondent sits one desk behind the claimant in the aisle just to her left.) She also said that on January 12, 2019, the respondent walked up to her as she stood at her locker after 6th hour and grabbed her left breast and rubbed his crotch against her left hip.



INVESTIGATION
REPORT -
POLICIES

- Identify policies at issue
 - Example: An investigation of the above-listed allegations was conducted to determine whether any district policies, including the following, were violated:
 - (1) Policy AB – Nondiscrimination
 - (2) Policy BM – Civil Rights Policy and Complaint Procedures



INVESTIGATION REPORT - SCOPE

- Scope of investigation
 - List of people interviewed
 - Who
 - When
 - Persons present
 - Label interview transcripts and add to appendix



INVESTIGATION REPORT - SCOPE

- Evidence
 - List of evidence items
 - Documents reviewed (e.g., written notes, emails, text messages)
 - Evidence obtained or examined (e.g., security camera footage, social media posts, pictures of bruises, etc.)
 - Label and add to appendix



INVESTIGATION
REPORT –
SUMMARY OF
FACTS

- Summary of the facts/evidence
 - Describe, in a logical sequence, ALL facts relevant to the analysis, conclusion and recommendations.
 - Narrative format
 - Be detailed but succinct, if possible
 - Chronological – start with the claimant’s allegation(s) and work from there
 - Cite to evidence, witness statements, interview notes, etc., as labeled in the appendix



INVESTIGATION
REPORT –
ANALYSIS &
CONCLUSION

- Identify the evidentiary standard (i.e., “preponderance of the evidence” or “clear and convincing”)
- Succinctly explain the conclusion (i.e., why is it more probable than not that the allegation is true, or why it is not more probable than not)
 - The evidence (interviews, documentation, etc.) either supports or does not support the allegation
 - Discrepancies
 - Credibility of witnesses
 - Etc.



INVESTIGATION
REPORT -
RECOMMENDA-
TIONS

- Preventative measures going forward
- Remedies (e.g., counseling, academic support, etc.)
- Discipline
 - Either the investigator can recommend discipline (if necessary) or the report can be submitted to the appropriate person(s) for a disciplinary decision



INVESTIGATION
REPORT -
APPENDIX

- Appendix
 - Use a common sense labeling system to identify all evidence in the appendix (e.g., A.1, A.2, A.3, etc.)

OUTCOME LETTERS

The claimant and respondent should receive written notice the decision after a finding is made.

The letter can be a modified copy of the report or a separate document.



OUTCOME LETTERS

- Policy CM(F)
- Claimant
 - Restate allegations and relevant policies
 - Briefly summarize the investigation process, evidence and finding
 - Support services
 - Non-retaliation notice



OUTCOME LETTERS

- Policy CM(F)
- Respondent
 - Restate allegations and relevant policies
 - Briefly summarize the investigation process, evidence and finding
 - If allegation(s) substantiated, identify the the policy violation and sanction
 - Notice of appeal rights

DUE PROCESS

- Grievance procedures
 - Know the process outlined in the district grievance procedures
 - Grievance procedure process cannot be less than guaranteed by state law (which complies with *Goss v. Lopez*)



DUE PROCESS

- 70 O.S. § 24-101.3 (Out of School Suspensions – Right to Appeal)
 - School Districts are required to have a policy that addresses out of school suspensions
 - 10 days for fewer
 - Appeal rights: local committee *or* the board of education
 - More than 10 days
 - Appeal rights:
 - (1) administration of the district, and
 - (2) if unsatisfied, board of education
 - Policy CM(G)-(J)