TITLE IX COMPLIANCE TRAINING

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APPLICABLE LAWS - STUDENTS

DISCRIMINATION ON THE BASIS OF **RACE**, **COLOR**, **AND NATIONAL ORIGIN** IS PROHIBITED BY TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

SEX DISCRIMINATION IS PROHIBITED BY TITLE IX OF THE EDUCATION AMENDMENTS OF 1972

DISCRIMINATION ON THE BASIS OF **DISABILITY** IS PROHIBITED BY SECTION 504 OF THE REHABILITATION ACT OF 1973

APPLICABLE LAWS - EMPLOYEES

DISCRIMINATION ON THE BASIS OF RACE, COLOR, RELIGION, SEX, OR NATIONAL ORIGIN IS PROHIBITED BY TITLE VII OF THE CIVIL RIGHTS ACT OF 1964

DISCRIMINATION ON THE BASIS OF **DISABILITY** IS PROHIBITED BY THE AMERICANS WITH DISABILITIES ACT

AGE DISCRIMINATION IS PROHIBITED BY THE **AGE**DISCRIMINATION ACT OF 1975

APPLICABLE LAWS - EMPLOYEES

THE NEW YORK STATE HUMAN RIGHTS LAW PROHIBITS DISCRIMINATION ON THE BASIS OF AGE, RACE, CREED, COLOR, NATIONAL ORIGIN, SEXUAL ORIENTATION, MILITARY STATUS, SEX, DISABILITY, PREDISPOSING GENETIC CHARACTERISTICS, MARITAL STATUS, OR DOMESTIC VIOLENCE VICTIM STATUS

HUMAN RIGHTS LAW ALSO ALLOWS FOR CERTAIN RELIGIOUS OBSERVATION PRACTICES

TITLE IX OF THE EDUCATION AMENDMENTS OF 1972

TITLE IX IS A COMPREHENSIVE FEDERAL LAW THAT HAS REMOVED MANY BARRIERS THAT ONCE PREVENTED PEOPLE, ON THE BASIS OF SEX, FROM PARTICIPATING IN EDUCATIONAL OPPORTUNITIES AND CAREERS OF THEIR CHOICE.

IT STATES THAT:

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 EDUCATION PROGRAM OR ACTIVITY RECEIVING FEDERAL FINANCIAL ASSISTANCE.

TITLE IX APPLIES TO ALL ASPECTS OF EDUCATION PROGRAMS OR ACTIVITIES OPERATED BY RECIPIENTS OF FEDERAL FINANCIAL ASSISTANCE

TITLE IX ALSO APPLIES TO ANY EDUCATION OR TRAINING PROGRAM OPERATED BY A RECIPIENT OF FEDERAL FINANCIAL ASSISTANCE

TITLE IX REACHES EMPLOYMENT DISCRIMINATION IN THE EDUCATIONAL PROGRAMS OR ACTIVITIES OF RECIPIENTS WITHOUT LIMITATION (LIKE TITLE VII)

THE TITLE IX REGULATIONS CONTAIN A VARIETY OF PROCEDURAL REQUIREMENTS, THE MOST IMPORTANT OF WHICH IS THE REQUIREMENT TO ESTABLISH GRIEVANCE PROCEDURES.

THE REGULATIONS REQUIRE THAT EVERY RECIPIENT TO WHICH TITLE IX APPLIES "ADOPT AND PUBLISH GRIEVANCE PROCEDURES PROVIDING FOR PROMPT AND EQUITABLE RESOLUTION OF STUDENT AND EMPLOYEE COMPLAINTS ALLEGING ANY ACTION THAT BE PROHIBITED BY THESE TITLE IX REGULATIONS."

TITLE IX, LIKE TITLE VI, RECOGNIZES THREE GENERAL TYPES OF PROHIBITED DISCRIMINATION:

- 1. DISPARATE TREATMENT
- 2. DISPARATE IMPACT
- 3. RETALIATION

ANY EFFECTIVE AND MEANINGFUL ADMINISTRATIVE ENFORCEMENT PROGRAM UNDER TITLE IX MUST BE PREPARED TO ADDRESS ALL THREE.

DISPARATE TREATMENT

ACTIONS THAT TREAT SIMILARLY SITUATED PERSONS DIFFERENTLY ON THE BASIS OF A PROHIBITED CLASSIFICATION.

IN THE CASE OF TITLE IX, THE PROHIBITED CLASSIFICATION IS SEX.

THE CORE QUESTION IS WHETHER A RECIPIENT,
THROUGH ITS OFFICIALS, HAS TREATED
PEOPLE DIFFERENTLY ON THE BASIS OF SEX.

DISPARATE IMPACT

DISPARATE IMPACT FOCUSES ON THE CONSEQUENCES OF A FACIALLY SEX-NEUTRAL POLICY OR PRACTICE.

UNDER THIS THEORY OF DISCRIMINATION, THE CORE INQUIRY FOCUSES ON THE RESULTS OF THE ACTION TAKEN, RATHER THAN THE UNDERLYING INTENT.

"INTENT" IS NOT AN ELEMENT IN THE DISPARATE IMPACT ANALYSIS.

RETALIATION

"NO RECIPIENT OR OTHER PERSON SHALL INTIMIDATE, THREATEN, COERCE, OR DISCRIMINATE AGAINST ANY INDIVIDUAL FOR THE PURPOSE OF INTERFERING WITH ANY RIGHT OR PRIVILEGE SECURED BY [TITLE IX], OR BECAUSE HE HAS MADE A COMPLAINT, TESTIFIED, ASSISTED, OR PARTICIPATED IN ANY MANNER IN AN INVESTIGATION, PROCEEDING OR HEARING UNDER THIS SUBPART."

TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

TITLE VI

TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 PROTECTS PEOPLE FROM DISCRIMINATION BASED ON RACE, COLOR OR NATIONAL ORIGIN IN PROGRAMS OR ACTIVITIES THAT RECEIVE FEDERAL FINANCIAL ASSISTANCE.

TITLE VI STATES THAT:

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance

TITLE VI

ALSO, A RECIPIENT MAY NOT RETALIATE AGAINST ANY PERSON BECAUSE HE OR SHE OPPOSED AN UNLAWFUL EDUCATIONAL PRACTICE OR POLICY, OR MADE CHARGES, TESTIFIED OR PARTICIPATED IN ANY COMPLAINT ACTION UNDER TITLE VI.

FOR A RECIPIENT TO RETALIATE IN ANY WAY IS CONSIDERED A VIOLATION OF TITLE VI.

TITLE VI

PROGRAMS AND ACTIVITIES THAT RECEIVED FUNDS MUST OPERATE IN A NON-DISCRIMINATORY MANNER. THESE MAY INCLUDE, BUT ARE NOT LIMITED TO:

ADMISSIONS, RECRUITMENT, FINANCIAL AID, ACADEMIC PROGRAMS, STUDENT TREATMENT AND SERVICES, COUNSELING AND GUIDANCE, DISCIPLINE, CLASSROOM ASSIGNMENT, GRADING, VOCATIONAL EDUCATION, RECREATION, PHYSICAL EDUCATION, ATHLETICS, HOUSING AND EMPLOYMENT, IF IT AFFECTS THOSE WHO ARE INTENDED TO BENEFIT FROM THE FEDERAL FUNDS

THE AMERICANS WITH DISABILITIES ACT AND SECTION 504

IT IS A CIVIL RIGHTS STATUTE DESIGNED TO PREVENT DISCRIMINATION AGAINST INDIVIDUALS WITH DISABILITIES. IT PROVIDES THAT:

NO OTHERWISE QUALIFIED INDIVIDUAL WITH DISABILITIES IN THE UNITED STATES . . . SHALL, SOLELY BY REASON OF HIS/HER DISABILITY BE EXCLUDED FROM THE PARTICIPATION IN, BE DENIED THE BENEFITS OF, OR BE SUBJECTED TO DISCRIMINATION UNDER ANY PROGRAM OR ACTIVITY RECEIVING FEDERAL FINANCIAL ASSISTANCE . . .

THE ADA

THE AMERICANS WITH DISABILITIES ACT (ADA), WHICH WAS MODELED AFTER SECTION 504, WAS SIGNED INTO LAW IN JULY 1990.

SECTION 504 ONLY APPLIES TO ENTITIES THAT RECEIVE FEDERAL FINANCIAL ASSISTANCE. WHEREAS THE ADA COVERS MOST ESTABLISHMENTS WHETHER PRIVATELY OWNED OR ASSISTED WITH STATE AND/OR FEDERAL FUNDS.

HOW IS "OTHERWISE QUALIFIED" DEFINED UNDER THE ADA AND SECTION 504?

STUDENTS MUST BE ABLE TO MEET THE TECHNICAL AND ACADEMIC QUALIFICATIONS FOR ENTRY INTO THE SCHOOL, PROGRAM OR ACTIVITY IN ORDER TO BE CONSIDERED OTHERWISE QUALIFIED.

WHO IS AN "INDIVIDUAL WITH A DISABILITY?"

A PERSON WHO:

- 1. HAS A PHYSICAL OR MENTAL IMPAIRMENT WHICH SUBSTANTIALLY LIMITS A MAJOR LIFE ACTIVITY;
- 2. HAS A RECORD OR HISTORY OF SUCH AN IMPAIRMENT; OR
- 3. IS REGARDED AS HAVING SUCH AN IMPAIRMENT.

WHAT ARE "MAJOR LIFE ACTIVITIES?"

MAJOR LIFE ACTIVITIES INCLUDE, BUT ARE NOT LIMITED TO, WALKING, SEEING, HEARING, SPEAKING, BREATHING, LEARNING, WORKING, CARING FOR ONESELF, AND PERFORMING MANUAL TASKS.

WHAT ARE THE OBLIGATIONS OF STUDENTS WITH DISABILITIES?

IN ORDER TO ENJOY THE PROTECTIONS OF SECTION 504 AND THE ADA, THE STUDENT HAS AN OBLIGATION TO SELF-IDENTIFY THAT SHE/HE HAS A DISABILITY AND NEEDS ACCOMMODATION.

THE INSTITUTION MAY REQUIRE THAT THE STUDENT PROVIDE APPROPRIATE DOCUMENTATION AT THE STUDENT'S EXPENSE IN ORDER TO ESTABLISH THE EXISTENCE OF THE DISABILITY AND THE NEED FOR ACCOMMODATION.

What are the institution's obligations under Section 504 and the ADA?

THE INSTITUTION MUST PROVIDE REASONABLE ACCOMMODATIONS TO THE STUDENT'S KNOWN DISABILITY IN ORDER TO AFFORD HIM/HER AN EQUAL OPPORTUNITY TO PARTICIPATE IN THE INSTITUTION'S PROGRAMS, ACTIVITIES, AND SERVICES (INCLUDING EXTRACURRICULAR ACTIVITIES).

WHAT ARE SOME EXAMPLES OF REASONABLE ACCOMMODATIONS THAT AN INSTITUTION MIGHT BE EXPECTED TO PROVIDE ITS STUDENTS WHO HAVE DISABILITIES?

- 1. ADDITIONAL TIME TO COMPLETE TESTS, COURSEWORK, OR GRADUATION;
- 2. SUBSTITUTION OF NONESSENTIAL COURSES FOR DEGREE REQUIREMENTS;
- 3. ADAPTATION OF COURSE INSTRUCTION;
- 4. TAPE RECORDING OF CLASSES; AND
- 5. MODIFICATION OF TEST TAKING/PERFORMANCE EVALUATIONS SO AS NOT TO DISCRIMINATE AGAINST STUDENTS WITH SENSORY, MANUAL, OR SPEAKING IMPAIRMENTS (UNLESS SUCH SKILLS ARE THE FACTORS THE TEST PURPORTS TO MEASURE).

What is Harassment in the Work or Educational Environment?

FORMS OF HARASSMENT

QUID PRO QUO

HOSTILE WORK
ENVIRONMENT

QUID PRO QUO

"QUID PRO QUO" = "SOMETHING FOR SOMETHING"

When a person in a position of power (supervisor or Teacher) demands sexual consideration in return for benefits, or to avoid adverse actions.

DEMAND CAN BE EXPRESSED OR IMPLIED.

SEXUAL CONSIDERATION CAN INCLUDE: SEXUAL RELATIONS OR TOLERATION OF SEXUAL JOKES.

BENEFITS CAN INCLUDE: RAISES, PROMOTIONS, PREFERRED ASSIGNMENTS, OR CONTINUED EMPLOYMENT. FOR STUDENTS, IT CAN BE GOOD GRADES OR AVOIDING BAD GRADES.

HOSTILE ENVIRONMENT

A HOSTILE WORK OR HOSTILE EDUCATIONAL ENVIRONMENT IS ONE IN WHICH UNWELCOMED CONDUCT CREATES AN INTIMIDATING, OFFENSIVE OR DISRUPTIVE ENVIRONMENT. EXAMPLES INCLUDE:

- UNWELCOME PHYSICAL TOUCHING (RUBBING, MASSAGING, CARESSING, ETC.)
- PORNOGRAPHIC OR SEXUALLY-ORIENTED PICTURES, POSTINGS OR DISPLAYS
- DISCUSSING SEXUAL OR OTHER ACTIVITIES
- SEXUAL ADVANCES
- SEXUAL QUESTIONS
- JOKING ABOUT SEX
- UNWANTED COMMENTS ABOUT APPEARANCE
- INDECENT GESTURES
- Use of derogatory, demeaning, dehumanizing terms
- PROFANITY

OTHER FORMS OF HARASSMENT

SUBORDINATE HARASSMENT OF A SUPERVISOR UNCOMMON, BUT POSSIBLE SUPERVISOR MUST REPORT THE HARASSMENT

SAME SEX HARASSMENT

UNWELCOME, SEXUAL IN NATURE AND BASED ON THE PERSON'S GENDER

THIRD-PARTY HARASSMENT

DEFINITION OF EDUCATION PROGRAM OR ACTIVITY

THE REGULATIONS DEFINE AN EDUCATIONAL PROGRAM OR ACTIVITY AS:

- ANY LOCATION, EVENT, OR CIRCUMSTANCE OVER WHICH THE RECIPIENT EXHIBITS SUBSTANTIAL CONTROL OVER BOTH THE ALLEGED HARASSER AND THE CONTEXT IN WHICH THE HARASSMENT OCCURRED.

Who is Responsible?

DISTRICT ADMINISTRATORS/COMPLIANCE OFFICERS

DISTRICT ADMINISTRATORS AND/OR COMPLIANCE OFFICERS ARE THE DESIGNATED AGENTS OF THE INSTITUTION WITH PRIMARY RESPONSIBILITY FOR COORDINATING COMPLIANCE WITH TITLE IX, TITLE VII, SECTION 504, THE ADA AND OTHER STATE AND FEDERAL LAWS.

DISTRICT ADMINISTRATORS' AND/OR COMPLIANCE OFFICER'S RESPONSIBILITIES ARE CRITICAL TO THE DEVELOPMENT, IMPLEMENTATION, AND MONITORING OF MEANINGFUL EFFORTS TO COMPLY WITH STATE AND FEDERAL ANTI-DISCRIMINATION LAW.

DISTRICT ADMINISTRATORS/ COMPLIANCE OFFICERS

DISTRICT ADMINISTRATORS AND/OR COMPLIANCE OFFICERS OVERSEE MONITORING OF POLICY IN RELATION TO LEGAL DEVELOPMENTS; IMPLEMENTATION OF GRIEVANCE PROCEDURES, INCLUDING NOTIFICATION, INVESTIGATION AND DISPOSITION OF COMPLAINTS; PROVISION OF EDUCATIONAL MATERIALS AND TRAINING FOR THE SCHOOL COMMUNITY; CONDUCTING AND/OR COORDINATING INVESTIGATIONS OF COMPLAINTS; AND ENSURING A FAIR AND NEUTRAL PROCESS FOR ALL PARTIES.

DISTRICT ADMINISTRATORS/ COMPLIANCE OFFICERS

UNDER THE CURRENT REGULATIONS, THE TITLE IX COORDINATOR IS RESPONSIBLE FOR:

- PECEIVING VERBAL AND WRITTEN REPORTS OF SEX-BASED DISCRIMINATION AND SEXUAL HARASSMENT INVOLVING ALL STUDENTS AND EMPLOYEES
- RESPONDING PROMPTLY TO ALL ALLEGATIONS OF SEX-BASED MISCONDUCT
- RECEIVING FORMAL WRITTEN COMPLAINTS
- COORDINATING AND ENSURING THAT APPROPRIATE SUPPORTIVE MEASURES ARE EQUITABLY PROVIDED
- COORDINATING THE INVESTIGATION AND ENSURING DUE PROCESS
- IMPLEMENTING ANY DISCIPLINARY SANCTIONS AND REMEDIES.

***THE TITLE IX COORDINATOR IS NOT THE DECISION MAKER, BUT THEY CAN BE THE INVESTIGATOR

DISTRICT ADMINISTRATORS/ COMPLIANCE OFFICERS

DECISION MAKERS ARE DIFFERENT THAN COMPLIANCE OFFICERS

- DECISION MAKERS CANNOT SERVE AS INVESTIGATORS
- PRESIDE OVER LIVE HEARINGS (IF ANY)
- Must allow both parties the opportunity to submit relevant questions
- USE THE INVESTIGATIVE REPORT
- DETERMINATION SHOULD INCLUDE:
 - ALLEGATIONS
 - PROCEDURAL STEPS TAKEN
 - FINDINGS OF FACT
 - APPLICATION OF THE CODE OF CONDUCT TO THE FACTS
 - STATEMENT OF AND RATIONAL FOR RESULT AS TO EACH
 ALLEGATION

MONITORING THE POLICY

DISTRICT ADMINISTRATORS/ COMPLIANCE OFFICERS

ENSURES THAT A VIABLE ANTI-HARASSMENT / ANTI-DISCRIMINATION POLICY IS IN PLACE.

MAKES CONTINUOUS EFFORTS TO ENSURE THAT THE POLICY COMPLIES WITH ALL STATE, FEDERAL AND LOCAL LAW REQUIREMENTS.

MODIFIES THE POLICY IN CONFORMITY TO ANY CHANGES IN THE LAW.

GRIEVANCE PROCEDURE

THE GRIEVANCE PROCEDURE

DISTRICT ADMINISTRATORS AND/OR COMPLIANCE OFFICERS ARE RESPONSIBLE FOR THE IMPLEMENTATION OF GRIEVANCE PROCEDURES (ALSO KNOWN AS THE COMPLAINT PROCEDURE), INCLUDING:

- 1. NOTIFICATION & EDUCATION
- 2. INVESTIGATION
- 3. DISPOSITION OF COMPLAINTS

NOTIFICATION & EDUCATION

(TITLE IX COORDINATOR AND COMPLIANCE OFFICERS)

PREPARE AND DISSEMINATE A CLEAR ANTI-HARASSMENT / ANTI-DISCRIMINATION POLICY

COORDINATE TRAINING FOR STUDENTS ABOUT THEIR RIGHTS UNDER STATE / FEDERAL LAW AND GRIEVANCE PROCEDURES

COORDINATE IN-SERVICE TRAINING TO ALL EMPLOYEES CONCERNING STATE / FEDERAL LAW AND GRIEVANCE PROCEDURES

RECEIVE INQUIRIES AND COMPLAINTS

(TITLE IX COORDINATOR AND COMPLIANCE OFFICERS)

RECEIVE AND PROCESS, IN A TIMELY MANNER, **INQUIRIES** FROM STUDENTS, FACULTY, STAFF, AND ADMINISTRATORS REGARDING RIGHTS AND RESPONSIBILITIES CONCERNING HARASSING BEHAVIOR OR OTHER DISCRIMINATORY BEHAVIOR

RECEIVE AND PROCESS, IN A TIMELY MANNER, **INQUIRIES** FROM THIRD PARTIES WHO REPORT SUSPICION OF HARASSING BEHAVIOR OTHER DISCRIMINATORY BEHAVIOR

RECEIVE AND PROCESS, IN A TIMELY MANNER, **COMPLAINTS** FROM STUDENTS, FACULTY, STAFF, AND ADMINISTRATORS REGARDING RIGHTS AND RESPONSIBILITIES CONCERNING HARASSING BEHAVIOR OR OTHER DISCRIMINATORY BEHAVIOR IN VIOLATION OF TITLE IX

RECEIVE AND PROCESS, IN A TIMELY MANNER, **COMPLAINTS** FROM THIRD PARTIES WHO REPORT SUSPICION OF HARASSING BEHAVIOR OR OTHER DISCRIMINATORY BEHAVIOR IN VIOLATION OF TITLE IX

INVESTIGATION PROCEDURAL OVERVIEW

(INVESTIGATOR)
NOTIFY COMPLAINANTS OF RECEIPT OF THE COMPLAINT

NOTIFY RESPONDENTS THAT COMPLAINT HAS BEEN MADE

NOTIFY SUPERVISOR(S) OF RESPONDENT THAT COMPLAINT HAS BEEN MADE (WHERE APPROPRIATE)

INVESTIGATE ALLEGED DISCRIMINATION AND OR HARASSMENT

INTERVIEW COMPLAINANTS, RESPONDENTS, AND MATERIAL WITNESSES

OBTAIN AND REVIEW DOCUMENTS AND OTHER RELEVANT MATERIALS FROM COMPLAINANT AND OR RESPONDENT

DISPOSITION

(DECISION-MAKER AND COMPLIANCE OFFICERS)

ISSUE FINDINGS OF FACT AND RECOMMENDATIONS FOR DISPOSITION OF COMPLAINTS (DECISION-MAKER)

NOTIFY ALL PARTIES REGARDING DISPOSITION (COMPLIANCE OFFICERS)

NOTIFY COMPLAINANTS OF HIS OR HER RIGHT TO PURSUE REMEDIES OUTSIDE OF THE GRIEVANCE PROCESS (COMPLIANCE OFFICERS)

FOLLOW-UP WITH PARTIES REGARDING IMPLEMENTATION OF RECOMMENDATIONS CONTAINED IN DISPOSITION; SEEK ASSISTANCE FROM PARTIES' SUPERVISORS, IF NECESSARY TO IMPLEMENT RECOMMENDATIONS (COMPLIANCE OFFICERS)

MONITOR COMPLIANCE OF ALL REQUIREMENTS AND TIME-LINES SPECIFIED IN THE COMPLAINT/GRIEVANCE PROCEDURES (COMPLIANCE OFFICERS)

ADDITIONAL RESPONSIBILITIES

PROVISION OF EDUCATIONAL MATERIALS AND TRAINING FOR THE SCHOOL COMMUNITY

ENSURING A FAIR AND NEUTRAL PROCESS FOR ALL PARTIES

INVESTIGATIONS

INVESTIGATION - STEP 1

DEFINE THE SCOPE OF THE INVESTIGATION:

ITEMIZE THE INCIDENTS DESCRIBED IN THE COMPLAINT

START WITH "WRITTEN COMPLAINT" (EITHER GENERATED BY THE COMPLAINANT OR THE RECIPIENT OF THE VERBAL COMPLAINT) OF THE COMPLAINANT'S STATEMENT OF THE FACTS

REVIEW YOUR POLICY — WHAT DOES IT REQUIRE?

INVESTIGATION - STEP 2

ESTABLISH A FLEXIBLE "GAME PLAN":

- WHAT IS THE SUBJECT MATTER OF THE INVESTIGATION?
- · Who are the witnesses?
- Is there any physical or documentary evidence that should be considered?
- · What order should the witnesses be interviewed in?
- DECIDE IN ADVANCE, WHO GETS ACCESS TO THE REPORT AND WHAT FEEDBACK, IF ANY, THE INVOLVED PARTIES WILL RECEIVE?

INVESTIGATION - STEP 3

CONDUCT WITNESS INTERVIEWS

Make use of the "Introduction" at the beginning of the investigative interview:

- EXPLAIN GENERALLY WHAT THE INVESTIGATION IS ABOUT
- DESCRIBE YOUR ROLE AS THE INVESTIGATOR (EMPHASIZING THAT NO CONCLUSIONS HAVE BEEN REACHED)
- EXPLAIN THE INVESTIGATION AND INTERVIEW PROCESS
- DESCRIBE THE INTERVIEWEE'S ROLE IN THE INVESTIGATION (E.G., COMPLAINANT, ACCUSED, OR POTENTIAL WITNESS)
- EXPLAIN THE NEED AND RATIONALE FOR CONFIDENTIALITY
- EXPLAIN THE PROHIBITION AGAINST RETALIATION AND THE COMPLAINT PROCEDURE AVAILABLE TO THEM
- SET THE PROPER TONE FOR THE INVESTIGATIVE INTERVIEW

ASK DETAILED QUESTIONS (TRY TO ELICIT ENOUGH DETAIL TO ESTABLISH A VISUAL PICTURE OF THE INCIDENT)

IDENTIFY OTHER POTENTIAL WITNESSES

DO NOT BE AFRAID OF RELATED CONDUCT WHICH MAY VIOLATE THE ORGANIZATION'S POLICY

TAKE NOTES AND TAKE YOUR TIME

CONSIDER INCONSISTENCIES, BOTH WITHIN THE REPORTS OF A SINGLE WITNESS AND BETWEEN DIFFERENT WITNESSES

PAY ATTENTION TO ISSUES THAT MAY BE IMPORTANT IN ASSESSING CREDIBILITY, SUCH AS:

SPECIFICITY OF REPORTS

CORROBORATION

CONSISTENCY

MOTIVES, AGENDAS, BIAS

DEMEANOR

PLAUSIBILITY

TENDENCIES TOWARDS FABRICATION AND/OR EXAGGERATION

LEVEL OF COOPERATION

PRIOR HISTORY, REPUTATION

RESERVE JUDGMENT UNTIL THE FACT-FINDING STAGE IS COMPLETE

DON'T PROMISE TOO MUCH

DON'T TELL THE ACCUSED THE ACCUSATIONS BEFORE DISCUSSING THE FACTS

DO NOT ENSURE CONFIDENTIALITY

BE COMFORTABLE USING THE ACTUAL WORDS AT ISSUE.

MEET FACE TO FACE IF POSSIBLE / GO TO THE SITE OF THE OFFENSE

YOU MUST RESPOND, EVEN IF SOMEONE ASKS YOU NOT TO DO ANYTHING.

DON'T APPEAR LIKE YOU ARE READING FROM SOMEONE'S STATEMENT

ASK IF YOU ARE BEING RECORDED, BUT SPEAK AS THOUGH YOU ARE BEING RECORDED

COUNSEL ABOUT THE LAW WHILE SPEAKING WITH COMPLAINANT AND THE ACCUSED

CONDUCT INTERVIEWS EXPEDITIOUSLY, CLOSE IN TIME TO COMPLAINT AND IN A ROW

ALWAYS HAVE A WITNESS IN THE ROOM WITH YOU

DISQUALIFY OR RECUSE IF NECESSARY

BE CONSISTENT IN YOUR PRACTICES

WE WILLING TO RE-INTERVIEW WITNESSES

UTILIZE OUTSIDE COUNSEL

REDISTRIBUTE THE POLICY

FOLLOW UP WITH THE COMPLAINANT WHERE APPROPRIATE

<u>AVOID</u>

UNDERMINING THE SERIOUSNESS OF THE INVESTIGATION BY CREATING AN OVERLY INFORMAL OR FAMILIAR ATMOSPHERE

UNNECESSARILY REVEALING THE NAMES OF OTHER PERSONS INVOLVED IN THE INVESTIGATION

DISCUSSING ANY PERSONAL OPINIONS ABOUT THE MERITS OR PERSONS INVOLVED IN THE INVESTIGATION

REACTING TO WITNESS REPORTS IN ANY FASHION WHICH COULD BE (MIS)PERCEIVED AS AFFECTING YOUR IMPARTIALITY

LEADING WITNESSES (HAVING A WITNESS "AGREE" WITH YOUR STATEMENT IS OF LITTLE OR NO VALUE)

SHORTEN THE TIME LAPSE BETWEEN TAKING INTERVIEW NOTES AND FORMALLY SUMMARIZING WITNESS REPORTS.

CONDUCT CONTEMPORANEOUS CREDIBILITY ASSESSMENTS IMMEDIATELY AFTER EACH INTERVIEW.

MAINTAIN CONTROL OVER THE INVESTIGATION AND THE PROCESS (I.E., IT "BELONGS" TO THE ORGANIZATION, NOT THE COMPLAINANT).

AVOID CONFLICTS OF INTEREST AND BIAS

- ASSURE INVESTIGATOR IS IMPARTIAL
 - NO PERSONAL TIES TO EITHER PARTY
 - Can use attorney
- PRIORITIZE CONFIDENTIALITY
- ENSURE PROPER DOCUMENTATION
- TREAT PARTIES EQUALLY AND PROVIDE DUE PROCESS
- USE PROPER NOTETAKING SKILLS
 - No conclusions in notes
- DON'T DELAY THE INVESTIGATION

DISPOSITION

THERE ARE A RANGE OF PENALTIES FROM EXPULSION, SUSPENSION AND OTHER ACTIONS FOR STUDENTS

AND

TERMINATION, REPRIMAND AND COUNSELING (ORAL AND WRITTEN) FOR EMPLOYEES

DISPOSITION

BE CAREFUL WITH THE WRITTEN REPORT, ANY WRITTEN COUNSELING OR DISCIPLINE, AND THE STATEMENT THAT IS GIVEN TO THE COMPLAINANT

IT COULD BE AN EXHIBIT IN SUBSEQUENT LITIGATION

DISTRICT ADMINISTRATORS

YOU ARE NOW READY!

ANY OTHER QUESTIONS?



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