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Title IX Investigator- Sex-Based Harassment Investigations (Tier 1)

Presented by DSA Associates:

**Cathy Cocks
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Title IX Investigator

Tier 1 – Based Harassment Investigations

- The Investigator
- Sex-Based Harassment
- Unwelcome Conduct & Consent
- Investigative Strategy & Evidence Collection
- Interviewing
- Trauma & The Interview
- Evidence Evaluation
- Reports



TITLE IX

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To receive a certificate, attendees must attend the majority of the class and have paid class invoice in full. This applies to both in-person classes and virtual classes. We understand that attendees may need to miss class for a legitimate reason for longer periods of time or may need to leave the room during a class for a few minutes to take a phone call or attend to other business. If an attendee misses a significant amount of the class (depending on the length of the class) or they miss an attendance poll, they will not be issued a certificate of completion for the class.

Attendees should report each absence using the online form provided (each class has its own unique form that is sent to all attendees via email prior to class). Attendees should complete the form twice for each absence: once to record their departure, and again to record their return. Attendees should complete the form immediately before leaving class and as soon as practicable upon their return. If an attendee signs out but does not sign back in, they will be marked absent for the remainder of the day.

The criteria for receiving a certificate is determined based on missed class time and participation in the Attendance Polls that will be launched throughout each day of class. Attendance polls are left up for approximately 5 minutes and the instructor notifies the attendees that a poll is being launched to ensure that everyone who is present can respond to the poll. If an attendee is unable to respond to the attendance poll, the attendee would need to **immediately post "I am here"** in the chat feature within the Zoom platform. That way we can give the attendee credit for being in attendance for that specific poll. Notifying us after the attendance poll has been closed will not allow us to give the attendee credit for being in class during the poll.

Some of our classes may qualify for credit toward a Master's Degree at New England College (and regardless if you decide to seek credit or not, accreditation requirements mandate that we follow the same standards for all class attendees), so we have strict attendance standards that we follow for issuance of a certificate. For DSA & NACCOP, issuance of a Certificate of Completion is verification of attendance.



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Adrienne Meador Murray, Vice President, Equity Compliance and Civil Rights Services



In January 2014, Adrienne Meador Murray joined D. Stafford & Associates where she currently serves as the Vice President, Equity Compliance and Civil Rights Services after having been affiliated with D. Stafford & Associates as a part-time Associate since 2012 and the National Association of Clery Compliance Officers & Professionals (NACCOP) where she currently serves as Director of Training and Compliance Activities. Murray began her career in municipal law enforcement as a civilian employee with the City of Richmond Police Department (Virginia). She graduated from the Virginia Commonwealth University Police Training Academy and began her career as a sworn police officer for the University of Richmond (UR) Police Department (Virginia). At UR, Murray progressed through the ranks from a night shift patrol officer to Operations Lieutenant (overseeing criminal investigations, crime prevention and patrol) over the span of a decade before becoming the Chief of Police at Davidson

College in North Carolina. Most recently, Murray served as Chief of Police at Trinity Washington University (in Washington, D.C.).

As the Executive Director, Equity Compliance and Civil Rights Services for DSA, Murray builds on her 17-year career in law enforcement in which she became a nationally recognized expert in the field of best practice postsecondary institutional response to the sexual victimization of college women in the United States and in Canada. She is also a trained civil rights investigator and is well respected throughout the country for her ability to aid institutions in understating how to do best practice criminal and civil rights investigations concurrently. She is well known for her work in having provided support, advocacy and criminal investigative services for victims of sexual assault, stalking and intimate partner violence and is a sought-out speaker and investigator. She has expertise in the construction of best practice law enforcement standard operating procedures and training police officers to respond in best practice and trauma-informed ways to victims of sexual assault and intimate partner violence. In her current role, Murray coordinates curriculum development and instruction for national classes, including basic and advanced sexual misconduct investigation classes; an investigation of dating violence, domestic violence and stalking class; and a Title IX Coordinator/Investigator class offered through D. Stafford & Associates. To date, Murray has trained more than 3,500 criminal and civil rights investigators throughout the U.S.

Drawing on her experiences as a trained criminal and civil rights investigator, Murray also oversees independent investigations of complex sexual misconduct cases; conducts audits of Title IX/VAWA



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Compliance; drafts institutional sexual misconduct policies and procedures; and conducts campus-based trainings pertaining to the resolution of sexual misconduct offenses on college and university campuses. Murray frequently presents at regional and national conferences on topics such as the *Sexual Victimization of College Women*, *Understanding Consent and Incapacitation*, and *Responding to Sexual Assault on Campus: Clery Act and Title IX Implications*. Murray also conducts provincially specific sexual misconduct trainings throughout Canada.

Murray is a graduate of the University of Richmond, where she received her Bachelor's Degree in Applied Studies in Human Resource Management and of New England College, where she received her Master's Degree in Campus Public Safety Administration. Murray is also a graduate of the 235th session of the prestigious FBI National Academy where she was awarded a graduate certificate in Criminal Justice from the University of Virginia. She has authored numerous journal articles.



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Catherine Cocks, M.A. **Consultant, Student Affairs, Title IX, and** **Equity Compliance Services**



Ms. Cocks has been a higher education professional for over thirty years. Her work with D. Stafford & Associates focuses on Title IX investigations and training; assessment of student affairs policies, practices and services; and behavioral threat assessment. Cathy was the Director of Community Standards for the University of Connecticut for 14 years where she managed the student conduct process, which included managing all Title IX cases involving student respondents and chaired the University's student threat assessment team. Prior to that, she held several positions within Residential Life at the University of Connecticut and Roger Williams University.

She is a faculty member for the Association for Student Conduct Administration's (ASCA) Donald D. Gehring Academy teaching on subjects such as ethics, governance, threat assessment, media relations, and higher education trends. She was an affiliated faculty

member for many years in the University of Connecticut's Higher Education and Student Affairs Master's program teaching "The Law, Ethics, and Decision-Making in Student Affairs."

Cathy has co-authored the "Philosophy of Student Conduct" chapter in the 2nd edition of "Student Conduct Practice" (2020) and was a member of the writing team for CAS Standards' Cross-functional Framework for Identifying and Responding to Behavioral Concerns.

Cathy is a Past President of ASCA. She has also served as a Circuit representative, co-chair of the Public Policy and Legislative Issues Committee, and as a member of the ASCA Expectations of Members Task Force. Cathy has served in a variety of leadership roles in NASPA Region I.

She was the 2015 recipient of ASCA's Donald D. Gehring Award. She is a past recipient of the NASPA Region I Mid-Level Student Affairs Professional Award and the NASPA Region I Continuous Service Award.

She earned her Master's degree in Higher Education Administration from the University of Connecticut and Bachelor's degree in Communications/Media from Fitchburg State University.



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Ann Todd **Consultant, Equity Compliance and Civil Rights Investigations**



Ann Todd, Esq is a seasoned civil rights investigator in higher education for D. Stafford & Associates (DSA). Ms. Todd is a graduate of Davidson College with a degree in psychology and holds a JD from the University of Nebraska. Prior to joining DSA, she practiced law in Charlotte, NC, specializing in employment and civil rights and worked for a number of non-profit organizations. She returned to her alma mater (Davidson College) in 2008 and worked there through March of 2016 serving as the Assistant Director of Human Resources with the responsibility of managing employee relations and the learning and development function while also serving as the deputy Title IX Coordinator.

Ms. Todd joined the DSA in 2015 and currently serves as the Consultant, Equity Compliance and Civil Rights Investigations. She is the Senior Investigator for the DSA Title IX Investigation Team. She conducts external investigations on behalf of colleges and universities, specializing in investigating student allegations of sex discrimination, sexual assault, intimate partner violence, and stalking. Additionally, she brings a strong Human Resources background to investigating a range of employee misconduct—from performance issues to discrimination.

In addition to conducting investigations, Ms. Todd is a frequent speaker and consultant on Title IX investigations, conducting 20-30 courses every year on best practices for investigating sex discrimination and sex crimes on campus. She works with schools to draft policies and processes that provide equity and fairness to



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all parties involved and is adept at facilitating discussions with institutions to ensure the end product represents the values of the campus community.

Ms. Todd is licensed private investigator and a member of the NC Bar. She is a Certified Clery Compliance Officer through the National Association of Clery Compliance Officers and Professionals (NACCOP) and she is also a certified 360 facilitator through the Center for Creative Leadership. Ms. Todd lives in Davidson, NC where she volunteers on a number of local and town boards.



NACCOP Title IX & Equity Alliance

The Alliance is a dedicated affinity group through which Title IX and Equity Professionals, and the practitioners who support and/or supervise them, can benefit from NACCOP's expertise in complying with the Clery Act, Title IX, and other civil rights laws that affect their work.

BENEFITS OF JOINING THE ALLIANCE

- **Access to NACCOP's annual 9 on IX webinar series at no additional cost (a \$710 value)**
 - These 60-minute succinct webinars will offer legal insight and practical guidance on Title IX topics from experts who have served or are currently serving as active practitioners on college and university campuses.
- **Alliance-Exclusive Professional Development Opportunities such as the Title IX & Equity Open House Discussion Series**
 - An Alliance-exclusive virtual open house will be held bi-monthly (every other month, 6 sessions annually) to engage with experts from NACCOP's partner organization, D. Stafford & Associates, as well as other invited guests, to discuss current trends and issues. Each open house will focus on a specific topic for discussion and participants will be encouraged to engage in the conversation.
- **Access to Alliance-Exclusive Whitepapers regarding Title VI, VII, and IX**
- **Connect and collaborate with other Title IX and Equity Professionals via an Alliance-restricted Listserv**
- **Discounted Professional Development Opportunities**
 - Coffee and Conversations webinar series and individual webinars focused on Title IX & Equity compliance issues
- **A 50% discount on the Title IX Notice Document Library developed by NACCOP's Partner Organization, D. Stafford & Associates (a \$335 value)**

Join the Alliance

Eligible individuals must have Institutional, Professional, or Committee Membership with NACCOP.

Cost: \$425 for 1 year subscription

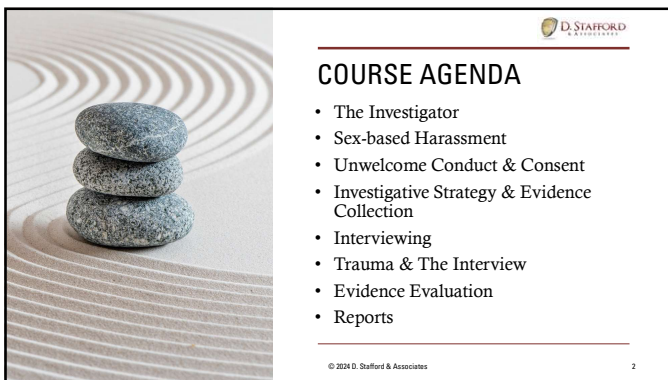
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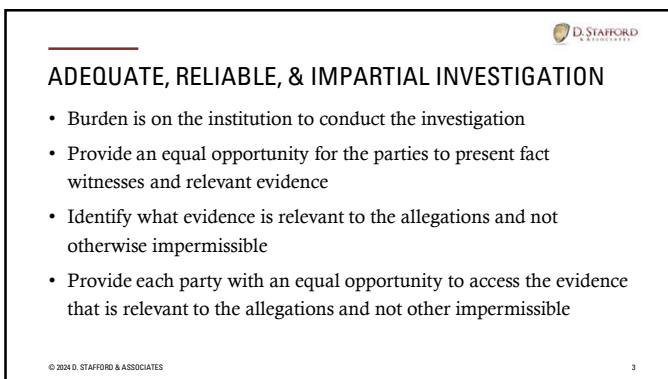
Questions? Contact us at info@naccop.org or 302-344-1068.



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THE INVESTIGATOR





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Characteristics of a Great Investigator





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CREDIBILITY OF THE INVESTIGATION










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INVESTIGATOR PITFALLS

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CONFLICT OF INTEREST OR BIAS

Generally




Individually



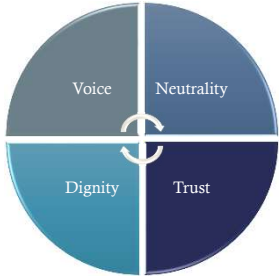
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PROCEDURAL FAIRNESS



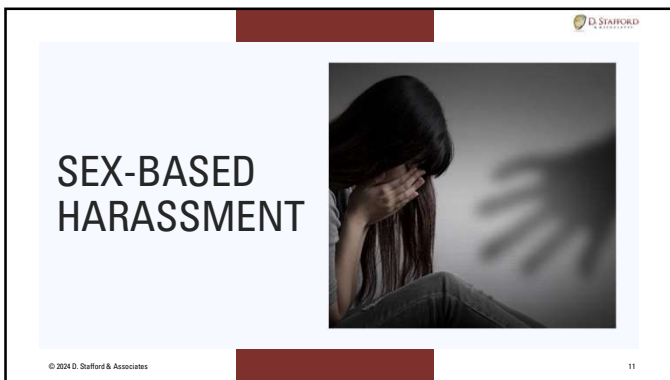
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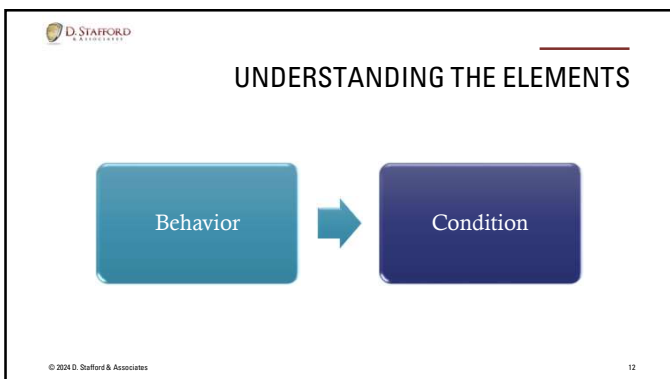
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DECISION-MAKER'S PATH

- What was the conduct?
 - Was the conduct on the basis of sex?
 - Was the conduct unwelcome or without consent?
- Does the conduct meet the definition of a violation of institutional policy?


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TITLE IX DEFINITIONS



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QUID PRO QUO HARASSMENT



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QUID PRO QUO HARASSMENT

An employee, agent, or other person authorized by the recipient to provide an aid, benefit, or service under the recipient's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct.

§ 106.2

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QUID PRO QUO INVESTIGATIONS

Respondent

- What is the respondent's status and authority?
- What is the relationship to the complainant?
- What, if any, perceived or actual power exists?

Aid, Benefit, or Service

- What was offered?
- How was it communicated?

Sexual Conduct

- What was the conduct requested?
- Was it sex-based?
- How was it communicated?
- How was it unwelcome?

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HOSTILE
ENVIRONMENT
HARASSMENT



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HOSTILE ENVIRONMENT HARASSMENT

Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the recipient's education program or activity (i.e., creates a hostile environment).

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HOSTILE ENVIRONMENT HARASSMENT


Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

- (i) The degree to which the conduct affected the complainant's ability to access the recipient's education program or activity;*
- (ii) The type, frequency, and duration of the conduct;*
- (iii) The parties' ages, roles within the recipient's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;*
- (iv) The location of the conduct and the context in which the conduct occurred; and*
- (v) Other sex-based harassment in the recipient's education program or activity.*

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HOSTILE ENVIRONMENT INVESTIGATIONS

Type, frequency, and duration of the conduct

Location of the conduct and the context

Parties' ages, roles, previous interactions, other factors

Degree to which the conduct affected access to the program or activity

Other sex-based harassment in the program or activity

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SEXUAL
ASSAULT



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2024 TITLE IX REGULATIONS - SEXUAL ASSAULT

Sexual assault meaning an offense classified as a forcible or nonforcible sex offense under the uniform crime reporting system of the Federal Bureau of Investigation.

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UNIFORM CRIME REPORTING PROGRAM (UCR)

- **Rape (Except Statutory Rape)** - The carnal knowledge of a person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity
- **Sodomy** - Oral or anal sexual intercourse with another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity
- **Sexual Assault With An Object** - To use an object or instrument to unlawfully penetrate, however slightly, the genital or anal opening of the body of another person, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity

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FBI, Uniform Crime Reporting Program:
National Incident-Based Reporting System (2018)

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UNIFORM CRIME REPORTING PROGRAM (UCR)

- **Fondling** - The touching of the private body parts of another person for the purpose of sexual gratification without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental or physical incapacity
- **Incest** - Nonforcible sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law Statutory Rape-Nonforcible sexual intercourse with a person who is under the statutory age of consent
- **Statutory Rape** - Nonforcible sexual intercourse with a person who is under the statutory age of consent

FBI, Uniform Crime Reporting Program:
National Incident-Based Reporting System (2018)

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CLERY DEFINITIONS OF SEXUAL ASSAULT

- **Rape** - The penetration, no matter how slight, of the vagina or anus, with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim. This offense includes the rape of both males and females.
- **Fondling** - The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of age or because of temporary or permanent mental incapacity.
- **Incest** - Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- **Statutory Rape** - Sexual intercourse with a person who is under the statutory age of consent.

34 CFR 668 Appendix A

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SEXUAL ASSAULT INVESTIGATIONS

What was the sexual behavior?

Who was the initiator?

What, if any, were the words or actions to indicate consent?

- Is there an issue of incapacitation or force?

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STALKING



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STALKING


Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

- (A) Fear for the person's safety or the safety of others; or*
- (B) Suffer substantial emotional distress.*


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STALKING INVESTIGATIONS



What was the course of conduct?



What was the frequency?



What was the impact?

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INTIMATE
PARTNER
VIOLENCE

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DATING VIOLENCE

Violence committed by a person:

(A) Who is or has been in a social relationship of a romantic or intimate nature with the Complainant; and

(B) Where the existence of such a relationship shall be determined based on a consideration of the following factors:

- (1) The length of the relationship;
- (2) The type of relationship; and
- (3) The frequency of interaction between the persons involved in the relationship.

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DOMESTIC VIOLENCE

Felony or misdemeanor crimes committed by a person who:

(A) Is a current or former spouse or intimate partner of the victim under the family or domestic violence laws of the jurisdiction of the recipient, or a person similarly situated to a spouse of the victim;

(B) Is cohabitating, or has cohabitated, with the victim as a spouse or intimate partner;

(C) Shares a child in common with the victim; or

(D) Commits acts against a youth or adult victim who is protected from those acts under the family or domestic violence laws of the jurisdiction.

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INTIMATE PARTNER VIOLENCE INVESTIGATIONS

Parties

- Type of relationship
- Length of the relationship
- Frequency of interaction between the persons

Behaviors

- Type of violence
- Possible patterns of behaviors
- Other behaviors that may fall under other policy definitions

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UNWELCOME
CONDUCT &
CONSENT



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"Unwelcome conduct"
vs. "without consent"



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UNWELCOME CONDUCT



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WHEN DOES CONDUCT BECOME UNWELCOME?

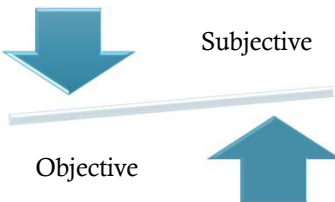
- Invited
- Uninvited but welcome
- Offensive but tolerated
- Flatly rejected

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TESTING FOR UNWELCOMENESS



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CONSENT



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CONSENT

Sexual
Permission

Verbal or
Nonverbal

Absent if force
or incapacitation


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FORCE

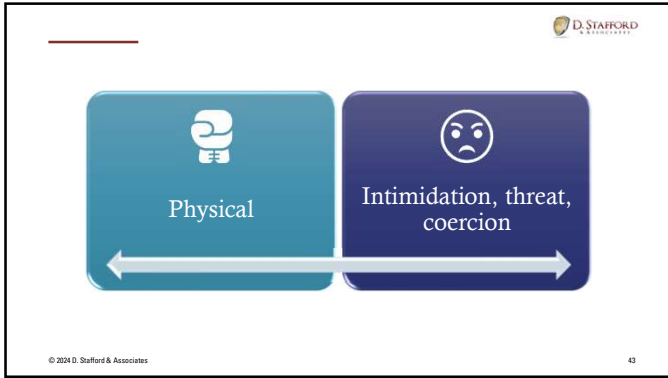


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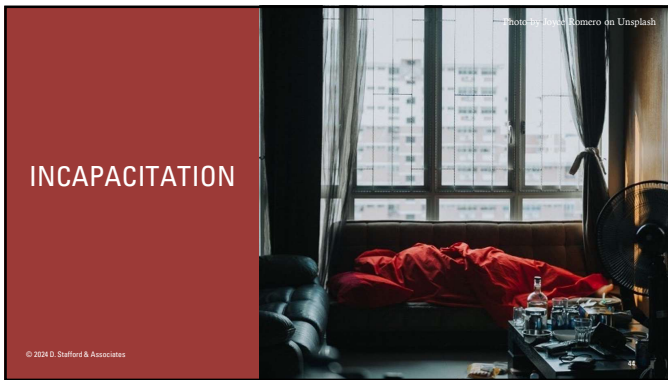
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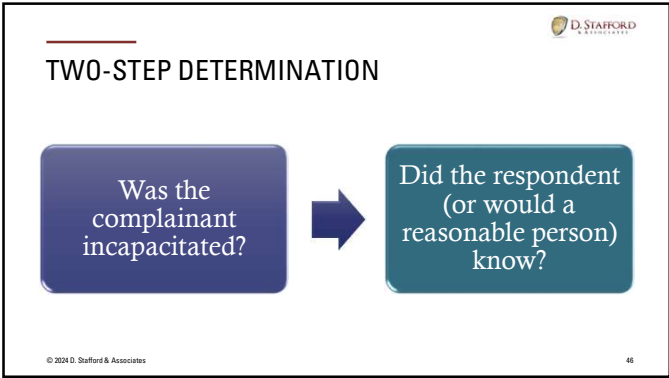
INCAPACITATION - SAMPLE DEFINITION

Incapacitation is the physical and/or mental inability, whether temporary or permanent, of an individual to make rational, reasonable decisions, or judgments regarding one's well-being or welfare.

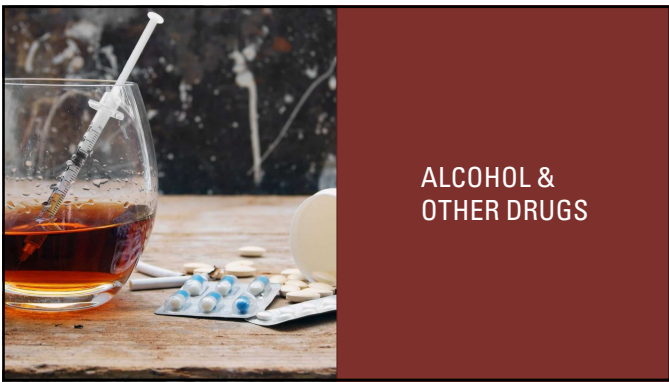
 Alcohol  Drugs  Disability  Other

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SUBSTANCE USE AND SEX

“...analysis of SHIFT survey data showed that two-thirds of sexually active students who had sex in the prior three months reported some substance use prior to or during sex.”

Jennifer S. Hirsch & Shamus Khan, “Sexual Citizens: A Landmark Study of Sex, Power, and Assault on Campus.”
SHIFT survey = Alexander Wamboldt et al., “Wine Nights, ‘Bro-Dinners,’ and Jungle Juice: Disaggregating Practices of Undergraduate Binge Drinking,” Journal of Drug Issues, 2019, 49(4): 643-67.

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HALLUCINOGENS AND OPIOIDS

Hallucinogens

- Change how the world is perceived
- Colors, sounds, movement and time are all experienced in an altered state of mind

Opioids

- Block pain by sealing off the receptors that trigger the sensation
- Provide a sense of euphoria

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STIMULANTS AND DEPRESSANTS

Stimulants (Uppers)

- Raise levels of physiological or nervous activity in the body
- Enhance alertness, concentration, and energy

Depressants (Downers)

- Inhibit the function of the central nervous system
- Reduce intrusive thoughts, providing a sense of relaxation


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ALCOHOL STANDARD MEASUREMENTS



12 oz. of beer



4-5 oz. of wine



1.5 oz. and 80 proof of liquor

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IMPAIRMENT

- The state of being diminished or weakened due to the consumption of alcohol
- Begins as soon as alcohol enters the bloodstream
- Increases with consumption of alcohol

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INTOXICATION

- An act or instance of inebriation, drunkenness
- Intoxication is legally met when an individual's blood alcohol level reaches .08 or greater

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INCAPACITATION

- So impaired as to be incapable of giving consent
- Lacking the capacity to consent
- If a person cannot understand the nature of the proposed act or cannot understand they have a right to refuse or are otherwise unaware that the activity is occurring

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BLACKOUTS

Fragmentary Blackout

- Also known as "grayout" or "brownout"
- Gaps in memory with some level of recollection

En Bloc Blackout

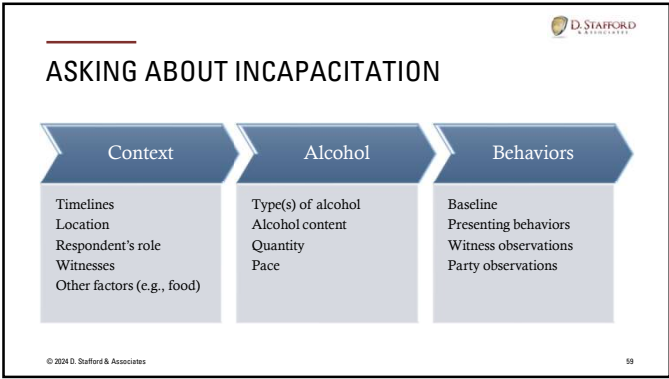
- No recollection of events

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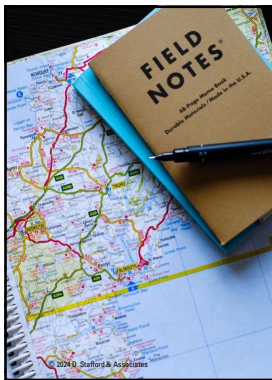
INVESTIGATIVE
STRATEGY &
EVIDENCE
COLLECTION



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INVESTIGATION ROAD MAP

Investigative
strategy

Research and
initial evidence
collection

Interviews

Additional
evidence
collection

Report writing

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DEVELOPING
AN
INVESTIGATIVE
STRATEGY





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INVESTIGATIVE
STRATEGY

 Scope


 Methodology

 Preparation


 Challenges





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SCOPE

 Notice of Allegation

 Notice of Investigation

 Policy Definitions

 Rights of the Parties

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METHODOLOGY

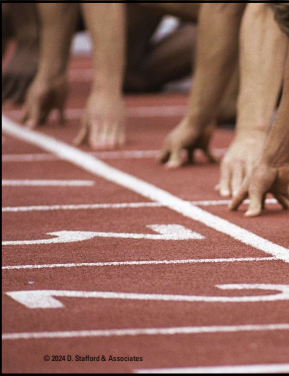
 File Management


 Liaisons

 Logistics


 Internal Communications


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PREPARATION

 Review Complaint

 Research

 Draft Questions

 Initial Evidence Collection

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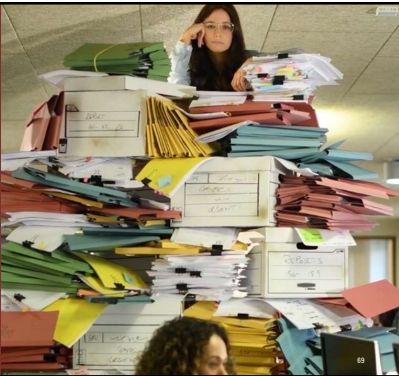
Investigation Challenges


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SIDEBAR:
INVESTIGATIVE
CASE FILE

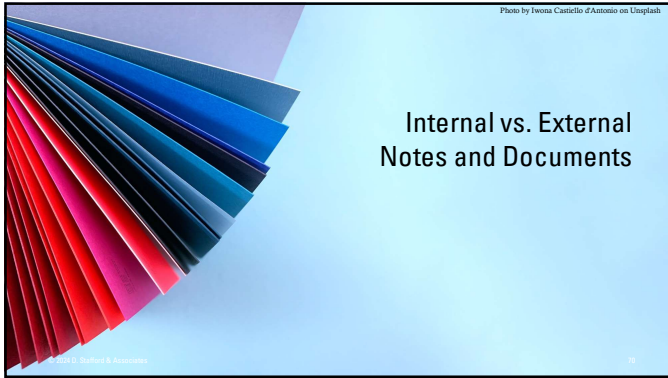




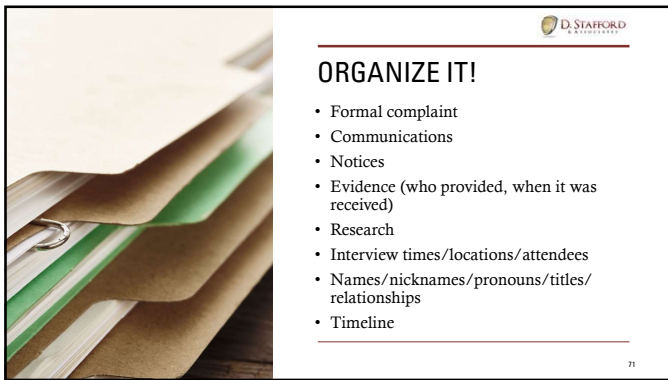
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EVIDENCE

Inculpatory
Information
demonstrating culpability
for an act

Exculpatory
Information tending to
excuse, justify, or absolve
the act

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EVIDENCE THAT MUST BE EXCLUDED

- Evidence that is protected under a privilege as recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the recipient obtains that party's or witness's voluntary, written consent for use in the recipient's grievance procedures; and

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EVIDENCE THAT MUST BE EXCLUDED





- Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.

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TYPES OF EVIDENCE

Real evidence

Demonstrative


Documentary

Testimonial





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PROVIDERS OF EVIDENCE

Parties

Witnesses


Institution

Investigators

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INITIAL EVIDENCE COLLECTION

Complaint

Other "statements"

Evidence from campus sources

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RESEARCH

 Websites
  Organizations
  Calendars
  Schedules
  Party
"directory
information"

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OTHER SOURCES OF EVIDENCE


Photographs	Text messages	Social media/dating apps	Documents (memos, letters, notes)
Voicemail	Phone logs	Guest lists	Investigator-created evidence

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FLOORPLANS



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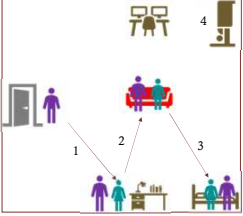
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INVESTIGATOR-CREATED EVIDENCE

During the Complainant's interview, the Complainant drew a model demonstrating the movements of the parties:

1. The Respondent arrived and went over to the Complainant who was at her desk.
2. The Respondent and Complainant moved to the couch and watched a movie.
3. The Complainant woke up as the Respondent was carrying her to her bed.
4. The roommate was in her bed across the room.



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INCIDENT
TIMELINE

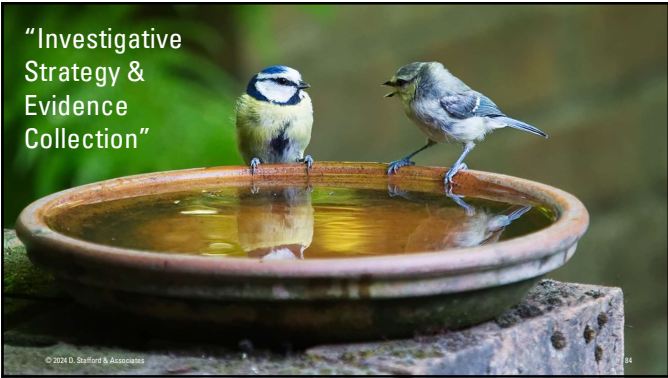


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"Investigative
Strategy &
Evidence
Collection"



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INTERVIEWING



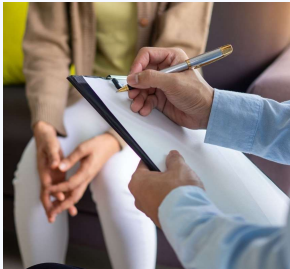



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INTERVIEWING
BASICS





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INTERVIEWS



Testimonial Evidence



Conversation




Structured



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THE INTERVIEWEES

Complainant

Respondent

Witness

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KEYS TO A GREAT INTERVIEW




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PREPARATION

Logistics	Procedures (communication, scheduling)
	Notice documents
	Case file
Research	Policy review
	Preliminary evidence
	Topics of inquiry
Pre-drafted questions	Background
	Narrative
	Case specific

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COMFORTABLE ENVIRONMENT

- The space
- Investigative tools
- Coping items
- Safety measures

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HELPFUL PROMPTS

Recreate the Scene

Physical Space

Sensory

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AVOID BAD HABITS

- Interrupting
- Asking two questions at once
- Not listening for the answer
- Avoiding the hard questions
- Not focusing on the elements

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BE FULLY PRESENT

- Treat the interviewee ethically and with dignity
- Be non-judgmental and non-adversarial
- Be objective - you are not “making a case” or pushing a theory
- Adjust and adapt

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THE
INTERVIEW





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THE D. STAFFORD
INTERVIEW OUTLINE



Preliminaries

Background

Narrative

Clarification

Case Questions

Closing

Self Evaluation



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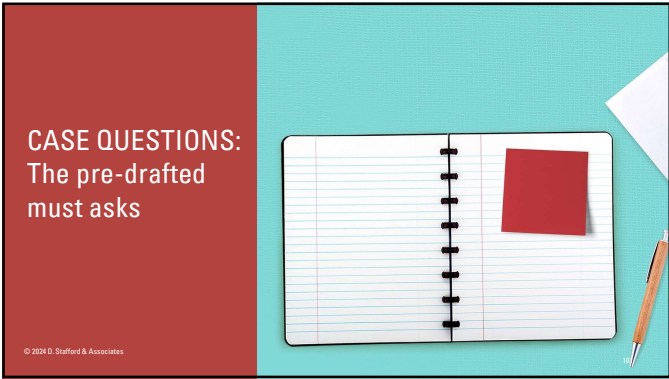
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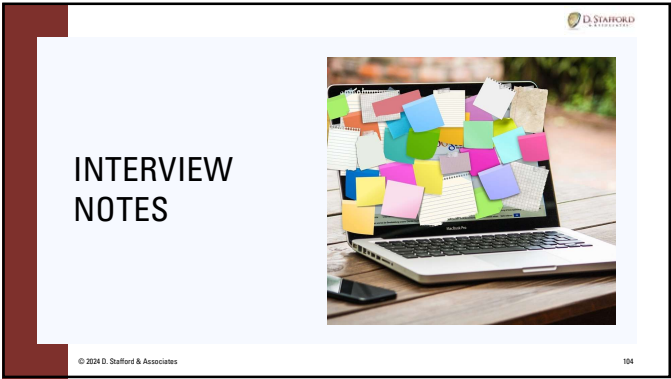
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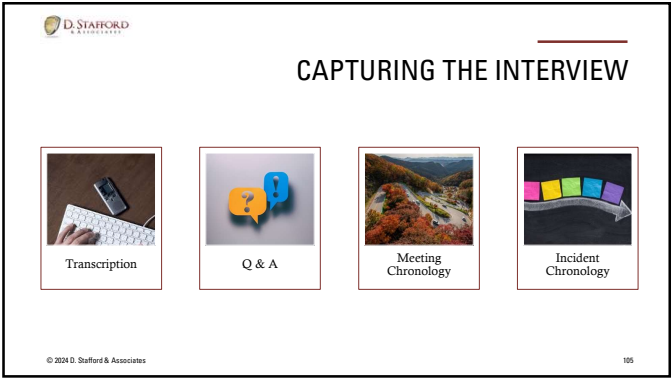
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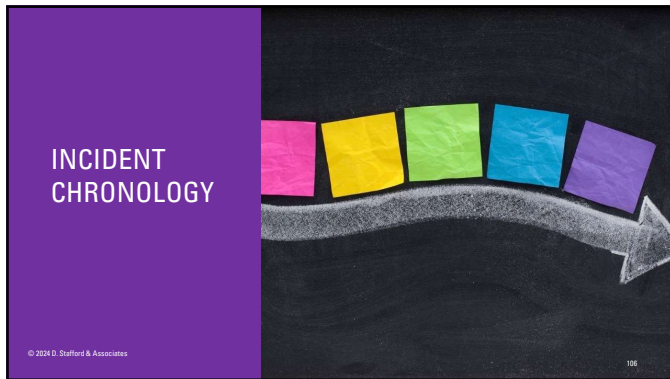
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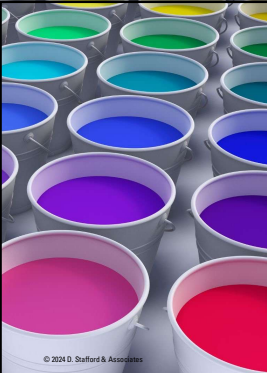
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INCIDENT CHRONOLOGY

- Ideal for investigative interviews
- Events and themes are organized in a sequential manner by the event, not the meeting
- Provides the interviewee's perspective not the interviewer's
- No observations or analysis

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EXAMPLE - CHRONOLOGICAL NARRATIVE

The Complainant stated she came back to her room on October 22, 2022 and found a flower bouquet outside of her room. There was an unsigned note that said, "Hope you are feeling better." Betty stated that she had not felt well the day before and skipped her classes. When asked how the Respondent knew she was sick, she stated that she posted about it on Instagram and "maybe he saw it there."

The Complainant stated that on October 24, 2022, she found another flower bouquet with a note at her door. The note stated, "You looked really pretty today."

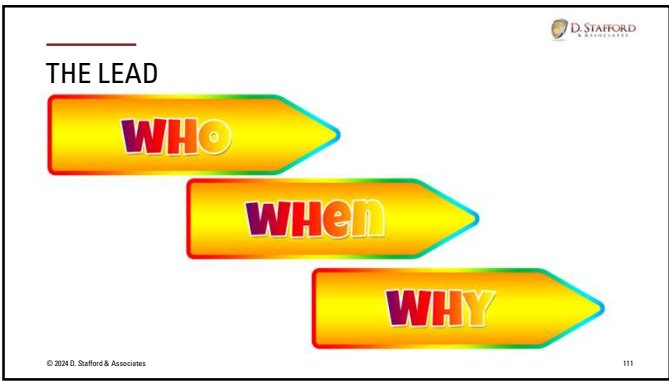
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USING QUOTES

Added Value

- Increases the credibility of your notes
 - demonstrates listening and comprehension
- Provides an opportunity to highlight key points of the meeting
- Gives the interviewees a direct voice on important aspects
- Avoids the appearance of the interviewer having an opinion


Pitfalls


- Quoting for the sake of quoting
- Confuses the reader if there are too many quotes
- Giving importance to something that is irrelevant
- Disrupts the flow or clarity of your notes

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EXAMPLE - THE CONVERSATION

Shelby (interviewer): Tell me about how much alcohol you had that night.

Betty (interviewee): I believe I had four to six shots.

Shelby: Shots of what?

Betty: Pink Whitney Vodka


Shelby: What did you use to drink the shots?

Betty: A shot glass that Riley had

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EXAMPLE - PICK THE BEST OPTION

Version 1

- Betty stated she had four to six shots of Pink Whitney Vodka from Riley's shot glass.

Version 2

- Betty believed she had four to six shots of Pink Whitney Vodka from Riley's shot glass.

Version 3

- Betty stated she "believed" she had four to six shots of Pink Whitney Vodka from Riley's shot glass.

Version 4

- Betty stated, "I believe I had four to six shots of Pink Whitney Vodka." Betty stated she used one of Riley's shot glass.

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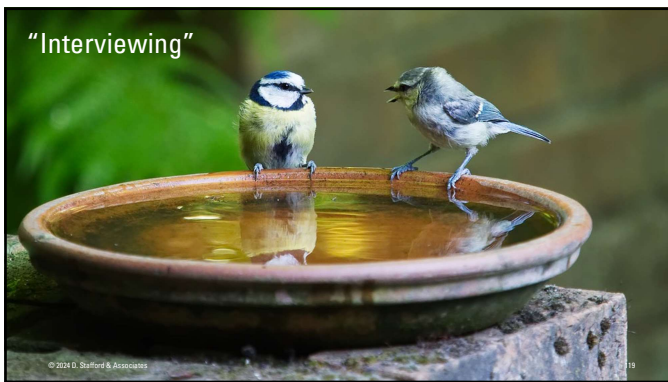
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SLANG AND OTHER INFORMAL WORDS

- Quote words or phrases that are slang, informal, or pejorative.
- Examples:
 - Riley stated Betty was “wasted.”
 - Betty stated that she could no longer live with her roommate because “she is unstable.”
 - Riley described Betty’s behavior as “creepy.”
- “Uncommon slang” may need a definition, either in the notes or as a footnote.

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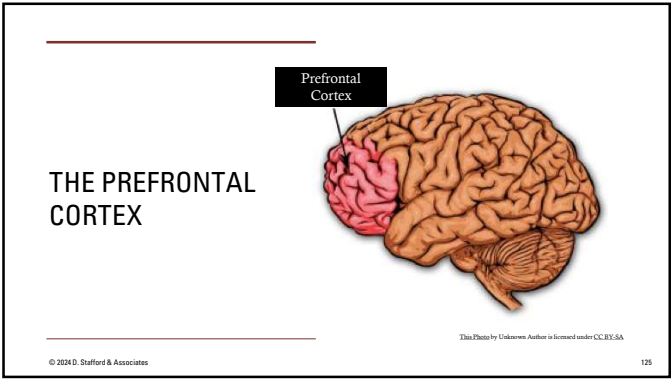
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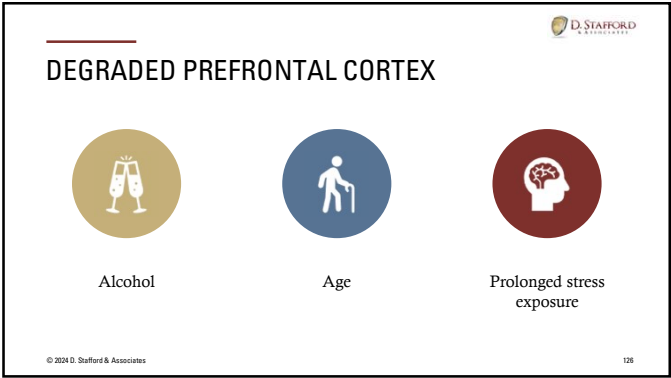
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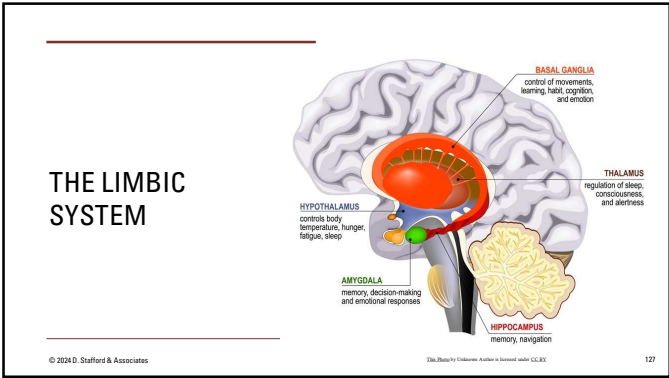
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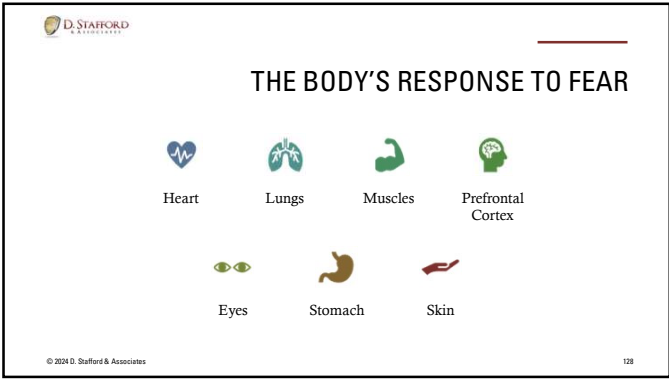
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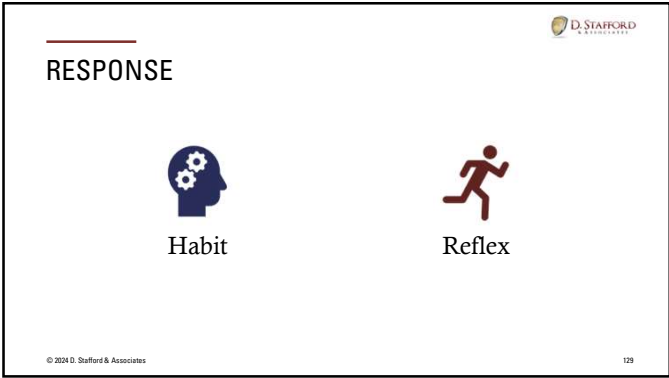
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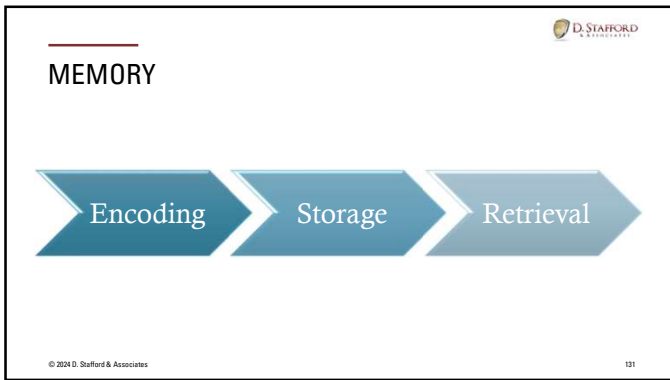
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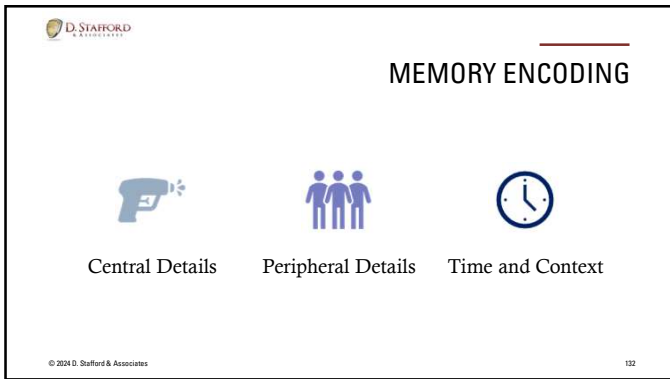
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TRAUMA MEMORY ENCODING



Sensory



Emotional




Flashbulb memories

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Memory Storage Over Time




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LONG TERM RESPONSE: IMPACT



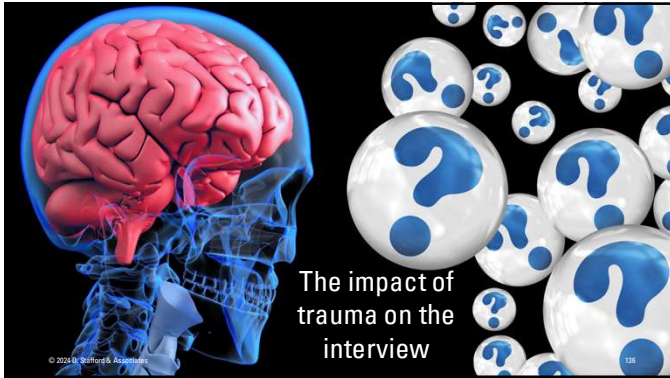
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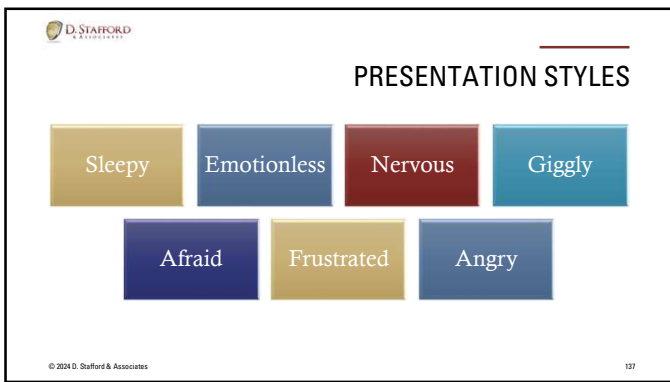
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QUESTION FORMAT





 Tone
  Phrasing
  Open-ended
  Safe
  Judgment-free

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INTERVIEW TECHNIQUES




 Clarify linear information
  Use sensory prompts
  Ask for feelings and emotions
  Understand statement variations

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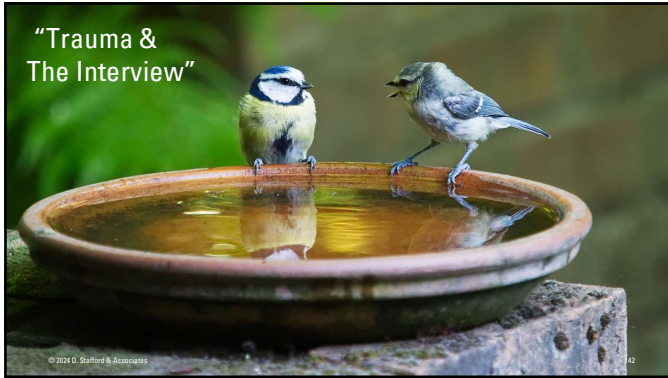


IMPARTIAL INVESTIGATIONS

 Consistent application
  Ask clarifying questions
  Avoid bias

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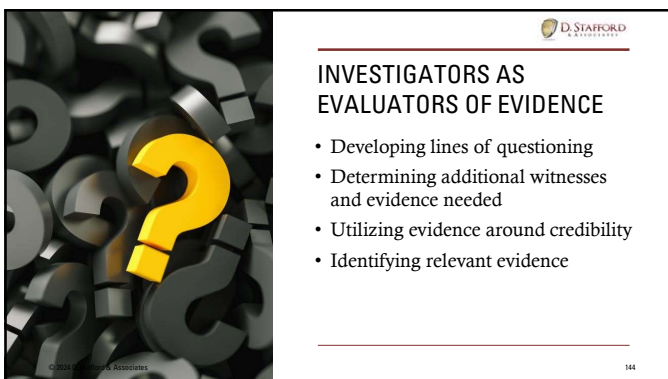
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EVIDENCE THAT MUST BE EXCLUDED

- Evidence that is protected under a privilege as recognized by Federal or State law or evidence provided to a confidential employee, unless the person to whom the privilege or confidentiality is owed has voluntarily waived the privilege or confidentiality;
- A party's or witness's records that are made or maintained by a physician, psychologist, or other recognized professional or paraprofessional in connection with the provision of treatment to the party or witness, unless the recipient obtains that party's or witness's voluntary, written consent for use in the recipient's grievance procedures; and

§ 106.45(b)(7)(i-iii)

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EVIDENCE THAT MUST BE EXCLUDED


- Evidence that relates to the complainant's sexual interests or prior sexual conduct, unless evidence about the complainant's prior sexual conduct is offered to prove that someone other than the respondent committed the alleged conduct or is evidence about specific incidents of the complainant's prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.


§ 106.45(b)(7)(i-iii)

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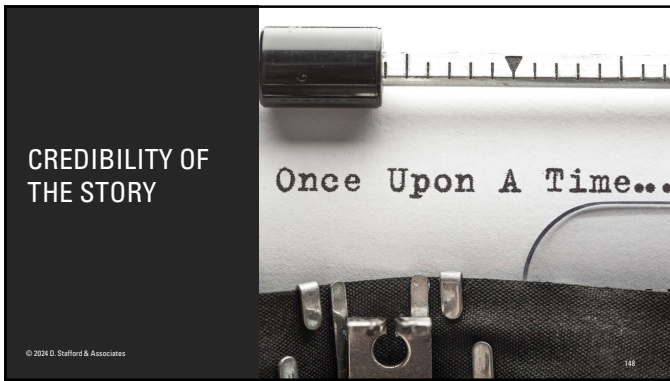
CREDIBILITY



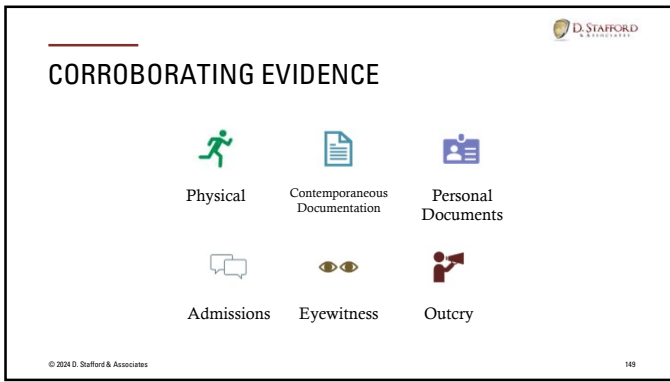


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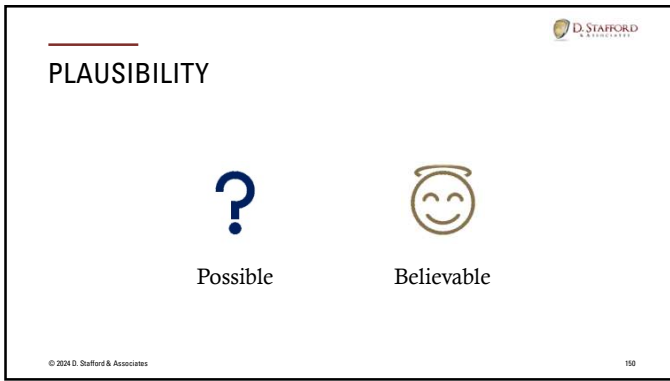
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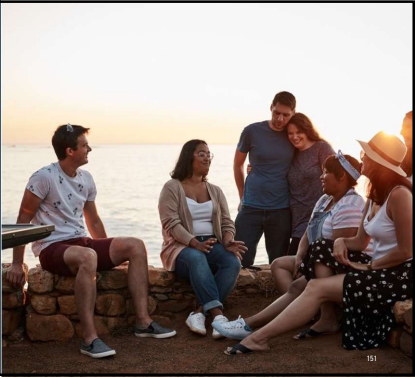


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CREDIBILITY OF THE STORYTELLER




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MOTIVATION



Afraid

Pressured

Revenge


History


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BIAS




Past Relationship


Identity


Internal Biases

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ABILITY TO PERCEIVE

Distance

Knowledge

Credentials

Competence

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ABILITY TO REMEMBER

Passage of Time

Alcohol

Trauma

Peripheral Details

History of Memory

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WHAT MAY NOT
IMPACT
CREDIBILITY



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DO THESE IMPACT CREDIBILITY?

Past Behaviors

Post-Incident Behavior

Character

Interview Demeanor

Identity

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DECEPTION

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Why are we so poor at detecting deception?

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TRUTHFULNESS

Omission

Embellishment

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EXAMINING TRUTHFULNESS

Repeat v.
Reconstruct

Get them to
talk

Consistency

Details

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DID THEY
ANSWER THE
QUESTION?

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RELEVANCY



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WHEN IS EVIDENCE RELEVANT?

Relevant means related to the allegations of sex discrimination under investigation as part of the grievance procedures under § 106.45, and if applicable § 106.46.

Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decisionmaker in determining whether the alleged sex discrimination occurred.

§ 106.2

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KEY RELEVANCY POINTS

1

The evidence does not need to be conclusive

2

Is sufficient if it constitutes a link in the chain

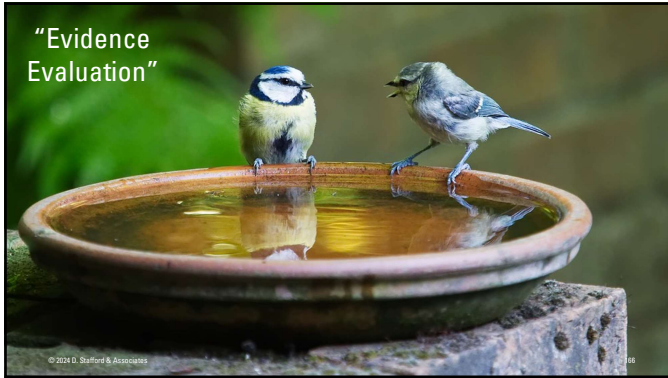
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Enough if in connection with other evidence, helps “a little”

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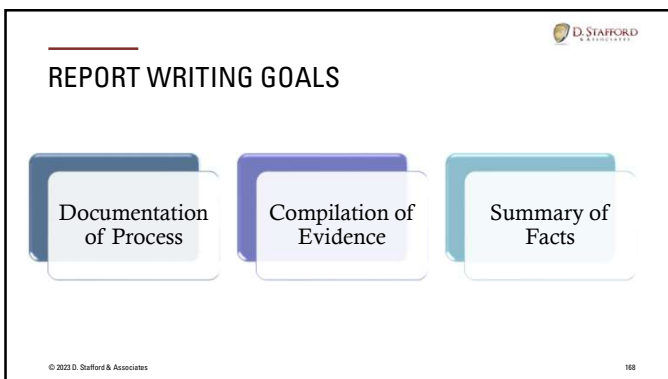
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ELEMENTS OF A GOOD REPORT

PROOFREAD

- ☒ SPELLING
- ☒ GRAMMAR
- ☒ ACCURACY

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OTHER D. STAFFORD TRAINING OPPORTUNITIES

Title IX Coordinator Track	Investigator Track	Related Offerings
<ul style="list-style-type: none"> <input type="checkbox"/> Tier 0: Introduction for NEW Title IX Coordinators <input type="checkbox"/> Tier 1: Law and Policy <input type="checkbox"/> Tier 2: Sex Discrimination Response <input type="checkbox"/> Tier 3: Safety & Risk Analyses for Sex-Based Harassment Emergency Removals <input type="checkbox"/> Tier 4: Title IX for Human Resources Professional <input type="checkbox"/> Tier 5: Pregnancy or Related Conditions 	<ul style="list-style-type: none"> <input checked="" type="checkbox"/> Tier 1: Sex-Based Harassment Investigations <input type="checkbox"/> Tier 2: Dating/Domestic Violence and Stalking (DVIDVS) Investigations <input type="checkbox"/> Tier 3: Case Study and Simulation (Interviewing) <input type="checkbox"/> Tier 4: Statement Analysis <input type="checkbox"/> Tier 5: Report Writing <input type="checkbox"/> Tier 6: Technology & Investigations <input type="checkbox"/> Tier 7: Violence Against Men 	<ul style="list-style-type: none"> <input type="checkbox"/> Institutional trainings <input type="checkbox"/> Threat Assessment Teams <input type="checkbox"/> Clergy Compliance <input type="checkbox"/> Procedural Justice <input type="checkbox"/> Decisionmakers (www.nacop.org) <input type="checkbox"/> Appellate Officer (www.nacop.org) <input type="checkbox"/> Constructing Resolution Processes (www.nacop.org) <input type="checkbox"/> Title IX Webinars (www.nacop.org)

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THANK YOU



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INVESTIGATION CLASS ACRONYMS

- ASR:** Annual Security Report (often used as a reference to the Annual Security Report and/or the Annual Security and Fire Safety Report) that must be published by each institution of higher education.
- CSA:** Campus Security Authority—Individuals on each campus who have been identified by the Department of Education as persons who are required to report crimes that they become aware of to the Reporting Structure at each institution.
- DCL:** Dear Colleague Letter—this is a formal name of the method of communication from the Department of Education to college campuses. It is like naming their official “memo” to campuses.
- FERPA:** Family Educational Rights and Privacy Act—governs the confidentiality of student records.
- FNE:** Forensic Nurse Examiners
- GO:** General Order—some departments describe their operating procedures as general orders
- HEOA:** Higher Education Opportunity Act—the broader law that contains the Clery Act language and the fire safety and missing person language that is in the law but not contained within the “Clery Act” portion of the law.
- HIPAA:** Health Insurance and Privacy and Portability Act—governs privacy of medical records.
- MOU:** Memorandum of Understanding—an official agreement developed between agencies.
- NIBRS:** National Incident-Based Reporting System. 1 of 2 crime reporting systems developed by the FBI, but not the system that you are required to use for Clery Reporting—the only portion of this system that is used for Clery Act purposes are the 4 forcible and 2 non-forcible sex offense definitions.
- OCR:** Office of Civil Rights—the unit of the Department of Education that oversees Title IX Compliance.
- PD:** Police Department
- PS:** Public Safety
- PNG:** Persona-non-Grata—process used by some campuses not keep students from entering certain areas of the campus or the entire campus (administrative process) versus legal bar notice or trespass warning.
- SACC:** Sexual Assault Crisis Center, also known as Women’s Center.
- SANE:** Sexual Assault Nurse Examiner

SART: Sexual Assault Response Team

SOP: Standard Operating Procedures—some departments describe their operating procedures as Standard Operating Procedures. Some call them General Orders, etc...

SWA: Senior Women's Administrator (Athletics)

TWN: Timely Warning Notice

UCR: Uniformed Crime Report. This is 1 of 2 crime statistics reporting systems developed by the FBI. Institutions are required to use UCR Standards for counting and classifying crimes for reporting the Clery statistics.

VAWA: Violence Against Women Act