



TITLE IX INVESTIGATOR TRAINING

Conducting Fair and
Thorough Trauma-
Informed Investigations

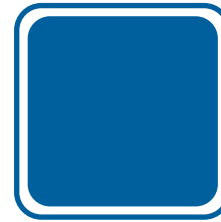
Part Three

TITLE IX INVESTIGATOR TRAINING

PART THREE AGENDA



Evidence Assessments



Credibility and Reliability



Investigation Report and
Record



Evidence Review and
Responses

EVIDENCE ASSESSMENT



EVALUATING THE EVIDENCE

01

Is it relevant?

02

Is it authentic?

03

Is it credible/
reliable?

04

What weight, if
any, should it
be given?



STEP ONE: EVIDENCE CATEGORIES

01

RELEVANT

Evidence that the decision-maker may rely on to reach a determination.

02

DIRECTLY RELATED

Evidence that the decision-maker will not rely on to reach a determination.

03

IMPERMISSIBLE

Evidence that is impermissible and cannot be included in the report or evidence file.

RELEVANT EVIDENCE

01

Federal Rule of Evidence 401 Test:

Does the evidence have a tendency to make a fact more or less probable than it would be without the evidence?

Is the fact of consequence in determining the action?

DIRECTLY RELATED EVIDENCE

02

Character

Does not necessarily prove or disprove the alleged conduct.



Polygraph

Widely considered unreliable but should be considered on a case-by-case basis.

Opinion

Requires additional foundation or basis for the opinion.

EVIDENCE THAT IS IMPERMISSIBLE

IMPERMISSIBLE	03	EXCEPTIONS
Complainant's prior sexual history or predisposition	Offered to prove consent. 	Offered to prove someone other than Respondent engaged in alleged conduct.
Legally recognized privileged information	Offered by the individual holding the privilege.	Written consent to disclose the privileged information.

STEP TWO: WAYS TO AUTHENTICATE



CREDIBILITY AND RELIABILITY



CREDIBLE: THE PERSON IS
CONVINCING

RELIABLE: THE PERSON'S
STATEMENTS OR EVIDENCE IS
DEPENDABLE



ASSESSING CREDIBILITY AND RELIABILITY

NO FORMULA EXISTS, BUT CONSIDER THE FOLLOWING:

Sufficiency of detail and specificity

Internal consistency

Corroboration



Inherent plausibility

Material omission

Motive to falsify

Past record

Ability to recall events

CREDIBILITY AND RELIABILITY FACTORS

Sufficiency of detail and specificity:

Reasonable level of detail and clear descriptions.

Corroboration:

Evidence or statements that are consistent.

Internal consistency:

Participant's statement is consistent across multiple settings.

Inherent plausibility:

Believable on its face.

CREDIBILITY AND RELIABILITY FACTORS (CONT.)

Material omission:

Exclusion of key information.

Motive to falsify:

Articulable bias, interest, or other motive.



Past record:

History of similar behavior.

Ability to recollect events:

Participants' ability to perceive, recall, or communicate perspective.

CREDIBILITY/RELIABILITY ANALYSIS

STEP BY STEP

1. Determine the material facts based on the notice of allegations
2. Determine which material facts are undisputed and disputed
3. If any material facts are disputed, consider whether a credibility/reliability analysis will help reconcile the dispute

CREDIBILITY/RELIABILITY HYPOTHETICAL



DISPUTED FACTS

- Marcy stated Jack kissed her at a party around 1 a.m. without consent
- Jack stated he never kissed Marcy and left the party early
- Several witnesses state they saw Jack at the party until 3 a.m.
- Photo submitted showing Jack kissing Marcy at the party

ANALYSIS SAMPLE:

While Jack maintained that he never kissed Marcy and went home early, Marcy's statements were corroborated by several witnesses who attested that Jack was at the party until 3 a.m. Furthermore, a photo taken at the party confirms that Jack kissed Marcy, thus contradicting Jack's statement. Therefore, Marcy's statements were found more reliable regarding this material fact.

THE INVESTIGATION REPORT

PURPOSE

- Opportunity to respond
- Hearing preparation
- Reduced potential for bias in the final outcome



REPORT RECIPIENTS

ANTICIPATED RECIPIENTS:

- Parties
- Advisors
- Decision-maker
- Appeal officer or panel
- Title IX Coordinator

UNINTENDED RECIPIENTS:

- Friends of parties
- Parents
- Law enforcement
- Attorneys
- Judges
- Media
- Social media



ESSENTIAL ELEMENTS

Intentionally organized to enhance comprehension

Factually accurate

Concise 

Without investigator's opinion

Consistent format

STRUCTURE OF THE REPORT

- Overview of the Investigation
- Statement of Jurisdiction
- Objective of the Investigation and the Investigation Report
- Prohibited Conduct Alleged
- List Witnesses
- Evidence Collected
- Summary of Evidence
- Conclusion



In this section, provide a very brief overview of the case. Include:

- the names of the parties
- the applicable policy(ies)
- the prohibited conduct alleged
- the date, time, and location of the conduct
- a brief description of the alleged misconduct



REPORT STRUCTURE (CONT.)

Statement of Jurisdiction

1. Cite jurisdictional elements
2. State all grounds for jurisdiction

REPORT STRUCTURE (CONT. 1)

Objective of the Investigation & Report

1. This language should mirror the language in your policy or procedures.



2. State the objective of the investigation.

3. Briefly state that all procedural steps were followed.

4. Describe the purpose of the report.

REPORT STRUCTURE (CONT. 2)

Prohibited Conduct Alleged

1. List the allegations of prohibited conduct in the formal complaint
2. Include definitions of prohibited conduct from the institution's policy/procedures



REPORT STRUCTURE (CONT. 3)

List Witnesses

- List those witnesses who were interviewed
- List witnesses that were identified, but not interviewed, along with reasons



REPORT STRUCTURE (CONT. 4)

Evidence Collected

- List all evidence gathered
 - Relevant evidence
 - Directly related evidence
- Who provided it
- List evidence that was requested but not obtained



REPORT STRUCTURE (CONT. 5)

Summary of Evidence

In this section, include a summary of all relevant evidence. This section can be organized in several ways. It is important that, however organized, the evidence is summarized clearly and accurately, and without opinion or bias. In this section, the investigator should cite the evidence and information in the evidence file.

REPORT STRUCTURE (CONT. 6) Conclusion

In this section, summarize next steps in the process, including any procedural pre-requisites for moving the matter forward to a hearing.



EVIDENCE REVIEW AND RESPONSES



REPORT AND EVIDENCE FILE

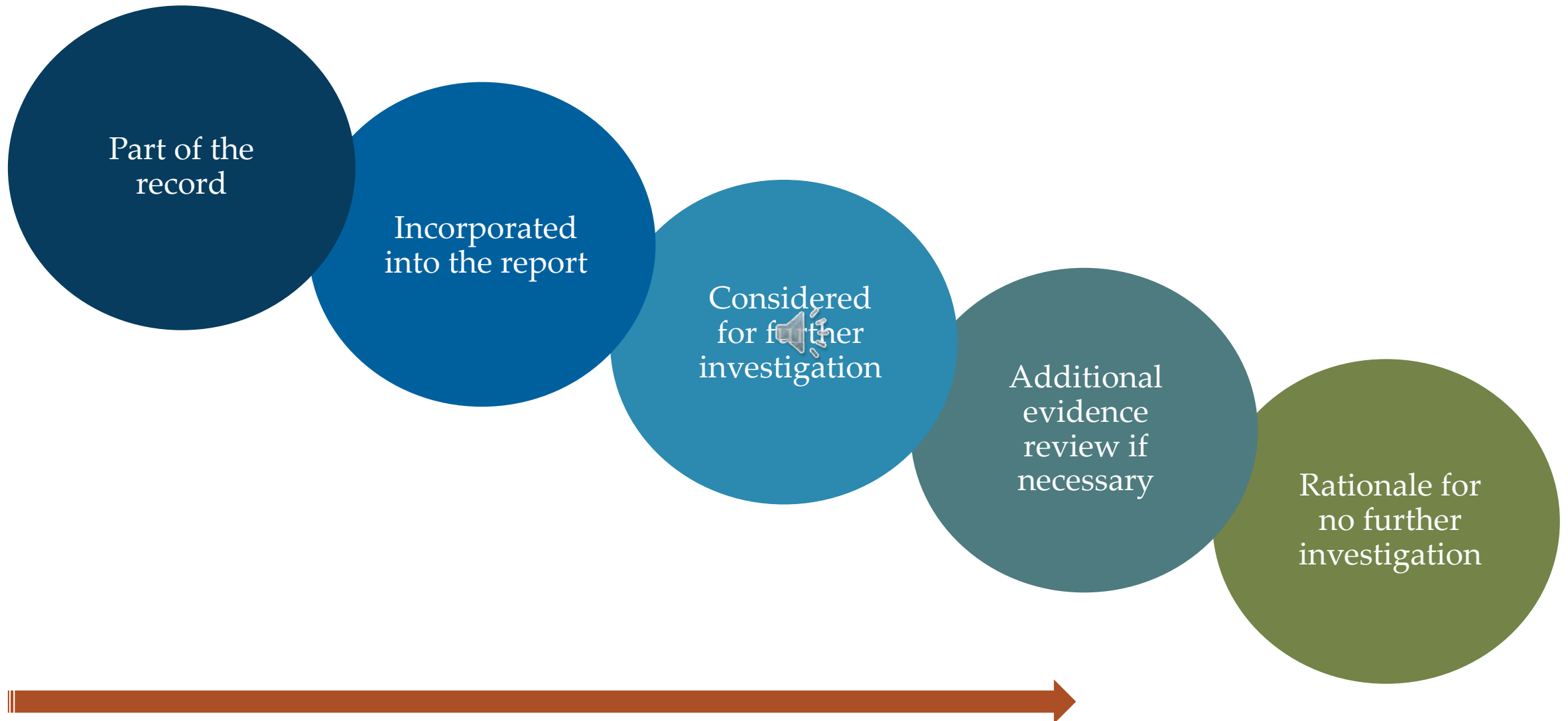
Preliminary Investigation Report



Compilation of the Evidence



RESPONSES TO EVIDENCE REVIEW



THE EVIDENCE FILE

Compilation
of relevant
and directly
related
evidence



Organized intentionally and
consistently

Divided into
Appendices

Evidence
review
responses

Includes a
procedural
timeline

EXAMPLE OF APPENDICES

- Appendix A
 - Contains all of the party/witness testimony (e.g., transcripts, statements summaries, etc.)
- Appendix B
 - Contains all of the documentary evidence (e.g., text messages, SANE reports, photographs, etc.) that the investigator deems relevant
- Appendix C
 - Contains the remaining evidence deemed directly related to the allegations in the formal complaint
- Appendix D
 - Evidence review responses
- Appendix E
 - The procedural timeline



NOTE ABOUT REDACTIONS

FINAL INVESTIGATION REPORT AND REVIEW



After reviewing and considering party responses to evidence review, the investigator will generate a final report that summarizes the relevant evidence.



That report will be shared with the parties, advisors, and hearing officer for review, comment, and in preparation for the hearing.



The hearing must occur at least 10 days after the release of the final investigation report.



info@grandriversolutions.com



/Grand-River-Solutions



/GrandRiverSolutions



/GrandRiverSolutions



/GrandRiverSolutions.com



@titleixandequity.bsky.social

CONNECT WITH US