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Write to the Point: Evaluating Relevance and Drafting Strong Title IX Analysis

Workshop Materials

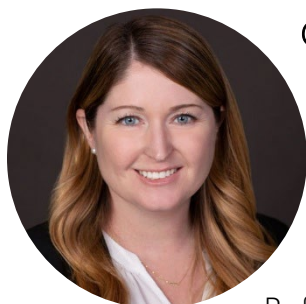
September 10, 2025

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PRESENTERS



Liz DeChellis serves as Van Dermiden Makus' Title IX Program Director, overseeing all Title IX investigations and hearings. She also frequently conducts Title IX trainings as a faculty member of T9 Mastered. Trained in Trauma Informed Forensic Interviewing, Liz is also an experienced investigator in Title IX sexual misconduct claims. Liz understands best practices in the Title IX arena, and the challenges facing schools and parties when sexual violence allegations surface. She has conducted investigations for K-12 Districts, as well as higher education institutions. Liz is an expert in conducting Title IX Hearings. She has served as a Hearing Officer for multiple schools, applying a variety of policies and practices, and is familiar with both "new regulation" cases and cases falling outside the new regulations. In this role, Liz serves as the final adjudicator, completing the complaint and investigation process. She also serves as an Appeal Officer when students challenge the process, the outcome, and/or the sanction. Liz has overseen cases involving dating violence, drug abuse, sexual assault, and incapacitation. She has experience questioning parties using trauma-informed techniques, making admissibility and relevance decisions, and issuing well-reasoned, thorough decisions. She is licensed to practice law in the State of California, and is certified as a Senior Professional in Human Resources (SPHR).



Christina Petricca is an Attorney Investigator and Adjudicator with Van Dermiden Makus Law Corporation. Christina's practice focuses on investigations involving misconduct, harassment, discrimination and retaliation. Christina has handled complex investigations in both the private and public sectors. Christina also has experience serving as a Hearing Officer in Title IX cases. Before joining Van Dermiden Makus Law Corporation, Christina worked for five years as a Title IX Coordinator for a university in the Bay Area. Christina has experience overseeing Title IX sexual misconduct investigations and hearings and is well-versed in Title IX requirements.

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Meet Your Presenters



Liz DeChellis

Partner & Director of
Title IX Services

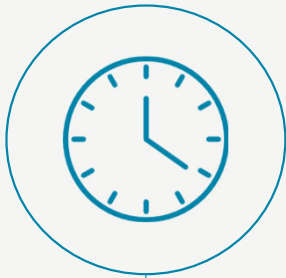


Christina Petricca

Senior Attorney Investigator
& Adjudicator



Training Logistics



10-Minute Break



Participant
Materials



Interactive
Training



Ask Questions
Throughout



AGENDA



I. Relevant Evidence in Title IX Investigation Reports

II. Analyzing and Weighing Evidence

III. Title IX Investigative Writing Skills

IV. Q&A

Relevant Evidence in Title IX Investigation Reports



Purpose of a Title IX Investigation Report



Document your
methodology and
findings



Demonstrate a
thorough
investigation



Provide decision-
makers with a tool to
make reasoned
determinations



SHARE OUT



What are examples
of evidence collected
during the course of
a Title IX
investigation?

Types of Evidence

- ⇒ Witness testimony
- ⇒ E-mails and electronic records
- ⇒ Text messages
- ⇒ Instant messaging
- ⇒ Documents from witnesses
- ⇒ Policies and procedures
- ⇒ Videos and photographs
- ⇒ Calendars
- ⇒ Voicemails and phone records
- ⇒ Time cards
- ⇒ Social media
- ⇒ Past complaints
- ⇒ Demographic information
- ⇒ Building access records
- ⇒ Expense reports
- ⇒ Internet usage
- ⇒ Supervisor and personnel files
- ⇒ Public records
- ⇒ Personal websites
- ⇒ Chat rooms, message boards, blogs





Relevant Evidence for a Title IX Report

- ⇒ Allegations
- ⇒ Responses to the allegations
- ⇒ Information that goes to each **policy** element of the allegation
- ⇒ Information that goes to **credibility** factors





Not Relevant, but Stays in the File

- ⇒ Character witness statements
- ⇒ Medical diagnoses
- ⇒ Evidence that does not directly relate to the allegation



Hypothetical Complaint: Relevant or Not?

Scenario: Student Jodi filed a Title IX complaint claiming student Monte grabbed her buttocks without her affirmative consent at Monte's fraternity party. After doing so, Respondent stated, "I've wanted to do that for a while."

Evidence Collected:

- ⇒ Testimony about the reputation of Respondent's fraternity
- ⇒ Complainant's journal entry from the morning after the party
- ⇒ Testimony from witnesses present at the party
- ⇒ Text messages between Complainant and Respondent before the party



EXERCISE: Identify the Relevant Evidence



Time: 12 minutes

Group Size: 4 – 5 people

- ⇒ In small groups, review the scope and witness account for a hypothetical investigation on pg. 15 of your handout.
- ⇒ Identify the key relevant evidence from the witness statement and the evidence you think is most relevant.
- ⇒ Be prepared to share your answers with the large group.

EXERCISE: Identify the Relevant Evidence

Scope:

- Student Complainant alleged Student Respondent made two comments about her appearance, over the course of the Spring 2025 semester, in her Psychology 101 class. Specifically, Complainant alleged Respondent told her he liked her shirt, while staring at her breasts, on one occasion. Respondent also told Complainant that she looked “really good” one day after class.
- Complainant alleged Respondent asked her out on a date on two occasions in class. Each time she told him “no” and that she had a boyfriend.

Witness Account

Witness 1 was in the Psychology 101 class with Complainant and Respondent during the Spring 2025 Semester. Witness 1 stated she and Complainant usually sat next to each other in class. Witness 1 said she and Complainant talked occasionally, but were not friends. Witness 1 met Respondent in the class, but was not friends with him. Witness 1 recognized Respondent from the basketball team and noted that the team has a bad reputation for partying in the off-season and not taking classes seriously. Witness 1 noticed that Respondent frequently sat near Complainant during class. Witness 1 stated she often saw Respondent staring directly at Complainant in class and thought it was “creepy.” Witness 1 recalled Respondent did not pay attention in class and was always on his phone. She noticed he often looked like he was taking photos in class. Witness 1 was not sure if he was taking photos of other students or the PowerPoint slides. Witness 1 recalled one day, Respondent leaned over and said something to Complainant and Complainant reacted with a “disgusted” look on her face. Witness 1 did not hear what he said. On another occasion, Witness 1 saw Respondent try to talk to Complainant as she was walking out of class. Witness 1 did not hear what Respondent said but heard Complainant say something about having a boyfriend.

Relevant Evidence

Analyzing and Weighing Evidence



Analyzing the Reliability of Evidence

- ? Is the evidence relevant to the allegations?
- ? Is the evidence material to the finding?
- ? Can we rely on the evidence to make a finding?
- ? How much weight should the evidence be given?



Credibility in Title IX Investigations is NOT:

- ✗ Determining if someone is a liar
- ✗ Gut instinct
- ✗ Assessing microexpressions or stereotypical “lying” behavior



Credibility Factors



Direct Corroboration



Circumstantial Corroboration



Lack of Corroboration



Consistent/Inconsistent
Statements



Inherent Plausibility



Motive to Misrepresent



Opportunity and Capacity to
Observe



Material Omission



Comparators, Statistics



Past Record



Reputation



Demeanor



Direct Corroboration



Confirmation or support for a party's statements from other sources

- Physical evidence - documents, video, database records
- Witness's first-hand knowledge

Example: Six witnesses provided direct corroboration that Respondent made comments about Complainant's appearance, including rating Complainant on a scale of one to 10.

Circumstantial Corroboration



Indirect support of a party's statements

- Witness heard about the event
- Witness or party documented the event
- Indirect evidence can be used to infer the existence of another fact
- **Note:** The closer in time either of the above occurred, the more reliable

Example: One witness provided circumstantial corroboration. She said Complainant told her Respondent tried to kiss her the day after the alleged incident.

Lack of Corroboration

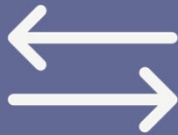


A lack of support for a party's statements from other sources

- Witness statements tell a different story
- Absence of physical evidence to support claims

Example: There was a lack of corroborating evidence. None of the students corroborated that Respondent gave attention to Complainant that she did not give to other students.

Consistent & Inconsistent Statements



Is there witness testimony or physical evidence that is consistent, or inconsistent with the party's testimony?

- Did the parties tell the same version of events to others in all material respects?
- Concentrate on material issues and events
- Allow for an opportunity to explain
- **Caution:** Trauma-Informed

Example: The four Complainants provided consistent statements, in that they consistently reported their concerns to various individuals during several meetings in June and August 2025.

Inherent Plausibility



Reasonableness of witnesses' testimony in context

- Is the testimony believable on its face?

Example: It is implausible she was motivated to discredit Respondent for academic gain as Witness 1 had an A grade in Respondent's class.

Motive to Misrepresent



Who has a motive to misrepresent information to the investigator?

- Context, relationships, and biases
- Motive to Misrepresent ≠ Misrepresentation

Example: Witness A has a motive to share facts more favorable to Complainant. Witness A and Complainant have been roommates for three years and are self-described “best friends.”

Opportunity & Capacity to Observe



Could the witness reasonably observe the information reported?

- Proximity, distractions or noise
- Crucial question: "How do you know?"

Example: Witness B lacked the capacity or opportunity to overhear the comment. Witness B was at the back of the lecture hall and the conversation occurred at the front in a "whisper."

Material Omission



Did a party omit a material piece of evidence, despite having a reasonable opportunity to provide it?

- Opportunity in narrative
- Opportunity in response to a question
- Opportunity in physical evidence

Example: Complainant omitted material evidence. When she provided 30 pages of text messages, she omitted several threads that cast her in an unfavorable light.

Comparators & Statistics



Is there data that supports a substantiated or unsubstantiated finding?

- Are there similarly situated individuals?

Example: Based on the reports, the investigator found that 56% of applicants were women, but only 23% of those accepted into the fellowship program were women.

Past Record



Similar behavior in the past

- Respondent
- Complainant
- Relevant but not conclusive

Example: Witness A credibly stated that Respondent engaged in similar conduct towards her. Similar to Complainant, Witness A went to Respondent's office during office hours and Respondent stared at Witness A's chest in a sexual manner.

Reputation



What is the person's reputation?

- Consider the source and reliability
- Consider similarity to current situation
- What weight do we give character evidence?

Example: All 11 of Respondent's colleagues – all of whom have worked with him for the past seven years on a regular basis – stated it would be out of character for him to have a closed-door meeting with a student, as the Complainant described.

Demeanor



Witness's outward behavior: mannerisms, attitude, facial expressions, appearance, look

- **Caution:** Are you trained and experienced to read micro-expressions and demeanor behavior?
- Look for deceptive indicators
- Use it only to ask more questions

Example: Instead of directly responding to the questions, Respondent challenged the investigative process, refused to answer certain questions, called multiple witnesses "liars", and raised their voice at the investigator at multiple points during the interview.

Credibility Reminders

- ✓ Not all credibility factors are treated equally
- ✓ Credibility factors should be relied upon throughout the investigation
- ✓ Credibility factors need to be applied to both Complainant and Respondent



Hypothetical Scenario

Michelle Barber alleged that Dr. Claire Frederick engaged in the following conduct at the department's Welcome Back Reception:

- Cornered her, making her feel her personal space was "violated"
- Placed her hand on her lower back and said something similar to, "I'm one lucky professor. I look forward to working closely together as your thesis advisor."



Hypothetical Scenario

Michelle Barber alleged that Dr. Claire Frederick engaged in the following conduct at the department's Welcome Back Reception:

- Cornered her, making her feel her personal space was "violated"
 - Placed her hand on her lower back and said something similar to, "I'm one lucky professor. I look forward to working closely together as your thesis advisor."
-

Evidence Collected:

- ⇒ Dr. Fredrick denied the allegations and said she did not remember talking to Barber at the reception.
- ⇒ Dr. Jenson, Dr. Fredrick's colleague, saw Dr. Fredrick and Barber talking in close proximity for about 20 minutes at the reception.
- ⇒ Mila Frank, Barber's close friend, told the investigator that Barber came back to the dorm upset after the reception. Barber told Frank that Dr. Frederick made some comments that made her "uncomfortable."



Which credibility factors would you apply in your analysis?

Evaluating the Weight of Evidence

Materiality

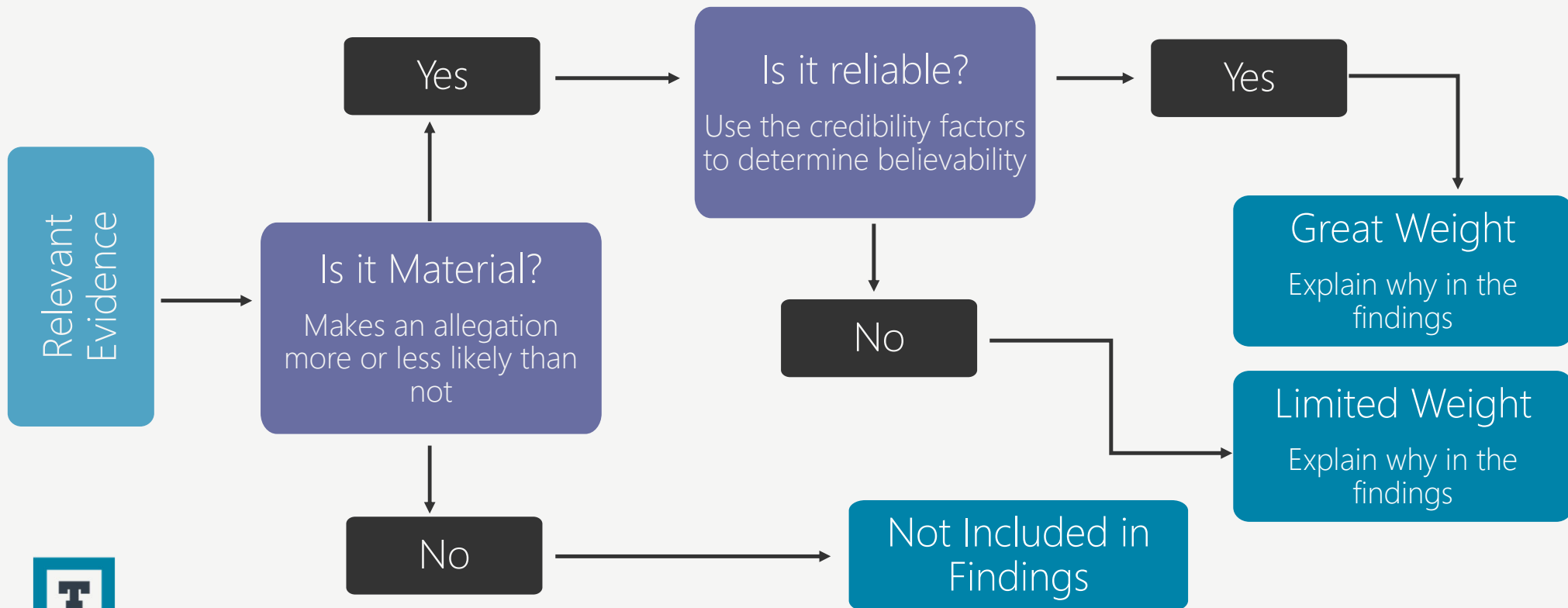
Evidence that tends to make an allegation more or less likely than not

Reliability

Is the evidence credible?
Consider the credibility factors



Evaluating the Weight of Evidence



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EXERCISE: Weigh the Evidence



Time: 15 minutes

Group Size: 4 – 5 people

- ⇒ In small groups, review the evidence collected in a hypothetical investigation on pg. 38 - 40 of your handout.
- ⇒ Determine if the evidence is material and reliable.
- ⇒ Determine how you would weigh the evidence when making findings.

EXERCISE: Weigh the Evidence

- ⇒ In small groups, review the evidence collected in a hypothetical investigation below.
- ⇒ Determine if the evidence is material and reliable.
- ⇒ Determine how you would weigh the evidence when making findings.

Scope: Samantha alleged that her coworker April frequently makes comments of a sexual nature that make her feel uncomfortable. Samantha and April are both registered nurses at a University hospital and work together frequently. April is new to the Unit and started working there last month. Since April started working with Samantha, April has sent Samantha multiple text messages outside of work. Samantha has also heard April make comments about patients that she finds inappropriate.

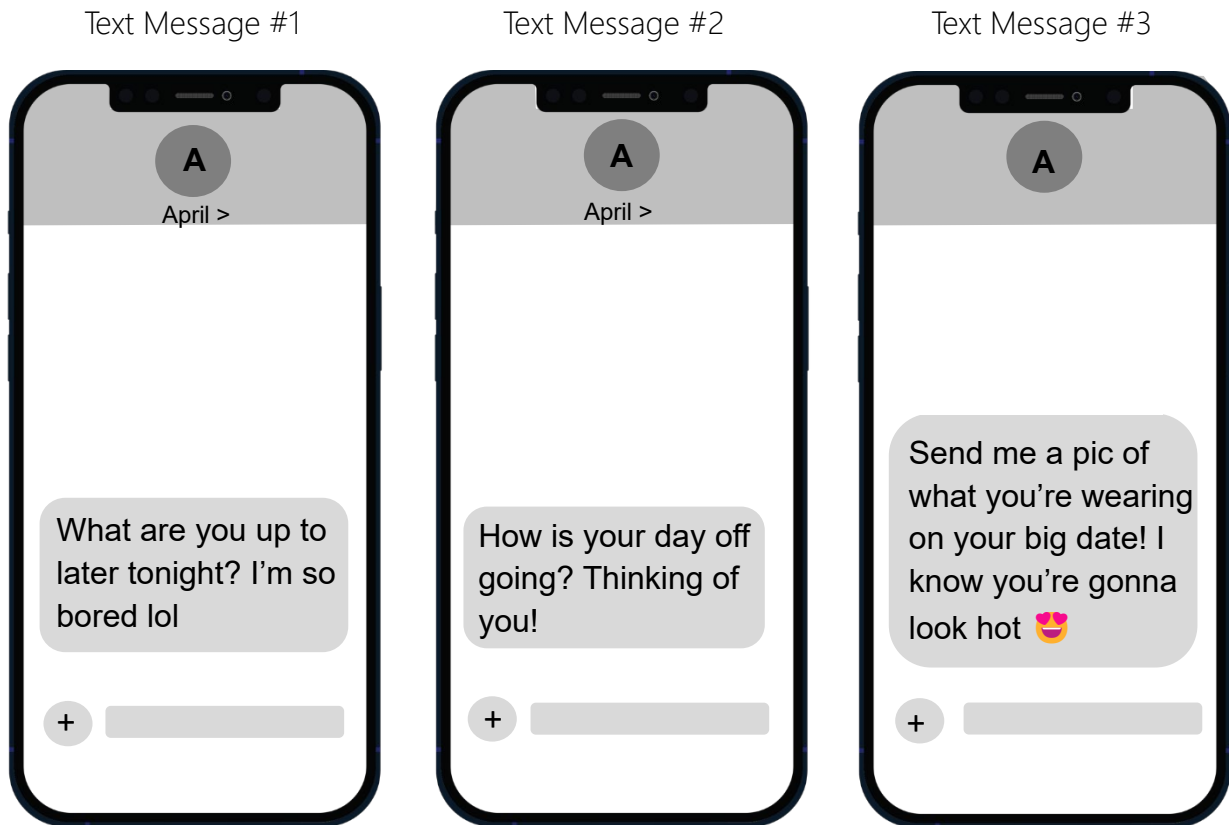
Evidence #1: Witness 1 Testimony

Witness 1 is a registered nurse who works frequently with both Samantha and April. She stated that on at least two occasions, she has noticed Samantha leave a conversation as soon as April walked over. Witness 1 stated that April has made comments that made Witness 1 feel uncomfortable. Specifically, Witness 1 heard April make comments about the physical appearance of several of their patients. Witness 1 recalled that on one occasion, she heard April comment on how attractive a patient was. Witness 1 also saw April “check out” a patient’s family member by looking them “up and down” while they walked by. Witness 1 finds April’s comments and actions to be unprofessional. However, Witness 1 noted that April frequently jokes around at work and stated it was hard to know whether she is joking or being sincere.

- Is the evidence material? Is the evidence reliable?

- How would you weigh the evidence when making findings? Why?

Evidence #2: Text Messages from April to Samantha



- Is the evidence material? Is the evidence reliable?
- How would you weigh the evidence when making findings? Why?

Evidence #3: Email from April to Samantha

From: April Roundy <april@school.edu>

Sent: Tuesday, September 2, 2025 1:34 PM

To: Samantha Carper <samantha@school.edu>

Subject: Shift help needed

Hi Samantha, I was wondering if you would be able to cover my shift on Thursday. Let me know as soon as you can.

Thanks,

April

- Is the evidence material? Is the evidence reliable?
- How would you weigh the evidence when making findings? Why?

Evidence #4: Witness 2 Testimony

Witness 2 is Samantha's supervisor. Samantha recently informed Witness 2 that she had been "having issues" with April at work. Witness 2 explained that Samantha briefly mentioned it at the end of one of their regular check-ins. When Witness 2 asked Samantha for more information, she did not feel comfortable providing additional details. Witness 2 does not work directly with Samantha and April and does not have the opportunity to observe their interactions. Witness 2 is not aware of what Samantha meant when she told her that she was "having issues" with April. Samantha has not provided her with any additional information.

- Is the evidence material? Is the evidence reliable?
- How would you weigh the evidence when making findings? Why?

Title IX Investigative Writing Skills



Writing Tips



1. Clear Topic Sentences
2. Concise Writing
3. Use Neutral Language
4. Incorporate Credibility Factors Into Your Analysis

Report Writing Tip #1

Clear Topic Sentences

- ⇒ Guide the reader with topic sentences for each paragraph
- ⇒ Tell the reader what to expect
- ⇒ Avoid keeping the reader in "suspense"



Clear Topic Sentences Example

Complainant shared that over the course of 3 months, Respondent touched her on five occasions which made Complainant uncomfortable. Complainant stated that Respondent was often physically close to her and put his hand on her lower back on at least two occasions. Complainant stated that on one occasion while they were sitting on a bench outside the classroom, waiting for class to begin, Respondent touched her on the knee. On another occasion, Respondent touched Complainant's shoulder during a conversation. Toward the end of the Spring 2025 Semester, Respondent gave her an unwanted hug. Complainant stated that Respondent's physical touching made her uncomfortable and she was worried about seeing Respondent on campus.



Clear Topic Sentences

Sample Analysis Paragraph:

Witness A testified Respondent made comments he considered sexually inappropriate “tons of times.” He gave two examples: “[*Sexual Joke 1*]” and, “[*Sexual Joke 2*].” Likewise, Witness B testified Respondent tended to “steer conversations [...] in a sexual direction.” Witness C stated Respondent “started telling us about how there are two girls in our Econ class in particular and he wants to have sex with.”



Write the topic sentence for the sample analysis paragraph.



Report Writing Tip #2

Concise Writing

Focus on the relevant evidence for the report – The rest can be in the investigative file.

⇒ “Three-Line Rule”

⇒ Use charts and graphs



Concise Writing

Bad Example: After reviewing the evidence, including documents and testimony, that was obtainable through witness interviews and discovered through the investigative process, I found numerous instances of corroboration of the complainant's allegation including text messages, emails and witnesses who saw the student athlete respondent grab the complainant's breast at the party on September 2, 2025.



Rewrite the example focusing on concise writing.



Report Writing Tip #3

Use Neutral Language

Words can trigger emotions or suggest judgment by the investigator

- ⇒ Refused vs. Declined
- ⇒ Demanded vs. Asked
- ⇒ Touched vs. Groped



Use Neutral Language

Bad Example: The professor, who is married, was seen cheating in a cafeteria booth with his new, young, sexy Teaching Assistant.



Rewrite the example using neutral language.



Report Writing Tip #4

Incorporate Credibility Factors Into the Analysis

Credibility factors help the reader understand the reliability of the evidence collected and how you made your findings.



Incorporate Credibility Factors Into the Analysis Example

I find Respondent intentionally touched Complainant's clothed thigh over her clothing in his dorm room on April 21, 2024. Complainant's text message to her sister the night of April 21, 2024, in which she wrote Respondent "touched her leg" **corroborated** Complainant's account. I did not identify any **motive for Complainant to fabricate** a text message to her sister. Further, Complainant's close-in-time reporting to multiple witnesses about Respondent's physical conduct in his dorm room was compelling **indirect corroboration** for her account that Respondent engaged in the touching.



Incorporate Credibility Factors Into Your Analysis

Complaint: Respondent made a sexist comment during one of his classes

Evidence Collected:

- ⇒ Four individuals present in the class and sitting in the front row of the lecture hall did not hear the sexist comment by the professor
- ⇒ All four witnesses had critical comments about the professor's class



Write an analysis of the evidence collected, focusing on incorporating credibility factors



EXERCISE: Write a Witness Summary



Time: 10 minutes

Group Size: Individual

- ⇒ Review the witness testimony on pg. 54 of your handout.
- ⇒ Applying the report writing tips and concept of relevance, write a paragraph summarizing the witness account.

EXERCISE: Write a Witness Summary

- ⇒ Review the witness testimony below.
- ⇒ Applying the report writing tips and concept of relevance, write a paragraph summarizing the witness account.

Witness Testimony

I am a current student at the University. This is my second year. I took Respondent Professor's history class during the Spring 2024 semester. I remember that Respondent would usually start the class by discussing current events. He would encourage the class to discuss the events and share their thoughts about it. I think he did this because it was a late afternoon class and he wanted to keep it interesting. Most of the time the students in the class would participate but it would depend on how interesting the topic was. In late March, I remember Respondent discussed a recent high profile sexual harassment case. I cannot remember who the case was about. Respondent asked for our thoughts about the case. I remember it was uncomfortable, because some of the students in the class made derogatory comments about the women in the case who filed the accusations as well as the person the accusations were about. I was surprised Respondent did not stop them or try to change the subject. The conversation then changed into a discussion about relationships which, to me, seemed completely unrelated to the topic we started discussing. Respondent also shared some information about his own personal romantic relationship during this discussion. I remember thinking that it was strange that he would share information about his own personal relationship with his students. This was the first time I have felt uncomfortable in the class. I did not say anything to Respondent about it after the class, but after talking with a few other classmates, they thought it was uncomfortable as well. I don't remember any other comments the Respondent made that were uncomfortable. I don't remember him making comments about his personal relationship on any other occasions.

Witness Summary

QUESTIONS?



QUESTIONS & NOTES