



# 2022

## CAMPUS INVESTIGATOR TRAINING



TRAINING MATERIALS



# ABOUT THIS DOCUMENT

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# 2020 INVESTIGATION TRAINING STANDARDS



BELOW IS A GUIDE TO UNDERSTANDING THE REQUIREMENTS FOR TRAINING COMPLIANCE UNDER BOTH FEDERAL AND STATE LAWS RELATED TO SEXUAL HARASSMENT INVESTIGATIONS. THIS DOCUMENT DOES NOT SERVE AS LEGAL ADVICE, NOR SHOULD IT BE USED AS SUCH.

	REQUIRED BY OREGON HB 3415	REQUIRED BY TITLE IX (2020)	STAFF REQUIRED TO RECEIVE TRAINING
The new (2020) definition of sexual harassment			<ul style="list-style-type: none"> <li>Title IX Coordinators,</li> <li>Investigators,</li> <li>Decision-makers, and</li> <li>any person who facilitates an informal resolution process</li> </ul>
The scope of the institution's education programs where the Title IX policy applies			<ul style="list-style-type: none"> <li>Title IX Coordinators,</li> <li>Investigators,</li> <li>Decision-makers, and</li> <li>any person who facilitates an informal resolution process</li> </ul>
How to conduct an investigation			<ul style="list-style-type: none"> <li>Title IX Coordinators,</li> <li>Investigators,</li> <li>Decision-makers, and</li> <li>any person who facilitates an informal resolution process</li> </ul>
The grievance process including hearings, appeals, and informal resolution			<ul style="list-style-type: none"> <li>Title IX Coordinators,</li> <li>Investigators,</li> <li>Decision-makers, and</li> <li>any person who facilitates an informal resolution process</li> </ul>
How to serve impartially to avoid bias and conflicts of interest			<ul style="list-style-type: none"> <li>Title IX Coordinators,</li> <li>Investigators,</li> <li>Decision-makers,</li> <li>Any person who facilitates an informal resolution process</li> <li>Hearing Officers</li> <li>Process Advisors</li> <li>Third-party contract investigators</li> <li>Campus Security Officers</li> <li>Others who assist with investigation</li> </ul>
Definitions of types of conduct			<ul style="list-style-type: none"> <li>Title IX Coordinators</li> <li>Hearing Officers</li> <li>Process Advisors</li> <li>Investigators</li> <li>Third-party contract investigators</li> <li>Campus Security Officers</li> <li>Others who assist with investigation</li> </ul>

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	REQUIRED BY OREGON HB 3415	REQUIRED BY TITLE IX (2020)	STAFF REQUIRED TO RECEIVE TRAINING
Prevalence of conduct			<ul style="list-style-type: none"> <li>• Title IX Coordinators</li> <li>• Hearing Officers</li> <li>• Process Advisors</li> <li>• Investigators</li> <li>• Third-party contract investigators</li> <li>• Campus Security Officers</li> <li>• Others who assist with investigation</li> </ul>
Trauma-informed best practices			<ul style="list-style-type: none"> <li>• Title IX Coordinators</li> <li>• Hearing Officers</li> <li>• Process Advisors</li> <li>• Investigators</li> <li>• Third-party contract investigators</li> <li>• Campus Security Officers</li> <li>• Others who assist with investigation</li> </ul>
Anti-Oppression			<ul style="list-style-type: none"> <li>• Title IX Coordinators</li> <li>• Hearing Officers</li> <li>• Process Advisors</li> <li>• Investigators</li> <li>• Third-party contract investigators</li> <li>• Campus Security Officers</li> <li>• Others who assist with investigation</li> </ul>
Interviewing survivors of sexual assault			<ul style="list-style-type: none"> <li>• Title IX Coordinators</li> <li>• Hearing Officers</li> <li>• Process Advisors</li> <li>• Investigators</li> <li>• Third-party contract investigators</li> <li>• Campus Security Officers</li> <li>• Others who assist with investigation</li> </ul>
Culturally-responsive procedures			<ul style="list-style-type: none"> <li>• Title IX Coordinators</li> <li>• Hearing Officers</li> <li>• Process Advisors</li> <li>• Investigators</li> <li>• Third-party contract investigators</li> <li>• Campus Security Officers</li> <li>• Others who assist with investigation</li> </ul>

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Gender responsive practices that are not reliant on gender stereotypes			<ul style="list-style-type: none"> <li>• Title IX Coordinators</li> <li>• Hearing Officers</li> <li>• Process Advisors</li> <li>• Investigators</li> <li>• Third-party contract investigators</li> <li>• Campus Security Officers</li> <li>• Others who assist with investigation</li> </ul>
Needs of LGBTQ parties			<ul style="list-style-type: none"> <li>• Title IX Coordinators</li> <li>• Hearing Officers</li> <li>• Process Advisors</li> <li>• Investigators</li> <li>• Third-party contract investigators</li> <li>• Campus Security Officers</li> <li>• Others who assist with investigation</li> </ul>

Campus Investigator Training

# DYNAMICS OF CONSENT

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Campus Program 2022

## WHERE WE ARE HEADING THIS SESSION:

- Understanding how overt and covert messages regarding consent inform a person's understanding of consent
- Examine the way that colleges and universities define consent, and how this impacts investigations & campus culture
- Put our knowledge into practice: case study!
- Examine the ways consent can be influenced

What words and phrases do you use to explain consent?



## CONSENT MESSAGES

- Think back to the messages you received about consent from school or family or community. What were you told? How was it explained?
- How did those messages about consent impact your social interactions/relationships?

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## CONSENT MESSAGES (CONT.)

Social norms, practices, and traditions can influence how we think about consent.

*How might these examples influence how we think about consent?*

- “Go give grandpa a kiss!”
- Dress codes
- “Reverse prom”
- Hazing or other group initiation rituals
- “They’re just teasing you because they like you”
- Insta accounts and social media screengrab/sharing
- “Do you have a boyfriend/girlfriend?” “They’re flirting!” - Young children



## SUBTLE MESSAGES ABOUT CONSENT MATTER

Some questions we can consider:

1. Do we assume consent until proven otherwise, or assume a lack of consent until proven otherwise?
2. Does context matter for our answer?
  - “No means no” versus “yes means yes”



## SUBTLE MESSAGES ABOUT CONSENT MATTER

### Whose responsibility is consent?

- Active or passive? Given or sought?
- “Michaela let Yvonne take off her shirt” versus “Yvonne asked Michaela if she could remove Michaela’s shirt”

ABC

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## CONSENT IN A DIGITAL WORLD



- How do young people navigate consent in digital spaces?
- What pressures and expectations exist?
- How does media help reinforce or breakdown these norms?

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# HOW WE DEFINE CONSENT MATTERS



## OREGON LAW(ORS 163.315)

### Who can't consent:

- a) Under the age of 18;
- b) Mentally defective;
- c) Mentally incapacitated; or
- d) Physically helpless.

A lack of verbal or physical resistance does not, by itself, constitute consent but may be considered by the trier of fact along with all other relevant evidence.

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## CALIFORNIA EDC 67386(a)(1)

“...Affirmative consent” means affirmative, conscious, and voluntary agreement to engage in sexual activity. It is the responsibility of each person involved in the sexual activity to ensure that he or she has the affirmative consent of the other or others to engage in the sexual activity. Lack of protest or resistance does not mean consent, nor does silence mean consent. Affirmative consent must be ongoing throughout a sexual activity and can be revoked at any time. The existence of a dating relationship between the persons involved, or the fact of past sexual relations between them, should never by itself be assumed to be an indicator of consent.”

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## CAMPUS EXAMPLES

“It is the responsibility of each person involved to ensure they have the affirmative consent of the other(s) to engage in each sexual contact. For the purposes of this definition, “affirmative consent” is a knowing, voluntary, and mutual decision among all participants to engage in sexual contact. It is the responsibility of each person involved to ensure they have the affirmative consent of the other(s) to engage in each sexual contact.”

“The University defines consent as ‘an informed *agreement between participants* to willingly and actively participate in sexual activity established through continuous communication using mutually understandable words or actions *that create clear permission*’.”

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## TIPS AND SUGGESTIONS

- Audit language for effectiveness - “for students, by students”.
  - Reviewed by the audience you are writing for
- Ideal world: conduct an annual review. If not annually, create a schedule.
- Bring in professional allies: advocates, preventionists, identity center staff, to get their take.
- Including examples can be an effective way to help your community understand your policy “in real life”



## SCENARIO TIME!

- Available in your workbooks for this session!
  - “Borrowed Resume”
  - “Unexpected Roommates”
- Breakout rooms of 2-4
- Consider the debrief questions while reviewing your scenario
- Share out with the larger group!



## WHILE YOU READ, CONSIDER:

- Where did our own personal biases show up in our readings of these scenarios?
- Where did your group notice that consent was given?
- Where was there a lack of consent in your scenario?
- What other information would you need?



## SCENARIO 1 - Borrowed Resume (Part 1 of 2)

Chloe and Madison are both members of their college's First Generation Student Circle, a club and mentorship program for first generation college students. Chloe got a job as a research assistant in the Psychology department last spring.

A second research assistant position became available this fall, and Chloe's friend Madison really wants the job!

Madison read the position description and realized she did not have all the required experience to be considered for the job. So she asked Chloe if she could look at her (Chloe's) resume, just for reference.

Chloe thought that was weird, and even told her roommate she felt funny about it, but Madison said this was common among "First Gen Circle" students.



## SCENARIO 1 - Borrowed Resume (Part 2 of 2)

The next week Chloe's supervisor called her into his office. He asked Chloe if she and Madison had worked together for the Psychology department in the past. Chloe immediately realized that Madison had copied details from *her* resume.

Not wanting to anger Madison or go against the culture of the club, Chloe lied and said, "Yes, Madison and I have worked together a few times in the past."

Chloe was upset after this meeting. She confronted Madison, who again said this was customary in their "First Gen" club and that she should relax.

Chloe suggested they "come clean" immediately; Madison warned that if Chloe did that Madison would say it was her (Chloe's) idea, and they would both lose the job and potentially face consequences in their community.



## SCENARIO 2 - Unexpected Roommate (Part 1 of 2)

Jayden and Malik are roommates, and just moved into their first off-campus apartment together. They lived on the same residence hall floor last year, but were not roommates.

This summer, they moved into an apartment complex near school. Malik is stoked that it is within walking distance of the library, and Jayden is excited to live in the same complex as his girlfriend, Ava.

When they move in, both men make an agreement: it is okay to have guests over to the apartment, as long as they check in with the other roommate first.

Right before midterms, Ava has a fight with her roommates, and leaves to stay with Jayden. Jayden asks Malik if he is "cool with Ava crashing here for the night".

Assuming it is for one night, maybe two, Malik says "sure". He likes Ava, and does not want to stress Jayden out.



## SCENARIO 2 - Unexpected Roommate (Part 2 of 2)

Everything is fine for the first few days of Ava's stay, but by the end of the week she has moved all of her clothes into Jayden's room. She leaves her toiletries all over the bathroom, and even "borrowed" some of Malik's groceries to make herself lunch while he was in class.

Ava's friends come over to Malik and Jayden's apartment every night to watch TV, study, and socialize. They are loud, and Malik has a hard time studying in his room. Because of this, he spends a lot of time at the library.

Malik approaches Jayden, and asks when Ava will be returning to her apartment. "Oh, she just really likes being here with us, so I told her she could stay for awhile", Jayden replies.

Malik is upset: he didn't sign up to live with Ava, her mess, and all her friends.



## DEBRIEF

- Where did our own personal biases show up in our readings of these scenarios?
- Where did your group notice that consent was given?
- Where was there a lack of consent in your scenario?
- What other information would you need?

Consent is NOT solely about what the victim/survivor **did or did not do** during the time they/she/he were assaulted.

Consent is NOT solely about what the victim/survivor **did or did not say** during the time they/she/he were assaulted.



## FINAL THOUGHTS...

- Consent is the cornerstone of our understanding of sexual harassment and assault.
- Consent is influenced.
- Tomorrow, we will talk about investigating consent. **Bring (or have available online) your school's definition of consent.** If you don't have a definition, bring any "implied" definitions or previously-used standards.

ABC

A+





# Bias and Conflict of Interest

Kate Hildebrandt, she/her  
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Oregon Department of Education

## Content Warning

**Discussion of identity-based bias and harassment**

What is one thing you learned during the bias, power, and privilege online modules?

WHAT IS BIAS?



# What is bias?

“A tendency, inclination, or prejudice toward or against something or someone.”

-Psychology Today

Bias can be...

- positive or negative
- morally neutral (or not...)
- conscious or unconscious
- personal or experience-based
- taught to us growing up
- societal or cultural

## Implicit Bias

“The attitudes or stereotypes that affect our understanding, actions, and decisions in an unconscious manner.”

-The Kirwin Institute for the Study of Race and Ethnicity

**What are some examples of implicit bias?**

## Confirmation Bias

“The tendency to bolster a hypothesis by seeking consistent evidence while disregarding inconsistent evidence.”

-O'Brien & Ellsworth, 2006, Confirmation Bias in Criminal Investigations

**What could confirmation bias look like in a Title IX investigation?**

In Title IX investigations, we may bring implicit or explicit bias in the the room with us...

...which helps us form a “hunch” or “gut feeling” about a case...

...which then makes us vulnerable to confirmation bias.



**Consider: What stereotypes and expectations does society hold about victims (i.e., people who experience sexual assault and harassment)?**

What does a victim of sexual harassment look like, act like, do, say, etc?

Consider media depictions, societal expectations and stereotypes, and your own training and experience.

## Victims: Stereotypes and Expectations

A study found that law enforcement and criminal justice officials were more likely to believe someone experienced sexual assault if...

- They were female
- They were emotionally distressed
- They displayed more stereotypically gendered behaviors in terms of clothing, mannerisms, way of speaking, and social interactions

**Consider: What stereotypes and expectations does society hold about perpetrators (i.e., people who commit sexual assault and harassment)?**

What does a perpetrator of sexual harassment look like, act like, do, say, etc?

Consider media depictions, societal expectations and stereotypes, and your own training and experience.

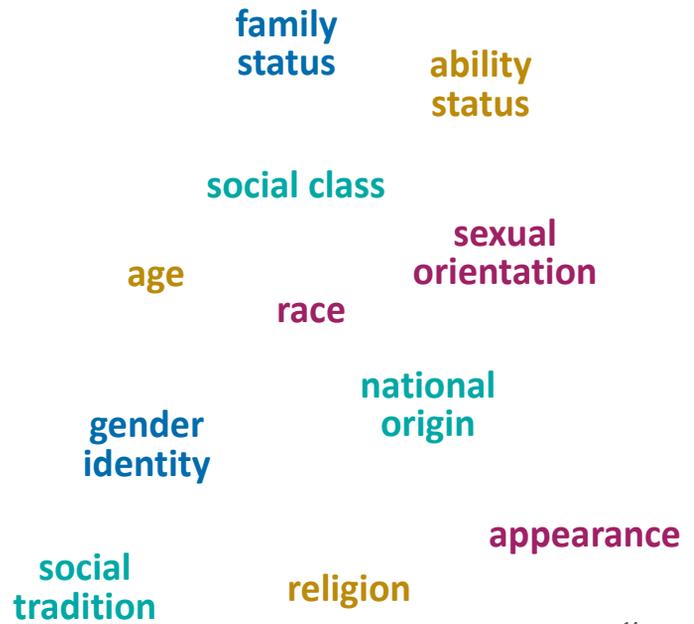
**Biases we hold about what complainants and respondents should look like or act like can lead to biased investigations and outcomes.**



These biases and stereotypes overlap with others we hold...



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What are examples of how societal biases overlap with stereotypes about victims and perpetrators?

# INTERRUPTING BIAS

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## Bias affects us most when...

- Ambiguous or incomplete information
- Compromised cognitive loads (stress, multi-tasking)
- Time constraints
- Overconfidence in our objectivity
- Tired, hungry, or not operating at your “best self”

The Kirwin Institute, The Ohio State University; The New York Times Implicit Bias Series

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## Breakout Groups

**In your current role, which of these are easiest to interrupt?  
Which are the hardest?**

**Brainstorm at least one strategy to interrupt each of these bias  
risk factors.**

## Bias affects us most when...

- Ambiguous or incomplete information
- Compromised cognitive loads (stress, multi-tasking)
- Time constraints
- Overconfidence in our objectivity
- Tired, hungry, or not operating at your “best self”

The Kirwin Institute, The Ohio State University; The New York Times Implicit Bias Series

## Strategies to decrease bias in investigations

- Increase your knowledge and research multiple perspectives about: sexual harassment, identities you don't share, investigation methods, etc.
- Slow down!
- Reduce subjectivity where possible – checklists? Templates?
- Question the subjective and objective
- Use peer-collaboration models
- Get an external evaluation
- Use hard data to check your processes – case reviews, statistics, etc



**SPACE FOR QUESTIONS**

# CONFLICT OF INTEREST

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## Conflict of Interest

“A situation in which a person has a duty to more than one person or organization, but cannot do justice to the actual or potentially adverse interests of both parties.”

-The People's Law Dictionary

“A conflict of interest arises when what is in a person's best interest is not in the best interest of another person or organization to which that individual owes loyalty... A conflict of interest can also exist when a person must answer to two different individuals or groups whose needs are at odds with each other.”

-McCombs School of Business at University of Texas

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## Does this present bias or conflicts of interest?



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Two years ago, Mei was accused of stalking and was found responsible. This year Mei reported that she has been sexually assaulted; your investigator did not work on Mei's case two years ago, but is familiar with it because of conversations about the case with other Title IX personnel in the office.

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## Does this present bias or conflicts of interest?



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A faculty member at your school is accused of sexual harassment. The Title IX Coordinator and both of the school's in-house investigators are familiar with the faculty member because they serve on the Title IX review committee and have worked closely with them on policy reviews for the past three years.

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## Does this present bias or conflicts of interest?



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A case of dating violence involves two student-athletes. One of the members of your decision-making panel is an athletics administrator; he states that he doesn't know either student personally, but that he recalls hearing about both of them from their respective coaches. He states that the conversations were strictly about their athletic performance.

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## Questions to ask about conflict of interest

- What is our standard of conflict of interest in our community?
  - Policies, size of community, available alternatives
- What is the role of the designated person? What is the role of the party?
- Does a previous relationship exist between a designated person and a party?
  - What is the context of the relationship?
  - What is the typical or expected boundary for this kind of relationship? Where does this relationship lie in this context?
- Does the designated person have a similar relationship(s) with the other party(s)?
- What is the designated person's belief about their ability to be unbiased?
- How might this impact the party's participation and safety in the process?

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## Strategies to mitigate conflicts of interest

- Develop a school-specific conflict of interest protocol (consider integrating it into your Title IX policy)
- Cross-train multiple individuals to account for potential conflict of interest
- Develop partnerships or external contracts to share investigators\* and decision-makers when necessary

### What else?

\*ORS 703.401-411 provides information on qualification of investigators

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**SPACE FOR QUESTIONS**



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# SETTING THE STAGE, ACCESSIBILITY, AND CREATING YOUR “GAME PLAN”

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**1. PREPARING FOR  
INTERVIEWS +  
ACCESSIBILITY**

**2. EVIDENCE, CRAFTING  
QUESTIONS**

**3. SENSITIVE TOPICS AND  
LANGUAGE**

**4. PUTTING IT ALL  
TOGETHER**

**PRACTICE TIME!**



## WHERE WE ARE GOING TODAY

- ✓ Explore three potential strategies to mitigate bias
- ✓ Identify strategies to ensure equity and accessibility in the interview process
- ✓ Review steps that investigators can take proactively to make interviews successful, including preparation for privacy, location, and accessibility.



GETTING  
WARMED UP



**Let us know in the chat!**

- 1. What interview challenges arise during an investigation?**
- 2. What anxieties do you have about interviewing?**
- 3. What do you hope to learn about interviewing during this training?**



**FOUNDATIONS  
OF  
INTERVIEWING**



## OUR FOCUS

- Student-centered
- Trauma-informed
  - For all parties, even if not experiencing trauma
  - Autonomy + Choice
- Unbiased / Mitigating Bias



## TRAUMA-INFORMED INTERVIEWING

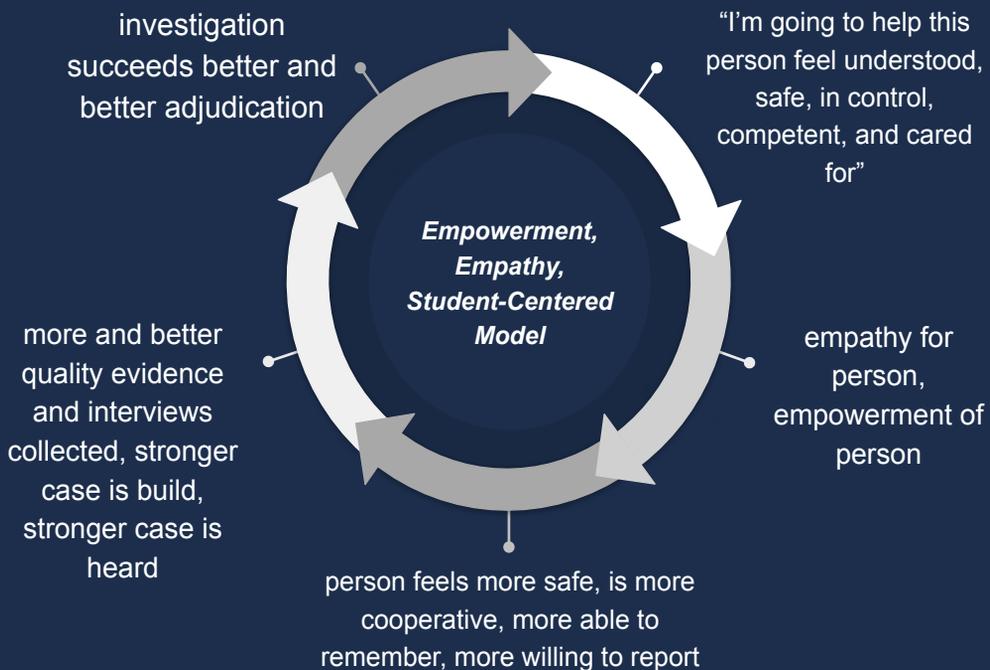
### Objectives:

- Strive for physical and emotional safety, and minimize retraumatization, for all parties
- Enhance understanding of and active participation in the interview (and process)
- Obtain as much accurate information as possible
- Enhance ability for a party to recall, incorporate considerations for a traumatized brain
- Reduce potential for false information

## RECAP: BIAS

*We all bring bias into every case we investigate*

- **Implicit Bias**- what we believe without consciously knowing we believe it
- **Confirmation Bias**- viewing through a filter that allows us to confirm what we believe.
- **Conformity Bias** – We believe it, because they believe it.
- **Recipe for a bad investigation** = form a hypothesis, and then try to prove it





## CULTURAL CONSIDERATIONS

- Body language is not neutral - culturally specific
  - Example: Eye contact
- Comfort with sexually explicit language
- Fear of law enforcement or other officials



## 3 STRATEGIES TO MITIGATE BIAS

- Whenever possible, structure and automate your process
  - Transparency
  - Feedback
- **Let the evidence and facts of the case lead you**
  - Rather than identifying what we think happened and then pursuing evidence to corroborate
- Annual case review with specific focus on bias



## INTERVIEW TIP #1

- Take care not to make assumptions about partners, sexual activity, or comfort level with the process based on identity, including:
  - Making assumptions about reporter/respondent status based on appearance or gender
  - Assuming the gender of their partner
  - Assuming the body parts a person has based on the gender they present

**INTERVIEW  
SEGMENTS  
DURING  
TRAINING**

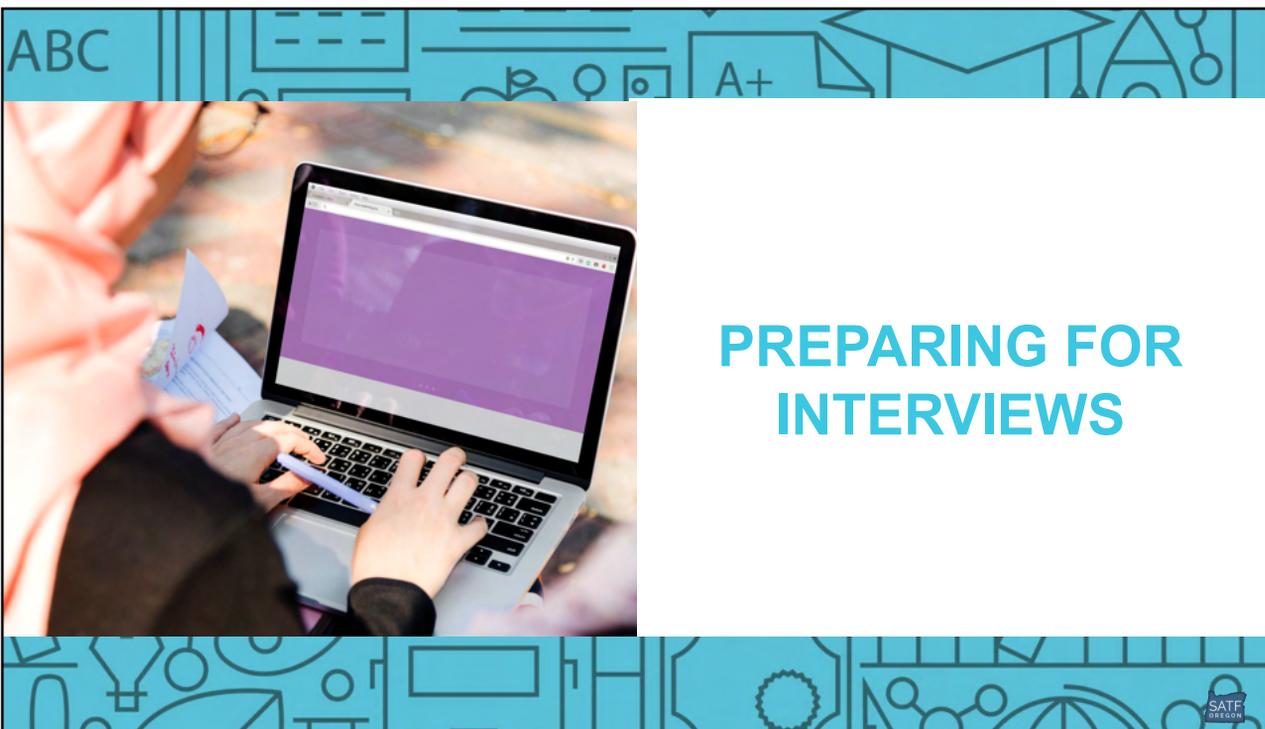
**1. PREPARING FOR  
INTERVIEWS +  
ACCESSIBILITY**

**2. EVIDENCE, CRAFTING  
QUESTIONS**

**3. SENSITIVE TOPICS AND  
LANGUAGE**

**4. PUTTING IT ALL  
TOGETHER**

**PRACTICE TIME!**



**PREPARING FOR  
INTERVIEWS**

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## WHY CONSIDER THIS NOW?

- More opportunities to mitigate bias
- Smoother process for investigator(s), parties involved in report
- Spending time on prep = less time having to go back later on

## OUR “GAME PLAN”

- ❑ Persons Involved
- ❑ Privacy + Safety
- ❑ Accessibility
- ❑ Location
- ❑ Basic Needs
- ❑ Tech Support
- ❑ Documentation Gathering



## PERSONS INVOLVED

- ❑ Party from the case/Interviewee
  - ❑ (reporting, responding, witness)
- ❑ Support person
- ❑ Advisor of Choice
- ❑ Investigator(s)
  - ❑ *and backup investigators!*
- ❑ Privilege?



## INTERVIEW SUCCESS TIP #2

- If you are not recording interviews: we recommend having the following folks participate in interviews:
  - One investigator to ask questions of parties involved/interviewees
  - One investigator to take notes

## INTERVIEW SUCCESS TIP #3

- With your Title IX team, create a document for support persons, advisors of choice, and parties involved in the case that explains the purpose of the interview, and clarifies opportunities for participation based on role.
  - Recap:
    - Support folks, advisors of choice = do not speak on behalf of party involved
    - Reporting parties, responding parties, and witnesses can decline to participate

## PRIVACY

- Are your meeting locations private?
  - Sound
  - View
  - Traffic

## INTERVIEW SUCCESS TIP #4

- Consider removing personal items that limit your own privacy as an investigator:
  - family or personal photos;
  - materials with your address;
  - what is on your computer screen?
  - what is on your desk/table space?

## INTERVIEW SUCCESS TIP #5

- When providing materials for interviewees at an interview, consider offering a manilla envelope as a discreet way for interviewees to transport materials.



## SAFETY : PRE-INTERVIEW

- ❑ For investigators and interviewees:
  - ❑ Safety plan for location
    - ❑ Who responds 24/7?
    - ❑ Know which support staff are available on and off campus, and the scope and limitations of their roles
  - ❑ Parking
  - ❑ Time of day



## SAFETY : PRE-INTERVIEW

- ❑ For the interviewees:
  - ❑ Do they feel safe coming to campus?  
Participating virtually?
  - ❑ Do they have their advisor of choice with them?



## ACCESSIBILITY

When we are considering accessibility, we are thinking about:

- ❑ Ability for all parties to participate equitably
- ❑ Physical vs. technological accessibility needs



## ACCOMMODATIONS AND ACCESSIBILITY

- ❑ What accommodations are needed for the person to successfully participate in the interview?
  - ❑ Language translation
  - ❑ Accessibility - physical space needs, large-print documents, etc



## INTERVIEW SUCCESS TIP #6

- Provide training for your accessibility/disability services staff regarding your process
- Meet with these staff annually to discuss the materials and procedures you use in investigations. Identify strategies to support accessibility for all students.



## INTERVIEW ROOMS

- ❑ Location matters! Offer choice when possible.
  - ❑ YES: Spaces that your institution monitors and manages.
  - ❑ NO: Private homes, student rooms, etc.
- ❑ Sit where a student would normally sit and see the room from their perspective
- ❑ Does the student have a path to the door?
- ❑ Scheduling considerations



## BASIC NEEDS

- Sleep (2-3 cycles preferred)
- Is the attendee sober?
  - If no, reschedule.*
- What can you offer for parties attending your interview?
  - Water, food, snacks?



## INTERVIEW SUCCESS TIP #7

- Explain how an interviewee can request breaks, and offer them throughout the interview process.



Let me know in the chat:

***What are some ways that you have been able to support interviewees and their basic needs during the investigation process?***



## TECH NEEDS

- ❑ Secure platform
- ❑ Equitable access
  - ❑ Internet availability
  - ❑ Device availability
  - ❑ Private space
  - ❑ Support for tech



## INTERVIEW SUCCESS TIP #8

- Create a troubleshooting guide for interviewees participating in remote interviews.
  - Who to contact if they have difficulty
  - What equipment is needed, and how to get access to equipment if available
  - Privacy
  - Support folks



## DOCUMENTATION GATHERING

- ❑ Report
- ❑ Any evidence that might be available from reading the report
- ❑ Any “preliminary interview” materials or reports
  - ❑ Campus safety, RA, etc.



## DOCUMENTATION GATHERING

- ❑ SB 759 Document copies
- ❑ Interview Checklist of rights and options
  - ❑ Optional
  - ❑ Purpose
  - ❑ Rights
  - ❑ What do do if they have questions or need support



Let me know in the chat:

*What are some other documents you need/want to have available during the interview process?*



**QUESTIONS?**

Campus Investigator Training

# ROLE OF AN ADVOCATE + SUPPORTIVE MEASURES

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Campus Program 2022

## IN THIS SESSION:

- We look at two pieces of the process that can make a huge difference to our students who have been impacted by violence -
  - Campus-based Advocates
  - Supportive Measures

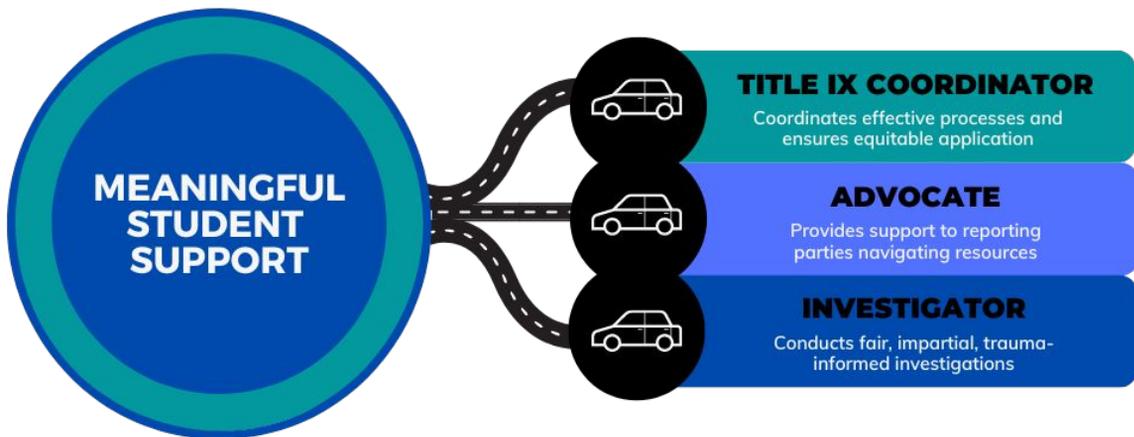
# CAMPUS-BASED ADVOCACY



## WHY CAMPUS ADVOCATES?

- Disclosure, affirming
- Services that TIX/investigators can't provide because of neutral role
- Ongoing support and resource navigation





## TYPES OF ADVOCATES (quick review)

- Tribal
- Culturally-specific/Identity-specific Advocates
- District Attorney Victim Assistance Programs
  - Note: Information shared with DA/Prosecutor
- Community Based Advocates through DV/SA Organizations
  - Sometimes DV/SA Orgs have “co-located advocates” on campus or other sites
- Campus-based



## CAMPUS PROGRAMS MAY INCLUDE...

- Professional advocates (staff)
  - Full-time
  - Part-time
- Faculty/Staff (paid or volunteer)
- Student advocates (paid or volunteer)
- Co-located advocates
- Or a combination!

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## THE ROLE OF AN ADVOCATE

- “Systems navigator”
- Survivor-driven
- Listen (judgement free)
- Affirm
- Explain options
- Support survivor choices



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# SYSTEMS NAVIGATION WITH STUDENTS

- Campuses are little cities within cities
  - Their own rules
  - Their own services
- Different constraints to operate under:
  - Title IX
  - Clery
  - VAWA
- State of Oregon

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## Advocates DO NOT

- Offer advice or opinions
- Steer the survivor's choices
- Make choices regarding reporting or resources for the survivor
- Investigate
- Discuss survivor's experience - professionally or socially
- Provide counseling or long-term therapeutic services
- Cross-examine during hearings (against professional ethics)



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# OREGON ADVOCATE PRIVILEGE

- Signed into law 2015
  - Included campus-based advocates!
- Client (survivor, student) is the privilege holder

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# OREGON ADVOCATE PRIVILEGE

- Advocates cannot release information about the client, their services or other details without explicit written permission, Release of Information, that is:
  - Informed
  - Specific
  - Time-limited

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# SUPPORTIVE MEASURES



## What is a supportive measure?

### SUPPORTIVE MEASURES

Measures and services offered in order to preserve or restore educational access and safety for a reporting party, offered with or without an investigation.

- Typically do not impact respondent's educational access
- Ex: academic remedies (class switches), no contact orders, advocacy or counseling services

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# What is a supportive measure?

## CONTINUED

- Supportive measures may continue beyond an investigation timeline!
- They do not have to stop just because we have checked all the boxes: survivors may have needs that go beyond our investigation, safety implications

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## The 2020 Regulations: Supportive Measures

*“Supportive measures means nondisciplinary, non-punitive individualized services offered as appropriate, as reasonably available, and without fee or charge to the complainant or the respondent before or after the filing of a formal complaint or where no formal complaint has been filed. Such measures are designed to **restore or preserve equal access to the recipient’s education program or activity without unreasonably burdening the other party**, including measures designed to protect the safety of all parties or the recipient’s educational environment, or deter sexual harassment.”*

34 CFR § 106.30(a)

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# The 2020 Regulations: Supportive Measures

## Examples of supportive measures:

- counseling
- extensions of deadlines or other course-related adjustments
- modifications of work or class schedules
- campus escort services
- mutual restrictions on contact between the parties
- changes in work or housing locations
- leaves of absence
- increased security and monitoring of certain areas of the campus

34 CFR § 106.30(a)



# Supportive Measures: Oregon Examples

## Examples from current campus-based advocates:

- Safety planning
- Accompaniment (to TIX or Conduct meetings; hearings; medical appts.; law enforcement/court appts.; etc)
- Access to Survivor Emergency Funds
- Scholarship intervention
- Off-campus processes (Crime Victim Compensation; Address Confidentiality; etc.)
- Basic needs & SNAP assistance
- 24hr hotline support



## The 2020 Regulations: “Unreasonable Burden”

*The unreasonableness of a burden on a party must take into account the nature of the educational programs, activities, opportunities, and benefits in which the party is participating, not solely those educational programs that are “academic” in nature. On the other hand, the Department appreciates the opportunity to clarify that, contrary to some commenters’ concerns, **schedule and housing adjustments do not necessarily constitute an “unreasonable” burden on a respondent**...Changing a class schedule, for example, may more often be deemed an acceptable, reasonable burden than restricting a respondent from participating on a sports team, holding a student government position, participating in an extracurricular activity, and so forth.*

p. 30183 in the Federal Register copy of the Final Regulations



## Supportive Measures vs. Sanctions

**Supportive measures must be different than sanctions.**

Schools cannot discipline students before the conclusion of the grievance process. Make sure sanctions and supportive measures are distinct!

34 CFR § 106.44(c) and (d)

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# The 2020 Regulations: Emergency Removal and Administrative Leave

Emergency removal of a student is allowed, whether a grievance process is pending or not:

- following a risk analysis that determines there is risk to the physical\* health or safety of the school community
- respondent is provided notice and opportunity to challenge
- must comply with ADA and 504 (and IDEA)

Administrative leave of employees, paid or unpaid, is allowed while the grievance process is pending.

34 CFR § 106.44(c) and (d)



## Implementation and Record Keeping



## The 2020 Regulations: Implementing Supportive Measures

### (a) General response to sexual harassment

*The Title IX Coordinator must promptly contact the complainant to discuss the availability of supportive measures as defined in § 106.30, consider the complainant's wishes with respect to supportive measures, inform the complainant of the availability of supportive measures with or without the filing of a formal complaint, and explain to the complainant the process for filing a formal complaint.*

For further discussion of the role of the Title IX Coordinator, see pages 30182-30183 of final regulations in the Federal Register.

34 CFR § 106.44(a)



## The 2020 Regulations: Records

*(ii) For each response required under § 106.44, a recipient must create, and maintain for a period of seven years, records of any actions, **including any supportive measures**, taken in response to a report or formal complaint of sexual harassment. In each instance, the recipient must document the basis for its conclusion that its response was not deliberately indifferent, and document that it has taken measures designed to restore or preserve equal access to the recipient's education program or activity. **If a recipient does not provide a complainant with supportive measures, then the recipient must document the reasons why such a response was not clearly unreasonable in light of the known circumstances.***

34 CFR § 106.44(b)(10)(ii)



## What do you need to document?

- TIX Coordinator / Deputy or “Delegate”
- Referral to an advocate
  - Advocate keeps records, privileged under Oregon law
  - Release of information required to share information back with Title IX Coordinator

34 CFR § 106.44(b)(10)(ii)



# SUPPORTIVE MEASURES: Integrating The Regulations and Best Practice



# INTEGRATING ADVOCACY + COMPLIANCE

Advocates are the experts in safety planning  
and supportive measures

+

Title IX Coordinators are responsible for discussing, coordinating,  
and overseeing supportive measures under the 2020 regulations

=

???



# INTEGRATING ADVOCACY + COMPLIANCE

**Steps the Title IX Coordinator or designee(s) can take to increase access and options for student survivor:**

- Connect advocate and reporting party via email when responding to a report.
- The confidential advocate will provide outreach within 2 business days.
- When confidential advocate has provided outreach to student survivor, the advocate will notify Title IX of the date and method of outreach. NO additional information will be shared without a release of information (ROI) signed by reporting party.
- Title IX coordinator or designee will provide additional information via email after 2-3 business days.

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# Who facilitates supportive measures when?

## Key questions:

- Is this Title IX sexual harassment, or school-code-of-conduct sexual harassment?
- Is it within the educational program or activity?

**Title IX sexual harassment: follow the above model when possible**

**School-based sexual harassment: advocate can fully facilitate**

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# WHAT WOULD YOU DO?

Anna sends an email to the Title IX Coordinator. They say they were sexually assaulted by someone in their Social Psychology class and want to make a report.

1. How does your school currently respond? When/where are advocates looped into the process?
2. If Anna followed up and said they didn't want to be in the same class their assaulter, how would your school coordinate supportive measures?

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# What's next...

## Follow up questions:

- Advocacy and Supportive Measures information is in your workbook.
- For additional Supportive Measures questions please contact Aislinn. ([aislinn@oregonsatf.org](mailto:aislinn@oregonsatf.org)) or Carli ([carli@oregonsatf.org](mailto:carli@oregonsatf.org))

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Campus Investigator Training

# INVESTIGATING CONSENT

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Campus Program 2022

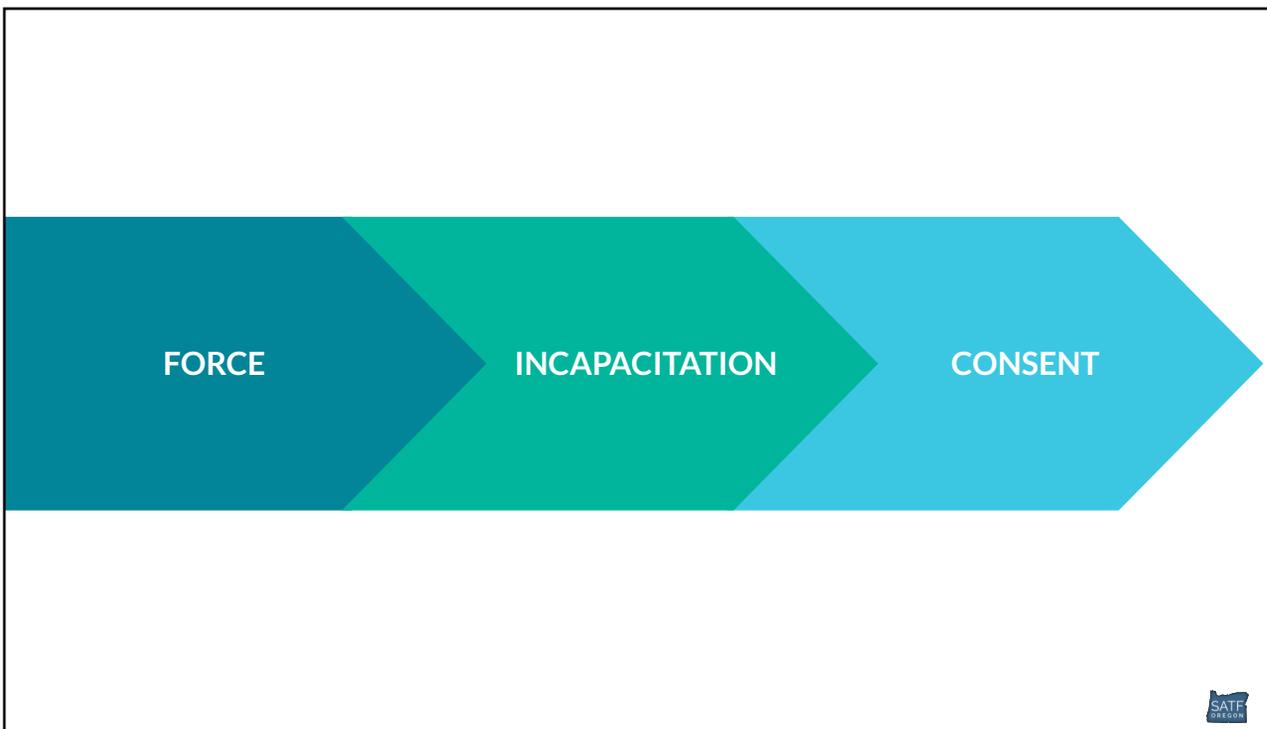
## IN THIS SECTION:

- Analyze the role of consent in sexual harassment investigations
- Explore a framework for evaluating the presence of consent
- Identify your school's investigatory standards of consent
- Review the role of alcohol, other drugs, and sobriety status as a tool of perpetration
- Apply consent dynamics to creation of interview questions

# Why is consent central to our investigations?

The 2020 Title IX sexual harassment definitions hinge on consent, but *they do not provide us a definition of consent.*

Your school's definition of consent forms a key basis of your entire investigation. The definition includes the elements you look for to establish whether or not sexual assault (and sexual harassment more generally) occurred.



## FORCE

- Physical
- Threats
- Intimidation
- Coercion

## INCAPACITATION

- Alcohol and other drugs
- Cognitive ability to consent
- Medications

## CONSENT

- Words and/or actions
- Clear mutual agreement



## SAMPLE POLICY DEFINITION

It is the responsibility of **each person involved** to ensure they have the **affirmative consent** of the other(s) to engage in each sexual contact.

For the purposes of this definition, “affirmative consent” is a **knowing, voluntary, and mutual decision among all participants** to engage in sexual contact. It is the **responsibility of each person involved** to ensure they have the affirmative consent of the other(s) **to engage in each sexual contact.**

## Sample Policy Definition → Investigation Checklist

- Voluntary
- No coercion present
- Communicated clearly
- Willingness to engage
- Affirmative verbal response OR voluntary acts “unmistakeable in their meaning”

Which words need to be defined?



## YOUR HOMEWORK

Using your school’s definition of consent, create a checklist and/or flowchart to assist you with investigating consent.

- Identify specific terms that may need elaboration (e.g., incapacitation or intoxication)
- Identify any gaps in your policy language

Work with your team on this - advocates, preventionists, students, etc.

## ALCOHOL & OTHER DRUGS: RECAP

Alcohol, recreational drugs, and prescription drugs can be used as tools of perpetration by:

- Providing another person alcohol or drugs, either with or without that person's consent, as a means to perpetrate;
- Taking advantage of another person's incapacity due to drugs or alcohol;
- Exploiting or coercing around a person's use or sobriety status.



### In the chat box, let us know:

What are some examples of words, behaviors, or other indicators that **incapacitation** is a factor in your investigation?

What have you heard/seen in your investigations (remember, no personally identifiable information)

## AOD : INCAPACITATION

What descriptions or evidence point to potential incapacitation?

- Verbal description of consumption (how much, where, who furnished)
- Text messages, voicemails, surveillance videos, receipts, card swipes, etc.
- Observations of witnesses

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## AOD : INCAPACITATION (CONTINUED)

What descriptions or evidence point to potential incapacitation?

- Quantity consumed (especially quantity consumed at this instance versus other instances)
- Altered sensory perceptions: 5W's, do they match context?
- Gaps in memory
- "Sensory memory" / Descriptions of sights, sounds, smells, etc.

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## In your breakout rooms, discuss:

1. What dynamics do you see around consent/lack of consent in this report?
2. What information do you need to obtain/clarify to understand if there is consent under your school's policy?
3. What questions could you ask to gain a further understanding of the dynamics of consent in this scenario?



## ELEMENTS OF ESTABLISHING CONSENT

- What words or phrases were said?
  - Euphemisms or colloquialisms? Can you establish they were commonly understood?
- What body language was conveyed?
- Where did the interaction take place?
  - Is any power dynamic created by the environment?

**Consider: what kinds of questions will you ask to elicit this information?**

## ELEMENTS OF ESTABLISHING CONSENT

- What was the context of the relationship?
  - Power dynamics, either formal or informal? Was there previous abuse, harassment, or violence?
  - Is there a “baseline” for consent in the relationship? Is consent of this type “usual,” or does it differ in any way?
- How did time impact interactions? Did things change at any point?
- Did both parties have the mental capacity to make decisions?

**Consider: what kinds of questions will you ask to elicit this information?**

## QUESTIONING AROUND CONSENT

Use your trauma-informed and student-centered skills!

- **Ask yourself:** do I need to know this to establish consent? What assumptions am I making? Are these questions arising from bias?
- **Ask open-ended questions**
- Avoid “why” and instead **pivot to open-ended or clarifying**
- **Stop once you’ve met your checklist/flowchart requirements** - there’s no need to go further out of curiosity.

# COMMON BIASES AROUND CONSENT

## The Assumption

Women like to play hard to get; sometimes they say no when they mean yes.



- Probing around words and actions
- “Have you ever changed your mind and originally said no but then consented in the past?”

If they really didn't want to, they would have said no or just left.



- Probing around location
- Probing around resources or finances
- “Why didn't you...” “Was there a reason you didn't...”



# COMMON BIASES AROUND CONSENT

## The Assumption

Men are always up for sex. If a man is aroused, he clearly wanted it.



- Over-focusing on behavior and ignoring feelings, body language, and words
- Failing to establish all of your policy's elements of consent before coming to a conclusion

We need to teach women to assert boundaries better and communicate more clearly. Men aren't mind-readers!



- Over-focusing on words and phrases
- Shifting the responsibility of consent from one party to another



## Examples of Helpful Questions to Establish Consent

Use your trauma-informed and student-centered skills!  
Tone, body language, and framing matter!

- “Tell me more about...” “Can you say more about...” “How did you feel when...”
- “Talk to me about your relationship with X prior to this incident. What were your interactions like?”
- “It sounds like you’ve hooked up before this time and felt good about it, is that correct? Tell me what you and X usually do to gain each other’s consent.”
- “Can you describe what was going through your mind when they did X? What about what was happening in your body?”
- “You mentioned you were in her dorm room. How did you feel about being there?”

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## QUESTIONING FOR AOD/INCAPACITATION

Use your trauma-informed and student-centered skills!

- **Know your school’s amnesty policy.**
  - Describe it, and reiterate it if necessary when asking questions around AOD use.
- **Explain the purpose for asking these questions (not to blame, to understand)**
- **Establish a baseline**

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# QUESTIONING FOR AOD/INCAPACITATION

Use your trauma-informed and student-centered skills!

- Use simple language to describe amounts, etc.
- Reflect the language of the person you are talking to, and clarify terms if needed.
  - *“You mentioned eating half a gummy. Can you share what type of gummy? How many milligrams were in a whole gummy?”*
  - *“I want to make sure I am as accurate as possible when taking notes. When you say you had half a gummy, you are speaking about a marijuana edible, correct?”*
- **Stop once you have established incapacitation; don’t probe further for “curiosity.”**

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## FINAL THOUGHTS

Your school’s definition should guide your investigations - what you look for, what questions you ask. Get specific!

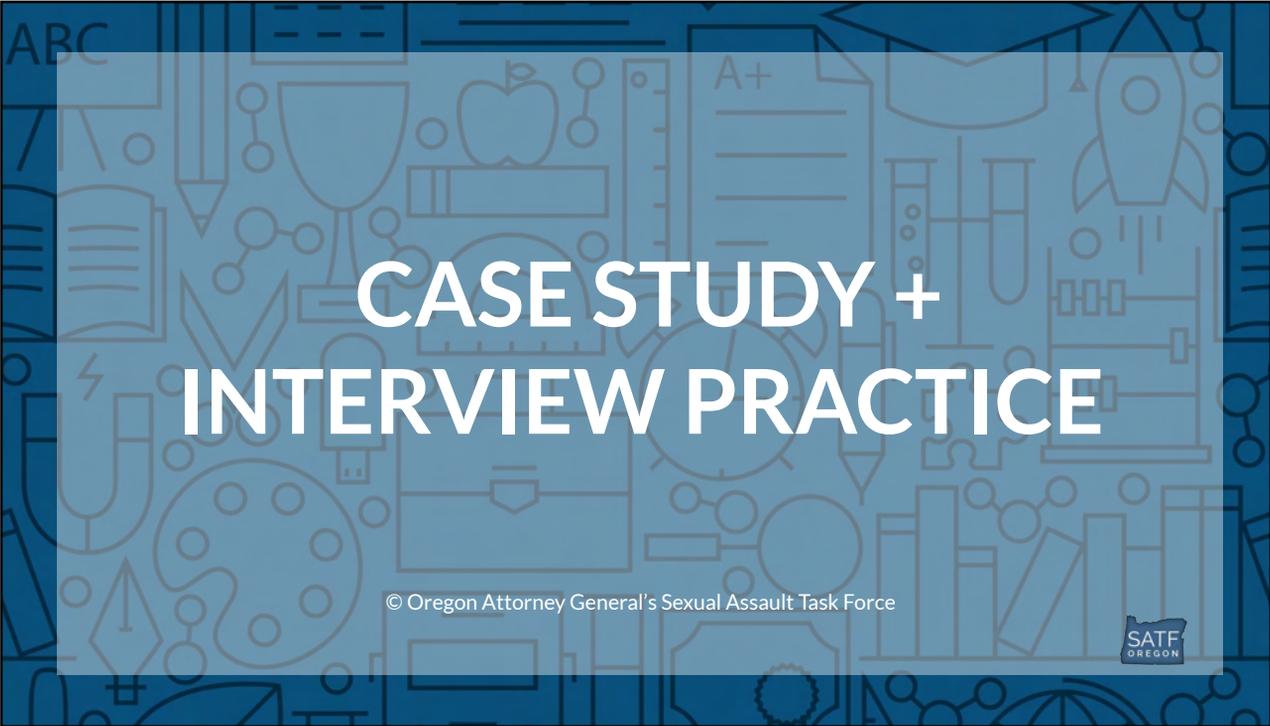
Examine the presence of force, incapacitation, and consent

Check your biases! Craft your questions carefully, and challenge your biases around consent as you discover them.

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# CASE STUDY + INTERVIEW PRACTICE

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**1. PREPARING FOR  
INTERVIEWS +  
ACCESSIBILITY**

**2. EVIDENCE, CRAFTING  
QUESTIONS**

**3. SENSITIVE TOPICS AND  
LANGUAGE**

**4. PUTTING IT ALL  
TOGETHER**

**PRACTICE TIME!**



## WHERE WE ARE GOING TODAY

- ✓ Define strategies for effective note taking
- ✓ Identify skills that help an investigator build rapport
- ✓ Explore tips for trauma-informed interview sequencing
- ✓ Compare strategies to recover or navigate during difficult circumstances in an investigation



NOTE TAKING



## WHY CONSIDER THIS NOW?

- Complete and accurate notes = better report to deliver to fact finders
- Trauma-informed interviewing techniques produce more complete interviews



## NOTE TAKING CONSIDERATIONS:

- ❑ Preserve the exact words used by reporting/responding parties
- ❑ Do not sanitize statements
- ❑ Provide context to statements for readers (lingo specific to them, the college, etc)



## NOTE TAKING CONSIDERATIONS:

- ❑ Document explicit, observable demeanor/body language, and actions of the person you're interviewing
- ❑ One person to take notes, second person to ask questions
- ❑ Use quotes if not recording!
  - ❑ *Do not have to keep recordings*



**RAPPORT  
BUILDING**



## WHY CONSIDER THIS NOW?

- Think back to our earlier model about person-centered investigations.
- When we center respect for the interviewee, they may feel more comfortable sharing their full experience with us.



## BEGINNING THE INTERVIEW

- Explain the purpose of the interview
- Talk about your role and what to expect
- Explain your institution's amnesty policies
- Check in about interviewee's basic needs
  - water, snacks, how to ask for breaks, etc.



## BEGINNING THE INTERVIEW

- Explain that it's ok to say "I don't know" or "I don't remember"
- Allow and address questions from interviewee



## EXPLAINING NEUTRALITY

- Why is your role neutral?
- Demonstrate your care for this work, and why you want the investigation to be successful
- Explain that your role is to collect evidence, which will be weighed against a standard. Just because the school cannot prove a policy violation, does not mean that person's experiences did not happen.



## **ON YOUR OWN**

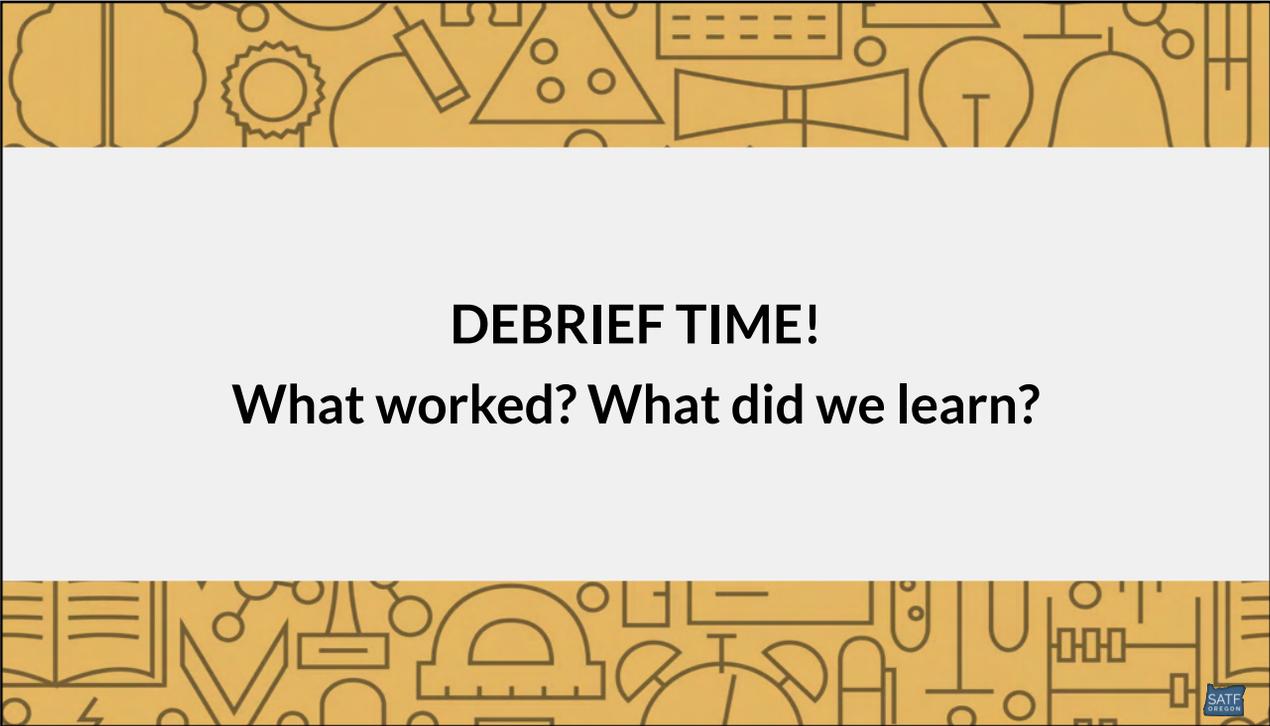
**Take five minutes to write down an explanation of your role as a neutral fact finder as if you were describing it to an interviewee.**

**How can you articulate this to parties using your trauma-informed skills?**

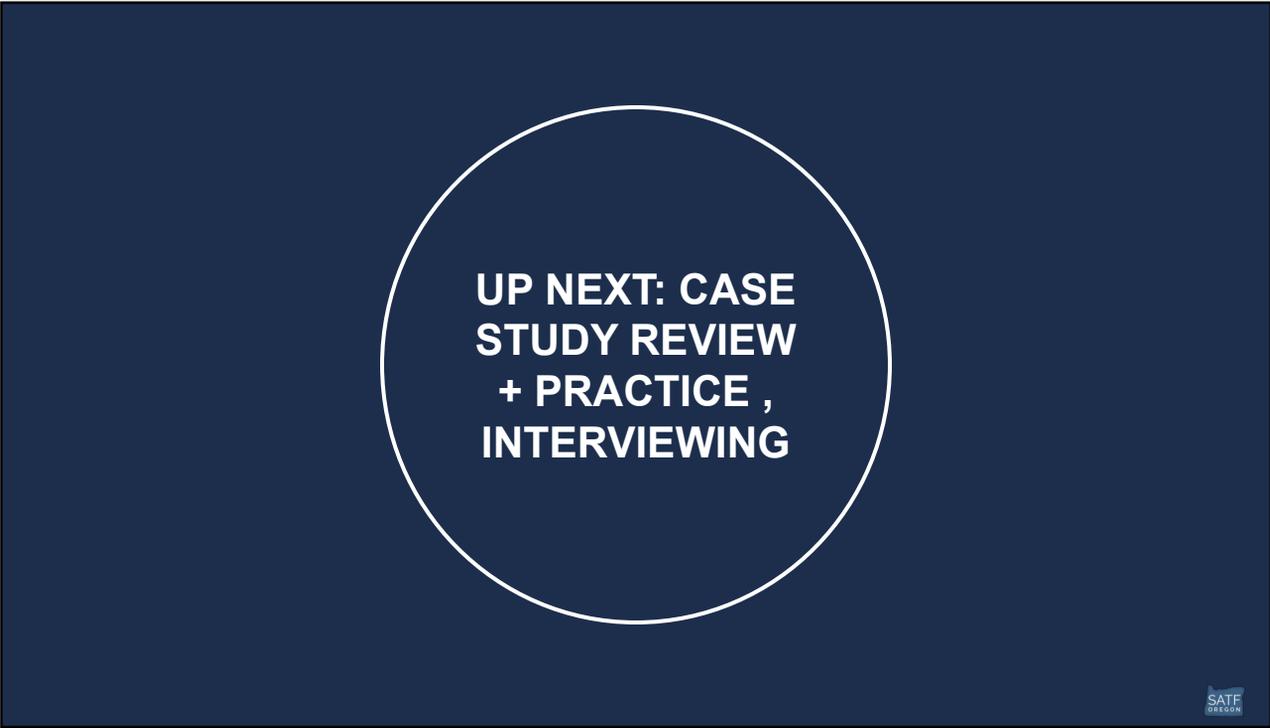


## **LET'S PRACTICE!**

**Take turns sharing your intro explanation**  
**Observers: Note two things the speaker did well, one constructive item to improve on**



**DEBRIEF TIME!**  
**What worked? What did we learn?**

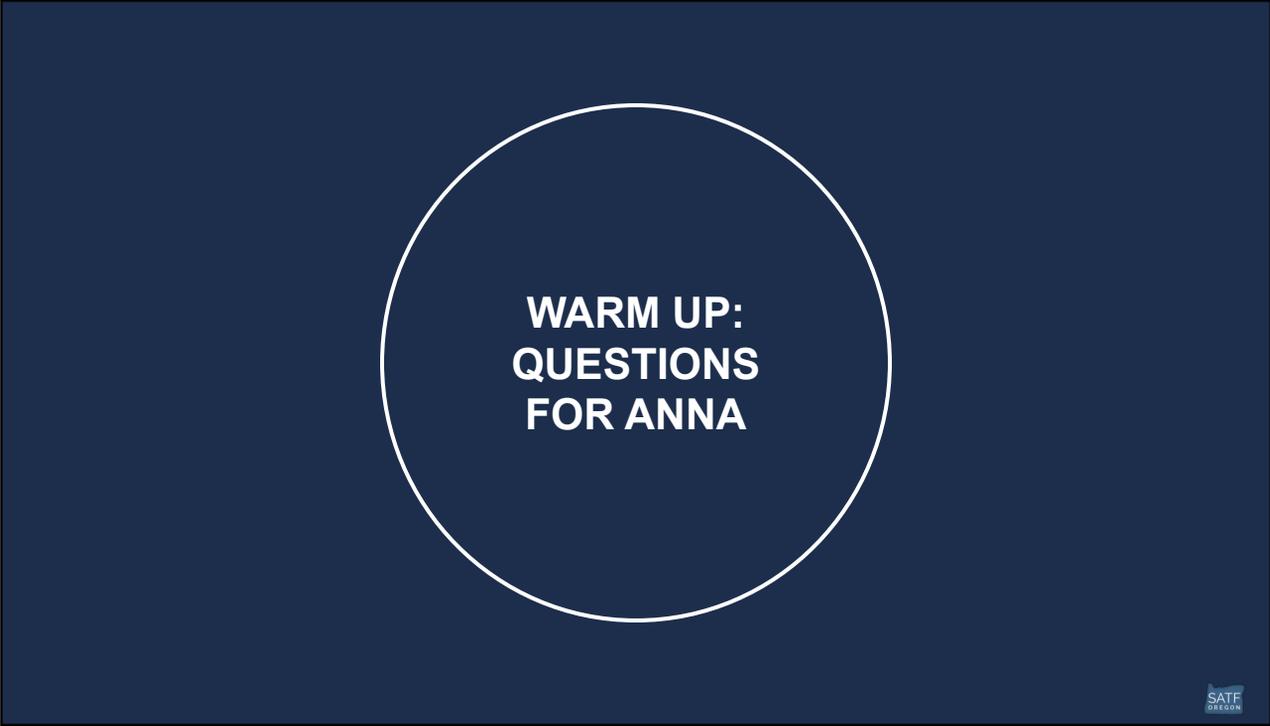


**UP NEXT: CASE  
STUDY REVIEW  
+ PRACTICE ,  
INTERVIEWING**



## **TAKE A MINUTE AND REVIEW**

**Review the reports in Anna's student file related to this case so far. What questions are you having as an investigator?**



**WARM UP:  
QUESTIONS  
FOR ANNA**



**Consider:**

**What has already been established?**

Force → Incapacitation → Consent?

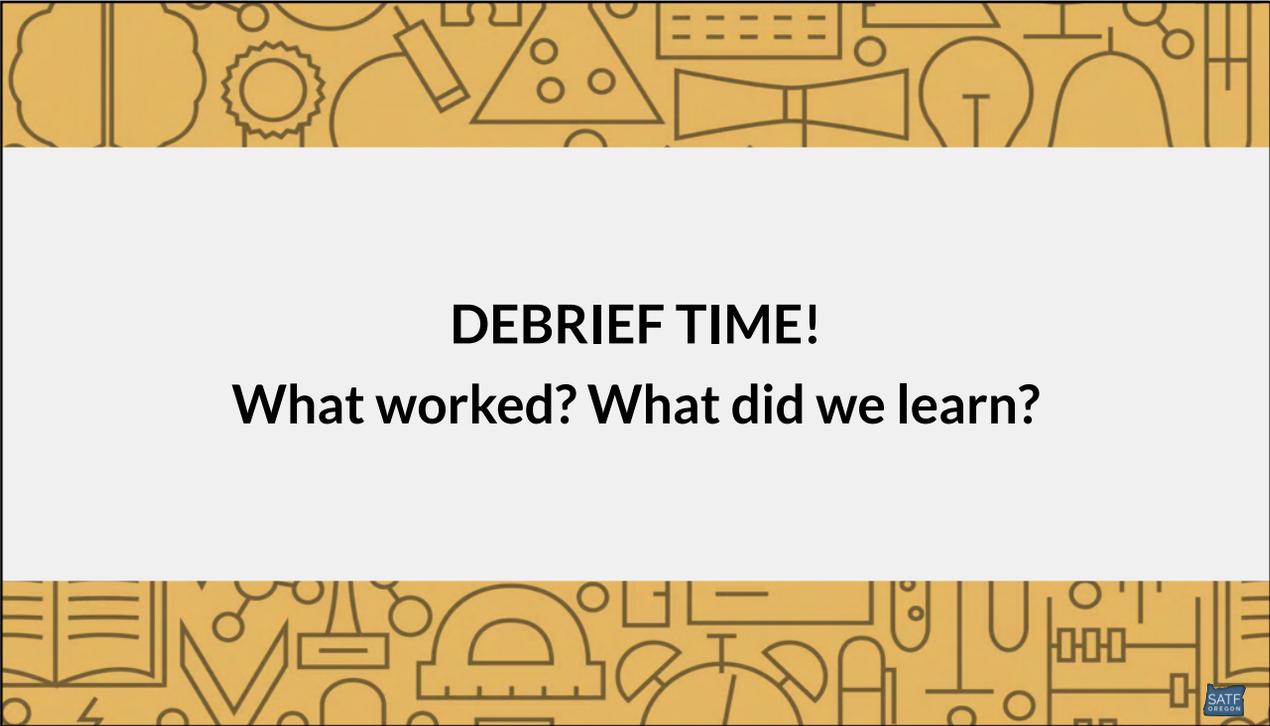
What is necessary related to your policy?



**LET'S CONNECT!**

Think about our earlier conversations about consent,  
and asking questions.

As a group, brainstorm a list of questions that you  
want to ask Anna after reading the reports in her file.



**DEBRIEF TIME!**  
**What worked? What did we learn?**



**INTERVIEWS**



***Trauma-informed interviewing helps elicit a thorough, accurate, and informative account from all participants.***



## **REMEMBER...**

**Disclosure is a process, not an event.**

**Incomplete statements are the norm.**

**Trauma, disability, and other factors can impact brain functioning and ability to communicate.**



## GROUP BRAINSTORM

What does appropriate body language look like in an interview for an investigator?



## BODY LANGUAGE

- Face the person you're interviewing
- Open, neutral body position
- Position yourself at their level, not above
- Maintain appropriate eye contact
- Leave physical space where possible, such as a table between
- Avoid physically touching

# INTERVIEW SKILLS : QUESTION ASKING

## DURING THE INTERVIEW

**Encourage an open narrative - avoid breaking their train of thought!**

- Let them talk
- Avoid falling into the chronological trap!
- Peripheral details can give helpful context - follow up on them
- Ask specific, clarifying questions at the end of the interview



## QUESTIONING

One study of law enforcement victim interviews found that:

- A typical interview contained 3 open-ended questions and 26 short, closed-ended questions.
- Detectives were found to interrupt the response to an open-ended question after only 7.5 seconds, with an average of 4 interruptions per response.

Adapted from Archambault, J., & Lonsway, K. A. (2012). Recording victim interviews. End Violence Against Women International (EVAWI). Retrieved from <https://www.evawintl.org/Library/DocumentLibraryHandler.ashx?id=67>



## FOLLOW-UP QUESTIONS

- Ask for clarification on specific points
- Use open-ended prompts
- Use appropriate sequencing of questions - follow the train of thought
- Conclude by asking if there is anything else they would like to add





## ON YOUR OWN: ANNA'S INTERVIEW

Listen to a portion of Anna's interview. As you listen, generate 2 follow-up questions using the skills we covered earlier today.

*We will use our "waterfall" chat to share questions you come up with.*



NAVIGATING  
DIFFICULT  
SCENARIOS



## BREAKOUT ROOMS

*Each group will get a scenario/dynamic that is challenging in investigations/interviews.*

*As a group, generate 2-3 strategies for navigating these scenarios.*



### SCENARIO 1: YIKES

- You ask Anna to explain about the interaction where Dylan grabbed her arm at the party. You misread your notes, and ask Anna “Who was present when you grabbed Dylan’s arm at the party?”.
- You meant to ask “Who was present when Dylan grabbed your arm at the party?”
- Before you can correct yourself, Anna snaps “I didn’t grab HIS arm! Aren’t you even listening to me?!”



## SCENARIO 2: RELUCTANT WITNESS

- You are interviewing one of the witnesses (Javi) from the party where Dylan is alleged to have grabbed Anna's arm.
- Javi agrees to participate in the interview, but every question you ask, he responds with a version of "I don't know" or "I don't remember".
- 20 minutes into the interview, all you know is that Javi was there...and not much else. How do you proceed?



## SCENARIO 3: MISSED MESSAGES

- You get to the end of your interview with Dylan the next week. It has gone well so far, and as you wrap up you begin to explain next steps.
- You explain that you will compile a report, and he and Anna will both have time to review it at your office. Suddenly, he becomes really frustrated, and raises his voice, yelling "I thought this was it?! I thought all I had to do was interview with you! I just want this to be over!"
- It is obvious that information about next steps was not relayed before Dylan got here, or Dylan did not understand. What do you do next?



## SCENARIO 4: SHUT DOWN

- As you begin to ask Anna about her experience with violence, she stares at the table.
- The advocate that has accompanied Anna asks if she would like a break. Anna starts to say “I don’t know...I..what is even going on right now...”. You notice that she is suddenly breathing rapidly.
- What do you do next?



## TIPS

- If you feel like you mis-stated a question, apologize and ask if you can restate it. We are human!
- Use open ended questions, state the obvious if folks are not participating...it isn’t necessarily malicious.



## TIPS

- Work with your team to make sure folks are aware of steps in the process, allow for moments of stress/not “downloading”.
- If someone is triggered, stop the interview.



## CONCLUDING THE INTERVIEW



## CONCLUDING INTERVIEW

- Explain what to expect next from the process
- Address safety concerns
- Provide your contact information
- Connect with information and referrals



## ALL INTERVIEWS

***Safety should always come first!***

- Where will you go after leaving my office?
- Do you feel safe going home?
- Do you feel safe being on campus for classes?
- Is there a support person I can help you get in touch with?

## WITNESS INTERVIEWS

- Witnesses can support:
  - viewing of the incident
  - context to behavior
  - power dynamics
- “Outcry” witness
  - What was said?
  - What changed before, during, and after?



## FOLLOW-UP INTERVIEWS



## PURPOSE OF FOLLOW-UP

- Fill in details missing from the initial interview, if possible
- Follow up on pieces of evidence you've obtained
- Responses to information obtained during interviews with other parties

# EVIDENCE, CRAFTING QUESTIONS, AND SENSITIVE TOPICS

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**1. PREPARING FOR INTERVIEWS + ACCESSIBILITY**

**2. EVIDENCE, CRAFTING QUESTIONS**

**3. SENSITIVE TOPICS AND LANGUAGE**

**4. PUTTING IT ALL TOGETHER**

**PRACTICE TIME!**



## WHERE WE ARE GOING TODAY

- ✓ Identify categories of potential evidence in sexual harassment investigations
- ✓ Review requirements under Title IX for parties rights regarding evidence in investigations
- ✓ Recognize trauma-informed strategies for developing interview questions
- ✓ Compare different types of questions used in interviews, including those for sensitive topics



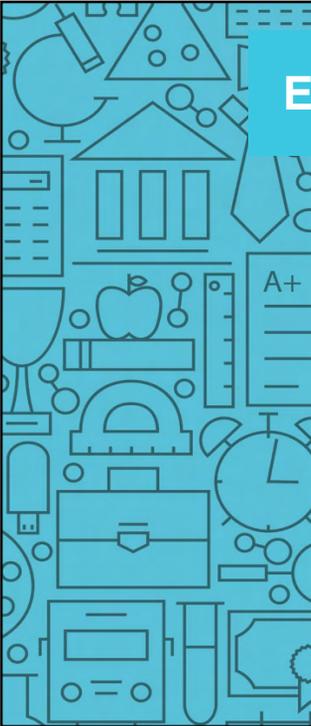
EVIDENCE

## WHY CONSIDER THIS NOW?

- Reviewing and compiling evidence = opportunity to craft meaningful questions
- Interviewees can clarify questions about the evidence in the interview = less interviews

**What kinds of evidence can be helpful to a case?**

**What is “good evidence”?**



## EVIDENCE CONSIDERATIONS

**Sometimes it is helpful to pull evidence based on a report before an interview occurs:**

- Visits to locations in report (if appropriate)
- Context about school events or traditions



## EVIDENCE CONSIDERATIONS

- Burden of gathering evidence and burden of proof is on school
- You may need a Release of Information or other form of release to get evidence/information
- What else may exist to corroborate?



## EVIDENCE CONSIDERATIONS

### Will you need to:

- Get a Release of Information or other form of release to get evidence/information?
- Find additional evidence to corroborate?



## POTENTIAL TYPES OF EVIDENCE FOR INVESTIGATION

- Security footage - School and off campus
- Pictures
- Card swipe logs
- Evidence on phones
- Emails



## POTENTIAL TYPES OF EVIDENCE FOR INVESTIGATION

- ❑ Student files: Academic, Housing, etc.
- ❑ Preliminary Interview Reports (Title IX Coordinator, Campus Safety, LE, SANE\*, etc.)
- ❑ Attendance records
- ❑ Publicly available social media, screenshots\*



## CASE STUDY REVIEW: ON YOUR OWN

### Housing Director's Report

*(in chat and your workbook!)*



## **LET'S PRACTICE!**

**How might Josh Jacoby's report fit into your investigation regarding Anna?**

**What types of evidence would you seek out after reviewing this report?**

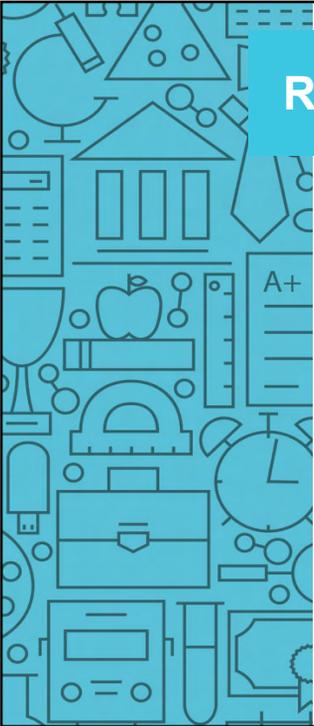


## **DEBRIEF**

**How might Josh Jacoby's report fit into your investigation regarding Anna?**

**What types of evidence would you seek out after reviewing this report?**





## REQUIREMENTS

### Reminder:

- ❑ Must send parties and their advisors evidence directly related to the allegations
- ❑ With at least 10 days for the parties to inspect, review and respond

## CRAFTING QUESTIONS: PART 1



## WHY CONSIDER THIS NOW?

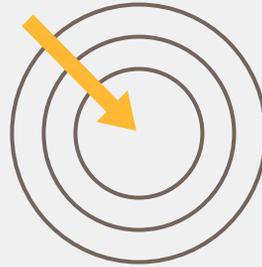
- Incorporate trauma-informed strategies for developing questions
- Help ensure that each question is relevant to investigation



## TRAUMA-INFORMED STRATEGIES FOR QUESTIONING

- Open-ended questions
- Experience-based questions
  - Senses and emotions
- Clarifying questions

## PROGRESSION OF QUESTIONING



1. Begin with the broadest, most open questions.
2. Progress to clarifying questions later on.
3. *Only ask specific, closed-ended questions when necessary to obtain relevant details.*

## IDEAS FOR INFORMATION TO OBTAIN

- ❑ Elements of policy definitions, such as: use of force, threat, or coercion; elements of consent; elements of hostile environment
- ❑ How the party felt; what they believed
- ❑ Sensory details



## INTERVIEW TIP #9

- Use the initial information you have available to identify potential questions / create a checklist related to:
  - Force
  - Incapacitation
  - Consent



## IDEAS FOR INFORMATION TO OBTAIN

- ❑ Relationship between reporting and responding parties
- ❑ Context for locations, substance use, etc.
- ❑ Actions of reporting and responding parties
  - ❑ specific AND contextual to the incident



## TYPES OF QUESTIONS

### Most Effective:

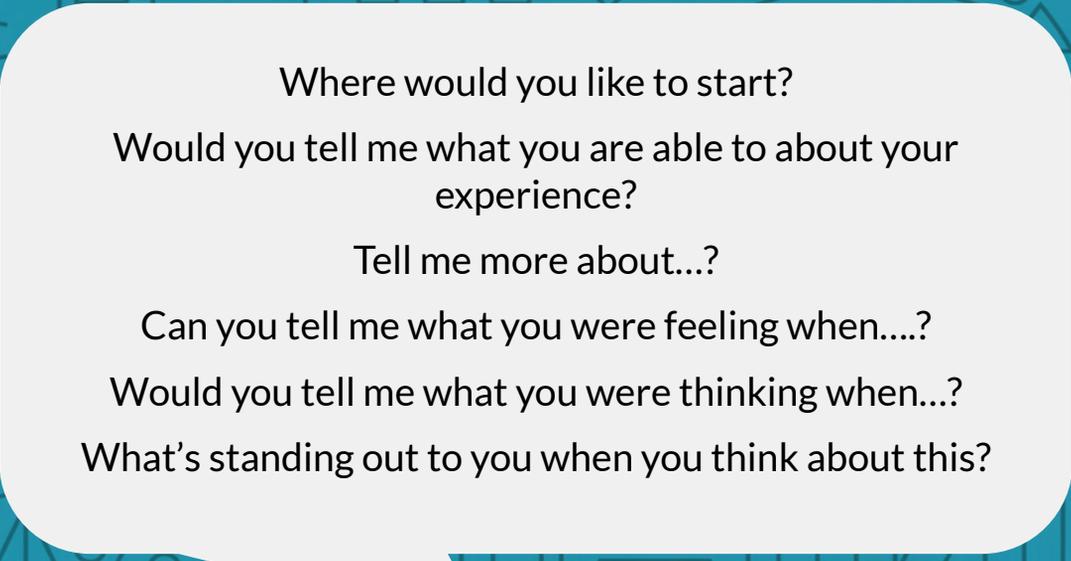
- **Open ended:** “Tell...” “Explain...” “Describe...”
- **Probing:** Who, What, Where, When, How
- **Closed:** Invites “Yes” or “No” response
- **Clarification:** For understanding



## TYPES OF QUESTIONS

### Less Effective, Not Recommended:

- **Forced choice:** “Did you fight back, or did you just tell him no?”
- **Opinion:** “I wonder...” “I believe...”
- **Multiple/Compound:** More than one question at the same time.
- **Leading:** “You were drunk, right?”
- **“Why?”** → Accusatory



Where would you like to start?

Would you tell me what you are able to about your experience?

Tell me more about...?

Can you tell me what you were feeling when....?

Would you tell me what you were thinking when...?

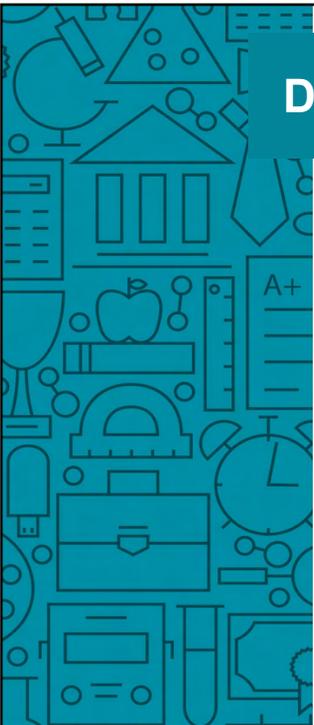
What's standing out to you when you think about this?



## **GRAB SOME PAPER!**

**Practice reframing the following questions into open-ended, experience-based questions.**

How much did you have to drink?  
Why didn't you scream or fight back?  
How long did this last?



## DIFFICULT QUESTIONS

- Questions about sexual activity
- Questions about drug or alcohol use
- Questions about illegal/"immoral" activity

## INTERVIEW TIP #10

- Before asking a sensitive question (or series of sensitive questions), explain purpose for asking the questions to the interviewee.

“Now I’m going to ask you some more specific questions about this experience and the sexual activity that occurred. I’m asking this because I need to know more about what code of conduct violations may have happened, and to help establish a clear picture of the events. We may get quite specific, but know that this is important and that I am used to discussing all kinds of experiences in these kinds of interviews. I want to you answer my questions using whatever words or phrases you feel comfortable with, though I may ask you to clarify for the sake of being clear in my notes. I also want to remind you that we can take breaks whenever you want. Are you ready to continue?”

## LANGUAGE

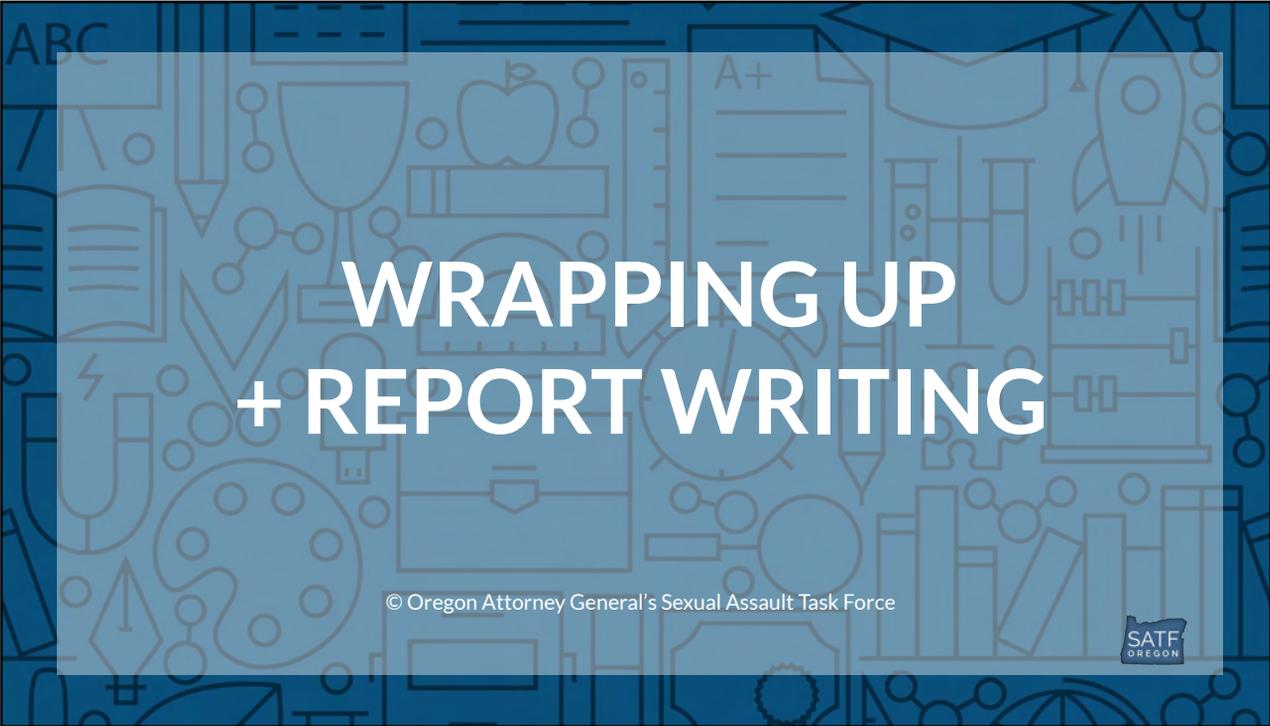
- Sexually explicit language
- Contextual and community-specific language
- Ask for clarification as needed

“When you say he sent you a dick pic, I just want to clarify that you mean he texted you a picture of himself with his penis exposed in the photo, is that correct?”



# QUESTIONS?

Time for lunch!  
*Content warning for next session*



# WRAPPING UP + REPORT WRITING

© Oregon Attorney General's Sexual Assault Task Force



**CONCLUDING  
THE INTERVIEW**





## CONCLUDING INTERVIEW

- Explain what to expect next from the process
- Address safety concerns
- Provide your contact information
- Connect with information and referrals



## ALL INTERVIEWS

***Safety should always come first!***

- Where will you go after leaving my office?
- Do you feel safe going home?
- Do you feel safe being on campus for classes?
- Is there a support person I can help you get in touch with?

# REPORT WRITING

## ELEMENTS - OVERVIEW

- 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



## ELEMENTS - OBJECTIVE

- What is the purpose of the investigative process?
- The report itself?



## ELEMENTS - CONDUCT

- Prohibited conduct alleged
- Date
- Time
- Etc.



## ELEMENTS - WITNESSES

- Names
- Who they were identified by
- Interviews



## ELEMENTS - INTERVIEWS

- Names
- Dates
- Locations
- Interview Statements
- Evidence Provided



## ELEMENTS - EVIDENCE

- Collected
- Reviewed by
  - Notice
  - Dates
  - How did they review



## ELEMENTS - PROCEDURAL NEXT STEPS

- Referral to decision maker
- On what date
- How
- How was notice provided?



## **BREAKOUT ROOMS**

***Review one of the following templates-what is helpful? What is not?***

