OVERVIEW OF TODAY’S TOPICS

- HISTORY
- THE CIVIL RIGHTS INVESTIGATION MODEL
- ROLE OF INVESTIGATORS
- WHO ARE THEY?
- WHAT DO THEY DO?
- HOW ARE THE INVESTIGATION FINDINGS/REPORT USED?
- HOW DOES THIS MODEL CHANGE THE INSTITUTION’S ROLE?
- INTEGRATING INVESTIGATION INTO EXISTING RESOLUTION MODELS
OVERVIEW OF TODAY’S TOPICS

- WHAT IS THE ROLE OF INVESTIGATORS IN ANY HEARING?
- WHAT ARE THE BENEFITS OF THIS MODEL?
  - PROMPTNESS
  - ASSURANCE OF EQUITY
  - MORE EVIDENCE
  - PATTERN RECOGNITION
  - LESS OBFUSCATION
  - INFORMAL RESOLUTION
Who Investigates?

- In this model, a pool of 6-24 people are chosen from administrative and staff ranks for their analytical and inquisitive character.
- All pool members serve 2-3 year or longer terms.
- All pool members are trained as advocates, investigators, hearing officers and appeals officers, and will serve varying roles in each grievance.
- Permits strategic selection and balance.
What’s Global About this Model?

- All employees, students, faculty and union employees are subject to (largely) the same policy and process.
- Policy is written broadly to encompass IX, VII and relevant state laws.
- One process is administered centrally under the Title IX Coordinator or EEO administrator.
- Policy and process govern all discrimination complaints, not just sex/gender discrimination.
Should There Be More Than One Investigator?

- No specific requirement, but:
  - Investigation must be prompt, thorough and impartial
  - Investigator must collect the maximum amount of relevant information available to make a determination
  - A pool of investigators may help to ensure that your investigation meets these requirements.
Team Investigations

- Other benefits:
  - Who investigates may be strategic to each specific case
  - Ability to brainstorm investigation steps and lines of questioning with co-investigators, co-facilitate interviews
  - Flexibility if there is any conflict with investigators and parties
Investigation Team Process Overview

- The investigation team, in consultation with their supervisors, and/or the Title IX Coordinator strategizes the entire investigation, including methodology, order, timeline, goals, obstacles, etc.

- Interview all witnesses

- Gather and assesses evidence

- Write a report

- Make a finding or recommendation (will vary by school)
  - May recommend sanction

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Variations in role of decision process:

- Investigator presents findings to accused individual
- Investigator recommends to supervisor or hearing panel
- Investigator only presents investigation report without findings
- The investigator may recommend a finding
- The investigator may be the key witness at the hearing
Some Variations

- Administrator accepts or rejects finding, makes determination subject to appeal
- Or, hearing is held, subject to appeal
- Or, investigator presents findings:
  - Accused individual accepts
    - Recommended finding implemented
      - Not appealable
    - May recommend sanctions or sanctions by administrator
      - If rejected, hearing on sanctions
      - Appeal

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Investigator presents findings:
- Accused individual rejects
  - Hearing
  - Appeal
- Accused individual accepts in part, rejects in part
  - Hearing only on disputed findings
  - Appeal
Brett A. Sokolow, Esq. serves as Executive Director of the membership associations NaBITA and ATIXA. He also serves as managing partner of NCHERM, a law and consulting firm that provides risk management services to higher education.

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