Title IX Investigations and Relevance

General
Principles
of an
Investigation

Parties must have sufficient notice to prepare and meaningfully participate

Investigator has an independent duty to collect relevant inculpatory and exculpatory evidence

Parties have an equal opportunity to present their statements, evidence, and to identify witnesses

Burden of Gathering Evidence

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G a I a M To conduct the investigation and gather all evidence possible and interview witnesses

Remain neutral during this process, and not focusing on gathering evidence to prove respondent "guilty" or not responsible.



The University must send the parties and their advisors:

ALL evidence directly related to the allegations

will include relevant and irrelevant evidence including that which would otherwise be excluded under the rape shield protections includes evidence the school will not use/rely in making a decision

includes inculpatory or exculpatory evidence whether obtained from a party or other source

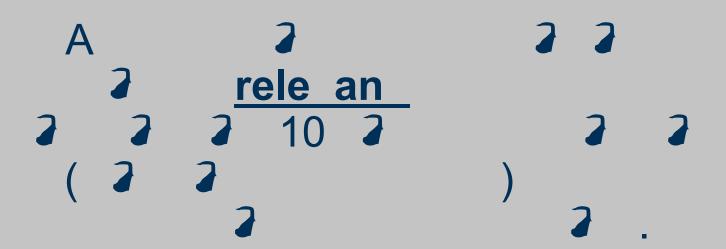
electronic format or a hard copy, otherwise, method and format of delivery up to school

parties must have at least 10 days to submit a written response the investigator will consider parties input prior to completion of the investigative report

R evidence must be made available if there is a hearing

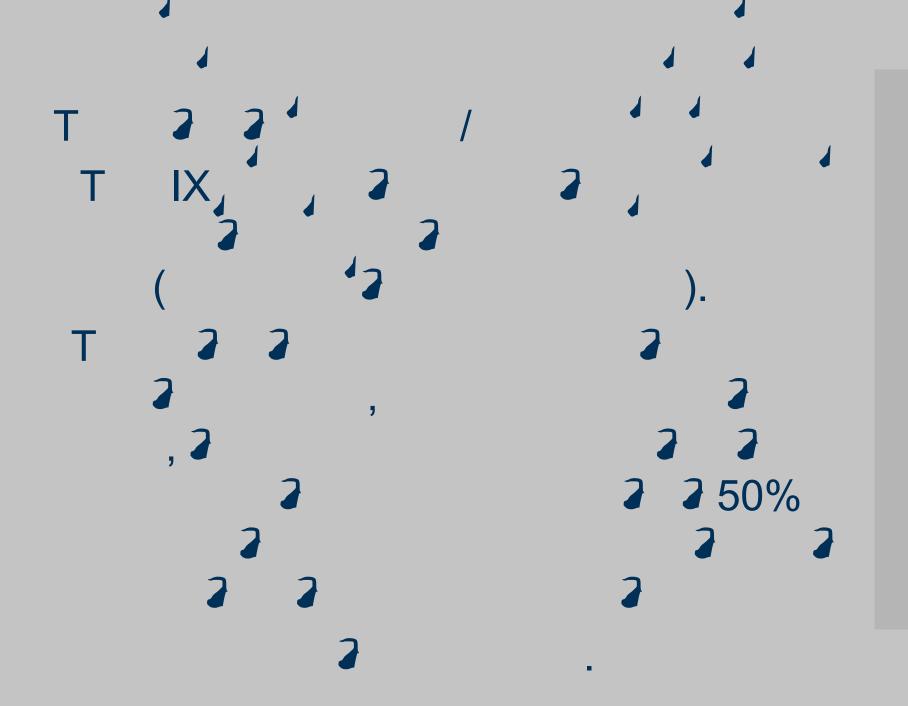
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106.45(b)(5)(vii)





Standard of Proof or Evidence



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Relevance Defined

Who determines the facts in a Title IX case?

The hearing board or officer or decision maker are the fact-finders, but they are left to "find" facts only from relevant evidence presented in a hearing.

There are two individuals who determine relevancy: the investigator and the Chair of the Hearing Board or Officer or Decision Maker.

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Title IX Rape Shield Protections

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Title IX Rape Shield Exceptions

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Why Does Relevance Matter?



The purpose of an investigation is to collect _____inculpatory and exculpatory evidence sufficient to permit an impartial decision-maker to determine whether or not the reported sexual harassment occurred.

The burden of gathering evidence must remain on schools not the parties 106.45(b)(5)(i)

It is the University's job to conduct the investigation, track down and gather all of the evidence possible and interview witnesses.

The goal is a truth-seeking mission; gather everything relevant so that

finders

Summary-Continued