



Part 3 of Investigator/Investigations

Questioning

Training Topics/Learning Outcomes

- 20 Minutes to Trained Video – Questioning
- Environment of the Interview Space - Neutrality
- Interviewing/Questioning Techniques
- General Interview/Questioning Skills; Question Prep
- Potential Responses to Lying and False Allegations v. Unfounded Allegations

Environment of the Interview Space

- Private, secure and quiet area
- Enough space for everyone to sit
- All parties and Advisors should be comfortable
- Neutral furnishings
- Be aware of book titles, posters, magazines, anything that does not give a professional vibe-get it out of sight
- Be sure all parties and advisors have a map to and of the building
- Keep TIXC aware of interview times (for safety precautions)
- TIXC will find an available space large enough to enable all to sit or organize via Teams

Question/Interviewing - Prep

- Plan the order of interviews. Usually the order is Reporting Party, Responding Party, Witnesses, however, you can choose to interview in any order you want.
- Plan who will ask the questions and who will be note taker; stay flexible with a possible change in roles depending on the individual being interviewed.
- Have an outline of general interview questions ready, but stay flexible.
- It is most beneficial to all involved if interviews can be conducted in person. However, with the current events of the pandemic we may be limited to TEAMS interviews. Phone interviews are a very last option.
- Don't set a specific time for how long the interview will be, let them know you are there for as long as it takes and let it naturally flow.
- Leave the door open for follow up.

Question/Interviewing – Setting the Tone

- Put them at ease – ask questions about their day, how school is going but be sincere. Do what you can to help them build confidence to tell their story.
- Explain your role as neutral fact-finders and that you don't have a side in the investigation, you are simply seeking facts pertaining to the particular incident about to be discussed. But you will be looking at credibility during all aspects of interviewing and questioning.
- Review - Retaliation, Immunity (witnesses mainly), privacy details and expectation of truthfulness (TIXC will make sure you have what you need).
- Review - why they are there such as the who filed the complaint, allegations of the incident, date, time and let them know you want their side of the story.
- Remind the parties and advisors that this is an Administrative investigation, not a criminal investigation, therefore using the Preponderance of the Evidence standard.

Questioning/Interviewing - Techniques

Questioning and interviewing skills are a critical component of the TIX process.

Gathering accurate and valid information from individuals in a manner that respects their perspective, doesn't further traumatize and retains accuracy of the information presented.

Open ended questions are the best to ask first. Individuals are only going to answer what you ask if it is a yes or no question or a multiple choice question (which are the worst).

Be aware of your tone and facial expressions when asking questions. We want to remain as neutral as possible during the investigation.

Remaining calm and professional is imperative during the interview process. If you find yourself becoming frustrated, take a break, rethink the situation and possibly change roles and become the note taker after the break.

Allow time in between question and answers. And if a question comes to mind ask it or make a note of it to ask later if it doesn't get answered with your list of questions.

It's okay to revisit a question you felt may not have been answered. You can do this now or in a follow up session.

Allow time for those being interviewed to have breaks too. This can be very emotionally trying for them too.

As an investigator, remaining calm and remembering that everyone gets a chance to explain and withholding judgement during the interviews can help you be very successful in finding pertinent information.

You can always have more follow up sessions with individuals to ask more questions as the investigation proceeds.

General Interview Questioning

Persons with Information about the allegations may include:

- Direct Witnesses: Those who observed or may have observed the incident(s) or have first-hand knowledge of it/them.
- Outcry Witnesses: Those who know details of the incident(s) from the parties from the period immediately thereafter.
- Indirect Witnesses: Those who were later told about the incident(s) by the Reporting or Responding Party, or by a third party.
- After-the-Fact Witnesses: Those who observed the party's reactions or changes in behavior after the alleged misconduct.

Character Witnesses: Witnesses about character are rarely relevant, but can sometimes offer evidence that is probative (i.e. a roommate who testifies that the respondent's character is not to accept "no" for an answer, in a complaint where the issue is whether the respondent failed to take "no" for an answer)

Expert Witnesses: Witnesses who have training, education, and expertise in a specific area relevant to the reported incident(s) (e.g. pharmacologist who specializes in alcohol interactions with prescription medications).

Questioning/Interviewing - Reminders

Carefully listen to everything that is being said. If you miss something, do not hesitate to ask the person to repeat it.

Watch for non-verbal behaviors, particularly those that deviate from the baseline of typical behaviors, which may indicate attitudes, true feelings, or emotions.

Clarify any conflicting information before beginning your analysis. Don't try to guess at reasons why the information given was conflicting.

Where a question will touch on sensitive topics, just acknowledge it as such before you ask it. If you realize that after the question is asked has touched on a raw nerve, acknowledge may help minimize the discomfort.

If a question comes out wrong , seems blaming, or is poorly phrased, withdraw it immediately and reframe it.

Carefully examine the time/date sequence of the incident. Follow up on contradictions.

Avoid jumping from one line of questioning to another; examine one area completely before moving on.

If possible, avoid unnecessary writing during interviews. Try to concentrate on the content while developing lines of questioning. Your co-investigator can take the notes and the recording will help provide a complete record of the interview.

Note-passing or whispering should not occur between investigators unless it's absolutely necessary. It's best to request a recess to confer.

Maintain your concentration throughout the interview and remain attentive. Demonstrate active listening skills such as good posture and eye contact.

Never accuse a party or participate in heated arguments. Maintain your composure even if others do not. Insist that interviewees and their advisors respect the decorum of the proceedings and excuse them if they do not.

Avoid questions that are not relevant. Follow leads to their logical ends, but don't chase the rabbit down the hole by focusing on irrelevant issues or discrepancies.

Interview Etiquette

- Thank the interviewee for meeting with you
- Introduce yourselves as TIX investigator only. Your only role in that room is that of the fact-finder-gatherer and you should introduce yourself as such. Omit any other titles you have at Midland College when corresponding by email or mail. This will minimize any assertion of conflict of interest with your other institutional role/roles.
- Indicate that your role necessitates asking difficult or sensitive questions to thoroughly perform your role and that you will be professional and direct in your questioning.
- Explain about note taking and that you will be recording the interview to get all information as correct as possible. Let the Reporting or Responding party know that they will receive a copy of the transcript for review. We are a one party state in regards to recording, however we are to be as transparent in our investigations as we can. So tell them prior to interviewing. They may not like it, but let them know it is for their well-being and protection as much as for the college's.

- No Party or Advisor is allowed to record due to privacy restrictions regarding the case and the names of those involved. This will violate a student's privacy and is a federal offense.
- The TIXC will have reviewed the interview process with the Reporting/Responding parties and Advisors regarding the interview being recorded and a transcript provided for verification. However a reminder is always good.
- Review the interview process with the interviewee and Advisor allowing that their may be follow up questions at a later date.
- Review with the Advisor what their role is during the interview. They may confer with their client/student, but they are not allowed to answer for them. They are allowed to ask questions, but we are not required to answer. If they become disruptive, they will be asked to leave the room and the assigned MC TIX Advisor will fill in for them. The TIXC will have already gone over this process, but is good for the Investigators to remind the Advisor's since the TIXC will most likely not be in the room.

- Before beginning the questioning, ask the interviewee if they have any questions regarding process. Advisors may have questions and this is fine, feel free to answer those questions at your discretion.
- Attempt to build a rapport and build trust, and create comfort for the interviewee. This needs to be as sincere and genuine as possible. Remember, we have no “sides” and all we want to know is what happened.
- Remind them of the policy surrounding student’s privacy and how there will be no gag order placed on them. They are free to talk about with whomever, however, due to the delicate nature of the incident it might be best if conversation regarding the matter remains with their chosen advisor and the MC TIX Advisor.

- Remind them know that Retaliation of any kind (specifically by them or by third party – friends, acquaintances, teammates, family, advisors etc.) is against MC Policy and can lead to disciplinary actions against them personally. Remind them to contact the TIXC to report any form of retaliation so that the behavior can be stopped immediately.
- In emotional situations, be sympathetic in a neutral manner using statements such as “This can be hard to talk about”, or “I know this can be difficult for you”. Pull some trauma-informed training to the forefront.
- Don’t make partisan comments “I’m sorry this has happened to you”, or “We’ll make this right”, or “I don’t think you did anything wrong”, or “I believe you”. (This part reminds me of how the Penguins of Madagascar would say “Smile and wave boys, just smile and wave” indicating they did not want to implicate themselves with anything.)

Investigators will be given a summary of the incident from the Intake Interview completed by the TIXC of the Reporting and Responding Party's.

A list of general questions will also be prepared for investigators in advance for each interview from the Intake summary of the Reporting and Responding Parties.

Feel free to add questions pertaining to the incident if you should notice something in the prepared list.

Investigators will draw their questions for witnesses from the interviews with the Reporting and Responding Party's. The TIXC can help if needed.

Be prepared to add/delete questions as you learn more from each party or witness during the interview. Many questions or sequence of questions are likely to be repeated for some or all witnesses.

When beginning the interview with either party, you will want to begin with identifying the reason for the interview. Below is a list of some – not all – areas of questioning of the Reporting and Responding Parties:

- ※ Double check the identities of and relationships between the parties
- ※ Ask about the effect the alleged conduct had on the Reporting Party
- ※ Ask about the effect the reported alleged conduct had on the Responding Party
- ※ After the aforementioned, let each respective party detail their side of the reported incident.
- ※ Ask for any type of witnesses, or evidence or anyone they can speak with regarding the incident.
- ※ If they live on campus you will want to contact a roommate, friends, teammates, coaches, faculty members, anyone who may have had contact with the person before and possibly immediately after the incident occurred. We want to try and get a picture of possible differences in behavior.
- ※ Don't be afraid to sit in silence between questions. Especially if the person is upset. You can give some reassurance, the wait silently for them to be ready to talk again.

- ※ Don't forget to let the interviewee know that they may be recalled for some follow up questions.
- ※ Inform each party that the TIXC will keep them informed of any new information as well as the progress of the investigation.
- ※ Once the interview is over, the Investigators will want to compare notes and talk about the interview.
- ※ Investigators will want to prepare to interview any witnesses. And make a list of questions from the interviews with each respective party for the witnesses.
- ※ Ask parties if there are any specific questions they would like you to ask the other party or specific witnesses.
- ※ Review the next steps and let them know that the interview transcript will be sent within 7 business days excluding College closings.
- ※ Let them know that they will be allowed to write supplemental statements if they think of anything else important to share with you. Offer a professional email and phone number for them to contact you if necessary.
- ※ Ask for the best way to contact the interviewee, for follow up questions or a second interview.



**POTENTIAL RESPONSES TO LYING
AND
A DISCUSSION ON FALSE ALLEGATIONS**



Taming the Dragon – Handling Lawyers and outside Advisors



QUESTIONS

RESOURCES

Association of Title IX Administrators

Alliance: Factsheets: False Allegations of Sexual Assault vs. “Unfounded” Sexual Assaults. New York City Alliance Against Sexual Assault. www.taasa.org