



CONDUCTING CLIMATE INVESTIGATIONS

Challenges and Best Practices

January 27, 2021

DAN SCHORR, LLC

OUR SERVICES

- Title IX, Civil Rights, and Misconduct Investigations
- Decision Makers and Hearing Officers
- Trainings
- Policy and Program Reviews
- Interim Title IX Coordinator Coverage

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DAN SCHORR

President
New York



Dan Schorr is a former criminal prosecutor and municipal inspector general with more than 20 years of legal and investigative experience. He manages a variety of complex assignments, including investigations into sexual misconduct, Civil Rights, and fraud allegations at educational institutions, corporations, and government entities. In addition to specializing in Title IX investigations, Dan assists higher education and K-12 schools by conducting policy and program reviews, training personnel on all aspects of Title IX and Civil Rights compliance, and serving in hearing officer and decision maker roles. Dan is a pre-approved Sexual Misconduct Investigator for the United Educators ProResponse Expert Services Benefit.

ALYSSA-RAE MCGINN

Vice President, Investigations
Boston



Alyssa-Rae McGinn has extensive experience leading a variety of complex investigations, with particular expertise in conducting investigations at educational institutions and corporations into allegations of sexual misconduct and identity-based harassment involving students, faculty, staff, and corporate leadership. Alyssa-Rae was previously a Senior Associate at Ankura, where she and Dan established the firm's Title IX and Civil Rights Investigations practice and grew it to assist institutions nationwide. Prior to Ankura, Alyssa-Rae was an Associate Director in Kroll's Business Investigations & Intelligence practice.

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WHEN TO CONDUCT CLIMATE INVESTIGATIONS

- Climate investigations are broad investigations into the attitudes and practices of a team, club, department, or other group
- Climate investigations can be triggered by:
 - Clear, direct allegations from outside the group
 - Clear, direct allegations from a member of the group
 - Vague or unverified allegations
 - Rumors
 - Anonymous allegations
 - An unusual number of individual investigations within a particular group

WHO SHOULD CONDUCT CLIMATE INVESTIGATIONS?

- Investigators should be from outside the group
- Avoid actual or perceived bias or conflicts of interest
- Investigators should have subject matter expertise regarding the nature of the investigation

IDENTIFYING INFORMATION

- Start with the source of the allegations when possible
- Consider how to follow-up with anonymous sources of information
- Social media allegations
- Assess whether you begin with a wide or narrow scope
- Look for individuals who may have knowledge outside the group
 - Identify former members, friends of members, or adjacent/related groups

INTERVIEWING GROUP MEMBERS

- Be transparent about the reason for the interview, the process, and what's at stake
- Be kind, compassionate, and friendly
- Build rapport and trust
- Recognize the difficulty of speaking "against" the group
- Explain non-retaliation policy
- Begin with questions to elucidate the group's attitude about the issue, rather than direct questions
- Ask for names of others who may be willing to speak or have relevant information
- Leave the door open for follow-up
- Document all interviews

CONDUCTING AN INVESTIGATION: HAZING



From: anonymous123@gmail.com

Sent: Wednesday, June 17, 2020

I don't want to reveal my identity because I'm afraid of retribution, but you have a big problem on your football team. For years, it's been a tradition to have the freshmen go with the upperclassmen to a certain bar off campus the first weekend of the school year, and then the freshmen have to drink 12 shots without getting sick. If anyone gets sick, the older players on the team make them be their "servants" for the rest of the season, and they have to be available all the time on their phones, do whatever the older players tell them, and call the older players "sir" and say "I apologize" before every time they talk. The older players also always yell at and insult the freshmen, especially the "servants," and call them racial and gender slurs. They also allow freshmen to get out of being servants if they can provide a photo or video of a naked female classmate. The coaches know about this and don't care, as long as the "servant" work doesn't interfere with games.

CONDUCTING AN INVESTIGATION: HARASSMENT

One of the students who works in your office told you that a few of his friends, graduate students in the biology department, were talking about being harassed by their PIs (Principal Investigators), but he didn't want to tell you more information because his friends didn't want to come forward. This isn't the first time you've heard similar accounts about faculty in the biology department. You know from past rumors that there are several "problem PIs" who have gotten drunk and acted flirtatious toward female students at social functions and who have a history of leering at or otherwise targeting female students in their labs.

THE TITLE IX AND CIVIL RIGHTS

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