



UNIVERSITY SYSTEM OF GEORGIA

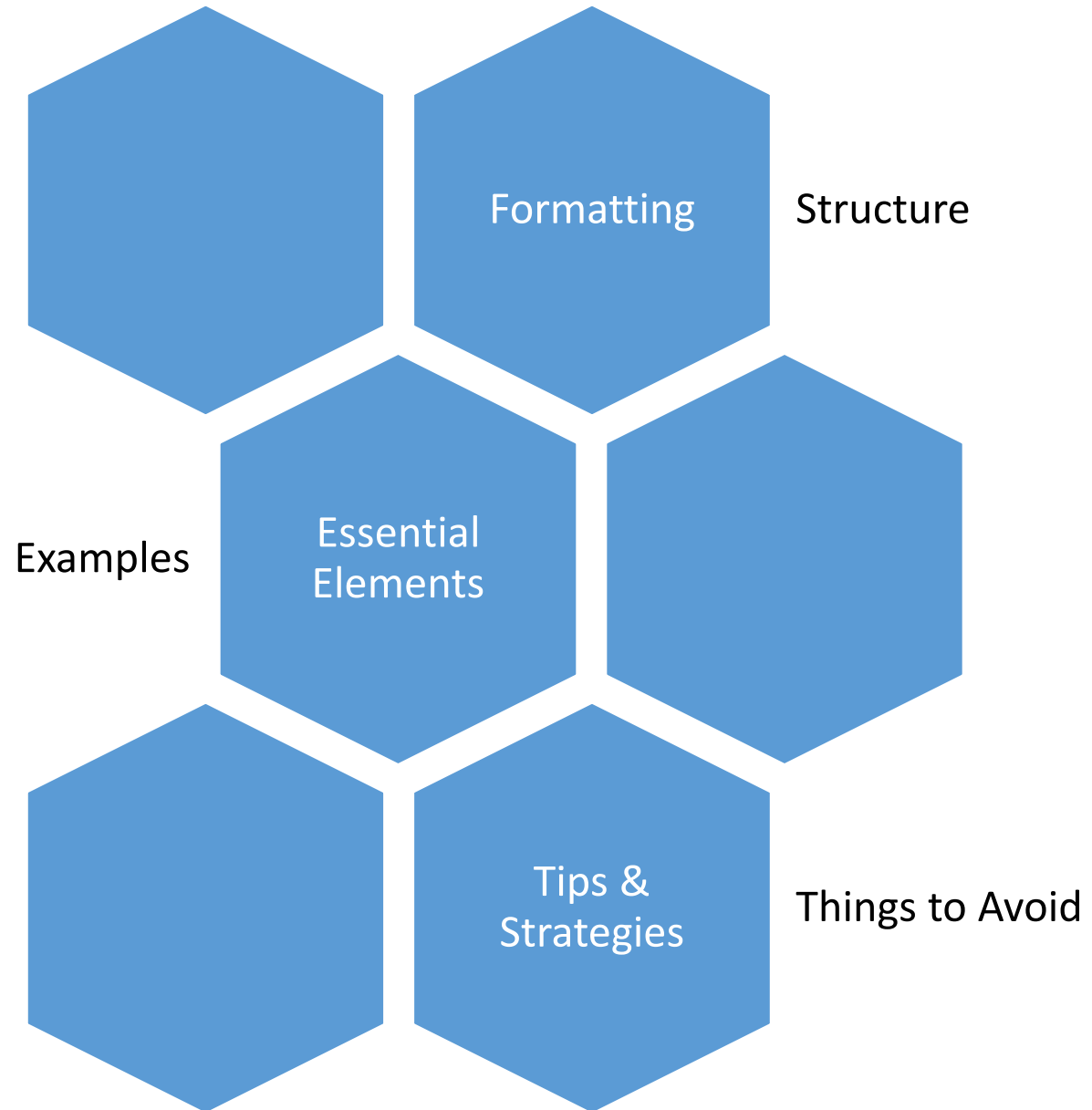
Title IX & Sexual Misconduct Investigative Report Writing & Analysis

Na'Tasha Webb-Prather

System Director for Equity & Investigations
Legal Counsel

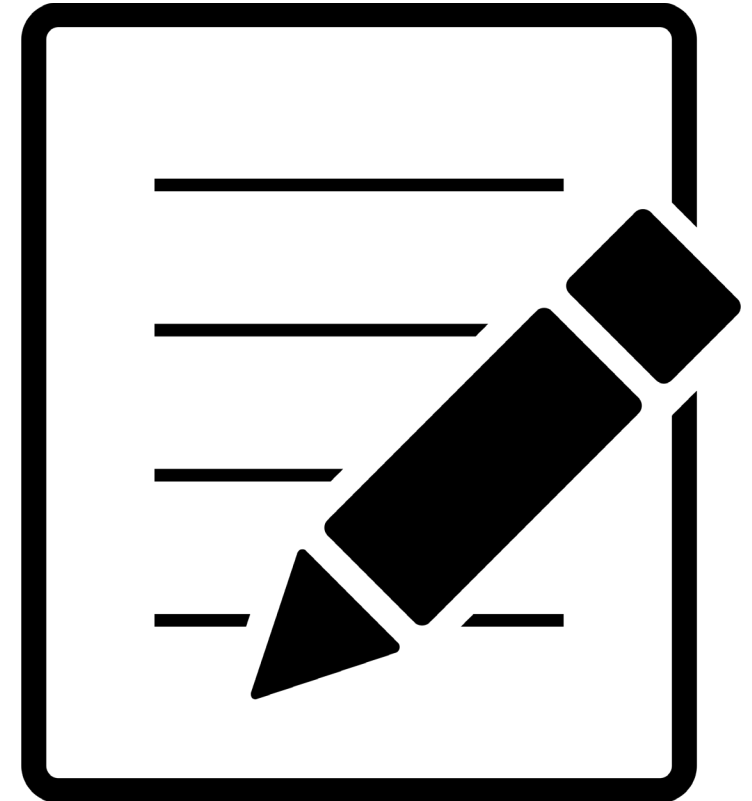
Brandi Williams

Equity Compliance Investigator & Trainer



The Investigation Report

- Executive Summary
- Relevant Policy Provisions
- Information Gathered During the Investigation
- An Analysis of the Information Gathered
- Recommendations for Informal Resolution OR Conclusion
- Investigation Timeline
- Necessary Attachments



Executive Summary

- Big picture investigation information
 - Who reported the incident?
 - To whom did they report?
 - When did they report?
 - Who was assigned to investigate?
 - How was the investigation conducted?
 - What were the overall findings of the investigation?
- Noteworthy occurrences

I. Executive Summary

On February 4, 2021 USG undergraduate student Elizabeth Macon (Complainant) reported to campus police that Adam Eisenhower (Respondent) engaged in Non-Consensual Sexual Penetration with her on January 23, 2021.

The Complainant alleges she expressed verbally and nonverbally her non-consent and that the Respondent ultimately used physical force to have nonconsensual sexual intercourse with her. The Respondent alleges that Complainant initiated their physical contact by play fighting with him and that their interactions led to consensual sexual intercourse.

The investigation into this complaint began on February 5, 2021 and was completed in a manner appropriate considering the circumstances of the case. The investigation included interviews with the Complainant and the Respondent, and witnesses identified by both parties. These interviews were supplemented by the gathering of evidence as appropriate and available. During the investigation, the Complainant exercised her right to no longer participate in the investigation process.

After a thorough review of the information gathered during the investigation, the investigator has determined that a preponderance of the evidence does not support charging the Respondent with violating the Sexual Misconduct Policy's prohibition against Non-Consensual Sexual Penetration.



Information Gathered During The Investigation



Narrative summaries of interviews NOT transcriptions

Laid out in a logical manner
Limit witness portions to information relevant to analysis



Include quotes where deemed appropriate



Adopt one writing style

Formatting
Voice

Information Gathered During The Investigation

- Discuss individuals not interviewed and why
- Discuss any other evidence gathered and the source even failed attempts
- **TIP:** Schedule time after each interview to begin writing narrative summary



Analysis

- A synthesis and evaluation of the information gathered considering our policy
- Remember: You're a NEUTRAL fact-finder
 - Include not only corroborating information but also exculpatory information
- Credibility Assessments



Weighing Evidence

- Weighing evidence means assessing the impact of the information
- The following factors impact the assessment:
 - Relevance
 - Reliability
 - Persuasiveness
 - Bias



Walking Through Policy Definitions

- The policy definitions are the roadmap for your analysis
- Each aspect of the policy definition must be met in order to support a charge
- Make preliminary findings for each aspect along the way



Walking Through Policy Definitions

Non-Consensual Sexual Contact & Penetration

1. Did sexual contact/sexual penetration occur between the parties?
2. Was consent given?
 - a. What words did the Complainant express to communicate consent?
 - b. What actions did the Complainant express to communicate consent?
 - c. Did the scope of the sexual encounter adhere to the scope of consent?
3. Was the consent valid?
 - a. Was the Complainant of the legal age to consent?
 - b. Was force, intimidation, or coercion utilized to engage in the sexual activity?
 - c. Was the Complainant incapacitated?
 - i. If the Complainant was incapacitated, was the Respondent aware of the Complainant's incapacitation or would a reasonable person have been aware?
 - d. Was consent withdrawn at any point during the sexual encounter?
 - i. If so, did the Respondent cease the sexual activity in response to the withdrawal?



Walking Through Policy Definitions

Sexual Harassment- Quid Pro Quo

1. Was the conduct of a sexual nature or based on sex or gender stereotypes?
2. Was the conduct unwelcome?
 - a. Did the Complainant express that the conduct was unwelcome?
 - b. Did the Complainant view the conduct as unwelcome (i.e. undesirable or offensive)?
 - c. Did the Complainant initiate or incite the conduct?
 - d. Was the Respondent aware, or should have been aware that the conduct was unwelcome?
3. Was there a formal or informal power of authority between the parties?
4. Did the person in the position of power implicitly or explicitly require the Complainant to participate in the conduct as:
 - a. A term or condition for the Complainant's educational or employment status; or
 - b. The basis of an educational and/or employment decisions?

Sample Analysis

VI. Analysis

In order to determine whether to charge the Respondent with violating the Sexual Misconduct Policy, the information gathered must be evaluated based on a preponderance of the evidence standard. This means it must be determined that it is more likely than not that the Respondent's conduct violated the Sexual Misconduct Policy.

On the evening of January 23, 2021, the Complainant and the Respondent attended the same on-campus social gathering and interacted with each other while there. The investigator finds that sexual intercourse occurred during the night in question based on the Complainant's and Respondent's statements. The question then becomes whether the sexual intercourse was consensual.



Analysis cont.

As previously mentioned, Consent is defined as “words or actions that shows a knowing and voluntary willingness to engage in mutually agreed-upon sexual activity” and “cannot be gained by force intimidation or coercion; by ignoring or acting in spite of objections of another; or by taking advantage of the incapacitation of another where the respondent knows or reasonably should have known of such incapacitation.”

While the Complainant stated she consumed alcohol on the night in question she did not allege to have been in an incapacitated state as to not have the physical and or mental ability to make informed decisions. The investigator finds that the Complainant was capable of giving valid Consent on the night in question. However, the Complainant stated that she did not consent to engage in sexual activity with the Respondent. The Complainant stated that she expressed her non-consent by physically hitting and biting the Respondent, saying “no” in response to his statement that he was going to have sexual intercourse with her, and made loud noises to indicate she was in pain during sexual intercourse. The Respondent denied the Complainant’s allegations and stated that he and the Complainant were initially play fighting and their interactions subsequently turned flirtatious. The Respondent also stated that the Complainant was moaning during sexual intercourse which he interpreted as her enjoyment. Additionally, the Respondent stated that the Complainant did not express any desire to leave his presence or to stop their sexual activity until she became antsy after the Community Assistants knocked on the bathroom door.



Credibility

- What is it?
 - “The **extent to which you can rely** on an individual’s testimony to be accurate and helpful in your understanding of the case.”
- When does it become important?
 - When an individual **gives you reason** to question their credibility
 - **One version v. Another version** of a matter (w/o additional evidence)
 - Your findings can’t be based merely on a hunch or feeling

Recommendations for Informal Resolution/ Conclusion

- Short and sweet
- Based on the totality of the evidence a preponderance of the evidence supports/does not support a charge of (insert policy violation)
- Remember: NOT ISSUING FINDINGS OF RESPONSIBILITY
- Broad range of sanctions at play



Sample Language: Charges & Sanctions

VII. Recommendations for Informal Resolution

The Investigators have examined and considered all the evidence and information gathered during the investigation. After a thorough evaluation of the information, as discussed above, the Investigators determined that it is more likely than not the Respondent intentionally and inappropriately exposed his genitals to the Complainant in non-consensual circumstances. Therefore, a preponderance of the evidence supports charging the Respondent with violating the Sexual Misconduct Policy's prohibition of Sexual Exploitation. Recommended sanctions for this charge is probation for a specified amount of time of one academic year.

If a Hearing Panel finds the Respondent responsible for Sexual Exploitation it may issue sanctions including but not limited to: expulsion, suspension for an identified time frame or until satisfaction of certain conditions or both, loss of institutional privileges, reassignment of residence, or any other discretionary sanctions directly related to the violation or conduct.



Sample Language: No Charges

VII. Conclusion

The Investigator has examined and considered all the evidence and information gathered during the investigation. After a thorough evaluation of the information as discussed above, the Investigator has determined that a preponderance of the evidence does not support charging the Respondent with violating the Sexual Misconduct Policy's prohibition against Nonconsensual Sexual Contact.

Keep in mind: Even without charges, there still may be further adjudication



Additional Tips & Takeaways



REVIEW YOUR DRAFT OUT OF
ORDER



CONSISTENTLY DOUBLE CHECK
WHAT YOU'RE INCLUDING AND
WHY



BE MINDFUL OF COPYING AND
PASTING

