

INTERVIEWING WITNESSES

INTERVIEWING WITNESSES	CONSIDERATIONS
Preparation	<ul style="list-style-type: none"> • Determine where the areas of factual dispute exist between the complaint and response • Based on conflicts identified, list questions to be answered by this witness • Make sure witnesses have the opportunity to address these issues • Interviews should be individual rather than in groups
Begin with an explanation	<ul style="list-style-type: none"> • Begin by building a rapport • Indicate that the district is committed to creating a fair, non-discriminatory, harassment-free environment in which to learn and work • Explain that the role of the investigator is neutral, rather than an advocate for either side
Find out what the witness knows about the investigation	<ul style="list-style-type: none"> • Some witnesses will have no idea why they are being interviewed, while others will have detailed information about the issue and the investigation • If witnesses come into the interview with knowledge about it, find out who spoke to them and what they were told
How much to tell the witness	<ul style="list-style-type: none"> • Consider informing the witness that the school or district is engaging in a review of the learning or working environment to assure that students/employees can study/work comfortably • Sometimes it will be necessary to share the specifics of the complaint in order to allow the witness to evaluate them
Complications when illegal conduct, especially drugs &/or alcohol are involved	<ul style="list-style-type: none"> • Witnesses may be concerned about disciplinary actions being taken against them for violations of drug and alcohol policies • Accurately determining what occurred • Blaming the victim for being intoxicated • Claiming "consent" when the victim was incapacitated
Note biased attitudes about sexual assault	<ul style="list-style-type: none"> • It is always the victim's fault • It is always the aggressor's fault • Most claims of sexual assault are false and usually motivated by revenge • Acquaintance rape is not rape
Move from the general to the specific	<ul style="list-style-type: none"> • Allow the witness to offer more general perceptions before being probed for specifics
Ask open-ended questions that do not call for simple "yes" or "no" answers	<ul style="list-style-type: none"> • "What kind of language did you hear Jon use" is better than "Did you hear John use vulgar language?" • Allow uninterrupted time for thoughtful responses
Avoid asking questions in a way that suggests a particular answer (leading the witness)	<ul style="list-style-type: none"> • "How would you describe the relationship between Kerry and Sandy?" is better than "You saw Kerry pressuring Sandy to date him, didn't you?" • Avoid questions with inherent judgments
Distinguish firsthand from secondhand knowledge	<ul style="list-style-type: none"> • What did the witness directly observe through seeing, hearing, and any other direct sensory perception?
Ask only one question at a time	<ul style="list-style-type: none"> • "Is that when Jake kissed you?" [Pause for answer] "And is that also when he fondled you?" is better than "Is that when Jake kissed and fondled you?"
Avoid accusatory or "no-win" questions	<ul style="list-style-type: none"> • "Do you micro-manage your employees or do you let them do whatever they want?"

Use probing techniques	<ul style="list-style-type: none"> • Follow up with additional questions to clarify witnesses recollection • Repeat questions that are important if there is doubt about the witness's recollection • Consider asking the witness to help explain motivation with questions like, "Why do you think Ned filed a complaint against Carol?" • Allow pauses and silences • Reflect and summarize to verify understanding and reassure the witness they are being heard • Ask the witness if there is anything that they were not asked about that might be relevant • Ask if there are any documents, notes or other physical evidence that they can identify • Ask if there are there other witnesses who should be interviewed • If terms such as "harassment," "retaliation" or "assault" are used, ask for definitions and examples • If slang or other unfamiliar jargon is used, ask for clarification
Distinguish fact from opinion	<ul style="list-style-type: none"> • Clarify what witnesses directly observed and what they have come to believe based on their interpretation of those observations • Establish a chronology of the relevant events to which the interviewee is willing to commit
Handling reluctant witnesses	<ul style="list-style-type: none"> • Acknowledge and respond to witnesses' concerns • Discuss protections against retaliation • Remind witnesses that district policy requires cooperation with civil rights investigations • Never detain a witness against their will • Consider whether to accept and document a witness 's refusal to cooperate or to indicate that such conduct may be independent grounds for discipline
Credibility	<ul style="list-style-type: none"> • Answered all questions • Motive to lie • Believability • Note non-verbals such as body language and demeanor, but recognize cultural differences
Retaliation	<ul style="list-style-type: none"> • Define and give examples • Have witnesses promise to immediately report
Privacy and confidentiality	<ul style="list-style-type: none"> • Promise to handle the investigation as privately and discreetly as possible • Secure a promise from the witness not to discuss the subject with others • Do not promise confidentiality