



Constructing the Investigative Report: Considerations for Sexual Assault Complaints

1

Copyright



Limited permission is granted to each attendee of this class to make training materials available per the requirements outlined in the Title IX Regulations published on May 19, 2020

These materials are copyright of D. Stafford & Associates, LLC © 2022 D. STAFFORD & ASSOCIATES. All rights reserved.

Any distribution or reproduction of part or all of the contents in any form is prohibited other than the following:

- As required by 34 C.F.R. § 106.45(b)(1)(iii) and § 106.45(B)(10)(i)(D), this material in its entirety may be posted to the website of the institution in which you were associated with at the time in which you were enrolled in this training. D. Stafford & Associates gives permission for clients to convert the provided documents as necessary to be ADA-compliant.
- Public inspection upon request.
- You may not, except with our express written permission, distribute or commercially exploit the content. Nor may you transmit it or store it in any other website or other form of electronic retrieval system.

© 2022 D. STAFFORD & ASSOCIATES

2

2

Considerations in Drafting



 Institutional Policy Preliminary vs. final Process for feedback Mandated sections	 Who views Decision-maker Complainant and respondent Advisors Title IX General Counsel Human Resources/Dean of Students	 How shared Electronic format Hard copy
--	--	--

© 2022 D. STAFFORD & ASSOCIATES

3

3

Sexual Assault

© 2022 D. STAFFORD & ASSOCIATES

4

What offenses are charged?

Rape vs. Fondling

Rape vs. Statutory Rape

Counterclaims

© 2022 D. STAFFORD & ASSOCIATES

5

Goal 1

Compilation of Evidence

- "Directly related" (Title IX)

© 2022 D. STAFFORD & ASSOCIATES

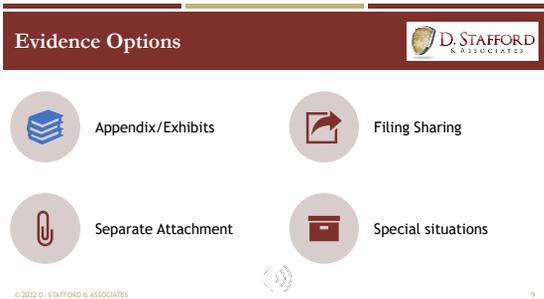
6



7

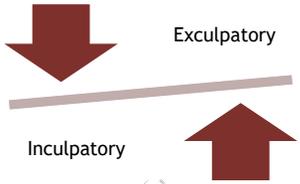


8



9

Evidence 



Exculpatory

Inculpatory

© 2022 D. STAFFORD & ASSOCIATES

10



Goal 2

Summary of Facts

© 2022 D. STAFFORD & ASSOCIATES

11

Summary of Facts 



Narrative form

Facts in agreement/
facts in dispute

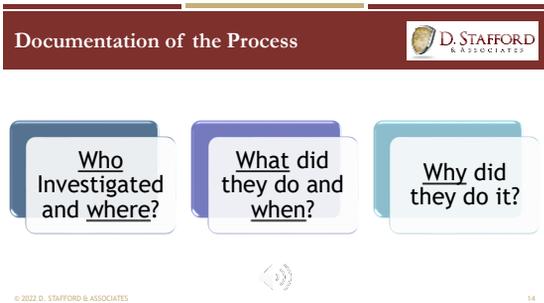
Bulleted list

© 2022 D. STAFFORD & ASSOCIATES

12



13



14



15

Other possible sections 



Timeline of Incident



Diagrams



Timeline of Notice

© 2022 D. STAFFORD & ASSOCIATES 

16



17

THE ELEMENTS

© 2022 D. STAFFORD & ASSOCIATES

17

Elements of a Sexual Assault 

Sex Act

Without Consent

© 2022 D. STAFFORD & ASSOCIATES 

18

Elements – Rape



The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim.

Sex Act
• Penetration

Without Consent
• Did not or
• Could not and
• Knowledge

© 2022 D. STAFFORD & ASSOCIATES

19

19

Elements – Fondling



The touching of the private body parts of another person for the purpose of sexual gratification, without the consent of the victim.

Sex Act
• Intentional Touching
• Private Body Parts

Without Consent
• Did not or
• Could not and
• Knowledge

© 2022 D. STAFFORD & ASSOCIATES

20

20

Alcohol and Incapacitation



- Type
- Amount
- Timeframe
- Person
- Other influencers

© 2022 D. STAFFORD & ASSOCIATES

21

21

Parties

Witnesses

Capturing Incapacitation

© 2022 D. STAFFORD & ASSOCIATES

22

Two-sides of the Investigation

Did the Respondent know (or should have known)?

Was the Complainant Incapacitated?

© 2022 D. STAFFORD & ASSOCIATES

23

Other evidence

- Background Information
- Other consent issues: Incapacitation
- Credibility
- Jurisdiction (location, relationship to school, timing)

© 2022 D. STAFFORD & ASSOCIATES

24



25



For additional information about training or other services we provide, please visit www.dstaffordandassociates.com

© 2022 D. STAFFORD & ASSOCIATES



26

26
