



The Power of Words—Determining and Writing Allegations

A notice of allegation is a formal written communication from an institution to a student or an employee that charges an individual with a potential policy violation. The notice is the foundation of an investigation, so it's important to present clear and well-drafted allegations to provide due process for both the complainant and the respondent, and to ensure the investigation is comprehensive, objective, and legally compliant. In addition, clear and well-written allegations can also prevent “scope creep” by limiting overreach in an investigation. When writing a notice of allegations, it's essential to be precise, detailed with descriptions, and knowledgeable about your institution's policies.

Here's a step-by-step guide:

Understand the relevant legal framework and the institution's policies.

Formal investigations should begin with a notice of allegations that identifies, for all parties, the scope of charges. Before drafting the allegations, it's essential to have a comprehensive understanding of applicable regulations, such as Title IX, Title VII, and the institution's specific policies and procedures. Familiarize yourself with relevant definitions, such as the meaning of “*unwelcome conduct*,” “*sexual misconduct*,” or “*severe and pervasive harassment*.” By being well-informed, you will be able to ask the right questions for gathering comprehensive information.

Gather information about the complaint.

While it is common for institutions to issue notice letters to the parties immediately upon receiving a formal complaint, first consider conducting a thorough and unbiased interview with the reporting party. This can ensure that all potential allegations can be captured and aligned with the applicable policy. For example, a reporting party might have alleged they were subjected to sexual harassment, but an interview might reveal that the notice may also include an allegation of stalking.



Ask the reporting party the essentials—*Who* committed the alleged conduct? *What* exactly occurred? *Where* did it occur? *When* and *how many times* did it occur? *How* did it affect the complainant? Collect and review any relevant documentary evidence related to the claim, including text or direct messages, emails, social media posts, or incident reports. The evidence you collect will form the basis of the allegations, so the information gathered should also be relevant to the conduct at issue and have some impact on determining the veracity of the allegations.

The following examples are some factors that are likely **not** relevant:

- a. Events that occurred **years before** the alleged conduct

Complainant alleged that when they were in high school with the Respondent, they heard she took pictures of her partner naked without their consent.

- b. **Emotional statements or opinions** made by the Complainant unsupported by the facts

Complainant alleged that Respondent is known as a ‘rapist’ and likes to date younger students.

- c. Circumstances **not directly related** to the conduct at issue

Complainant alleged that Respondent attended a football game with his friends two weeks after he sexually assaulted her.

Draft clear and specific allegations.

Remember that the allegations should be based on facts and not formulated from personal opinions or beliefs. When writing a notice of allegations, be clear and specific about the conduct in question. Provide a detailed account of all the information you gathered from your investigation, including: full descriptions of explicit language used, gestures, moments of physical conduct, etc. Speaking and



writing with objective language that avoids assumptions or conclusions will ensure that you determine an accurate scope of an investigation. If an individual's narrative is graphic or evokes a strong emotional reaction, remember not to substitute euphemisms. Use the exact words or descriptions provided by the complainant.

Here are some examples of some common descriptive errors and a recommendation for how to add more specificity:

Vague:

Complainant alleged that the Respondent grabbed the 'private' areas on her body three times at the party.

Specific:

Complainant alleged that Respondent, at an Alpha fraternity party, 555 University St., City, State, on October 26, 2023, grabbed her breasts with both hands over her clothes, asked if her breasts were real, and then put his hands underneath her skirt.

Vague:

Respondent forced Complainant to perform oral sex.

Specific:

Respondent grabbed Complainant's head with both hands as they were seated in the front seat of his car, held it to his genitals, and told Complainant he would not drive her home until she put the Respondent's genitals in her mouth and perform oral sex.



Vague:

Respondent sexually assaulted Complainant in his dorm room in May 2019.

Specific:

Respondent penetrated Complainant's vagina with his penis without consent in his dorm room at Smith Residence Hall on May 5, 2019, at approximately 4:00 a.m. PST.

Before completing the notice, re-review the campus policy and procedures.

Remember it's important to make sure that the alleged conduct, if true, would be a violation of the university's policies when drafting allegations. For example, one incidence of an individual asking someone out on a date might not rise to the level of a policy violation. Some institutions have specific forms or templates for filing allegations, so always use the correct format and include all required information, including a link to the policy that may have been violated.

Remember the allegations notice will form the guide for the entire investigation plan. By thoroughly understanding the complaint and using objective and factual language, you can contribute to a fair and just resolution of the case while upholding the principles of relevant laws and policies. Maintain a balanced approach and be aware of any bias you may have during the search for the facts. As an example, when collecting information about a complaint of discrimination, and the complainant's narrative shines a very negative light on the alleged respondent, it's easy to unconsciously solicit information or ask specific questions to support the complainant's experience. One of your most important roles is to impartially gather and assess evidence and effectively convey the allegations in writing to ensure the investigation is not one-sided or unintendedly biased. Mastering the art of crafting effective allegations is not merely a skill but a responsibility essential for unraveling the complexities of a complaint and paving the way for a fair and thorough investigation.