



CONDUCTING INVESTIGATIVE INTERVIEWS

December 15, 2021

DAN SCHORR, LLC

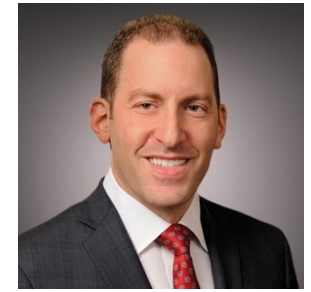
OUR SERVICES

- Title IX, Civil Rights, and Misconduct Investigations
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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.

PLANNING THE INVESTIGATION

- Who will conduct the investigation?
- Scope of investigation
- Key fact issues
- Who needs to be interviewed?
- In what order?
- What evidence needs to be collected?
- Who needs to be notified?

COMPLAINANT WITHDRAWAL

- 2020 regulations provide option for a complainant to withdraw from a formal complaint, at which time the Title IX Coordinator may dismiss the investigation or may continue to investigate
- Without a complainant, you must rely upon other evidence to “build” your case, which is often difficult

WHO TO INTERVIEW

- The complainant
- The respondent
- Anyone who was present for and observed a relevant incident
- Other witnesses with relevant information
- Outcry witnesses
- People with whom the respondent has spoken about alleged incidents
- People who you have been asked to interview

INTERVIEWING BASICS

- Ask questions to elicit detail
- Understand who, what, when, where, how
- “How do you know that?”
- Clarify facts and discrepancies
- Ask for relevant names, especially potential witnesses
- Ask for relevant documents
- Maintain confidentiality of past interviews

WHY MAY INTERVIEWEES BE RELUCTANT?

- **Mistrust** of the organization, the investigation process, the interviewers, or the system in general
- **Discomfort** with strangers/interviewers
- **Discomfort** with subject matter
- **Fear** of retaliation
- **Fear** of not being believed
- **Fear** of getting in trouble
- Complainant may have particular reasons for being reluctant:
 - Discomfort or trauma
 - Pressure not to report
 - Wanting to protect the respondent
 - Concern that their report will not meet violation threshold

BE TRANSPARENT

- Clearly introduce yourself and your role as an independent investigator
- Explain how you will be conducting a comprehensive, prompt, and fair investigation
- Be clear that you are there to listen to everything they have to say, review their evidence, and speak with their witnesses
- Do not make promises you cannot keep and keep your promises
- Set realistic timelines and keep them apprised of the process as it progresses
- State upfront that you may need to follow up with them or re-interview them
- Be clear about policies regarding activities such as drug/alcohol use

BE KIND

- Treat the interviewee with **respect, empathy, and kindness**
- Recognize that this is difficult for all involved
- Offer services/resources to both parties, as well as witnesses if needed
- Be open-minded and non-judgmental
- Remember that many cases are in gray areas, and most people are telling you some version of their truth
- Make your body language reflect your listening stance
- If an interviewee becomes confrontational, don't mirror their demeanor – keep calm, take a break, redirect
- **ENSURE YOU ARE EQUALLY KIND TO ALL PARTICIPANTS**

BE COMFORTABLE

- Be/act comfortable with sexual terms, behaviors, and choices
- In video interviews, be/act comfortable with videoconferencing
- If you are uncomfortable, they will be uncomfortable
- Allow them to speak in their own language (crude language, etc.), but clarify
- Be true to your own style of speaking
- If there is something that makes you uncomfortable:
 - Do research
 - Practice talking about it
 - Re-evaluate whether you are the right person for the interview
- Be aware of unconscious bias and the power positions & identities you bring into the room

HAVE A REAL CONVERSATION

- Bring your real personality into the interview and engage in a conversation: **listen** and **respond**
- Don't be afraid to be personal
- Be flexible and let the conversation take its natural course
- Guide the conversation, but let them set their own pace and tell their story in their way
- Utilize silence, especially when you ask hard questions

ASKING THE HARD QUESTIONS

- Wait to push back until they have finished telling their story
- **“Let’s go back through that slowly:”** Return to parts of their story that require clarification or questions or that are disputed by physical evidence
- Wait to confront with adverse evidence – may make an interviewee less willing to continue talking
- When asking the hard questions:
 - Phrase your questions so that they are respectful of the story you’ve heard
 - Don’t be accusatory
 - Explain the motivation for your question
- Let them know that as an investigator, you are trying to figure out what doesn’t track and why

THE TITLE IX AND CIVIL RIGHTS

PODCAST



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"Final Table is a compelling, timely, and fast-paced story of a sexual assault survivor's fight to regain control of her life in the face of fear, self-doubt, international intrigue, and looming retribution. Former sex crimes prosecutor Dan Schorr's nuanced and layered debut novel smashes stereotypes and cliches with a strikingly original and memorable narrative."

- **SUNNY HOSTIN**,
Emmy-Winning Co-Host of *The View* and best-selling author of *I Am These Truths* and *Summer on the Bluffs*



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